Flawed Tax Arguments To Avoid



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DEDICATION

"Through Your [God's] precepts I get understanding: therefore I hate every false way. "
[Psalm 119:104, Bible, NKJV]

"My [God's] people are destroyed for lack of knowledge [ignorance]." [Hosea 4:6, Bible, NKJV]

"Am I therefor made your enemy because I tell you the truth?" [Gal. 4:16, Bible, NKJV]

"One who turns his ear from hearing the law [God's law OR man's law], even his prayer is an abomination."

[*Prov.* 28:9, *Bible*, *NKJV*]

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

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

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

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

[Bruce Calvert]

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

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

[2 Peter 2:3, Bible, Amplified Edition]

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

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- Notify us immediately of the conflict so that we can immediately eliminate it.
- Disregard the conflicting information.

We caution the reader that:

1. This publication should not be cited to sustain a reasonable belief. This is the same warning that the IRS places on its publications and forms in Internal Revenue Manual 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.' [Internal Revenue Manual (I.R.M.), Section 4.10.7.2.8 (05-14-1999)]

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

- 2. The only source of reasonable, good faith belief and admissible, non-presumptive evidence is enacted positive law and the rulings of the Supreme Court. The IRS Internal Revenue Manual (I.R.M.), Section 4.10.7.2.9.8 admits that rulings of federal courts below the Supreme Court may be applied only to the person who litigated the case and to no one else. The legislative notes under 1 U.S.C. §204 states that the Internal Revenue Code is not positive law and is therefore "prima facie evidence" of law. That means it is "presumed" to be the law but that presumption is rebuttable.
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1. Introduction

- We have assembled the following discussion of many of the popular flawed tax arguments used by both the government and freedom advocates. The motivation behind this document is to help you:
- 1. Avoid discrediting yourself in the freedom community.
 - 2. Improve your chances of winning when litigating tax issues against the government.
- 3. Avoid sanctions for frivolous arguments under Federal Rule of Civil Procedure 11. Since some individuals are still relying on these flawed arguments, it is important to get out the information that their ideas simply do not work and that they can be harmed by these tactics. 8
- Facilitate reforms to the government, tax, and legal professions.
- Accelerate your education about law, freedom, and taxes. 10

Flawed Tax Arguments to Avoid, Version 1.27 52 of 523 EXHIBIT:_

- 6. Expose the most prevalent methods for unlawfully enlarging government revenues and jurisdiction and provide tools for 1 opposing them. 2
- We wish to thank the many people who contributed to this analysis who we can't name here. 3

We'd like to caution you that there are LOTS of ways to do the wrong thing and get into trouble, but there are very few ways to keep your PRIVATE earnings and lawfully avoid paying income taxes.

- Most of these flawed arguments found in this document originate from the following causes:
 - 1. Abuses of "words of art" to confuse and deceive people, such as "United States", "State", "citizen", "resident", "trade or business", "domicile", "employee" etc. These mechanisms are summarized below. We must prevent and overcome all of the listed abuses in the context of these "words of art" in order to keep the government within the bounds of the Constitution and inside the ten mile square sand box bequeathed to them by the founding fathers:

"Judicial 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, during Watergate hearing] "When words lose their meaning, people will lose their liberty."

[Confucius, 500 B.C.]

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- 1.1. Misunderstanding or misapplication of choice of law rules. These rules are documented starting in the next section.
- 1.2. Failure or refusal to adjust the meaning of "words of art" based on their context and the legal definitions that apply in that context. See:

Geographical Definitions and Conventions, Form #11.215 http://sedm.org/SampleLetters/DefinitionsAndConventions.htm

1.3. A violation of or disregard for the rules of statutory construction, usually by abusing the word "includes". See:

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

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

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

Laziness or unwillingness to critically evaluate what laws, people, and government are telling you. Don't be lazy. The price of freedom is eternal vigilance. The U.S. Supreme Court identified the enemies of republican freedom originating from the above causes, when it held:

> "The chief enemies of republican freedom are mental sloth, conformity, bigotry, superstition, credulity, monopoly in the market of ideas, and utter, benighted ignorance. [Adderley v. State of Florida, 385 U.S. 39, 49 (1967)]

Legal ignorance of both legal professionals and people who have no formal education in law and are not trained in how to do legal research. This prevents people from being able to critically evaluate what they hear or to compare it with what the law or courts say on the subject. Ultimately, they end up in big trouble of one kind or another. If you want to learn about law and how to do legal research, we recommend that you read chapters 3 and 4 of the *Great IRS Hoax*, Form #11.302 as a starting point:

Great IRS Hoax, Form #11.302 http://sedm.org/Forms/FormIndex.htm

The need for people to try to justify or explain the clearly lawless actions of two completely unaccountable organizations called the IRS and the Federal Judiciary. Larken Rose lucidly explained this dilemma in an email update he sent out on June 7, 2005 as follows:

Dear Subscriber,

Power corrupts. People in power can be dishonest, corrupt, lawless, etc. They don't have to be brilliant, or have a conspiracy, or have a secret club, or do anything else, in order to be corrupt and lawless.

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1	I have heard, and continue to hear, half a zillion theories about how some magical secret trick made it "legal"
2	for those in government to ignore the Constitution. We use zip codes, so we suddenly become the property of the
3	federal government, and they can do whatever they want. We call ourselves "U.S. citizens," or we walk into a
4	courtroom with a gold fringe on the flag, or we have a Social Security number, or we use Federal Reserve notes,
5	so the Constitution doesn't apply. Or they are making up corporations, or something, by spelling our name in all
6	capital letters.
7	Or they made "federal zones" overlying all of the states. Or there are two, or three, or 57 different constitutions,
8	or governments, or "United States", or it's a corporation, or it's still part of the British Crown, or the IRS isn't
9	part of the U.S. government, etc., etc., etc.
10	What all of these claims have in common is that they attempt to explain government lawlessness by some secret,
11	"legal" conspiracy, that somehow makes it LEGITIMATE. And the flip side is: if we can just say the magic words,
12	and show them we know their secret handshake, then they'll leave us alone.
13	Why is it so difficult to accept the real truth?: this is just good old-fashioned tyranny. They don't need a secret
14	manipulation and song and dance, or some intricate conspiratorial trick. In many instances, they just IGNORE
15	the law, and the Constitution, and the truth, and their paid off court system blesses their actions. It's no more
16	complicated than that. (That's what I've been trying to show for the past eight years.)
17	If I had to guess, I'd say that people are scared to death of the possibility that "the system" will not do the right
18	thing, so they want there to be some secret word, or secret procedure, that will make tyrants respond with "well
19	shucks, ya caught us, so now we'll leave you alone."
20	There isn't one. Either the people stop tyranny WITHOUT the help of those in power, or tyranny continues. It's
21	that simple.
22	I hate to be a party-pooper, but if anyone is trying to persuade you that some secret procedure will make you
23	immune from tyranny, ignore them. The all-important "silver bullet" is not a procedure, or a law, or a theory, or
24	a claim; it is an EDUCATED and concerned CITIZENRY, willing and able to drag the tyrants back into their
25	Constitutional cages, while they scream and cry, insult and threaten. If that doesn't do it, nothing will.
26	Sincerely,
27	Larken Rose

The main purpose of this document is to help you avoid all of the pain and agony you will invite into your life by being ignorant about law or refusing to critically evaluate everything that you hear from ANYONE, including us. If you would like to learn more about what the government and tax profession thinks are "flawed arguments", the following resources may prove useful, all of which are entirely consistent with this document so far as we are aware:

1. <u>The Truth About Frivolous Tax Arguments</u>, Internal Revenue Service http://famguardian.org/PublishedAuthors/Govt/IRS/friv_tax.pdf

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- 2. IRS Rebuts Those making Frivolous Tax Arguments on Paying Taxes, Internal Revenue Service: http://www.irs.gov/irs/article/0.,id=136751,00.html
- 3. <u>Frequently Asked Questions Concerning the Federal Income Tax, Congressional Research Service Report 97-59A</u> http://famguardian.org/PublishedAuthors/Govt/CRS/CRS-97-59A.pdf
- 4. Department of Justice Criminal Tax Manual 2001, Chapter 40 available at: http://famguardian.org/Publications/DOJTDCTM/taxc40.htm
- 5. Department of Justice Criminal <u>Tax Manual 2001</u>, Chapter 40 available at: http://www.usdoj.gov/tax/readingroom/2001ctm/40ctax.htm
- If you would like further rebuttal of the above and to criticism of our website or ministry generally, see:
- 1. <u>Policy Document: Rebutted False Arguments Against This Website</u>, Form #08.011 http://sedm.org/Forms/FormIndex.htm
- 2. Policy Document: Rebutted False About Sovereignty, Form #08.018 http://sedm.org/Forms/FormIndex.htm
 - 3. <u>Rebutted Version of the IRS pamphlet "The Truth About Frivolous Tax Arguments"</u>, Form #08.005 available at: http://sedm.org/Forms/FormIndex.htm
- 49 4. <u>Rebutted version of Congressional Research Service report 97-59A "Frequently Asked Questions Concerning the Federal Income Tax"</u>, Form #08.006:

- http://sedm.org/Forms/FormIndex.htm
- 5. <u>Rebutted version of "Tax Resister Frequently Asked Questions"</u>, by Dan Evans, Form #08.007:
- 3 http://sedm.org/Forms/FormIndex.htm
- 6. *Tax Deposition Questions*, Form #03.016:
 - http://sedm.org/Forms/FormIndex.htm
- 7. <u>Test for Federal Tax Professionals</u>, Form #03.028:
 - http://sedm.org/Forms/FormIndex.htm
- 8. SEDM Forms, Sections 1.5 and 1.8:
 - http://sedm.org/Forms/FormIndex.htm
- 10 Readers are cautioned that:

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- 1. The <u>IRS "The Truth About Frivolous Tax Arguments"</u> indicated above.
- 2. Everything the IRS publishes, including every one of their forms and publications.
- 3. The entire IRS website.
- 4. All the correspondence they send you in the mail.
 - ...by the admission of the IRS Internal Revenue Manual (I.R.M.), Section 4.10.7.2.8 itself, should NOT be relied upon as a basis of belief. Apparently, everything on their website and everything they write or publish, by their own admission, is "frivolous" and irrelevant by implication:

"IRS Publications [and by implication, all of the information they contain], 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)]

Apparently, the IRS is perfectly willing to go out and penalize, harass, and terrorize people for being wrong on their tax returns, or in their correspondence with the IRS, and yet the federal courts positively refuse their constitutional duty to hold the IRS equally responsible for anything they say or write or post on their website. Everything we send them must be signed under penalty of perjury pursuant to 26 U.S.C. \$6065 or else it is ignored, and yet when they write us, they refuse to even use their real names and never sign under penalty of perjury if they sign at all. This supreme level of hypocrisy is an affront to the notion of an accountable, law-abiding government and makes them little more than a terrorist organization engaged in a "protection racket". Below is what the U.S. Supreme Court ruled on the requirement for equal protection and the absence of such hypocrisy.

"Decency, security, and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperiled if it fails to observe the law scrupulously. Our government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means-to declare that the government may commit crimes in order to secure the conviction of a private criminal-would bring terrible retribution. Against that pernicious doctrine this court should resolutely set its face."

[Olmstead v. United States, 277 U.S. 438 (1928)]

For details on this scam of untrustworthy IRS publications, see:

Federal Courts and IRS' Own Internal Revenue Manual Say the IRS is NOT RESPONSIBLE for its actions or its Words or For Following Its Own Written Procedures, Family Guardian Fellowship

http://famguardian.org/Subjects/Taxes/Articles/IRSNotResponsible.htm

40 If you would like a high level introduction to the subject of "legal propaganda and deception", See:

Foundations of Freedom Course, Form #12.021, Video 4: Willful Government Deception and Propaganda

SLIDES: http://sedm.org/LibertyU/FoundOfFreedom-Slides.pdf VIDEO: http://www.youtube.com/watch?v=DvnTL Z5asc

If you would like a detailed analysis of all the legal deception and propaganda techniques used in the false government arguments presented in this memorandum of law, see:

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

- Finally, if you would like a detailed memorandum of law that describes how government abuses legal language as the main
- means to legally kidnap your identity and transport it against your will to what Mark Twain calls "The District of Criminals",
- see the following memorandum of law. The memorandum also describes how to combat the propaganda where it counts: in
 - court and in your administrative dealings with what Irwin Schiff called "the government mafia":

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

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2. Methodology and Motivation of the corruption of the tax system

The content of the following subsections is exhaustively covered in the following memorandum of the law. These subsections are only a summary of the essential issues:

Why the Federal Income Tax is Limited to Federal Territory, Possessions, Enclaves, Offices, and Other Property, Form #04.404

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

2.1 Income tax is a public officer kickback program disguised to LOOK like a lawful national tax

The income tax is a rental fee on federal property. The property loaned is a public office called "taxpayer". That office is an illegally created federal office to which privileges and obligations attach. The office of "taxpayer" and "person" against whom the tax is illegally enforced in states of the Union is described in the document below:

<u>Challenge to Income Tax Enforcement Authority within Constitutional States of the Union</u>, Form #05.052 https://sedm.org/Forms/FormIndex.htm

The truth is "Federal income tax" is not a tax at all but a program devised to return a portion of payments paid by the U.S. Government back to them that were paid to their public officers or instrumentalities under an existing employment agreement or contract. That property was theirs to begin with and remains theirs AFTER it is received and until the kickback portion is "returned". In fact, the phrase frequently used in the I.R. Code and in Federal Government publications with reference to "income tax" is "return of income." What is the "return of income" arranged for by the I.R. Code? Since the U.S. Supreme Court has declared that laws are identified by their effect, not their wording the laws in the Internal Revenue Code fit the definition of a kickback.

kickback 19 20 noun $kick \cdot back \ / \ \ 'kik - \ bak \ \$ 21 Definition of kickback 22 23 1: a return of a part of a sum received often because of confidential agreement or coercion every city contract had been let with a ten percent kickback to city officials—D. K. Shipler 24 2: a sharp violent reaction 25 [Merriam Websters Dictionary: Kickback; Downloaded 1/22/2020; SOURCE: https://www.merriam-26 27 webster.com/dictionary/kickback]

vship, http://famguardian.org

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¹ The U.S. Supreme Court said in Henderson ef al v. Mayor of N.Y. et al,92 U.S. 258, 268, "In whatever language a statute may be framed, its purpose must be determined by its nature and reasonable effect."

This Federal Government kickback program is legal as long as it is limited to returning property belonging to the U.S.

Government. It is implemented under the authority of Article 4, Section 3, Clause 2 of the Constitution, which confers

legislative authority to the government ONLY over its own property:

United States Constitution

Article 4, Section 3

The <u>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.</u>

However, by use of deceit and misinformation, an illegal kickback program has been established that brings monies into the Federal Treasury based upon property not includible by law or PRIVATE employment agreement in the legal PUBLIC kickback program.

2.2 Background on federal employment contracts

Federal employment and/or public office described in 5 U.S.C. §2105 itself is a franchise.

<u>TITLE 5 > PART III > Subpart A > CHAPTER 21 > § 2105</u> <u>§2105. Employee</u>

(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—

All public officers are privileged franchisees.

PRIVILEGE. <u>A particular and peculiar benefit or advantage</u> enjoyed by a person, company, or class, beyond the common advantages of other citizens. An exceptional or extraordinary power or exemption. <u>A right, power, franchise, or immunity held by a person or class, against or beyond the course of the law.</u> Waterloo Water Co. v. Village of Waterloo, 193 N.Y.S. 360, 362, 200 App.Div. 718; Colonial Motor Coach Corporation v. City of Oswego, 215 N.Y.S. 159,163,126 Misc. 829; Cope v. Flanery, 234 P. 845, 849, 70 CaLApp. 738; Bank of Commerce & Trust Co. v. Senter, 260 S.W. 144, 147, 149 Tenn. 569; State v. Betts, 24 N.J.L. 557.

An exemption from some burden or attendance, with which certain persons are indulged, from a supposition of law that the stations they all, or the offices they are engaged in, are such as require all their time and care, and that, therefore, without this indulgence, it would be impracticable to execute such offices to that advantage which the public good requires. Dike v. State, 38 Minn. 366, 38 N.W. 95; International Trust Co. v. American L. & T. Co., 62 Minn. 501, 65 N.W. 78. State v. Gilman, 33 W.Va. 146, 10 S.E. 283, 6 L.R.A. 847. That which releases one from the performance of a duty or obligation, or exempts one from a liability which he would otherwise be required to perform, or sustain in common with all other persons. State v. Grosnickle, 189 Wis. 17, 206 N.W. 895, 896. A peculiar advantage, exemption, or immunity. Sacramento Orphanage & Children's Home v. Chambers, 25 Cal.App. 536, 144 P. 317, 319. [Black's Law Dictionary, Fourth Edition, pp. 1359-1360]

"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]

- Note the following about BEING privileged as a public officer:
- 1. Privileges are equated with franchises.

1		"PRIVILEGE. " <u>A righ</u>	t, power, franchise, or immunity held by a person or class, against or beyond the course
2		of the law. [] That	which releases one from the performance of a duty or obligation, or exempts one from a
3		liability which he woul	d otherwise be required to perform, or sustain in common [common law] with all other
4		persons. State v. Gros	nickle, 189 Wis. 17, 206 N.W. 895, 896. A peculiar advantage, exemption, or immunity.
5			e & Children's Home v. Chambers, 25 Cal.App. 536, 144 P. 317, 319.
6			ry, Fourth Edition, pp. 1359-1360]
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8		"Is it a franchise? A f i	ranchise is said to be a right reserved to the people by the constitution, as the elective
9			said to be a privilege conferred by grant from government, and vested in one or more
0			coffice. Corporations, or bodies politic are the most usual franchises known to our laws.
1			very numerous, and are defined to be royal privileges in the hands of a subject. An
2		information will lie in 1	nany cases growing out of these grants, especially where corporations are concerned, as
3		by the statute of 9 Anne	, ch. 20, and in which the public have an interest. In 1 Strange R. (The King v. Sir William
4		Louther,) it was held th	nat an information of this kind did not lie in the case of private rights, where no franchise
5		of the crown has been i	nvaded.
6 7 8		franchisein this count	and a privilege existing in a subject, which the king alone could grant, constitutes it a ry, under our institutions, a privilege or immunity of a public nature, which could not be rislative grant, would also be a franchise."
9			Ill. 65, 1859 WL 6687, 11 Peck 65 (Ill., 1859)]
0 1 2	2.		or office or the civil status associated with the office "are beyond the course of the law" are protections of both the Constitution and the common law and thereby exchange ATUTORY privileges.
3		"PRIVILEGE "A righ	t, power, franchise, or immunity held by a person or class, against or beyond the course
4		of the law."	Appropriate mass, or immunity network as person or emass, against or beyond the course
5			ry, Fourth Edition, pp. 1359-1360]
6			y, 1 viii iii 2iiiii vii, pp. 1367 1566
7			for its own governance in the cases confessedly within its jurisdiction, a series of rules
8 9		under which it has ave decision. They are:	oided passing upon a large part of all the constitutional questions pressed upon it for
0		[]	
1		6. The Court will no	t pass upon the constitutionality of a statute at the instance of one who has availed
2		himself of its benefits.	FN7 Great Falls Mfg. Co. v. Attorney General, 124 U.S. 581, 8 S.Ct. 631, 31 L.Ed. 527;
3		<u>Wall v. Parrot Silver &</u>	Copper Co., 244 U.S. 407, 411, 412, 37 S.Ct. 609, 61 L.Ed. 1229; St. Louis Malleable
4		Casting Co. v. Prender	gast Construction Co., 260 U.S. 469, 43 S.Ct. 178, 67 L.Ed. 351.
5		FN7 Compare Electric	Co. v. Dow, 166 U.S. 489, 17 S.Ct. 645, 41 L.Ed. 1088; Pierce v. Somerset Ry., 171 U.S.
6			3 L.Ed. 316; Leonard v. Vicksburg, etc., R. Co., 198 U.S. 416, 422, 25 S.Ct. 750, 49 L.Ed.
7		1108.	<u> </u>
8			ee Valley Authority, 297 U.S. 288, 56 S.Ct. 466 (1936)]
9			
0		"The words "privileges	" and "immunities," like the greater part of the legal phraseology of this country, have
0			the law of Great Britain, and recur constantly either as such or in equivalent expressions
1			a Charta. For all practical purposes they are synonymous in meaning, and originally
3			ht or private law conceded to particular persons or places whereby a certain individual
4			was exempted from the rigor of the common law. Privilege or immunity is conferred
5			he is invested with a legal claim to the exercise of special or peculiar rights, authorizing
6			icular advantage or exemption."
7			munities of State Citizenship, Roger Howell, PhD, 1918, pp. 9-10;
8		SOURCE:	,
9			/Publications/ThePrivAndImmOfStateCit/The_privileges_and_immunities_of_state_c.pdf
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		C 14 11 P	F. J.C. N. 9052 16 F. J.C. 400. 6 W. J. 201 P. 5502 5504 4 1 1
1			Fed.Cas. No. 8952, 16 Fed.Cas. 408; 6 Words and Phrases, 5583, 5584; A J. Lien,
2		Privileges and Immu Economics, and Public	nities of Citizens of the United States," in Columbia University Studies in History,
د		Economics, ana Public	Law, voi. Jt, p. J1.

3. Privileges are also equated with "benefits":

4. Those who are privileged ordinarily occupy an office of some kind created and regulated by a statute.

privilege \ 'priv-lij, 'pri-və-\ noun

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16 17 [Middle English, from Anglo-French, from Latin privilegium law for or against a private person, from privus private + leg-, lex law] 12th century: a right or immunity granted as a peculiar benefit, advantage, or favor: prerogative especially: such a <u>right or immunity attached specifically to a position or an office</u>
[Mish, F. C. (2003). Preface. Merriam-Websters collegiate dictionary. (Eleventh ed.). Springfield, MA: Merriam-Webster, Inc.]

5. All franchises consist of loans of government property.

"In a legal or narrower sense, the term "franchise" is more often used to designate a right or privilege conferred by law, ² and the view taken in a number of cases is that to be a franchise, the right possessed must be such as cannot be exercised without the express permission of the sovereign power ³—that is, a privilege or immunity of a public nature which cannot be legally exercised without legislative grant. ⁴ It is a privilege conferred by government on an individual or a corporation to do that "which does not belong to the citizens of the country generally by common right." ⁵ For example, a right to lay rail or pipes, or to string wires or poles along a public street, is not an ordinary use which everyone may make of the streets, but is a special privilege, or franchise, to

The term "franchise" is generic, covering all the rights granted by the state. Atlantic & G. R. Co. v. Georgia, 98 U.S. 359, 25 L.Ed. 185.

A franchise is a contract with a sovereign authority by which the grantee is licensed to conduct a business of a quasi-governmental nature within a particular area. West Coast Disposal Service, Inc. v. Smith (Fla App), 143 So.2d. 352.

A franchise is a contract with a sovereign authority by which the grantee is licensed to conduct a business of a quasi-governmental nature within a particular area. West Coast Disposal Service, Inc. v. Smith (Fla App), 143 So.2d. 352.

A franchise represents the right and privilege of doing that which does not belong to citizens generally, irrespective of whether net profit accruing from the exercise of the right and privilege is retained by the franchise holder or is passed on to a state school or to political subdivisions of the state. State ex rel. Williamson v. Garrison (Okla), 348 P.2d. 859.

Where all persons, including corporations, are prohibited from transacting a banking business unless authorized by law, the claim of a banking corporation to exercise the right to do a banking business is a claim to a franchise. The right of banking under such a restraining act is a privilege or immunity by grant of the legislature, and the exercise of the right is the assertion of a grant from the legislature to exercise that privilege, and consequently it is the usurpation of a franchise unless it can be shown that the privilege has been granted by the legislature. People ex rel. Atty. Gen. v. Utica Ins. Co., 15 Johns (NY) 358.

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² People ex rel. Fitz Henry v. Union Gas & E. Co. 254 Ill. 395, 98 N.E. 768; State ex rel. Bradford v. Western Irrigating Canal Co. 40 Kan 96, 19 P. 349; Milhau v. Sharp, 27 N.Y. 611; State ex rel. Williamson v. Garrison (Okla), 348 P.2d. 859; Ex parte Polite, 97 Tex Crim 320, 260 S.W. 1048.

³ The term "franchise" is generic, covering all the rights granted by the state. Atlantic & G. R. Co. v. Georgia, 98 U.S. 359, 25 L.Ed. 185.

⁴ State v. Real Estate Bank, 5 Ark. 595; Brooks v. State, 3 Boyce (Del) 1, 79 A. 790; Belleville v. Citizens' Horse R. Co., 152 Ill. 171, 38 N.E. 584; State ex rel. Clapp v. Minnesota Thresher Mfg. Co. 40 Minn 213, 41 N.W. 1020.

⁵ New Orleans Gaslight Co. v. Louisiana Light & H. P. & Mfg. Co., 115 U.S. 650, 29 L.Ed. 516, 6 S.Ct. 252; People's Pass. R. Co. v. Memphis City R. Co., 10 Wall (US) 38, 19 L.Ed. 844; Bank of Augusta v. Earle, 13 Pet (U.S.) 519, 10 L.Ed. 274; Bank of California v. San Francisco, 142 Cal. 276, 75 P. 832; Higgins v. Downward, 8 Houst (Del) 227, 14 A. 720, 32 A. 133; State ex rel. Watkins v. Fernandez, 106 Fla. 779, 143 So. 638, 86 A.L.R. 240; Lasher v. People, 183 Ill. 226, 55 N.E. 663; Inland Waterways Co. v. Louisville, 227 Ky. 376, 13 S.W.2d. 283; Lawrence v. Morgan's L. & T. R. & S. S. Co., 39 La.Ann. 427, 2 So. 69; Johnson v. Consolidated Gas E. L. & P. Co., 187 Md. 454, 50 A.2d. 918, 170 A.L.R. 709; Stoughton v. Baker, 4 Mass 522; Poplar Bluff v. Poplar Bluff Loan & Bldg. Asso., (Mo App) 369 S.W.2d. 764; Madden v. Queens County Jockey Club, 296 N.Y. 249, 72 N.E.2d. 697, 1 A.L.R.2d. 1160, cert den 332 U.S. 761, 92 L.Ed. 346, 68 S.Ct. 63; Shaw v. Asheville, 269 N.C. 90, 152 S.E.2d. 139; Victory Cab Co. v. Charlotte, 234 N.C. 572, 68 S.E.2d. 433; Henry v. Bartlesville Gas & Oil Co., 33 Okla 473, 126 P. 725; Elliott v. Eugene, 135 Or. 108, 294 P. 358; State ex rel. Daniel v. Broad River Power Co. 157 S.C. 1, 153 S.E. 537; State v. Scougal, 3 S.D. 55, 51 N.W. 858; Utah Light & Traction Co. v. Public Serv. Com., 101 Utah 99, 118 P.2d. 683.

be granted for the accomplishment of public objects ⁶ which, except for the grant, would be a trespass. ⁷ In this connection, the term "franchise" has sometimes been construed as meaning a grant of a right to use public
property, or at least the property over which the granting authority has control. 8" [American Jurisprudence 2d, Franchises, §1: Definitions (1999)]

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6. Public officers are legally defined as those IN CHARGE of the property of the public. As a bare minimum, the office itself that they exercise constitutes such property, and all PUBLIC rights granted are associated with said office.

"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]

7. Offices are for a fixed duration. That is why information returns and tax returns are filed and processed annually over a fixed period of one year.

2.3 The dastardly process to convert PRIVATE government employee salaries to PUBLIC franchise "taxpayer" offices

The kickback is instituted by converting formerly PRIVATE property to PUBLIC property. All public offices are franchises and all franchises are contracts. The compensation from enfranchised de jure public offices is normally PRIVATE property.

"As a rule, franchises spring from contracts between the sovereign power and private citizens, made upon valuable considerations, for purposes of individual advantage as well as public benefit, 9 and thus a franchise partakes of a double nature and character. So far as it affects or concerns the public, it is public juris and is subject to governmental control. The legislature may prescribe the manner of granting it, to whom it may be granted, the conditions and terms upon which it may be held, and the duty of the grantee to the public in exercising it, and may also provide for its forfeiture upon the failure of the grantee to perform that duty. But when granted, it becomes the [PRIVATE] property of the grantee, and is a private right, subject only to the governmental control growing out of its other nature as publici juris. 10"

⁶ New Orleans Gaslight Co. v. Louisiana Light & H. P. & Mfg. Co., 115 U.S. 650, 29 L.Ed. 516, 6 S.Ct. 252; People's Pass. R. Co. v. Memphis City R. Co., 10 Wall (US) 38, 19 L.Ed. 844; Bank of Augusta v. Earle, 13 Pet (U.S.) 519, 10 L.Ed. 274; Bank of California v. San Francisco, 142 Cal. 276, 75 P. 832; Higgins v. Downward, 8 Houst (Del) 227, 14 A. 720, 32 A. 133; State ex rel. Watkins v. Fernandez, 106 Fla. 779, 143 So. 638, 86 A.L.R. 240; Lasher v. People, 183 Ill. 226, 55 N.E. 663; Inland Waterways Co. v. Louisville, 227 Ky. 376, 13 S.W.2d. 283; Lawrence v. Morgan's L. & T. R. & S. S. Co., 39 La.Ann. 427, 2 So. 69; Johnson v. Consolidated Gas E. L. & P. Co., 187 Md. 454, 50 A.2d. 918, 170 A.L.R. 709; Stoughton v. Baker, 4 Mass 522; Poplar Bluff v. Poplar Bluff Loan & Bldg. Asso. (Mo App) 369 S.W.2d. 764; Madden v. Queens County Jockey Club, 296 N.Y. 249, 72 N.E. 2d. 697, 1 A.L.R. 2d. 1160, cert den 332 U.S. 761, 92 L.Ed. 346, 68 S.Ct. 63; Shaw v. Asheville, 269 N.C. 90, 152 S.E. 2d. 139; Victory Cab Co. v. Charlotte, 234 N.C. 572, 68 S.E. 2d. 433; Henry v. Bartlesville Gas & Oil Co., 33 Okla 473, 126 P. 725; Elliott v. Eugene, 135 Or. 108, 294 P. 358; State ex rel. Daniel v. Broad River Power Co. 157 S.C. 1, 153 S.E. 537; State v. Scougal, 3 S.D. 55, 51 N.W. 858; Utah Light & Traction Co. v. Public Serv. Com., 101 Utah 99, 118 P.2d. 683.

A franchise represents the right and privilege of doing that which does not belong to citizens generally, irrespective of whether net profit accruing from the exercise of the right and privilege is retained by the franchise holder or is passed on to a state school or to political subdivisions of the state. State ex rel. Williamson v. Garrison (Okla), 348 P.2d. 859.

Where all persons, including corporations, are prohibited from transacting a banking business unless authorized by law, the claim of a banking corporation to exercise the right to do a banking business is a claim to a franchise. The right of banking under such a restraining act is a privilege or immunity by grant of the legislature, and the exercise of the right is the assertion of a grant from the legislature to exercise that privilege, and consequently it is the usurpation of a franchise unless it can be shown that the privilege has been granted by the legislature. People ex rel. Atty. Gen. v. Utica Ins. Co., 15 Johns (NY) 358.

A contract between a county and a private corporation to construct a water transmission line to supply water to a county park, and giving the corporation the power to distribute water on its own lands, does not constitute a franchise. Brandon v. County of Pinellas (Fla App), 141 So.2d. 278.

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⁷ People ex rel. Foley v. Stapleton, 98 Colo. 354, 56 P.2d. 931; People ex rel. Central Hudson Gas & E. Co. v. State Tax Com. 247 N.Y. 281, 160 N.E. 371, 57 A.L.R. 374; People v. State Tax Comrs. 174 N.Y. 417, 67 N.E. 69, affd 199 U.S. 1, 50 L.Ed. 65, 25 S.Ct. 705.

⁸ Young v. Morehead, 314 Ky. 4, 233 S.W.2d. 978, holding that a contract to sell and deliver gas to a city into its distribution system at its corporate limits was not a franchise within the meaning of a constitutional provision requiring municipalities to advertise the sale of franchises and sell them to the highest bidder.

⁹ Georgia R. & Power Co. v. Atlanta, 154 Ga. 731, 115 S.E. 263; Lippencott v. Allander, 27 Iowa 460; State ex rel. Hutton v. Baton Rouge, 217 La. 857, 47 So.2d. 665; Tower v. Tower & S. Street R. Co. 68 Minn 500, 71 N.W. 691.

¹⁰ Georgia R. & Power Co. v. Atlanta, 154 Ga. 731, 115 S.E. 263; Lippencott v. Allander, 27 Iowa 460; State ex rel. Hutton v. Baton Rouge, 217 La. 857, 47 So.2d. 665; Tower v. Tower & S. Street R. Co. 68 Minn 500, 71 N.W. 691.

- The so-called "income tax" is actually a kickback program being implemented as an addendum to an existing de jure public officer employment agreement. The process for converting the earnings from the de jure public office into yet another public office and PUBLIC property is as follows, listed as close as possible to the chronological sequence it was instituted:
 - 1. Create a NEW public office attached to the original de jure public office called "taxpayer". That new office attaches to the otherwise PRIVATE earnings of the original public office. For instance, the office of "President" is a de jure constitutional public office.
 - 2. Make the earnings from the original de jure franchise office PUBLIC rather than PRIVATE, in violation of the norms established above mentioned in American Jurisprudence. Adding the office of "taxpayer" to the de jure constitutional office of President, for instance, converts the PRIVATE earnings from the office payable to the OFFICER filling said office into PUBLIC earnings of a NEW office called "taxpayer".

"But when granted, it becomes the property of the grantee, and is a private right, subject only to the governmental control growing out of its other nature as publici juris."

[American Jurisprudence 2d, Franchises, §4: Generally (1999)]

- 3. Threaten those in de jure federal employment with either being fired or not promoted unless they volunteer for the kickback. This amounts to criminal extortion.
- 4. Define the term "United States" to have two contexts: (1) The GEOGRAPHIC SENSE and (2) The GOVERNMENT OR CORPORATE SENSE.
 - 4.1. 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.

<u>TITLE 26 > Subtitle F > CHAPTER 79 > Sec. 7701. [Internal Revenue Code]</u> <u>Sec. 7701. - Definitions</u>

(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.

- 4.2. 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.
- 4.3. 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".
- 5. Refuse to define WHICH of the two contexts for "United States" is employed in each case. Also, refuse to talk about the implications of using the CORPORATE sense of the "United States" in court rulings so that the public can be deceived. Those implications are that:
 - 5.1. "United States" means the federal corporation. 28 U.S.C. §3002(15)(A).
 - 5.2. To be "within the United States" means to be WITHIN the corporation as a public officer, because the corporation is a fiction of law.

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¹¹ Georgia R. & Power Co. v. Atlanta, 154 Ga. 731, 115 S.E. 263; Lippencott v. Allander, 27 Iowa 460; State ex rel. Hutton v. Baton Rouge, 217 La. 857, 47 So.2d. 665; Tower v. Tower & S. Street R. Co. 68 Minn 500, 71 N.W. 691.

1 2 3	6.	5.3. "sources within the United States" means government payments.Enact the Social Security Act and use it as a franchise which makes state citizens look like territorial citizens:6.1. The initial Social Security Act was enacted in 1935.	
		6.2. Use Social Security as a way to piggyback the income tax participation on top of it. That is what the initial Social Security as a way to piggyback the income tax participation on top of it.	i_1
4 5		Security Act said its intention was ¹² :	aı
		THE LINE TAYES WHEN DESDECT TO DIVIN OUR DIVIN	
6 7		TITLE VIII- TAXES WITH RESPECT TO EMPLOYMENT INCOME TAX ON EMPLOYEES	
		CECTION ON In addition to the state of the last of the	
8 9		SECTION 801. <u>In addition to other taxes, there shall be levied, collected, and paid</u> upon the income of every individual a tax equal to the following percentages of the wages (as defined in section 811) received by him	
10		after December 31, 1936, with respect to employment (as defined in section 811) after such date:	
11		(1) With respect to employment during the calendar years 1937, 1938, and 1939, the rate shall be 1 per centum.	
12		(2) With respect to employment during the calendar years 1940, 1941, and 1942, the rate shall 1 st per centum.	
13		(3) With respect to employment during the calendar years 1943, 1944, and 1945, the rate shall be 2 per centum.	
14		(4) With respect to employment during the calendar years 1946, 1947, and 1948, the rate shall be 2 « per	
15 16		centum. (5) With respect to employment after December 31, 1948, the rate shall be 3 per centum.	
17		6.3. The territorial definitions in the act prohibited it from being offered in Constitutional states of the Union:	
18		SEC. 1101. [42 U.S.C. 1301] (a) When used in this Act—	
19 20		"(2) The term "United States" when used in a geographical sense means, except where otherwise provided, the States."	
21		[Social Security Act as of 2005, Section 1101]	
22			
23		Social Security Act	
24		SEC. 1101. [42 U.S.C. 1301] (a) When used in this Act—	
25		(1) The term 'State', except where otherwise provided, includes the District of Columbia and the Commonwealth	
26		of Puerto Rico, and when used in titles IV, V, VII, XI, XIX, and XXI includes the Virgin Islands and Guam. Such	
27		term when used in titles III, IX, and XII also includes the Virgin Islands. Such term when used in title V and in part B of this title also includes American Samoa, the Northern Mariana Islands, and the Trust Territory of the	
28 29		Pacific Islands. Such term when used in titles XIX and XXI also includes the Northern Mariana Islands and	
30		American Samoa. In the case of Puerto Rico, the Virgin Islands, and Guam, titles I, X, and XIV, and title XVI (as	
31		in effect without regard to the amendment made by section 301 of the Social Security Amendments of 1972[3])	
32		shall continue to apply, and the term 'State' when used in such titles (but not in title XVI as in effect pursuant to	
33		such amendment after December 31, 1973) includes Puerto Rico, the Virgin Islands, and Guam. Such term when	
34		used in title XX also includes the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.	
35		Such term when used in title IV also includes American Samoa."	
36		[Social Security Act as of 2005, Section 1101]	
37		6.4. Social Security Numbers create a usually false presumption that the user is a territorial STATUTORY citizens.	
38		The only way to overcome that presumption is to file a 1040NR tax return instead of a 1040 and use a W-8	
39		instead of a W-9 respectively for tax returns and withholding.	
40		26 C.F.R. §301.6109-1 - Identifying numbers.	
41		(g) Special rules for taxpayer identifying numbers issued to foreign persons -	
42		(1) General rule-	
43		(i) Social security number.	

¹² For the entire original Social Security Act of 1935, see Social Security Act of 1935, Social Security Administration; https://www.ssa.gov/history/35act.html.

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1 2 3 4 5 6			A social security number is generally identified in the records and database of the Internal Revenue Service as a number belonging to a [STATUTORY rather than CONSTITUTIONAL] U.S. citizen or resident alien individual. A person may establish a different status for the number by providing proof of foreign status with the Internal Revenue Service under such procedures as the Internal Revenue Service shall prescribe, including the use of a form as the Internal Revenue Service may specify. Upon accepting an individual as a nonresident alien individual, the Internal Revenue Service will assign this status to the individual's social security number.
7 8	7.		vely hijack ordinary private sector marketplace terms to make EVERYONE LOOK like STATUTORY "officers. This is criminal identity theft. Such terms include:
9			rson" (for the purposes of civil or criminal enforcement of the Internal Revenue Code): An officer or
10		emp	ployee or partner with the national government.
11			<u>TITLE 26 > Subtitle F > CHAPTER 68 > Subchapter B > PART I</u> > § 6671 § 6671. Rules for application of assessable penalties
13			(b) Person defined
14 15 16			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.
17			
18 19			TITLE $26 > Subtitle\ F > CHAPTER\ 75 > Subchapter\ D > Sec.\ 7343$. Sec. 7343. Sec. 7343.
20			The term "person" as used in this chapter [Chapter 75] includes an officer or employee of a corporation [U.S.
21			<u>Inc.</u>], or a member or employee of a partnership, who as such officer, employee, or member is under a duty to
22			perform the act in respect of which the violation occurs
23		7.2. <u>"En</u>	nployee": An elected or appointed officer if the national but not state government.
24			26 C.F.R. §31.3401(c)-1 Employee
25			"the term [employee] includes officers and employees, whether elected or appointed, of the United States, a
26			[federal] State, Territory, Puerto Rico or any political subdivision, thereof, or the District of Columbia, or any
27			agency or instrumentality of any one or more of the foregoing. The term 'employee' also includes an officer of a [federal but not state] corporation."
28			a ffederal val not statef corporation.
29 30			nployer": Someone who has STATUTORY "employees", meaning public officers of the national but not state ernment.
31 32			<u>TITLE 26</u> > <u>Subtitle C</u> > <u>CHAPTER 24</u> > §3401 <u>§3401. Definitions</u>
33			(d) Employer
34 35			For purposes of this chapter, the term "employer" means the person for whom an individual performs or performed any service, of whatever nature, as the employee of such person, except that—
36 37			(1) if the person for whom the individual performs or performed the services does not have control of the payment of the wages for such services, the term "employer" (except for purposes of subsection (a)) means the person
38			having control of the payment of such wages, and
39			(2) in the case of a person paying wages on behalf of a nonresident alien individual, foreign partnership, or
40 41			foreign corporation, not engaged in trade or business within the United States, the term "employer" (except for purposes of subsection (a)) means such person.
42		7.4 Was	ges": Earnings of a statutory "employee" public officer as defined above OTHER than "fees". In other
42 43			ds, "remuneration" paid to a public officer for services rendered.
44			26 U.S.C. Sec. 3401(a):
45			(a) Wages

1	For purposes of this chapter, the term "wages" means all remuneration (other than fees paid to a public
2	official) for services performed by an employee for his employer, including the cash value of all remuneration
3	(including benefits) paid in any medium other than cash; except that such term shall not include remuneration
4	paid –
5	(1) for active service performed in a month for which such employee is entitled to the benefits of section 112
6	(relating to certain combat zone compensation of members of the Armed Forces of the United States) to the
7	extent remuneration for such service is excludable from gross income under such section; or
8	(2) for agricultural labor (as defined in section 3121(g)) unless the remuneration paid for such labor is wages
9	(as defined in section 3121(a)); or
10	$[\ldots]$
11	7.5. "Income": Corporate profit ¹³
12	"In order, therefore, that the [apportionment] clauses cited from article I [§2, cl. 3 and §9, cl. 4] of the Constitution
13	may have proper force and effect[I]t becomes essential to distinguish between what is an what is no
14	'income,' according to truth and substance, without regard to form. Congress cannot by any definition it ma
15	adopt conclude the matter, since it cannot by legislation alter the Constitution, from which alone, it derive
16	its power to legislate, and within those limitations alone that power can be lawfully exercised[p

ion not ıav its power to legislate, and within those limitations alone that power can be lawfully exercised... [pg. 207]...After examining dictionaries in common use we find little to add to the succinct definition adopted in two cases arising under the Corporation Tax Act of 1909, Stratton's Independence v. Howbert, 231 U.S. 399, 415, 34 S.Sup.Ct. 136, 140 [58 L.Ed. 285] and Doyle v. Mitchell Bros. Co., 247 U.S. 179, 185, 38 S.Sup.Ct. 467, 469, 62 L.Ed. 1054..."

[Eisner v. Macomber, 252 U.S. 189, 207, 40 S.Ct. 189, 9 A.L.R. 1570 (1920)]

"This court had decided in the Pollock Case that the income tax law of 1894 amounted in effect to a direct tax upon property, and was invalid because not apportioned according to populations, as prescribed by the Constitution. The act of 1909 avoided this difficulty by imposing not an income tax, but an excise tax upon the conduct of business in a corporate capacity, measuring, however, the amount of tax by the income of the corporation...Flint v. Stone Tracy Co., 220 U.S. 107, 55 L.Ed. 389, 31 Sup.Ct.Rep. 342, Ann. Cas. [Stratton's Independence v. Howbert, 231 U.S. 399, 414, 58 L.Ed. 285, 34 Sup.Ct. 136 (1913)]

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"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. 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. 13 That is, a public officer occupies a fiduciary relationship to the political entity on whose behalf he or she serves. 13 and owes a fiduciary duty to the public. 13 It has been said that the fiduciary responsibilities of a public officer cannot be less than those of a private individual. 13 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. 13, [63C American Jurisprudence 2d, Public Officers and Employees, §247 (1999)]

Likewise, "corporate activities" mentioned in the above definition of the of "income" in the case of the national government includes only federal corporations and the national government itself, which is also a federal corporation:

> $\underline{TITLE~28} > \underline{PART~VI} > \underline{CHAPTER~176} > \underline{SUBCHAPTER~A} > Sec.~3002.$ 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.

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¹³ The only "trust" spoken of above in that last definition of "income" is the PUBLIC trust.

1 2 3 4		" 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)]
5		
6 7		<u>TITLE 26</u> > <u>Subtitle A</u> > <u>CHAPTER 1</u> > <u>Subchapter J</u> > <u>PART I</u> > <u>Subpart A</u> > § 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, acting
13 14		in good faith, determines to be allocable to corpus under the terms of the governing instrument and applicable local law shall not be considered income.
15	8.	Create a new title of code to collect the kickback. That title is called Title 26. The U.S. Code was first created in 1926
16		and in 1939, when the Internal Revenue Code, Title 26 was first codified.
17	9.	Pass the Buck Act, 4 U.S.C. §105-108 to allow federal territories and possessions to tax federal officers within federal
18		enclaves within those territories and possessions. This happened in 1939.
		THE F. A. CHAPTER A. C. 106
19 20		TITLE 4 > CHAPTER 4 > Sec. 106. Sec. 106 Same; income tax
21		(a) No person shall be relieved from liability for any income tax levied by any State, or by any duly constituted
22		taxing authority therein, having jurisdiction to levy such a tax, by reason of his residing within a Federal area or
23		receiving income from transactions occurring or services performed in such area; and such State or taxing
24 25		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.
26 27		(b) The provisions of subsection (a) shall be applicable only with respect to income or receipts received after December 31, 1940.
28	10.	Abuse equivocation to make the federal territories and possessions in the Buck Act look like Constitutional states.
29		This allows constitutional states to illegally begin piggybacking all of their income taxation on top of the federal
30		income tax.
31		4 U.S. Code §110. Same; definitions
32		(d) The term "State" includes any Territory or possession of the United States.
33	11.	Deceive private sector workers into believing that EVERYTHING they make is taxable, even though the income tax is
34		an excise tax on privileged de jure public offices:
35		11.1. "whatever source derived" in the Sixteenth Amendment DOES NOT mean EVERYTHING you make.
36		"The Court has hitherto consistently held that a literal reading of a provision of the Constitution which defeats a
37		purpose evident when the instrument is read as a whole, is not to be favored [and one of the examples they give
38		is]' From whatever source derived,' as it is written in the Sixteenth Amendment, does not mean from whatever source derived. Evans v. Gore, 253 U.S. 245, 40 S.Ct. 550, 11 A.L.R. 519. See, also, Robertson v.
39 40		Baldwin, 165 U.S. 275, 281, 282 S., 17 S.Ct. 326; Gompers v. United States, 233 U.S. 604, 610, 34 S.Ct. 693,
41		Ann.Cas.1915D, 1044; Bain Peanut Co. v. Pinson, 282 U.S. 499, 501, 51 S.Ct. 228, 229; United States v.
42		Lefkowitz, 285 U.S. 452, 467, 52 S.Ct. 420, 424, 82 A.L.R. 775."
43		[Wright v. U.S., 302 U.S. 583 (1938)]
44		11.2. Not everything you make, according to the U.S. Supreme Court is "income", but only earnings of a de jure public
45		office:
46		"We must reject in this case, as we have rejected in cases arising under the Corporation Excise Tax Act of
47		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
48 49		within the proper definition of the term 'gross income,' and that the entire proceeds of a conversion of capital
+7		mana me proper acjunuon of me term gross meome, and that the entire proceeds of a conversion of capital

assets, in whatever form and under whatever circumstances accomplished, should be treated as gross income. Certainly the term "income' has no broader meaning in the 1913 act than in that of 1909 (see Stratton's Independence v. Howbert, 231 U.S. 399, 416, 417 S., 34 Sup.Ct. 136), and for the present purpose we assume there is not 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)]

12. Employ "equivocation" and public propaganda in untrustworthy IRS publications to make people think that the "United States" used in the code means the geographical sense, when it really means the CORPORATE sense. This type of deception is only possible so long as government employees cannot be held legally accountable in court for lying to the public. See:

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

13. Deceive private sector companies and financial institutions into filing false information returns against PRIVATE third party earnings. This causes third parties who have been deceive to in effect unlawfully "elect" otherwise private recipients into the new public office of "taxpayer". This results in the crime of impersonating a public office in violation of 18 U.S.C. §912. See:

<u>Correcting Erroneous Information Returns</u>, Form #04.001 https://sedm.org/Forms/FormIndex.htm

The ability to regulate or tax PRIVATE property of PRIVATE people is repugnant to the Constitution. Hence, the ONLY thing the above process can affect is PUBLIC property of the national government under either their custody or control under Article 4, Section 3, Clause 2 of 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. Florez, Archbishop of San Antonio, 521 U.S. 507 (1997)]

In other words, to create a kickback, they had to rewrite the original PUBLIC employment agreement of the de jure government franchise participant to in effect reduce their net earnings from the office that the de jure officer occupying it can ultimately keep, and mandate the payment of a kickback disguised to LOOK like a tax. That kickback is actually a BRIBE. It is paid to the IRS get them to treat the PRIVATE recipient of the federal employment payment as a public officer of <u>vet another</u> de facto public office of "taxpayer". Such kickbacks are a CRIME. It is a crime to bribe any government officer to treat you AS IF you are a public officer when you were not lawfully elected or appointed. Tax withholdings against PRIVATE, non-consenting people protected by the Constitution are the bribe:

18 U.S. Code § 211.Acceptance or solicitation to obtain appointive public office

Whoever solicits or receives, either as a political contribution, or for personal emolument, any money or thing of value, in consideration of the promise of support or use of influence in obtaining for any person any appointive office or place under the United States, shall be fined under this title or imprisoned not more than one year, or both

Whoever solicits or receives any thing of value in consideration of aiding a person to obtain employment under the United States either by referring his name to an executive department or agency of the United States or by requiring the payment of a fee because such person has secured such employment shall be fined under this title, or imprisoned not more than one year, or both. This section shall not apply to such services rendered by an employment agency pursuant to the written request of an executive department or agency of the United States.

(June 25, 1948, ch. 645, <u>62 Stat. 694</u>, § 211, formerly § 215; Sept. 13, 1951, ch. 380, <u>65 Stat. 320</u>; renumbered § 211, <u>Pub. L. 87–849</u>, § 1(b), Oct. 23, 1962, <u>76 Stat. 1125</u>; <u>Pub. L. 103–322</u>, title XXXIII, § 330016(1)(H), Sept. 13, 1994, <u>108 Stat. 2147</u>.)

The U.S. Supreme Court identified that the unlawful creation of such de facto offices are an unconstitutional act, when it held:¹⁴

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¹⁴ See: De Facto Government Scam, Form #05.043; https://sedm.org/Forms/05-MemLaw/DeFactoGov.pdf.

2.4 <u>Motivation for the government corruption described here</u>

- The motivations for all of the government corruption described in this document are:
 - 1. To transform a free society into a collectivist society. See:

Collectivism and How to Resist It Course, Form #12.024

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

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2. To implement and enforce socialism and communism as a state-sponsored civil religion in violation of the First Amendment. See:

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

- 9 3. To implement provisions of the Communist Manifesto as the legal equivalent of the Ten Commandments of the SATANIC civil religion. The Communist Manifesto calls for:
 - 3.1. A progressive heavy income tax that punishes success and rewards failure. Plank 2.
 - 3.2. State ownership or at least control of all property. Plank 1.
 - 3.3. Confiscation of the property of all emigrants and rebels. Plank 4.
 - 3.4. Centralization of credit in the hands of the state, by means of a national bank with State capital and an exclusive monopoly. Plank 5. IRS is the method of regulating the supply of currency for the Federal Reserve counterfeiting monopoly. See:

<u>The Money Scam</u>, Form #05.041 http://sedm.org/Forms/FormIndex.htm

4. To centralize all power in the hands of a collectivist oligarchy in what Mark Twain called "The District of Criminals" by breaking down the separation of powers put there by the founding fathers. See:

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

- 5. To abuse the civil statutory law and the legal profession as a mechanism for propaganda by:
 - 5.1. Calling PRIVATE law simply "law", and thus deceiving everyone into believing they are subject to it or cannot remove their consent to be subject to it.
 - 5.2. Abusing irrelevant case law as a way to deceive people into believing that they are subject to PRIVATE law that only applies to those who consent.
 - 5.3. Using government publications as a means of propaganda, by refusing to hold government actors accountable for their accuracy. See:

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

For further examples of how the civil statutory code is abused as a means of communist propaganda to minimize violence during the coup, see:

<u>Foundations of Freedom Course</u>, Form #12.021, Video 4: Willful Government Deception and Propaganda http://sedm.org/Forms/FormIndex.htm

6. To convert all PRIVATE property to PUBLIC/GOVERNMENT property by converting all constitutional rights into statutory privileges through the illegal offering or enforcement of franchises within states of the Union. See:

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

7. To make everyone a slave of the state and a public officer within the state, often against their will. 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

8. To turn a de jure government into a de facto government in which the citizen/government relationship is replaced with the employee/employer relationship respectively.

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

9. To abuse the civil statutory law, which is a franchise, as the means of implementing and enforcing the slavery. This transforms attorneys from protectors of PRIVATE rights into government employment recruiters who enforce the employment contract called the "civil statutory law". See:

Why Statutory Civil Law is Law for Government and Not Private Persons, Form #05.037

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- 10. To transform a free country into a totalitarian police state.
- For a graphical and historical depiction of how the above process was executed, see: 2

How Scoundrels Corrupted Our Republican Form of Government, Family Guardian Fellowship http://famguardian.org/Subjects/Taxes/Evidence/HowScCorruptOurRepubGovt.htm

3. **Choice of Law Rules**

- The study of "choice of law" rules is an extremely important subject matter, because it is the area in which most of the judicial 4
- and government corruption occurs in courts across the country. Violation of these rules is why we say that there is more
- crime committed in courtrooms across America than any other type of crime. The organizers of this crime are covetous
 - judges and government prosecutors who want to get into your pocket by STEALING jurisdiction they technically do not
- have.

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- The term "choice of law" describes the process that judges and attorneys must use in deciding which laws to apply to a particular case or controversy before them. In our country, there are 52 unique and distinct state and federal sovereignties 10 that are legislatively "foreign" with respect to each other, each with their own citizens, laws, courts, and penal systems. When 11 legal disputes arise, the task of deciding which laws from which of these sovereignties may be applied to decide a case is the 12 very first step in resolving the crime or controversy. 13
- For those seeking additional information, "choice of law" rules are described in the following two valuable resources: 14
 - Federal Jurisdiction, Form #05.018 http://sedm.org/Forms/FormIndex.htm
 - 2. Conflicts in a Nutshell, David D. Seigel, West Publishing, 1994; ISBN 0-314-02952-4

3.1 **Itemized list of choice of law rules**

- The following list summarizes the "choice of law" rules applying to litigation in federal court: 19
 - Federal district and circuit courts are administrative franchise courts created under the authority of Article 4, Section 3, Clause 2 of the Constitution and which have jurisdiction only over the following:
 - 1.1. Plenary/General jurisdiction over federal territory and property: Implemented primarily through "public law" and applies generally to all persons and things. This is a requirement of "equal protection" found in 42 U.S.C. §1981. Operates upon:
 - 1.1.1. The District of Columbia under Article 1, Section 8, Clause 17 of the U.S. Constitution.
 - 1.1.2. Federal territories and possessions under Article 4, Section 3, Clause 3 of the U.S. Constitution.
 - 1.1.3. Special maritime jurisdiction (admiralty) in territorial waters under the exclusive jurisdiction of the general/federal government.
 - 1.1.4. Federal areas within states of the Union ceded to the federal government. Federal judicial districts consist entirely of the federal territory within the exterior boundaries of the district, and do not encompass land not ceded to the federal government as required by 40 U.S.C. §255 and its successors, 40 U.S.C. §3111 and 3112. See section 6.4 of the Tax Fraud Prevention Manual, Form #06.008 et seq for further details.
 - 1.1.5. Domiciliaries of the federal United States** temporarily abroad. See 26 U.S.C. §911 and Cook v. Tait, 265 U.S. 47, 44 S.Ct. 447, 11 Virginia Law Review, 607 (1924).
 - 1.2. Subject matter jurisdiction:
 - 1.2.1. "Public laws" which operate throughout the states of the Union upon the following subjects:
 - 1.2.1.1. Excise taxes upon imports from foreign countries. See Article 1, Section 8, Clause 1 of the U.S. Constitution. Congress may NOT, however, tax any article exported from a state pursuant to Article 1, Section 9, Clause 5 of the Constitution. Other than these subject matters, NO national taxes are authorized:

"The States, after they formed the Union, continued to have the same range of taxing power which they had before, barring only duties affecting exports, imports, and on tonnage. 2 Congress, on the other hand, to lay taxes in order 'to pay the Debts and provide for the common Defence and general

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1.2.2.4. Federal chattel property.

1.2.2.2. Federal employees, as described in Title 5 of the U.S. Code.

1.2.2.3. Federal contracts and "public offices".

1		1.2.2.5. Subtitle A of the Internal Revenue Code.
2		1.2.2.6. Social Security, found in 42 U.S.C. Chapter 7.
3		For details on jurisdiction over the above, see:
		Why the Federal Income Tax is Limited to Federal Territory, Possessions, Enclaves, Offices, and Other
		<u>Property</u> , Form #04.404
	2	http://sedm.org/Forms/FormIndex.htm
4	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
5		to apply to more than the specific person who litigated:
6		4.10.7.2.9.8 (05-14-1999)
7		Importance of Court Decisions
8		1. Decisions made at various levels of the court system are considered to be interpretations of tax laws and may
9		be used by either examiners or taxpayers to support a position.
0		2. Certain court cases lend more weight to a position than others. A case decided by the U.S. Supreme Court
1		becomes the law of the land and takes precedence over decisions of lower courts. The Internal Revenue Service
2		must follow Supreme Court decisions. For examiners, Supreme Court decisions have the same weight as the
3		Code.
4		3. Decisions made by lower courts, such as Tax Court, District Courts, or Claims Court, are binding on the
5		Service only for the particular taxpayer and the years litigated. Adverse decisions of lower courts do not require
6		the Service to alter its position for other taxpayers.
7		Federal courts have repeatedly stated that the general government is one of finite, enumerated, delegated powers. The
8		implication of that concept is that whatever the government can do, the people can do also because the authority to do it
9		came from the People. Consequently, if the IRS can refuse to be bound by rulings below the U.S. Supreme Court, the same constraints apply to us as the source of all their power:
.0		same constraints apply to us as the source of an their power.
1		"Sovereignty itself is, of course, not subject to law, for it is the author and source of lawWhile sovereign powers
2		are delegated tothe government, sovereignty itself remains with the people."
3		[Yick Wo v. Hopkins, 118 U.S. 356 (1886)]
4		"The Government of the United States is one of delegated powers alone. Its authority is defined and limited by
5		the Constitution. All powers not granted to it by that instrument are reserved to the States or the people."
6		[United States v. Cruikshank, 92 U.S. 542 (1875)]
.7 .8		"The question is not what power the federal government ought to have, <u>but what powers, in fact, have been given</u> <u>by the people</u> . The federal union is a government of delegated powers. It has only such as are expressly conferred
9		upon it, and such as are reasonably to be implied from those granted. In this respect, we differ radically from
0		nations where all legislative power, without restriction or limitation, is vested in a parliament or other legislative
1		body subject to no restriction except the discretion of its members." (Congress) [U.S. v. William M. Butler, 297 U.S. 1 (1936)]
2		[O.S. V. William M. Bullet, 297 O.S. I (1750)]
3	3.	There is no federal common law within states of the Union, according to the Supreme Court in Erie Railroad v. Tompkins,
4		304 U.S. 64 (1938). Consequently, the rulings of federal district and circuit courts have no relevancy to state citizens
5		domiciled in states of the union who do not declare themselves to be "U.S. citizens" under 8 U.S.C. §1401 and who
6		would litigate under diversity of citizenship, as described in Article III, Section 2 of the U.S. Constitution but NOT 28
7		U.S.C. §1332.
8		"There is no Federal Common Law, and Congress has no power to declare substantive rules of Common Law
9		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"
1		[Erie Railroad v. Tompkins, 304 U.S. 64 (1938)]
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3		"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
5		property, which derive their authority solely from usages and customs of immemorial antiquity, or from the
6		judgments and decrees of the courts recognizing, affirming, and enforcing such usages and customs and, in this
.7 .8		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
0		in ough judicial decisions, as distinguished from tegistative enditinents. The common taw 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 2 positive declaration of the will of the legislature. Bishop v. U.S., D.C.Tex., 334 F.Supp. 415, 418. "Calif. Civil Code, Section 22.2, provides that the "common law of England, so far as it is not repugnant to or 3 inconsistent with the Constitution of the United States, or the Constitution or laws of this State, is the rule of decision in all the courts of this State." "In a broad sense, "common law" may designate all that part of the positive law, juristic theory, and ancient custom of any state or nation which is of general and universal application, thus marking off special or local rules or customs. 9 "For federal common law, see that title. "As a compound adjective "common-law" is understood as contrasted with or opposed to "statutory," and 10 sometimes also to "equitable" or to "criminal." 11 [Black's Law Dictionary, Sixth Edition, p. 276] 12 The Rules of Decision Act, 28 U.S.C. §1652, requires that the laws of the states of the Union are the only rules of decision 13 in federal courts. This means that federal courts MUST cite state law and not federal law in all tax cases and MAY NOT 14 cite federal case law in the case of persons not domiciled on federal territory and who are therefore not statutory "U.S. 15 citizens" or "U.S. residents". 16 TITLE 28 > PART V > CHAPTER 111 > § 1652 17 § 1652. State laws as rules of decision 18 The laws of the several states, except where the Constitution or treaties of the United States or Acts of Congress 19 20 otherwise require or provide, shall be regarded as rules of decision in civil actions in the courts of the United States, in cases where they apply. 21 The thing they deliberately and self-servingly don't tell you in this act is specifically when federal law applies 22 extraterritorially in a state of the Union, which is ONLY in the case of federal contracts, franchises, and domiciliaries 23 and NO OTHERS. What all these conditions have in common is that they relate to federal territory and property and 24 come under Article 4. Section 3, Clause 2 of the United States Constitution and may only be officiated in an Article 4 25 legislative franchise court, which includes all federal District and Circuit Courts. See the following for proof that all 26 federal District and Circuit courts are Article 4 legislative franchise courts and not Article 3 constitutional courts: 27 4.1. What Happened to Justice?, Litigation Tool #08.001 28 http://sedm.org/ItemInfo/Ebooks/WhatHappJustice/WhatHappJustice.htm 29 4.2. Authorities on Jurisdiction of Federal Courts, Family Guardian Fellowship 30 http://famguardian.org/Subjects/LawAndGovt/ChallJurisdiction/AuthoritiesArticle/AuthOnJurisdiction.htm 31 Federal Rule of Civil Procedure 17(b) says that the capacity to sue or be sued is determined by the law of the individual's 32 domicile. It quotes two and only two exceptions to this rule, which are: 33 5.1. A person acting in a representative capacity as an officer of a federal entity. 34 5.2. A corporation that was created and is domiciled within federal territory. 35 This means that if a person is domiciled within the exclusive jurisdiction of a state of the Union and not within a federal 36 enclave, then state law are the rules of decision rather than federal law. Since state income tax liability in nearly every 37 state is dependent on a federal liability first, this makes an income tax liability impossible for those domiciled outside 38 the federal zone or inside the exclusive jurisdiction of a state, because such persons cannot be statutory "U.S. citizens" 39 as defined in 8 U.S.C. §1401 nor "residents" as defined in 26 U.S.C. §7701(b)(1)(A). 40 IV. PARTIES > Rule 17. 41 Rule 17. Parties Plaintiff and Defendant; Capacity 42 (b) Capacity to Sue or be Sued. 43

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

(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

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or laws; and

Capacity to sue or be sued is determined as follows:

(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:

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

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

The "Trade or Business" Scam, Form #05.001 http://sedm.org/Forms/FormIndex.htm

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- 28 U.S.C. §2679(d)(3) indicates that any action against an officer or employee of the United States, if he was not acting within his lawful delegated authority or in accordance with law, may be removed to State court and prosecuted exclusively under state law because not a federal question.
- For a person domiciled in a state of the Union, federal law may only be applied against them if they are either suing the United States or are involved in a franchise or "public right". Franchises and public rights deal exclusively with "public rights" created by Congress between private individuals and the government. Litigation involving franchises generally is done only in Article IV legislative courts and not Article III constitutional courts. Northern Pipeline Const. Co. v. Marathon Pipe Line Co., 458 U.S. 50, 102 S.Ct. 2858 (1983).
- Any government representative, and especially who is from the Department of Justice or the IRS, who does any of the following against anyone domiciled outside of federal territory and within a state of the Union is trying to maliciously destroy the separation of powers, destroy or undermine your Constitutional rights, and unconstitutionally and unlawfully enlarge their jurisdiction and importance.
 - 8.1. Cites a case below the Supreme Court or from a territorial or franchise court such as the District of Circuit Courts or Tax Court. This is an abuse of case law for political rather than lawful purposes and it is intended to deceive and injure the hearer. Federal courts, incidentally, are NOT allowed to involve themselves in such "political questions", and therefore should not allow this type of abuse of case law, but judges who are fond of increasing their retirement benefits often will acquiesce if you don't call them on it as an informed American. This kind of bias on the part of federal judges, incidentally, is highly illegal under 28 U.S.C. §144 and 28 U.S.C. §455.
 - 8.2. Enforces federal franchises such as the "trade or business" franchise (income tax, I.R.C. Subtitle A) against persons not domiciled on federal territory. The U.S. Supreme Court said in the License Tax Cases, 72 U.S. 462, 18 L.Ed. 497, 5 Wall. 462, 2 A.F.T.R. 2224 (1866) that they could not enforce federal franchises outside of federal territory.
 - 8.3. Presumes or infers that "United States" as used in the Constitution is the same thing as "United States" as defined in federal statutory law. They are mutually exclusive, in fact.
- Every occasion in which courts exceed their jurisdiction that we are aware of originates from the following important and often deliberate and malicious abuses by government employees, judges, and prosecutors. We must prevent and overcome these abuses in order to keep the government within the bounds of the Constitution:
 - 9.1. Misunderstanding or misapplication of the above choice of law rules.
 - 9.2. Failure or refusal to adjust the meaning of "words of art" based on their context and the legal definitions that apply in that context. See:

Geographical Definitions and Conventions, Form #11.215 http://sedm.org/SampleLetters/DefinitionsAndConventions.htm

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

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

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

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

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

"The chief enemies of republican freedom are <u>mental sloth, conformity, bigotry, superstition, credulity,</u> monopoly in the market of ideas, and utter, benighted ignorance. [Adderley v. State of Florida, 385 U.S. 39, 49 (1967)]

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

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"After some 96 years of this, the Supreme Court acknowledged the unfair choice of forum this gave the plaintiff 2 in a case governed by decisional rather than statutory law merely because the plaintiff and defendant happened to come from different states. Reconstruing the Rules of Decision Act, the Supreme Court in Erie overruled Swift 3 and held that state law governs in the common law as well as in the statutory situation. Subsequent cases clarified that this means forum law; the law of the state in which the federal court is sitting. 5 "The result is that the federal court in a diversity case sits in effect as just another state court, seeking out forum 6 state law for all substantive issues. The Rules of Decision Act does not apply to procedural matters, however; for matters of procedure a federal court, sitting in a diversity or any other kind of case, applies its own rules. This has been so since 1938, when , coincidentally (Erie was also decided in 1938), the Federal Rules of Civil Procedure arrived on the scene.' 10 [Conflicts in a Nutshell, David D. Seigel, West Publishing, 1994; ISBN 0-314-02952-4, p. 317] 11

See section 5.1.4 of the <u>Tax Fraud Prevention Manual</u>, Form #06.008 for further details on how the DOJ, IRS, and the Federal Judiciary abuse case law for political rather than legitimate or Constitutional legal purposes. See also the memorandum of law entitled "Political Jurisdiction" to show how they abuse due process to injure your Constitutional rights by politicizing the courtroom:

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

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3.2 Summary of choice of law rules

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

- 1. <u>Civil Jurisdiction originates from one or more of the following</u>. Note that jurisdiction over all the items below originates from Article 4, Section 3, Clause 2 of the United States Constitution and relates to community "property" of the states under the stewardship of the federal government.
 - 1.1. Persons domiciled on federal territory wherever physically located. These persons include:
 - 1.1.1. Statutory "U.S. citizens" pursuant to 8 U.S.C. §1401.
 - 1.1.2. Statutory "residents" (aliens) lawfully admitted pursuant to 8 U.S.C. §1101(a)(3).
 - 1.1.3. "U.S. persons" defined in 26 U.S.C. §7701(a)(30).
 - 1.2. Engaging in franchises offered by the national government to persons domiciled only on federal territory, wherever physically situated. This includes jurisdiction over:
 - 1.2.1. Public officers, who are called "employees" in 5 U.S.C. §2105.
 - 1.2.2. Federal agencies and instrumentalities.
 - 1.2.3. Federal corporations
 - 1.2.4. Social Security, which is also called Old Age Survivor's Disability Insurance (OASDI).
 - 1.2.5. Medicare.
 - 1.2.6. Unemployment insurance, which is also called FICA.
 - 1.3. Management of federal territory and contracts.
- 2. Criminal jurisdiction originates from crimes committed only on federal territory.

3.3 Effects of government franchises on choice of law

In law, rights are property:

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

The word is also commonly used to denote everything which is the subject of ownership, corporeal or incorporeal, tangible or intangible, visible or invisible, real or personal, everything that has an exchangeable value or which goes to make up wealth or estate. It extends to every species of valuable right and interest, and includes real and personal property, easements, franchises, and incorporeal hereditaments, and includes every invasion of

1 2	one's property rights by actionable wrong. Labberton v. General Cas. Co. of America, 53 Wash.2d 180, 332 P.2d. 250, 252, 254.
3	Property embraces everything which is or may be the subject of ownership, whether a legal ownership. or whether
4	beneficial, or a private ownership. Davis v. Davis. TexCiv-App., 495 S.W.2d. 607. 611. Term includes not only
5	ownership and possession but also the right of use and enjoyment for lawful purposes. Hoffmann v. Kinealy, Mo.,
6	389 S.W.2d. 745, 752.
-	Dura out, within constitutional must estion denotes around rights inhaning in sitir only relation to plusical thing
7 8	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
9	Or. 439, 370 P.2d. 694, 697.
10	Goodwill is property, Howell v. Bowden, TexCiv. App 368 S.W.2d. 842, &18; as is an insurance policy and
11	rights incident thereto, including a right to the proceeds, Harris v. Harris, 83 N.M. 441,493 P.2d. 407, 408.
12	Criminal code. "Property" means anything of value. including real estate, tangible and intangible personal
13	property, contract rights, choses-in-action and other interests in or claims to wealth, admission or transportation
14	tickets, captured or domestic animals, food and drink, electric or other power. Model Penal Code. Q 223.0. See
15	also Property of another, infra. Dusts. Under definition in Restatement, Second, Trusts, Q 2(c), it denotes interest
16	in things and not the things themselves.
17	[Black's Law Dictionary, Fifth Edition, p. 1095]
18	Anything that conveys rights is also property. Contracts convey rights and therefore are property. All franchises are contracts
19	between the grantor and grantee and therefore also are property.
20	As a rule, franchises spring from contracts between the sovereign power and private citizens, made upon
21	valuable considerations, for purposes of individual advantage as well as public benefit, ¹⁵ and thus a franchise
22	partakes of a double nature and character. So far as it affects or concerns the public, it is publici juris and is
23	subject to governmental control. The legislature may prescribe the manner of granting it, to whom it may be
24	granted, the conditions and terms upon which it may be held, and the duty of the grantee to the public in exercising
25	it, and may also provide for its forfeiture upon the failure of the grantee to perform that duty. But when granted,
26	it becomes the property of the grantee, and is a private right, subject only to the governmental control growing
27	out of its other nature as publici juris. ¹⁶
28	[American Jurisprudence 2d, Franchises, §4: Generally (1999)]
29	Corporations are only one of several types of government franchises. Below is an example:
30	"The power of making all needful rules and regulations respecting the territory [property] of the United States,
31	is one of the specified powers of congress. Under this power, it has never been doubted, that congress had
32	authority to establish corporations [franchises] in the territorial governments. But this power is derived entirely
33	from implication. It is assumed, as an incident to the principal power."
34	[M'Culloch v. State, 17 U.S. 316, 1819 WL 2135 (U.S.,1819)]
35	Therefore, contracts, franchises, territory, and domicile (which is a protection franchise) all constitute "property" of the
36	national government and are the origin of all civil jurisdiction over "persons" in federal courts. Jurisdiction of federal courts
37	over such "property" extends into the states and wherever said property is found:
20	"The Constitution permits Congress to dispose of and to make all needful rules and regulations respecting the
38 39	territory or other property belonging to the United States. This power applies as well to territory belonging to
40	the United States within the States, as beyond them. It comprehends all the public domain, wherever it may be.
+0 41	The argument is, that the power to make 'ALL needful rules and regulations' 'is a power of legislation,' 'a
+1 42	full legislative power; 'that it includes all subjects of legislation in the territory, 'and is without any limitations,
+2 43	except the positive prohibitions which affect all the powers of Congress. Congress may then regulate or prohibit
+3 14	slavery upon the public domain within the new States, and such a prohibition would permanently affect the
45	capacity of a slave, whose master might carry him to it. And why not? Because no power has been conferred on
46	Congress. This is a conclusion universally admitted. But the power to 'make rules and regulations respecting
47	the territory' is not restrained by State lines, nor are there any constitutional prohibitions upon its exercise in
48	the domain of the United States within the States; and whatever rules and regulations respecting territory
19	Concress may constitutionally make are surreme, and are not dependent on the situs of the territory."

EXHIBIT:_____

Georgia R. & Power Co. v. Atlanta, 154 Ga. 731, 115 S.E. 263; Lippencott v. Allander, 27 Iowa 460; State ex rel. Hutton v. Baton Rouge, 217 La. 857, 47 So.2d. 665; Tower v. Tower & S. Street R. Co. 68 Minn 500, 71 N.W. 691.

 $^{^{16}}$ Georgia R. & Power Co. v. Atlanta, 154 Ga. 731, 115 S.E. 263; Lippencott v. Allander, 27 Iowa 460; State ex rel. Hutton v. Baton Rouge, 217 La. 857, 47 So.2d. 665; Tower v. Tower & S. Street R. Co. 68 Minn 500, 71 N.W. 691.

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It is jurisdiction mainly over government/public franchises which is the origin of nearly all civil jurisdiction that federal courts 2 assert over most Americans. Franchises are the main method by which your legal identity is "kidnapped" and transported to a foreign jurisdiction. "For the upright will dwell in the land, 5

And the blameless will remain in it; But the wicked [those who allow themselves through their covetousness to be enticed by a government bribe in the form of a franchise] will be cut off [legally kidnapped pursuant to Federal Rule of Civil Procedure 17(b)] from the earth [and transported to a foreign land to serve tyrants like the Israelites were kidnapped and transported to Egypt], And the unfaithful will be uprooted from it." [Prov. 2:21-22, Bible, NKJV]

For an example of how this legal kidnapping or "identity theft" operates, see 26 U.S.C. §7701(a)(39) and 26 U.S.C. §7408(d) . The "citizen" or "resident" described in these two code sections is a person who participates in the "protection franchise", or should we say "protection racket" called "domicile", which domicile is on federal territory and not within any state of the Union. If you would like to know more about how this process of legal kidnapping operates both spiritually and legally, see section 13.2 of the following:

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

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

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

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

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

TITLE 5--ADMINISTRATIVE PERSONNEL 40 CHAPTER XVI--OFFICE OF GOVERNMENT ETHICS 41 PART 2635--STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE EXECUTIVE BRANCH--42 Table of Contents 43 Subpart A--General Provisions 44 Sec. 2635.101 Basic obligation of public service. 45 46

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

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

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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. "

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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. 716 (1961); whether the actor is performing a traditional governmental function, see Terry v. Adams, 345 U.S. 461 (1953); Marsh v. Alabama, 326 U.S. 501 (1946); cf. San Francisco Arts & Athletics, Inc. v. United States Olympic [500 U.S. 614, 622] Committee, 483 U.S. 522, 544 -545 (1987); and whether the injury caused is aggravated in a unique way by the incidents of governmental authority, see Shelley v. Kraemer, 334 U.S. 1 (1948). Based on our application of these three principles to the circumstances here, we hold that the exercise of peremptory challenges by the defendant in the District Court was pursuant to a course of state action.

[Edmonson v. Leesville Concrete Company, 500 U.S. 614 (1991)]

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

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

3.4 How choice of law rules are illegally circumvented by corrupted government officials to STEAL from You

In cases against the government, corrupt judges and prosecutors employ several important tactics that you should be very aware of in order to:

- 1. Circumvent choice of law rules documented in the previous sections and thereby to illegally and unconstitutionally enforce federal law outside of federal territory within a foreign state called a state of the Union.
- 2. STEAL private property from you and use it for their own benefit, in what amounts to a criminal and financial conflict of interest per 18 U.S.C. §208, 28 U.S.C. §144, and 28 U.S.C. §455.
- 3. Unlawfully enlarge their jurisdiction and importance in what amounts to treason in violation of 18 U.S.C. §2381.
- 4. Break down the constitutional separation between the states and the federal government that is the foundation of the Constitution and the MAIN protection for your PRIVATE rights. See:

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

All of the above tactics are referred to in the legal field as "identity theft". We have documented all the various methods that corrupt judges and government lawyers use to effect this criminal identity theft in the following document:

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

- The most frequent methods to circumvent choice of law rules indicated in the previous sections are the following tactics:
- 1. Abuse "words of art" to deceive and undermine the sovereignty of the non-governmental opponent. See section 10.11 later on how to combat this. This includes:

- 1.1. Add things or classes of things to the meaning of statutory terms that do not EXPRESSLY appear in their definitions, in violation of the rules of statutory construction. See:
- 1.2. Violate the rules of statutory construction by abusing the word "includes" to add things or classes of things to definitions of terms that do not expressly appear in the statutes and therefore MUST be presumed to be purposefully excluded.
- 1.3. Refuse to allow the jury to read the definitions in the law and then give them a definition that is in conflict with the statutory definition. This substitutes the JUDGES will for what the law expressly says and thereby substitutes PUBLIC POLICY for the written law.
- 1.4. Publish deceptive government publications that are in deliberate conflict with what the statutes define terms to mean and then tell the public that they CANNOT rely on the publication. The IRS does this with ALL of their publications and it is FRAUD. See:

Reasonable Belief About Income Tax Liability, Form #05.007

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

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

1.5. PRESUME that ALL of the four contexts for "United States" are equivalent.

For details on this SCAM, see:

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Legal Deception, Propaganda, and Fraud, Form #05.014

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

PRESUME that CONSTITUTIONAL citizens and STATUTORY citizens are EQUIVALENT under federal law. They are NOT. A CONSTITUTIONAL citizen is a "non-resident" under federal civil law and NOT a STATUTORY 'national and citizen of the United States** at birth" per 8 U.S.C. §1401. See section 8.1 and the document below:

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

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

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

3. PRESUME that "nationality" and "domicile" are equivalent. They are NOT. See:

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

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

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

- Use the word "citizenship" in place of "nationality" OR "domicile", and refuse to disclose WHICH of the two they 4. mean in EVERY context.
- Confuse the POLITICAL/CONSTITUTIONAL meaning of words with the civil STATUTORY context. For instance, asking on government forms whether you are a POLITICAL/CONSTITUTIONAL citizen and then FALSELY PRESUMING that you are a STATUTORY citizen under 8 U.S.C. §1401.
- Confuse the words "domicile" and "residence" or impute either to you without satisfying the burden of proving that you EXPRESSLY CONSENTED to it and thereby illegally kidnap your civil legal identity against your will. One can 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

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

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

Confuse "federal" with "national" or use these words interchangeably. They are NOT equivalent and this lack of equivalence is a product of the separation of powers doctrine that is the foundation of the USA Constitution.

> "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)]

"NATIONAL GOVERNMENT. The government of a whole nation, as distinguished from that of a local or territorial division of the nation, and also as distinguished from that of a league or confederation.

"A national government is a government of the people of a single state or nation, united as a community by what is termed the "social compact,' and possessing complete and perfect supremacy over persons and things, so far as they can be made the lawful objects of civil government. A federal government is distinguished from a national government by its being the government of a community of independent and sovereign states, united by compact." Piqua Branch Bank v. Knoup, 6 Ohio.St. 393." [Black's Law Dictionary, Revised Fourth Edition, 1968, p. 1176]

Flawed Tax Arguments to Avoid, Version 1.27

EXHIBIT:_

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"FEDERAL GOVERNMENT. The system of government administered in a state formed by the union or confederation of several independent or quasi independent states; also the composite state so formed.

In strict usage, there is a distinction between a confederation and a federal government. The former term denotes a league or permanent alliance between several states, each of which is fully sovereign and independent, and each of which retains its full dignity, organization, and sovereignty, though yielding to the central authority a controlling power for a few limited purposes, such as external and diplomatic relations. In this case, the component states are the units, with respect to the confederation, and the central government acts upon them, not upon the individual citizens. In a federal government, on the other hand, the allied states form a union,not, indeed, to such an extent as to destroy their separate organization or deprive them of quasi sovereignty with respect to the administration of their purely local concerns, but so that the central power is erected into a true state or nation, possessing sovereignty both external and internal, while the administration of national affairs is directed, and its effects felt, not by the separate states deliberating as units, but by the people of all. in their collective capacity, as citizens of the nation. The distinction is expressed, by the German writers, by the use of the two words "Staatenbund" and "Bundesstaut;" the former denoting a league or confederation of states, and the latter a federal government, or state formed by means of a league or confederation. [Black's Law Dictionary, Revised Fourth Edition, 1968, p. 740]

Here is a table comparing the two:

Table 1: "National" v. "Federal"

#	Description	"National" government	"Federal" government	
1	Legislates for	Federal territory and NOT states of	Constitutional states of the Union and	
		the Union	NOT federal territory	
2	Social compact	None. Jurisdiction is unlimited per	Those domiciled within states of the	
		Article 1, Section 8, Clause 17	Union	
3	Type of jurisdiction	General jurisdiction	Subject matter jurisdiction (derived	
	exercised		from Constitution)	
4	Citizens	1. Statutory "nationals and	1. "Citizens".	
		citizens at birth" per 8 U.S.C.	2. Fourteenth Amendment "citizens of	
		§1401.	the United States".	
		2. "U.S. citizens" per 26 U.S.C.	3. EXCLUDES statutory citizens per	
		§3121(e) and 26 C.F.R. §1.1-	8 U.S.C. §1401 "U.S. citizens" per	
		1(c).	26 U.S.C. §3121(e) and 26 C.F.R.	
		3. EXCLUDES constitutional	§1.1-1(c).	
		"Citizens" or "citizens of the		
	United States" per Fourteenth			
		Amendment.		
5	Courts	Federal District and Circuit Courts	1. State courts.	
		(legislative franchise courts that	2. U.S. Supreme Courts.	
		can only hear disputes over federal		
		territory and property per Art. 4,		
		Sect. 3, Clause 2 of USA		
		Constitution).		
6	Those domiciled within	Statutory "aliens" in relation to	Statutory "aliens" in relation to the	
	this jurisdiction are	states of the Union.	national government.	
7	Those domiciled here	Yes	No	
	are subject to Internal			
	Revenue Code, Subtitles			
	A through C?			

For further details on this SCAM, see:

Two Political Jurisdictions: "National" Government v. "Federal" Government, Family Guardian Fellowship http://famguardian.org/Subjects/Taxes/Remedies/USvUSA.htm

Abuse franchises such as the income tax, Social Security, Medicare, etc. to be used to UNLAWFULLY create new public offices in the U.S. government. This results in a de facto government in which there are no private rights or private property and in which EVERYONE is illegally subject to the whims of the government. See:

De Facto Government Scam, Form #05.043

DIRECT LINK: http://sedm.org/Forms/05-MemLaw/DeFactoGov.pdf

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

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- 9. Connect the opponent to a government franchise or to PRESUME they participate and let the presumption go unchallenged and therefore agreed to. This is done:
 - 9.1. PRESUMING that because someone connected ONE activity to a government franchise, that they elected to act in the capacity of a franchisee for ALL activities. This is equivalent to outlawing PRIVATE rights and PRIVATE property.
 - 9.2. Refusing to acknowledge or respect the method by which PRIVATE property is donated to a PUBLIC use, which is by VOLUNTARILY associating formerly PRIVATE property with a de facto license represent a public office in the government called a Social Security Number (SSN) or Taxpayer Identification Number (TIN).
 - 9.3. Calling use of SSNs and TINs VOLUNTARY and yet REFUSING to prosecute those who COMPEL their use. This results in a LIE.
 - 9.4. Compelling the use of Social Security Numbers or Taxpayer Identification Numbers. This is combated using the following:
 - 9.4.1. Why It is Illegal for Me to Request or Use a "Taxpayer Identification Number", Form #04.205 http://sedm.org/Forms/FormIndex.htm
 - 9.4.2. <u>About SSNs and TINs on Government Forms and Correspondence</u>, Form #05.012 http://sedm.org/Forms/FormIndex.htm
 - 9.4.3. <u>Resignation of Compelled Social Security Trustee</u>, Form #06.002 http://sedm.org/Forms/FormIndex.htm
 - 9.5. Using forms signed by the government opponent in which they claimed a status under a government franchise, such as statutory "taxpayer", "individual", "U.S. person", "U.S. citizen", etc. This is combatted by attaching the following to all tax forms one fills out:

<u>Tax Form Attachment</u>, Form #04.201 http://sedm.org/Forms/FormIndex.htm

4. Main Tools of government deceit: Treason using word games

"Getting treasures by a lying tongue is the fleeting fantasy of those who seek death." 23 [<u>Prov. 21:6</u>, Bible, NKJV] 24 "Better is a little with righteousness, than vast revenues without justice." 25 [Prov. 16:8, Bible, NKJV] 26 27 "Through his cunning He shall cause deceit to prosper under his rule; 28 29 And he shall exalt himself in his heart. He shall destroy many in their prosperity. 30 He shall even rise against the Prince of princes; 31 32 But he shall be broken without human means. [Daniel 8:25, Bible, NKJV] 33 "For the love of money [and even government "benefits", which are payments] is the root of all evil: which while 34 some coveted after, they have erred from the faith, and pierced themselves through with many sorrows. But thou, 35 O man of God, flee these things; and follow after righteousness, godliness, faith, love, patience, meekness. Fight 36 the good fight of faith, lay hold on eternal life, whereunto thou art also called, and hast professed a good 37 profession before many witnesses. 38 [<u>1 Timothy 6:9-10</u>, Bible, NKJV] 39 "During times of universal deceit, telling the truth becomes a revolutionary act." 40 41 [George Orwell]

Most of the deceit, presumption, equivocation, and due process violations instigated by corrupt government actors (Form #11.401) are a product of the abuse of language. The following subsections document the main tools of language abuse. If you would like to learn more about this subject, please refer to the following:

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

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4.1 Ability to add anything one wants to a definition is a legislative function prohibited to constitutional courts¹⁷ The separation of powers doctrine that is the heart of the United States Constitution reserves the power to make law 2 exclusively to the Legislative Branch of the government. The purpose of the separation of powers doctrine is to protect your 3 sacred constitutional rights: "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)

[New York v. United States, 505 U.S. 144 (1992)]

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Included within that legislative power is the exclusive authority to define words used within statutes. Anything not expressly appearing in the definition in turn is conclusively presumed to be "purposefully excluded":

> "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]

The purpose of the expressio unius est exclusio alterius rule indicated above is to prevent the exercise of what the founding fathers called "arbitrary power":

> "It has been frequently remarked, with great propriety, that a voluminous code of laws is one of the inconveniences necessarily connected with the advantages of a free government. To avoid an arbitrary discretion in the courts, it is indispensable that they should be bound down by strict rules [of statutory construction and interpretation] and precedents, which serve to define and point out their duty in every particular case that comes before them; and it will readily be conceived from the variety of controversies which grow out of the folly and wickedness of mankind, that the records of those precedents must unavoidably swell to a very considerable bulk, and must demand long and laborious study to acquire a competent knowledge of them." [Federalist Paper No. 78, Alexander Hamilton]

> "When we consider the nature and the 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. [Yick Wo v. Hopkins, 118 U.S. 356, 369, 6 S. Sup.Ct. 1064, 1071]

The exercise of arbitrary power has the practical effect of turning a "society of law" into a "society of 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 that high appellation, if the laws furnish no remedy for the violation of a vested legal right." [Marbury v. Madison, <u>5 U.S. 137</u>; 1 Cranch 137, 2 L.Ed. 60 (1803)]

Arbitrary power is power whose limits are not defined. Statutory definitions are the main method of delegating and expressly limiting the exercise of such power and thereby preventing the exercise of arbitrary power.

When judges or executive branch employees do any of the following, they are unconstitutionally exercising "legislative 44 power" reserved exclusively for the legislative branch in violation of the separation of powers doctrine and acting in a 45 POLITICAL rather than LEGAL capacity: 46

1. Add any thing or class of thing they want to a statutory definition.

EXHIBIT:___

¹⁷ Derived from Legal Deception, Propaganda, and Fraud, Form #05.014, Section 15.2.1; https://sedm.org/Forms/FormIndex.htm.

- 2. Act in a way inconsistent with the statutory definitions and refuse to define where the thing they want to include expressly appears in the statutes.
- 3. PRESUME any of the following. All presumption which adversely impact rights protected by the Constitution and which are not consented to are a violation of due process of law that renders a void judgment and renders the actions that result from it as de facto rather than de jure.
 - 3.1. That the statutory definition EXPANDS the common meaning of a term.
 - 3.2. That exclusively private conduct, property, or activities are included within the definition. The purpose of statutory civil law is to define and limit and control GOVERNMENT, but to leave private rights and private conduct ALONE. The ability to regulate private rights and private conduct is repugnant to the constitution.

When either the executive or judicial branches of the government exercise the above types of legislative powers reserved exclusively to the legislative branch, then you have tyranny and liberty is impossible. The founding fathers in writing the U.S. Constitution relied on a book entitled *The Spirit of Laws*, Charles de Montesquieu as the design for our republican form of government. In that book, Montesquieu describes how freedom is ended within a republican government, which is when the judicial branch exercises any of the functions of the executive branch, such as by exercising "legislative powers" in adding to the statutory definitions of words.

"When the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty; because apprehensions may arise, lest the same monarch or senate should enact tyrannical laws, to execute them in a tyrannical manner.

Again, there is no liberty, if the judiciary power be not separated from the legislative and executive. Were it joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control; for the judge would be then the legislator. Were it joined to the executive power, the judge might behave with violence and oppression [sound familiar?].

There would be an end of everything, were the same man or the same body, whether of the nobles or of the people, to exercise those three powers, that of enacting laws, that of executing the public resolutions, and of trying the causes of individuals."

[...]

In what a situation must the poor subject be in those republics! The same body of magistrates are possessed, as executors of the laws, of the whole power they have given themselves in quality of legislators. They may plunder the state by their general determinations; and as they have likewise the judiciary power in their hands, every private citizen may be ruined by their particular decisions."

[The Spirit of Laws, Charles de Montesquieu, Book XI, Section 6, 1758; SOURCE: http://famguardian.org/Publications/SpiritOfLaws/sol_11.htm]

Franchise courts such as the U.S. Tax Court were identified by the U.S. Supreme Court in Freytag v. Commissioner, 501 U.S. 868 (1991) as exercising Executive Branch powers. Hence, such franchise courts are the most significant source of destruction of freedom and liberty in this country, according to Montesquieu. Other similar courts include family court and traffic court at the state level. We also wish to point out that the effect he criticizes also results when:

1. Any so-called "court" entertains "political questions". Constitutional courts are not permitted to act in this capacity and they cease to be "courts" in a constitutional sense when they do. The present U.S. Tax Court, for instance, was previously called the "Board of Tax Appeals" so that people would not confuse it with a REAL court. They renamed it to expand the FRAUD. See:

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

- 2. Litigants are not allowed to discuss the law in the courtroom or in front of the jury or are sanctioned for doing so. This merely protects efforts by the corrupt judge to substitute HIS will for what the law actually says and turns the jury from a judge of the law and the facts to a policy board full of people with a financial conflict of interest because they are "taxpayers". This sort of engineered abuse happens all the time both in U.S. Tax Court and Federal District and Circuit Courts on income tax matters.
- 3. Judges are permitted to add anything they want to the definition and are not required to identify the thing they want to include within the statutory definition. This is equivalent to exercising the powers of the legislative branch.
- 4. A franchise court is the only administrative remedy provided and PRIVATE people are punished or financially or inconvenienced for going to a constitutional court.

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- 5. Judges in any court are allowed to wear two hats: a political hat when they hear franchises cases and a constitutional 1 hat for others. This is how the present de facto federal district and circuit courts operate. This creates a criminal 2 financial conflict of interest. 3
- 6. Franchise courts refuse to dismiss cases and stay enforcement against private citizens who are not legitimate public 4 officers within the SAME branch of government as THEY are. It is a violation of the separation of powers for one 5 branch of government to interfere with the personnel or functions of another. 6
 - 7. Judges in franchise courts are allowed the discretion to make determinations about the status of the litigants before them and whether they are "franchisees" called "taxpayers", "drivers", etc. When they have this kind of discretion, they will always abuse it because of the financial conflict of interest they have. Such decisions must always be made by impartial decision makers who are not ALSO franchisees. That is why 28 U.S.C. §2201(a) forbids the exercise of this type of discretion by federal district and circuit judges.
 - Note that Montesquieu warns that franchise courts are the means for introducing what he calls "arbitrary control":

"Were it joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control; for the judge would be then the legislator."

4.2 EQUIVOCATION: How corrupt judges and government prosecutors confuse contexts to unlawfully extend the meaning of words¹⁸

"Doublethink means the power of [hypocritically] holding two contradictory beliefs in one's mind simultaneously, and accepting both of them."

[George Orwell]

In the legal field, context is EVERYTHING. In the real estate field, there are three things that determine the VALUE of property: LOCATION, LOCATION, and LOCATION. In the legal field, there are three things that determine the MEANING of a word: CONTEXT, CONTEX, and CONTEXT.

Law is about language, and the meaning of words in turn is determined entirely by their context. The last skill most people 23 develop in learning any new subject, including law, is to understand the various contexts in which words can be used and to 24 apply the correct context in determining the exact meaning of words. Understanding the various contexts is difficult because 25 it requires the broadest possible exposure to the subject matter addressed by the word. 26

- Within the legal field, there are four different contexts for the meaning of words: 27
- Public v. Private context. 28

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- Geographical v. Legal context for words "United States" and "State". 2.
- Statutory v. Constitutional context for citizenship terms. 30
- "Subject to THE jurisdiction" v. "subject to ITS jurisdiction" 31

The following sections will individually address these two contexts to improve your comprehension of legal terms when 32 reading and interpreting the law. They will also describe how these two contexts are deliberately confused to unlawfully and 33 unconstitutionally expand government jurisdiction and power. 34

- All the confusion of contexts is only possible under following mandatory conditions: 35
- The audience hearing them are legally ignorant. Legal ignorance is MANUFACTURED by the government in the 36 public schools, so the slaves and serfs never have the key to their chains. The same thing happened with black slavery. 37 Black slaves were not allowed to go to school. 38
 - The legal ignorance of the audience allows them to be unaware of the various legal contexts for words. 2.
 - "Equivocation", which is a logical fallacy, is abused to make two opposing and non-overlapping contexts appear equivalent, even though they are not. This leads to an unconstitutional or unlawful or even CRIMINAL result.
 - All sources of information on the Internet that might identify the contexts and eliminate the confusion of them are systematically censored and enjoined. The defacto government tried to enjoin our website, for instance, to prevent

EXHIBIT:__

¹⁸ Derived from Legal Deception, Propaganda, and Fraud, Form #05.014, Section 15.1; https://sedm.org/Forms/FormIndex.htm.

- people learning essentially how to escape the IDENTITY THEFT and legal kidnapping being systematically abused by judges and lawyers to STEAL from people and unlawfully and unconstitutionally enlarge their jurisdiction and importance.
- 5. Government propaganda is abused to accomplish the equivocation that makes the contexts falsely appear equivalent.
 - 5.1. This propaganda is used by both lawyers and courts and even the media, and none of it is trustworthy.
 - 5.2. This propaganda is only possible because no one in the government is accountable for anything they say or write.
- For extensive research on HOW government propaganda is abused to confuse the contexts and make them appear equivalent, see:
- 9 1. <u>Reasonable Belief About Income Tax Liability</u>, Form #05.007 http://sedm.org/Forms/FormIndex.htm
 - 2. <u>Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction</u>, Form #05.017 http://sedm.org/Forms/FormIndex.htm

4.2.1 How the two contexts are deliberately and maliciously confused and made to appear the same in order to unlawfully and unconstitutionally expand government jurisdiction

The process of confusing two non-overlapping contexts is called "equivocation". Here are the best definition we have found on the subject matter:

equivocation

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EQUIVOCA'TION, n. Ambiguity of speech; the use of words or expressions that are susceptible of a double signification. Hypocrites are often guilty of equivocation, and by this means lose the confidence of their fellow men. Equivocation is incompatible with the Christian character and profession.

[SOURCE: http://1828.mshaffer.com/d/search/word,equivocation]

Wikipedia defines the term much more expansively:

Equivocation ("to call by the same name") is an informal logical fallacy. It is the misleading use of a term with more than one meaning or sense (by glossing over which meaning is intended at a particular time). It generally occurs with polysemic words (words with multiple meanings).

Albeit in common parlance it is used in a variety of contexts, when discussed as a fallacy, equivocation only occurs when the arguer makes a word or phrase employed in two (or more) different senses in an argument appear to have the same meaning throughout.¹⁹

It is therefore distinct from (semantic) <u>ambiguity</u>, which means that the context doesn't make the meaning of the word or phrase clear, and <u>amphiboly</u> (or syntactical ambiguity), which refers to ambiguous sentence structure due to <u>punctuation</u> or <u>syntax</u>.²⁰

[Wikipedia: "Equivocation", Downloaded 9/15/2015; SOURCE: https://en.wikipedia.org/wiki/Equivocation]

- Equivocation is maliciously abused mainly by government and the legal field to:
 - 1. <u>Confuse PUBLIC statutory "persons" and public offices with PRIVATE human beings.</u>
 - 1.1. PUBLIC statutory "persons" are subject to the civil statutory law.
 - 1.2. PRIVATE human beings are not subject to civil statutory law unless they FIRST consent to act as a public officer.
 - For details on this dichotomy, see:

¹⁹ Damer, T. Edward (2009), <u>Attacking Faulty Reasoning: A Practical Guide to Fallacy-free Arguments</u> (6th ed.), Wadsworth, p. 121, <u>ISBN</u> <u>978-0-495-09506-4</u>

Fischer, D. H. (June 1970), *Historians' fallacies: toward a logic of historical thought*, Harper torchbooks (first ed.), New York: HarperCollins, p. 274, <u>ISBN</u> 978-0-06-131545-9, <u>OCLC</u> 185446787

²⁰ Damer, T. Edward (2009), <u>Attacking Faulty Reasoning: A Practical Guide to Fallacy-free Arguments</u> (6th ed.), Wadsworth, p. 123, <u>ISBN</u> <u>978-0-495-09506-4</u>

EXHIBIT:____

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

- 2. Confuse the GEOGRAPHICAL context of "United States" and "State" with the LEGAL context.
 - 2.1. The "United States" and "State" in "acts of Congress, in a GEOGRAPHICAL sense means federal territory and excludes states of the Union. See 26 U.S.C. §7701(a)(9) and (a)(10) and 4 U.S.C. §110(d).
 - 2.2. The "United States" and "State" can also be used in a LEGAL context, whereby it implies the United States government corporation as a legal person and not a geographical place. To be "in" this "United States" means to be a public officer of the body corporate, which is a federal corporation.

For details on this dichotomy, see:

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<u>Non-Resident Non-Person Position</u>, Form #05.020, Section 4 http://sedm.org/Forms/FormIndex.htm

- 3. Confuse STATUTORY citizens or residents with CONSTITUTIONAL citizens or residents. These groups are mutually exclusive and non-overlapping.
 - 3.1. A STATUTORY citizen is someone born on federal territory subject to the exclusive jurisdiction of Congress. This type of citizen is a creation and franchise of Congress created exclusively under the authority of 8 U.S.C. §1401 and NOT the Fourteenth Amendment. This is a civil statutory status that implies a domicile on federal territory and NOT a constitutional state.
 - 3.2. A CONSTITUTIONAL citizen is a human being and not an artificial entity or office. This human being is born in a CONSTITUTIONAL state of the Union and outside of federal territory. This type of citizen is created under the authority of the Fourteenth Amendment and NOT 8 U.S.C. §1401. This is a CONSTITUTIONAL status rather than a civil statutory status. It requires the person to "reside" in a constitutional state of the Union, meaning to have a domicile there. If they do not, then they are not even Fourteenth Amendment citizens, but nonresidents and transient foreigners. "reside" in the Fourteenth Amendment implies DOMICILE per Saenz v. Roe, 526 U.S. 473, 119 S.Ct. 1430, 143 L.Ed.2d. 635 (1999).

For details on this dichotomy, see:

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

- 4. Confuse "subject to THE jurisdiction" in the Fourteenth Amendment with "subject to ITS jurisdiction" in federal statutes.
 - 4.1. "Subject to THE jurisdiction" means the POLITICAL and not LEGISLATIVE jurisdiction. This phrase is found in the Fourteenth Amendment and sometimes in federal statutes. It has a completely different meaning in each of the two contexts.
 - 4.2. "Subject to ITS jurisdiction" means subject to the LEGISLATIVE and not POLITICAL jurisdiction. This phrase is commonly found in federal statutes only and not the constitution.

The following sections will break down each of the above four areas where equivocation is commonly abused mainly by judges and lawyers to illegally and unconstitutional expand their jurisdiction and importance.

4.2.2 How Governments Abuse CONFUSION OVER CONTEXT in Statutes and/or Government Forms to Deliberately Create False Presumptions that Deceive, Injure, and Violate Rights of Readers

Next, we must address the main methods by which government employees abuse language in order to deceive those reading or administering the law. The following primary methods are used:

- 1. Using the expansive or additive sense of the word "includes" within definitions appearing in the code and falsely claiming that such a use authorizes them to add ANYTHING THEY WANT to the meaning of definition of the term. .
- 2. Deliberately specifying in a statute or form a vague definition or no definition at all of key words, thus:
 - 2.1. Inviting false presumptions for confusion of what context is intended.
 - 2.2. Leaving undue discretion to readers, judges, and juries when disputes over meaning occur in order to add whatever they want to the meaning of terms.

The above approach is discussed in Form #05.014, Section 15.2.3.5, where we talk about the "Void for Vagueness Doctrine".

- 3. Abusing words on government forms as follows to confuse the ORDINARY context with the STATUTORY context, both of which are usually MUTUALLY EXCLUSIVE and opposite to each other:
 - 3.1. Making the reader believe that the word is used in its ORDINARY rather than STATUTORY meaning.
- 3.2. Telling the reader that they aren't allowed to trust anything on the form.

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- 3.3. Refusing to clarify WHICH of the two contexts is intended, or that they are NOT equivalent, in the instructions for the form.
 - 3.4. When the person who is asked to fill out the form asks the government representative which of the two contexts are intended, they maliciously and deliberately refuse to clarify. That way, the government can protect itself from blame for what usually ends up being PERJURY on the form when the person filling it out PRESUMES that the ordinary rather than the STATUTORY meaning applies.
 - 3.5. Examples of words that fit this category:
 - 3.5.1. "United States"
 - 3.5.2. "State"

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- 3.5.3. "Employee"
- 3.5.4. "Income"
- 3.5.5. "Person"
- 3.5.6. "Individual"
- Abusing words on government forms and statutes to confuse the LEGAL/STATUTORY context with the POLITICAL/CONSTITUTIONAL context, both of which are usually MUTUALLY EXCLUSIVE and opposite to each other:
 - 4.1. There are two main contexts for "terms": Constitutional and Statutory. These two contexts, in nearly all cases, are MUTUALLY EXCLUSIVE and do not overlap geographically because of the separation of powers doctrine.
 - 4.2. The CONSTITUTIONAL context of "United States" is a POLITICAL use of the word that includes states of the Union and excludes federal territory, while the STATUTORY context of the term refers to the LEGAL sense of the word and includes federal territory but excludes states of the Union in nearly all cases.
 - 4.3. An example of such an abuse is to ask you whether you are a "U.S. citizen", assuming it means the LEGAL and STATUTORY sense, but making the reader believe it means the POLITICAL and CONSTITUTIONAL sense. This fraud is exhaustively explained in the following document:

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

4.2.3 PUBLIC v. PRIVATE context

The purpose for establishing all civil government is the protection of PRIVATE rights. The Declaration of Independence affirms this principle.

> "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]

All the authority delegated to any government derives from the CONSENT of those it governs. Any government that does not respect or protect the requirement for consent of the governed in a civil context is, in fact, a terrorist government.

> TER-ROR-ISM noun 1 The act of terrorizing. 2 A system of government that seeks to rule by intimidation. 3 Violent and unlawful acts of violence committed in an organized attempt to overthrow a government.

[Original (pre-Orwellian) Definition of the Word "Terrorism" Funk and Wagnalls New Practical Standard Dictionary (1946)]

The U.S. Supreme Court has held that PRIVATE rights are beyond the legislative power of the state and identifies any socalled "government" that neither recognizes private rights nor protects them as a "vain government". We would add that such a government is NO GOVERNMENT AT ALL, but a TERRORIST MAFIA and criminal extortion ring.

> "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 auestioned.

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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, <u>182 U.S. 244</u> (1901)]

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- 4. Enacting civil laws that can and do regulate ONLY:
 - 4.1. Use of PUBLIC property owned by the government. This includes federal territory and federal chattel property.
 - 4.2. Conduct of PUBLIC officers within the government.
- 5. Never enacting a law that gives any government any right or advantage over those governed because all "persons" are equal under the law.
- 6 Consistent with the above:

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1. The following document proves that all civil law enacted by the government can and does pertain only to public officers on official business and does not pertain to PRIVATE people:

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

- 2. All "persons" defined in government civil statutes are, in fact, public officers within the government and not private human beings. They are:
 - 2.1. "Officers of a corporation", which corporation is a federal corporation and government instrumentality.
 - 2.2. "Partners" with such a federal corporation who entered into partnership by signing a government form or application.

For proof, see the definitions of "person" found in 26 U.S.C. §6671(b) and 26 U.S.C. §7343, which identify all "persons" within the I.R.C. as employees or officers of a corporation. 5 U.S.C. §2105(a) in turn says that these "employees" are in fact public officers.

<u>TITLE 26</u> > <u>Subtitle F</u> > <u>CHAPTER 68</u> > <u>Subchapter B</u> > <u>PART I</u> > § 6671 § 6671. <u>Rules for application of assessable penalties</u>

(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.

<u>TITLE 26</u> > <u>Subtitle F</u> > <u>CHAPTER 75</u> > <u>Subchapter D</u> > § 7343 § 7343. <u>Definition of term "person"</u>

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.

3. All taxes, fees, or penalties the government charges must always be connected with public offices in the U.S. government. The income tax is upon ONLY those lawfully engaged in a public office in the U.S. government. This activity is defined in the Internal Revenue Code as a "trade or business", which 26 U.S.C. §7701(a)(26) defines as "the functions of a public office".

26 U.S.C. §7701(a)(26)

"The term 'trade or business' includes [is limited to] the performance of the functions of a public office."

Judges and government prosecutors are keenly aware of the above limitations and frequently attempt to try to unlawfully and criminally enlarge their jurisdiction by adding things to the definition of "person" or "individual" that do not and cannot expressly appear in the statutes themselves. This is most frequently done by abusing the word "includes" as indicated throughout this pamphlet.

When anyone in government, whether it be a corrupt judge or a government prosecutor, claims that you had a duty under any civil statute to do anything, you should always insist on them meeting the burden of proving that:

- 1. You lawfully occupied a public office at the time the transaction occurred.
- 42 2. You expressly consented to occupy the public office. Otherwise, you are being subjected to involuntary servitude.
 - 3. Your domicile was on federal territory at the time you consented to lawfully occupy the public office.

- The public office was lawfully created and expressly authorized to be exercised in the place it was exercised as required by 4 U.S.C. §72.
- 5. The franchise statute imposing the duty expressly authorizes the CREATION of the public office you allegedly occupy.
- 5 6. The property that is the subject of the tax or penalty or fee was PUBLIC PROPERTY and BECAME public property by your voluntary consent, if you are the owner.
- 7. The statutes defining the "person", "individual", or "taxpayer" who is the subject of the tax, fee, or penalty EXPRESSLY INCLUDE PRIVATE human beings. Otherwise, they are presumed to be "purposefully excluded" under the rules of statutory construction.
- For further information relating to the subject of this section, please see:
- 1. Why Statutory Civil Law is Law for Government and Not Private Persons, Form #05.037-why the government can't enact civil law to regulate private human beings.

 http://sedm.org/Forms/FormIndex.htm
 - 2. <u>Government Instituted Slavery Using Franchises</u>, Form #05.030-how franchises are unlawfully abused by corrupt rulers to convert all "citizens" and "residents" into public offices in the government.
- 3. <u>Proof That There Is a "Straw Man"</u>, Form #05.042-how the "person" in all federal civil law is associated with only public officers.

 http://sedm.org/Forms/FormIndex.htm
- 4. <u>The "Trade or Business" Scam</u>, Form #05.001-why the federal income tax is upon public offices in the government called a "trade or business".
- 21 http://sedm.org/Forms/FormIndex.htm
- 5. Why Your Government is Either a Thief or You are a "Public Officer" for Income Tax Purposes, Form #05.008-why all "taxpayers" are public officers.

 http://sedm.org/Forms/FormIndex.htm
- 6. <u>Corporatization and Privatization of the Government</u>, Form #05.024-how the government has been transformed into a de facto government by turning it into a private corporation that does not recognize private rights.

 http://sedm.org/Forms/FormIndex.htm
- 7. <u>De Facto Government Scam</u>, Form #05.043-why the present government is a fraud because they have turned all "citizens" and "residents" into public officers.

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

4.2.4 GEOGRAPHICAL v. LEGAL context for words "United States" and "State"

It is fundamental to the legal field that anything outside the geographical territory of a government entity is "nonresident" and beyond its jurisdiction, except of course those things that it does with the consent of the nonresident parties. This consent is called "comity":

"Every State or nation possesses an exclusive sovereignty and jurisdiction within her own territory, and her laws affect and bind all property and persons residing within it. It may regulate the manner and circumstances under which property is held, and the condition, capacity, and state of all persons therein, and also the remedy and modes of administering justice. And it is equally true that no State or nation can affect or bind property out of its territory, or persons not residing [domiciled] within it. No State therefore can enact laws to operate beyond its own dominions, and if it attempts to do so, it may be lawfully refused obedience. Such laws can have no inherent authority extraterritorially. This is the necessary result of the independence of distinct and separate sovereignties."

"Now it follows from these principles that whatever force or effect the laws of one State or nation may have in the territories of another must depend solely upon the laws and municipal regulations of the latter, upon its own jurisprudence and polity, and upon its own express or tacit consent."

[Dred Scott v. John F.A. Sanford, 60 U.S. 393 (1856)

It should also be emphasized that the States of the Union mentioned in the Constitution are not legally defined as "territory" as described in the above holding. This means that they are legislatively (but not constitutionally) foreign and sovereign in relation to the national government, and therefore incapable of being "States" as used within ordinary acts of STATUTORY Congress:

Corpus Juris Secundum Legal Encyclopedia "§1. Definitions, Nature, and Distinctions

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1 2 3 4	"The word 'territory,' when used to designate a political organization has a distinctive, fixed, and legal meaning under the political institutions of the United States, and does not necessarily include all the territorial possessions of the United States, but may include only the portions thereof which are organized and exercise governmental functions under act of congress."
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5	"While the term 'territory' is often loosely used, and has even been construed to include municipal subdivisions of a territory, and 'territories of the' United States is sometimes used to refer to the entire domain over which the
6 7	United States exercises dominion, the word 'territory,' when used to designate a political organization, has a
8	distinctive, fixed, and legal meaning under the political institutions of the United States, and the term 'territory'
9	or 'territories' does not necessarily include only a portion or the portions thereof which are organized and
10	exercise government functions under acts of congress. The term 'territories' has been defined to be political
11	subdivisions of the outlying dominion of the United States, and in this sense the term 'territory' is not a description
12	of a definite area of land but of a political unit governing and being governed as such. The question whether a
13	particular subdivision or entity is a territory is not determined by the particular form of government with which
14	it is, more or less temporarily, invested.
15	"Territories' or 'territory' as including 'state' or 'states." While the term 'territories of the United States may,
16 17	under certain circumstances, include the states of the Union, as used in the federal Constitution and in ordinary acts of congress "territory" does not include a foreign state.
18	"As used in this title, the term 'territories' generally refers to the political subdivisions created by congress,
19	and not within the boundaries of any of the several states."
20	[86 Corpus Juris Secundum (C.J.S.), Territories, §1 (2003)]
21 22	Consistent with the above, the same Corpus Juris Secundum Legal Encyclopedia describes the national government as a "foreign corporation" in relation to a state of the Union:
23	"A foreign corporation is one that derives its existence solely from the laws of another state, government, or
24	country, and the term is used indiscriminately, sometimes in statutes, to designate either a corporation created
25	by or under the laws of another state or a corporation created by or under the laws of a foreign country."
26	"A federal corporation operating within a state is considered a domestic corporation rather than a foreign
27	corporation. The United States government is a foreign corporation with respect to a state."
28	[19 Corpus Juris Secundum, Corporations, §883 (2003)]
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30	"A corporation is a citizen, <u>resident,</u> or inhabitant of the state or country by or under the laws of which it was
31	created, and of that state or country only."
32	[19 Corpus Juris Secundum, Corporations, §886 (2003)]
33 34	In the GEOGRAPHICAL context within the Internal Revenue Code, the term "United States" and "State" have the following meanings:
35 36	<u>TITLE 26</u> > <u>Subtitle F</u> > <u>CHAPTER 79</u> > Sec. 7701. [Internal Revenue Code] <u>Sec. 7701 Definitions</u>
37 38	(a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof—
39	(9) United States
40	The term "United States" when used in a geographical sense includes only the States and the District of
41	Columbia.
42	(10) State
43	The term "State" shall be construed to include the District of Columbia, where such construction is necessary to
44	carry out provisions of this title.
45	
46	TITLE 4 - FLAG AND SEAL, SEAT OF GOVERNMENT, AND THE STATES
47	CHAPTER 4 - <u>THE STATES</u>
48	Sec. 110. Same; definitions

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Anything OUTSIDE of the GEOGRAPHICAL "United States" as defined above is "foreign", beyond the jurisdiction of the 2 government, and therefore sovereign. Included within that legislatively "foreign" and "sovereign" area are both the constitutional states of the Union AND foreign countries. Anyone domiciled in a legislatively "foreign" or "sovereign" jurisdiction, REGARDLESS OF THEIR NATIONALITY, is a "non-resident non-person" for the purposes of income taxation. If they are also engaged in a public office, they are a "nonresident alien", "individual", and "taxpayer". This is exhaustively proven and explained with evidence in the following document:

Non-Resident Non-Person Position, Form #05.020 http://sedm.org/Forms/FormIndex.htm

Another important thing about the above definition is that:

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- It relates ONLY to the GEOGRAPHICAL CONTEXT of the word.
- Not every use of the term "United States" implies the GEOGRAPHIC context. 2.
- The ONLY way to verify which context is implied in each case is if they EXPRESSLY identify whether they mean "United States***" the legal person or "United States**" federal territory in each case. All other contexts are NOT expressly invoked in the Internal Revenue Code and therefore PURPOSEFULLY EXCLUDED per the rules of statutory construction. The DEFAULT context in the absence of expressly invoking the GEOGRAPHIC context is "United States****" the legal person and NOT a geographic place. This is how they do it in the case of the phrase "sources within the United States".
- Therefore, "United States" and "State", WHEN USED IN A GEOGRAPHICAL sense imply federal territory within the 17 exclusive jurisdiction of Congress. It does not imply any land within the exclusive jurisdiction of a Constitutional State. This 18 requirement is a fulfillment of the Separation of Powers Doctrine of the U.S. Supreme Court, in fact. 19
 - One can be "legally present" within a jurisdiction WITHOUT being PHYSICALLY present within a GEOGRAPHIC region. For example, you can be regarded as a "resident" within the Internal Revenue Code, Subtitles A and C without ever being physically present in the only place it applies, which is federal territory not part of any state of the Union. Earlier versions of the Internal Revenue regulations demonstrate how this happens:

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]

The corporations and partnerships mentioned above represent the ONLY "persons" who are "taxpayers" in the Internal Revenue Code, because they are the only entities expressly mentioned in the definition of "person" found at 26 U.S.C. §6671(b) and 26 U.S.C. §7343. It is a rule of statutory construction that any thing or class of thing not EXPRESSLY appearing in a definition is purposefully 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]

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These same artificial "persons" and therefore public offices within 26 U.S.C. §§6671(b) and 7343, are also NOT mentioned in the constitution either. All constitutional "persons" or "people" are human beings, and therefore the tax imposed by the Internal Revenue Code Subtitles A and C and even the revenue clauses within the United States Constitution itself at 1:8:1 and 1:8:3 can and do relate ONLY to human beings and not artificial "persons" or corporations:

"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.14

14 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).

[Annotated Fourteenth Amendment, Congressional Research Service.

SOURCE: http://www.law.cornell.edu/anncon/html/amdt14a_user.html#amdt14a_hd1]

One is therefore ONLY regarded as a "resident" within the Internal Revenue Code if and ONLY if they are engaged in the "trade or business" activity, which is defined in 26 U.S.C. §7701(a)(26) as "the functions of a public office". This mechanism for acquiring jurisdiction is documented in Federal Rule of Civil Procedure 17(b). Federal Rule of Civil Procedure 17(b) says that when we are representing a federal and not state corporation as "officers" or statutory "employees" per 5 U.S.C. §2105(a), the civil laws which apply are the place of formation and domicile of the corporation, which in the case of the government of "U.S. Inc." is ONLY the District of Columbia:

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:

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

(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) <u>28 U.S.C.</u> §§754 and <u>959</u>(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)]

Please note the following very important facts:

- 1. The "person" which IS physically present on federal territory in the context of Federal Rule of Civil Procedure 17(b)(2) scenario is the PUBLIC OFFICE, rather than the OFFICER who is CONSENSUALLY and LAWFULLY filling said office
- 2. The PUBLIC OFFICE is the statutory "taxpayer" per 26 U.S.C. §7701(a)(14), and not the human being filling said office
- 3. The OFFICE is the thing the government created and can therefore regulate and tax. They can ONLY tax and regulate

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- that which they created.²¹ The public office has a domicile in the District of Columbia per 4 U.S.C. §72, which is the same domicile as that of its CORPORATION parent.
- Because the parent government corporation of the office is a STATUTORY but not CONSTITUTIONAL "U.S. citizen", then the public office itself is ALSO a statutory citizen per 26 C.F.R. §1.1-1(c). All creations of a government have the same civil status as their creator and the creation cannot be greater than the creator:

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"A corporation is a citizen, <u>resident</u>, or inhabitant of the state or country by or under the laws of which it was created, and of <u>that state or country only</u>."

[19 Corpus Juris Secundum (C.J.S.), Corporations, §886 (2003)]
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5. An oath of office is the ONLY lawful method by which a specific otherwise PRIVATE person can be connected to a specific PUBLIC office.

"It is true, that the person who accepts an office may be supposed to enter into a compact [contract] 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 marshall, has rendered the jurisdiction of the King's Bench universal in all personal actions."

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

SOURCE: http://scholar.google.com/scholar_case?case=3339893669697439168]

Absent proof on the record of such an oath in any legal proceeding, any enforcement proceeding against a "taxpayer" public officer must be dismissed. The oath of public office:

- 5.1. Makes the OFFICER into legal surety for the PUBLIC OFFICE.
- 5.2. Creates a partnership between the otherwise private officer and the government. That is the ONLY partnership within the statutory meaning of "person" found in 26 U.S.C. §7343 and 26 U.S.C. §6671(b).
- 6. The reason that "United States" is defined as expressly including ONLY the District of Columbia in 26 U.S.C. §7701(a)(9) and (a)(10) is because that is the ONLY place that "public officers" can lawfully serve, per 4 U.S.C. §72:

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<u>TITLE 4</u> > <u>CHAPTER 3</u> > § 72
Sec. 72. - Public offices; at seat of Government
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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. Even within privileged federal corporations, not all workers are "officers" and therefore "public officers". Only the officers of the corporation identified in the corporate filings, in fact, are officers and public officers. Every other worker in the corporation is EXCLUSIVELY PRIVATE and NOT a statutory "taxpayer".
- 8. The authority for instituting the "trade or business" franchise tax upon public officers in the District of Columbia derives from the following U.S. Supreme Court cite:

"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 levving 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

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²¹ See <u>Great IRS Hoax</u>, Form #11.302, Section 5.1.1 entitled "The Power to Create is the Power to Tax". SOURCE: http://famguardian.org/Publications/GreatIRSHoax/GreatIRSHoax.htm.

- 9. It is ILLEGAL for a human being domiciled in a constitutional state of the Union and protected by the Constitution and who is not physically present on federal territory to become legally present there, even with their consent:
 - 9.1. The Declaration of Independence says your rights are "unalienable", which means you aren't ALLOWED to bargain them away through a franchise of office. It is organic law published in the first enactment of Congress in volume 1 of the Statutes at Large and hence has the "force of law". All organic law and the Bill of Rights itself attach to LAND and not the status of the people on the land. Hence, unless you leave the ground protected by the Constitution and enter federal territory to contract away rights or take the oath of office, the duties of the office cannot and do not apply to those domiciled and present within a constitutional state.
 - 9.2. You cannot unilaterally "elect" yourself into public office by filling out any tax or franchise form, even with your consent. Hence you can't be "legally present" in the STATUTORY "United States**" as a public officer even if you consent to be, if you are protected by the Constitution.
 - 9.3. When you DO consent to occupy the office AFTER a lawful election or appointment, you take that oath on federal territory not protected by the Constitution, and therefore only in that circumstance COULD you lawfully alienate an unalienable right.
- 10. Since the first four commandments of the Ten Commandments prohibit Christians from worshipping or serving other gods, then they also forbid Christians from being public officers in their private life if the government has superior or supernatural powers, immunities, or privileges above everyone else, which is the chief characteristic of any god. The word "serve" in the scripture below includes serving as a public officer. The essence of religious "worship" is, in fact, obedience to the dictates of a SUPERIOR or SUPERNATURAL being. You as a human being are the "natural" in the phrase "supernatural", so if any government or civil ruler has any more power than you as a human being, then they are a god in the context of the following scripture.

"You shall have no other gods [including governments or civil rulers] before Me. You shall not make for yourself a carved image—any likeness of anything that is in heaven above, or that is in the earth beneath, or that is in the water under the earth; you shall not bow down or serve them. 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 20:3-6, Bible, NKVJ]

- 11. Any attempt to compel you to occupy or accept the obligations of a public office without your consent represents several crimes, including:
 - 11.1. Theft of all the property and rights to property acquired by associating you with the status of "taxpayer".
 - 11.2. Impersonating a public officer in violation of 18 U.S.C. §912.
 - 11.3. Involuntary servitude in violation of the Thirteenth Amendment.
 - 11.4. Identity theft, because it connects your legal identity to obligations that you don't consent to, all of which are associated with the statutory status of "taxpayer".
 - 11.5. Peonage, if the status of "taxpayer" is surety for public debts, in violation of 18 U.S.C. §1581. Peonage is slavery in connection with a debt, even if that debt is the PUBLIC debt.

Usually false and fraudulent information returns are the method of connecting otherwise foreign and/or nonresident parties to the "trade or business" franchise, and thus, they are being criminally abused as the equivalent of federal election devices to fraudulently "elect" otherwise PRIVATE and nonresident parties to be liable for the obligations of a public office. 26 U.S.C. §6041(a) establishes that information returns which impute statutory "income" may ONLY lawfully be filed against those lawfully engaged in the "trade or business" franchise. This is covered in:

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4.2.5 STATUTORY v. CONSTITUTIONAL context for citizenship terms

- It is very important to understand that there are TWO separate, distinct, and mutually exclusive contexts in which geographical "words of art" can be used at the federal or national level:
- 4 1. Constitutional.
- 5 2. Statutory.
- The purpose of providing a statutory definition of a legal "term" is to supersede and not enlarge the ordinary, common law,
- constitutional, or common meaning of a term. Geographical words of art include:
- 8 1. "State"
- 9 2. "United States"
- 10 3. "alien"
- 11 4. "citizen"

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- 12 5. "resident"
- 13 6. "U.S. person"
- The terms "State" and "United States" within the Constitution implies the constitutional states of the Union and excludes
- federal territory, statutory "States" (federal territories), or the statutory "United States" (the collection of all federal territory).
- This is an outcome of the separation of powers doctrine. See:

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

- The U.S. Constitution creates a public trust which is the delegation of authority order that the U.S. Government uses to manage federal territory and property. That property includes franchises, such as the "trade or business" franchise. All statutory civil law it creates can and does regulate only THAT property and not the constitutional States, which are foreign, sovereign, and statutory "aliens" for the purposes of federal legislative jurisdiction.
- It is very important to realize the consequences of this constitutional separation of powers between the states and national government. Some of these consequences include the following:
- 1. Statutory "States" as indicated in <u>4 U.S.C. §110(d)</u> and "States" in nearly all federal statutes are in fact federal territories and the definition does NOT include constitutional states of the Union.
 - 2. The statutory "United States" defined in <u>26 U.S.C. §7701(a)(9)</u> and (a)(10) and 4 U.S.C. §110(d) includes federal territory and excludes any land within the exclusive jurisdiction of a constitutional state of the Union.
 - 3. Terms on government forms assume the statutory context and NOT the constitutional context.
- 4. <u>Domicile is the origin of civil legislative jurisdiction</u> over human beings. This jurisdiction is called "in personam jurisdiction".
- 5. Since the <u>separation of powers doctrine</u> creates two separate jurisdictions that are legislatively "foreign" in relation to each other, then there are TWO types of political communities, two types of "citizens", and two types of jurisdictions exercised by the national government.

"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)]

- 6. A human being domiciled in a state and born or naturalized anywhere in the Union is a statutory "non-resident non-person" in relation to the national government and a non-citizen national pursuant to 8 U.S.C. §1101(a)(21).
- 7. You cannot be a statutory "citizen" pursuant to 26 U.S.C. §1401 and a constitutional or Fourteenth Amendment "Citizen" AT THE SAME TIME. Why? Because the Supreme Court held in Hooven and Allison v. Evatt, 324 U.S.

652 (1945), that there are THREE different and mutually exclusive "United States", and therefore THREE types of "citizens of the United States". Here is an example:

"The Court today holds that the Citizenship Clause of the Fourteenth Amendment has no application to Bellei [an 8 U.S.C. §1401 STATUTORY citizen]. The Court first notes that Afroyim was essentially a case construing the Citizenship Clause of the Fourteenth Amendment. Since the Citizenship Clause declares that: 'All persons born or naturalized in the United States *** are citizens of the United States ***.' the Court reasons that the protections against involuntary expatriation declared in Afroyim do not protect all American citizens, but only those born or naturalized in the United States.' Afroyim, the argument runs, was naturalized in this country so he was protected by the Citizenship Clause, but Bellei, since he acquired his American citizenship at birth in Italy as a foreignborn child of an American citizen, was neither born nor naturalized in the United States and, hence, falls outside the scope of the Fourteenth Amendment guarantees declared in Afroyim. One could hardly call this a generous reading of the great purposes the Fourteenth Amendment was adopted to bring about. While conceding that Bellei is an American citizen, the majority states: 'He simply is not a Fourteenth-Amendment-first-sentence citizen.' Therefore, the majority reasons, the congressional revocation of his citizenship is not barred by the Constitution. I cannot accept the Court's conclusion that the Fourteenth Amendment protects the citizenship of some Americans and not others.

[...]

The Court today puts aside the Fourteenth Amendment as a standard by which to measure congressional action with respect to citizenship, and substitutes in its place the majority's own vague notions of 'fairness.' The majority takes a new step with the recurring theme that the test of constitutionality is the Court's own view of what is 'fair, reasonable, and right.' Despite the concession that Bellei was admittedly an American citizen, and despite the holding in Afroyim that the Fourteenth Amendment has put citizenship, once conferred, beyond the power of Congress to revoke, the majority today upholds the revocation of Bellei's citizenship on the ground that the congressional action was not 'irrational or arbitrary or unfair.' The majority applies the 'shock-the-conscience' test to uphold, rather than strike, a federal statute. It is a dangerous concept of constitutional law that allows the majority to conclude that, because it cannot say the statute is 'irrational or arbitrary or unfair,' the statute must be constitutional.

[Rogers v. Bellei, 401 U.S. 815 (1971)]

"The 1st section of the 14th article [Fourteenth Amendment], to which our attention is more specifically invited, opens with a definition of citizenship—not only citizenship of the United States[***], but citizenship of the states. No such definition was previously found in the Constitution, nor had any attempt been made to define it by act of Congress. It had been the occasion of much discussion in the courts, by the executive departments and in the public journals. It had been said by eminent judges that no man was a citizen of the [***] except as he was a citizen of one of the states composing the Union. Those therefore, who had been born and resided always in the District of Columbia or in the territories [STATUTORY citizens], though within the United States[*], were not [CONSTITUTIONAL] citizens."

[Slaughter-House Cases, 83 U.S. (16 Wall.) 36, 21 L.Ed. 394 (1873)]

The "citizen of the United States" mentioned in the Fourteenth Amendment is a constitutional "citizen of the United States", and the term "United States" in that context includes states of the Union and excludes federal territory. Hence, you would NOT be a "citizen of the United States" within any federal statute, because all such statutes define "United States" to mean federal territory and EXCLUDE states of the Union. For more details, see:

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

8. Your job, if you say you are a "citizen of the United States" or "U.S. citizen" on a government form (a VERY DANGEROUS undertaking!) is to understand that all government forms presume the statutory and not constitutional context, and to ensure that you define precisely WHICH one of the three "United States" you are a "citizen" of, and do so in a way that excludes you from the civil jurisdiction of the national government because domiciled in a "foreign state". Both foreign countries and states of the Union are legislatively "foreign" and therefore "foreign states" in relation to the national government of the United States. The following form does that very carefully:

<u>Affidavit of Citizenship, Domicile, and Tax Status</u>, Form #02.001 http://sedm.org/Forms/FormIndex.htm

2. Even the IRS says you CANNOT trust or rely on ANYTHING on any of their forms and publications. We cover this in our Reasonable Belief About Income Tax Liability, Form #05.007. Hence, if you are compelled to fill out a government form, you have an OBLIGATION to ensure that you define all "words of art" used on the form in such a way that there is no room for presumption, no judicial or government discretion to "interpret" the form to their benefit, and no injury to your rights or status by filling out the government form. This includes attaching the following forms

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to all tax forms you submit: 1 9.1. Affidavit of Citizenship, Domicile, and Tax Status, Form #02.001 2 http://sedm.org/Forms/FormIndex.htm 3 9.2. Tax Form Attachment, Form #04.201 4 http://sedm.org/Forms/FormIndex.htm 5 4.2.6 "Subject to THE jurisdiction" v. "subject to ITS jurisdiction" The phrase "subject to ITS jurisdiction" means the U.S. government and not any other state. 26 C.F.R. §1.1-1 Income tax on individuals (c) Who is a citizen. Every person born or naturalized in the [federal] United States[**] and subject to ITS jurisdiction is a citizen. 10 For other rules governing the acquisition of citizenship, see chapters 1 and 2 of title III of the Immigration and 11 12 Nationality Act (8 U.S.C. §1401-1459). ' The above definition of "citizen" applying exclusively to the Internal Revenue Code reveals that it depends on 8 U.S.C. §1401 13 means a human being and NOT artificial person born anywhere in the country but domiciled in the federal United 14 States**/federal zone, which includes territories or possessions and excludes states of the Union. These people possess a 15 special "non-constitutional" class of citizenship that is not covered by the Fourteenth Amendment or any other part of the 16 17 Constitution. "Finally, this Court is mindful of the years of past practice in which territorial citizenship has been treated as 18 a statutory [PRIVILEGE!], and not a constitutional, right. 19 [Tuana v. U.S.A., Case No. 12-01143 (D.D.C., 2013)] 20 Notice the term "born or naturalized in the United States and subject to its jurisdiction" within 26 C.F.R. §1.1-1, which means 21 the exclusive legislative jurisdiction of the federal government within the District of Columbia and its territories and 22 possessions under Article 1, Section 8, Clause 17 of the Constitution and Title 48 of the U.S. Code. If they meant to include 23 states of the Union, they would have used "their jurisdiction" or "the jurisdiction" as used in section 1 of the Fourteenth 24 Amendment instead of "its jurisdiction". 25 "The 13th Amendment to the Constitution, prohibiting slavery and involuntary servitude 'within the United States, 26 or in any place subject to their jurisdiction,' is also significant as showing that there may be places within the 27 28 jurisdiction of the United States that are no part of the Union. To say that the phraseology of this amendment 29 was due to the fact that it was intended to prohibit slavery in the seceded states, under a possible interpretation 30 that those states were no longer a part of the Union, is to confess the very point in issue, since it involves an admission that, if these states were not a part of the Union, they were still subject to the jurisdiction of the United 31 32 Upon the other hand, the 14th Amendment, upon the subject of citizenship, declares only that 'all persons born 33 or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and 34 of the state wherein they reside.' Here there is a limitation to persons born or naturalized in the United States, 35 which is not extended to persons born in any place 'subject to their jurisdiction.' 36 [Downes v. Bidwell, 182 U.S. 244 (1901)] 37 The phrase "Subject to THE jurisdiction", on the other hand, is found in the Fourteenth Amendment: 38 39 U.S. Constitution: Fourteenth Amendment 40 Section. 1. All persons born or naturalized in the United States[***] and subject to the jurisdiction thereof, are 41 <u>citizens of the United States[***]</u> and of the State wherein they reside. 42 The phrase "subject to THE jurisdiction" in the context of ONLY the Fourteenth Amendment: 43 Means "subject to the POLITICAL and not LEGISLATIVE jurisdiction". 44 "This section contemplates two sources of citizenship, and two sources only,-birth and naturalization. The 45 46 persons declared to be citizens are 'all persons born or naturalized in the United States, and subject to the

jurisdiction thereof.' The evident meaning of these last words is, not merely subject in some respect or degree to the jurisdiction of the United States, but completely subject to their [plural, not singular, meaning states of the Union] political jurisdiction, and owing them [the state of the Union] direct and immediate allegiance. And the words relate to the time of birth in the one case, as they do [169 U.S. 649, 725] to the time of naturalization in the other. Persons not thus subject to the jurisdiction of the United States at the time of birth cannot become so afterwards, except by being naturalized, either individually, as by proceedings under the naturalization acts, or collectively, as by the force of a treaty by which foreign territory is acquired."

[U.S. v. Wong Kim Ark, 169 U.S. 649, 18 S.Ct. 456; 42 L.Ed. 890 (1898)]

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2. Requires domicile, which is voluntary, in order to be subject ALSO to the civil LEGISLATIVE jurisdiction of the municipality one is in. Civil status always has domicile as a prerequisite.

In Udny v. Udny (1869) L. R. 1 H. L. Sc. 441, the point decided was one of inheritance, depending upon the question whether the domicile of the father was in England or in Scotland, he being in either alternative a British subject. Lord Chancellor Hatherley said: 'The question of naturalization and of allegiance is distinct from that of domicile.' Page 452. Lord Westbury, in the passage relied on by the counsel for the United States, began by saying: 'The law of England, and of almost all civilized countries, ascribes to each individual at his birth two distinct legal states or conditions,—one by virtue of which he becomes the subject [NATIONAL] of some particular country, binding him by the tie of natural allegiance, and which may be called his political status: another by virtue of which he has ascribed to him the character of a citizen of some particular country, and as such is possessed of certain municipal rights, and subject to certain obligations, which latter character is the civil status or condition of the individual, and may be quite different from his political status.' And then, while maintaining that the civil status is universally governed by the single principle of domicile (domicilium), the criterion established by international law for the purpose of determining civil status, and the basis on which 'the personal rights of the party—that is to say, the law which determines his majority or minority, his marriage, succession, testacy, or intestacy— must depend,' he yet distinctly recognized that a man's political status, his country (patria), and his 'nationality,—that is, natural allegiance,'—'may depend on different laws in different countries.' Pages 457, 460. He evidently used the word 'citizen,' not as equivalent to 'subject,' but rather to 'inhabitant'; and had no thought of impeaching the established rule that all persons born under British dominion are natural-born subjects.

[United States v. Wong Kim Ark, 169 U.S. 649, 18 S.Ct. 456, 42 L.Ed. 890 (1898); SOURCE: http://scholar.google.com/scholar_case?case=3381955771263111765]

3. Is a POLITICAL status that does not carry with it any civil status to which PUBLIC rights or franchises can attach. Therefore, the term "citizen" as used in Title 26 is NOT this type of citizen, since it imposes civil obligations. All tax obligations are civil in nature and depend on DOMICILE, not NATIONALITY. See District of Columbia v. Murphy, 314 U.S. 441 (1941) and:

<u>Why Domicile and Becoming a "Taxpayer" Require Your Consent,</u> Form #05.002, Section 11.7 https://sedm.org/Forms/FormIndex.htm

4. Is a product of PERMANENT ALLEGIANCE that is associated with the political status of "nationals" as defined in 8 U.S.C. §1101(a)(21). The only thing that can or does establish a political status is such allegiance.

38 (a) As used in this chapter—
39 (21) The term "national" means a person owing permanent allegiance to a state.

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48 U.S.C. §1101: Definitions

(21) The term "national" means a person owing permanent allegiance to a state.

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48 U.S. (21 Wall.) 162, 166-168 (1874)]

5. Is NOT a product of TEMPORARY allegiance owed by aliens who are sojourners temporarily in the United States and subject to the laws but do not have PERMANENT allegiance. Note the phrase "temporary and local allegiance" in the ruling below:

The reasons for not allowing to other aliens exemption 'from the jurisdiction of the country in which they are found' were stated as follows: 'When private individuals of one nation | states of the Unions are "nations" under the law of nations] spread themselves through another as business or caprice may direct, mingling indiscriminately with the inhabitants of that other, or when merchant vessels enter for the purposes of trade, it would be obviously inconvenient and dangerous to society, and would subject the laws to continual infraction, and the government to degradation, if such individuals or merchants did not owe temporary and local allegiance, and were not amenable to the jurisdiction of the country. Nor can the foreign sovereign have any motive for wishing such exemption. His subjects thus passing into foreign countries are not employed by him,

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nor are they engaged in national pursuits. Consequently, there are powerful motives for not exempting persons 2 of this description from the jurisdiction of the country in which they are found, and no one motive for requiring it. The implied license, therefore, under which they enter, can never be construed to grant such exemption.' 7 3 Cranch, 144. 5 In short, the judgment in the case of The Exchange declared, as incontrovertible principles, that the jurisdiction of every nation within its own territory is exclusive and absolute, and is susceptible of no limitation not imposed 6 by the nation itself; that all exceptions to its full and absolute territorial jurisdiction must be traced up to its own 8 consent, express or implied: that upon its consent to cede, or to waive the exercise of, a part of its territorial jurisdiction, rest the exemptions from that jurisdiction of foreign sovereigns or their armies entering its territory with its permission, and of their foreign ministers and public ships of war; and that the implied license, under 10 11 which private individuals of another nation enter the territory and mingle indiscriminately with its inhabitants, for purposes of business or pleasure, can never be construed to grant to them an exemption from the 12 jurisdiction of the country in which they are found. See, also, Carlisle v. U.S. (1872) 16 Wall. 147, 155; Radich 13 v. Hutchins (1877) 95 U.S. 210; Wildenhus' Case (1887) 120 U.S. 1, 7 Sup.Ct. 385; Chae Chan Ping v. U.S. 14 (1889) 130 U.S. 581, 603, 604, 9 Sup.Ct. 623. 15 [United States v. Wong Kim Ark, 169 U.S. 649, 18 S.Ct. 456, 42 L.Ed. 890 (1898)] 16 17 18

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside."

The first observation we have to make on this clause is, that it puts at rest both the questions which we stated to have been the subject of differences of opinion. It declares that persons may be citizens of the United States without regard to their citizenship of a particular State, and it overturns the Dred Scott decision by making all persons born within the United States and subject to its jurisdiction citizens of the United States. That its main purpose was to establish the citizenship of the negro can admit of no doubt. The phrase, "subject to its jurisdiction" was intended to exclude from its operation children of ministers, consuls, and citizens or subjects of foreign States born within the United States.

[Slaughterhouse Cases, 83 U.S. 36 (1873)]

- Relates only to the time of birth or naturalization and not to one's CIVIL status at any time AFTER birth or naturalization.
- Is a codification of the following similar phrase found in the Civil Rights Act of 1866, 14 Stat. 27-30. 7.

Civil Right Act of 1866, 14 Stat. 27

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are hereby declared to be citizens of the United States; and such citizens, of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right, in every State and Territory in the United States, to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property, as is enjoyed by white citizens, and shall be subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom, to the contrary notwithstanding. [SOURCE: http://teachingamericanhistory.org/library/document/the-civil-rights-act-of-1866/]

The only way one could be "not subject to any foreign power" as indicated above is to not owe ALLEGIANCE to a foreign power and to be a CONSTITUTIONAL "citizen of the United States".

Does NOT apply to people in unincorporated territories such as Puerto Rico, Guam, American Samoa, etc.

"The Naturalization Clause has a geographic limitation: it applies "throughout the United States." The federal courts have repeatedly construed similar and even identical language in other clauses to include states and incorporated territories, but not unincorporated territories. In Downes v. Bidwell, 182 U.S. 244, 21 S.Ct. 770, 45 L.Ed. 1088 (1901), one of the Insular Cases, the Supreme Court held that the Revenue Clause's identical explicit geographic limitation, "throughout the United States," did not include the unincorporated territory of Puerto Rico, which for purposes of that Clause was "not part of the United States." Id. at 287, 21 S.Ct. 770. The Court reached this sensible result because unincorporated territories are not on a path to statehood. See Boumediene v. Bush, 553 U.S. 723, 757-58, 128 S.Ct. 2229, 171 L.Ed.2d. 41 (2008) (citing Downes, 182 U.S. at 293, 21 S.Ct. 770). In Rabang v. I.N.S., 35 F.3d. 1449 (9th Cir.1994), this court held that the Fourteenth Amendment's limitation of birthright citizenship to those "born ... in the United States" did not extend citizenship to those born in the Philippines during the period when it was an unincorporated territory. U.S. Const., 14th Amend., cl. 1; see Rabang, 35 F.3d. at 1451. Every court to have construed that clause's geographic limitation has agreed. See Valmonte v. I.N.S., 136 F.3d. 914, 920-21 (2d Cir.1998); Lacap v. I.N.S., 138 F.3d. 518, 519 (3d Cir.1998); Licudine v. Winter, 603 F.Supp.2d. 129, 134 (D.D.C.2009).

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Like the constitutional clauses at issue in Rabang and Downes, the Naturalization Clause is expressly limited to the "United States." This limitation "prevents its extension to every place over which the government exercises its sovereignty." Rabang, 35 F.3d. at 1453. Because the Naturalization Clause did not follow the flag to the CNMI when Congress approved the Covenant, the Clause does not require us to apply federal immigration law to the CNMI prior to the CNRA's transition date. [Eche v. Holder, 694 F.3d. 1026 (2012)]

If you would like to learn more about the important differences between POLITICAL jurisdiction and LEGISLATIVE

iurisdiction, please read:

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

If you would like a complete explanation from eminent legal scholars at the Heritage Foundation of the phrase "subject to THE jurisdiction" in the context of the Fourteenth Amendment, see: 10

- Tucker Carlson Tonight 20181030 Birthright Citizenship Debate, SEDM Exhibit #01.018 https://sedm.org/Exhibits/ExhibitIndex.htm
- 2. The Case Against Birthright Citizenship, Heritage Foundation 13 https://youtu.be/ujqYBldkdq0 14
- 3. <u>Does the Fourteenth Amendment Require Birthright Citizenship?</u>, Heritage Foundation 15 https://youtu.be/wZGzbVrvoy4 16
- The Heritage Guide to the Constitution, Citizenship, Heritage Foundation 17 https://www.heritage.org/constitution/#!/amendments/14/essays/167/citizenship
 - The Terrible Truth About Birthright Citizenship, Stefan Molyneux, SEDM Exhibit #01.020 https://sedm.org/Exhibits/ExhibitIndex.htm
 - Family Guardian Forum 6.1.1: Meaning of "subject to the jurisdiction" in the Fourteenth Amendment https://famguardian.org/forums/forums/topic/meaning-of-subject-to-the-jurisdiction-in-the-fourteenth-amendment/

Lastly, the subject of this section is such an important and pervasive one in the freedom community that we have prepared an entire presentation on the subject matter which we highly recommend that you view, if any questions at all remain about the meaning of the phrase "subject to the jurisdiction" in the Fourteenth Amendment:

Why the Fourteenth Amendment is Not a Threat to Your Freedom, Form #08.015 https://sedm.org/Forms/FormIndex.htm

What Constitutes a court-admissible basis for "Reasonable Belief" About Your Tax 5. **Responsibilities?**

Readers are also reminded that the ONLY basis for "reasonable belief" about one's tax liability is any one or more of the following, according to the government, the courts, and the IRS itself:

- Enacted positive law from the Statutes at Large after January 2, 1939. 30
 - The rulings of the U.S. Supreme Court and NOT lower courts.
 - The Constitution for the United States of America.
- Readers may NOT rely on the following sources of belief and may ONLY rely upon those indicated above: 33
- 1. Anything the IRS publishes, including their entire website and every one of their forms and publications. See the IRS' 34 own Internal Revenue Manual (I.R.M.), Section 4.10.7.2.8 which amazingly admits this: 35 http://www.irs.gov/irm/part4/ch10s11.html 36
- 2. Anything that the IRS or the government says or writes. The courts admit this: 37 http://famguardian.org/Subjects/Taxes/Articles/IRSNotResponsible.htm 38
 - 3. Any part of the I.R.C., which is simply nothing but a "statutory presumption" that violates due process of law. See 1 U.S.C. §204, which says that the I.R.C. is "prima facie", which means a "presumption". All presumption which prejudices constitutionally guaranteed rights is unconstitutional. Vlandis v. Kline, 412 U.S. 441, 449, 93 S.Ct. 2230, 2235 (1973); Cleveland Bed. of Ed. v. LaFleur, 414 U.S. 632, 639-640, 94 S.Ct. 1208, 1215 (1974). The U.S. Supreme

- Court has said that statutory presumptions are unconstitutional if they prejudice your rights. <u>Heiner v. Donnan, 285 U.S. 312 (1932)</u>, <u>United States v. Gainly, 380 U.S. 63 (1965)</u>.
- Everything other than the law itself is not a reasonable source of belief and is simply hearsay and false presumption that is inadmissible as evidence. This is exhaustively explained below:

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

- 5 Consequently, as you read the case cites provided in this document, all of which derive from federal courts, you must take
- them with a grain of salt and a healthy bit of discretion.

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6. Overview of the Income Taxation Process

- 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:

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

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

"Volunti non fit injuria. 25 He who consents cannot receive an injury. 2 Bouv. Inst. n. 2279, 2327; 4 T. R. 657; Shelf. on mar. & Div. 449. 26 Consensus tollit errorem. 27 28 Consent removes or obviates a mistake. Co. Litt. 126. 29 Melius est omnia mala pati quam malo concentire. It is better to suffer every wrong or ill, than to consent to it. 3 Co. Inst. 23. 30 Nemo videtur fraudare eos qui sciunt, et consentiunt. 31 One cannot complain of having been deceived when he knew the fact and gave his consent. Dig. 50, 17, 145." 32

One cannot complain of having been deceived when he knew the fact and gave his consent. Dig. 50, 17, 145." [Bouvier's Maxims of Law, 1856;

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

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

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

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have to anything; being used to refer to that right which one has to lands or tenements, goods or chattels, which 2 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, 3 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. 8 Property embraces everything which is or may be the subject of ownership, whether a legal ownership. or whether 9 10 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., 11 12 389 S.W.2d. 745, 752. Property, within constitutional protection, denotes group of rights inhering in citizen's relation to physical 13 thing, as right to possess, use and dispose of it. Cereghino v. State By and Through State Highway Commission, 14 230 Or. 439, 370 P.2d. 694, 697. 15 [Black's Law Dictionary, Fifth Edition, p. 1095] 16 17 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 18 property. An example is corporations, which are a public franchise that makes officers of the corporation into public 19 officers. 20 5. The process of taxation is the process of converting "private property" into a "public use" and a "public purpose". Below 21 are definitions of these terms for your enlightenment. 22 Public use. Eminent domain. The constitutional and statutory basis for taking property by eminent domain. For 23 24 condemnation purposes, "public use" is one which confers some benefit or advantage to the public; it is not 25 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 26 27 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. 28 Public use, in constitutional provisions restricting the exercise of the right to take property in virtue of eminent 29 domain, means a use concerning the whole community distinguished from particular individuals. But each and 30 31 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 32 U.S. 700, 43 S.Ct. 689, 692, 67 L.Ed. 1186. The term may be said to mean public usefulness, utility, or advantage, 33 34 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 35 cannot be surrendered without obvious general loss and inconvenience. A "public use" for which land may be 36 37 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 38 an increase in population and new modes of communication and transportation. Katz v. Brandon, 156 Conn. 39 521, 245 A.2d. 579, 586. See also Condemnation; Eminent domain. 41 [Black's Law Dictionary, Sixth Edition, p. 1232] 42 43 44 "Public purpose. In the law of taxation, eminent domain, etc., this is a term of classification to distinguish the 45 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. 46 police regulation, or particular exertion of the power of eminent domain shall be the convenience, safety, or 47 welfare of the entire community and not the welfare of a specific individual or class of persons [such as, for 48 instance, federal benefit recipients as individuals]. "Public purpose" that will justify expenditure of public 49 50 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. 51 52 The term is synonymous with governmental purpose. As employed to denote the objects for which taxes may be 53 levied, it has no relation to the urgency of the public need or to the extent of the public benefit which is to follow; 54 the essential requisite being that a public service or use shall affect the inhabitants as a community, and not 55

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

1		within a given political division, as, for example, a state, the sovereign powers of which are exercised to promote
2		such public purpose or public business."
3		[Black's Law Dictionary, Sixth Edition, p. 1231, Emphasis added]
4	6.	The federal government has no power of eminent domain within states of the Union. This means that they cannot
5		lawfully convert private property to a public use or a public purpose within the exclusive jurisdiction of states of the
6		Union:
7		"The United States have no constitutional capacity to exercise municipal jurisdiction, sovereignty, or eminent
8		domain, within the limits of a State or elsewhere, except in cases where it is delegated, and the court
9		denies the faculty of the Federal Government to add to its powers by treaty
10		or compact.""
11		[Dred Scott v. Sandford, 60 U.S. 393, 508-509 (1856)]
	7	The Eifth Amendment much this conventing private managers to a multiple of a multiple assumes a without just companyation
12	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
13 14		was made applicable to states of the Union by the Fourteenth Amendment in 1868.
15		Fifth Amendment - Rights of Persons
16		No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or
16 17		indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual
18		service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in
19		jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor <u>be</u>
20		deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public
21 22		use, without just compensation. [United States Constitution, Fifth Amendment]
23		If the conversion of private property to public property is done without the express consent of the party affected by the
24		conversion and without compensation, then the following violations have occurred:
25		7.1. Violation of the Fifth Amendment "takings clause" above.
26		7.2. "Conversion" in violation of 18 U.S.C. §654.
27		7.3. Theft.
28	8.	Because taxation involves converting private property to a public use, public purpose, and public office, then it involves
29		eminent domain if the owner of the property did not expressly consent to the taking:
30		Eminent domain. The power to take private property for public use by the state, municipalities, and private
31		persons or corporations authorized to exercise functions of public character. Housing Authority of Cherokee
32		National of Oklahoma v. Langley, Okl., 555 P.2d. 1025, 1028. Fifth Amendment, U.S. Constitution.
33		In the United States, the power of eminent domain is founded in both the federal (Fifth Amend.) and state
34		constitutions. However, the Constitution limits the power to taking for a public purpose and prohibits the
35		exercise of the power of eminent domain without just compensation to the owners of the property which is
36		taken. The process of exercising the power of eminent domain is commonly referred to as "condemnation",
37		or, "expropriation".
38		The right of eminent domain is the right of the state, through its regular organization, to reassert, either
39		temporarily or permanently, its dominion over any portion of the soil of the state on account of public exigency
40		and for the public good. Thus, in time of war or insurrection, the proper authorities may possess and hold any
41		part of the territory of the state for the common safety; and in time of peace the legislature may authorize the
42 43		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
43 44		government, or in the aggregate body of the people in their sovereign capacity. It gives a right to resume the
45		possession of the property in the manner directed by the constitution and the laws of the state, whenever the public
46		interest requires it.
47		See also Adequate compensation; Condemnation; Constructive taking; Damages; Expropriation; Fair market
48		value; Just compensation; Larger parcel; Public use; Take.
49		[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 <u>must</u> 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

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10. There are 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 2: 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</u> <u>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. "eminent domain".	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. <u>DIRECT CONVERSION</u>: Owner donates the property by conveying title or possession to the government.²²
 - 11.2. <u>INDIRECT CONVERSION</u>: Owner assumes a PUBLIC status as a PUBLIC officer in the HOLDING of title to the property.²³ 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).

EXHIBIT:_____

²² 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.

²³ 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).

- 12.2. 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 ILLEGALLY assume the status of "taxpayer" and 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.

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.

> TITLE 31 > SUBTITLE 1 > CHAPTER 3 > SUBCHAPTER II > § 321 § 321. General authority of the Secretary

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(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 an 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 5.6.15 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 ILLEGALLY 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

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- 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. The right to control the use of private property donated to a public use to procure the benefits of a franchise is enforced through the Internal Revenue Code, which is the equivalent of the employment agreement for franchisees called "taxpayers".
- The above criteria explains why:

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1. 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 26 PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE 27 Subpart E—Collection of Income Tax at Source 28 Sec. 31.3402(p)-1 Voluntary withholding agreements. 29 30 (a) In general. An employee and his employer may enter into an agreement under section 3402(b) to provide for the withholding 31 of income tax upon payments of amounts described in paragraph (b)(1) of §31.3401(a)-3, made after December 32 31, 1970. An agreement may be entered into under this section only with respect to amounts which are 33 includible in the gross income of the employee under section 61, and must be applicable to all such amounts 34 paid by the employer to the employee. The amount to be withheld pursuant to an agreement under section 3402(p) 35 shall be determined under the rules contained in section 3402 and the regulations thereunder. See §31.3405(c)-36 1, Q&A-3 concerning agreements to have more than 20-percent Federal income tax withheld from eligible 37 rollover distributions within the meaning of section 402. 38 (b) Form and duration of agreement 39 40 (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 41 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 43 which the agreement is in effect which is made on or after the first "status determination date" (January 1, May 44 1, July 1, and October 1 of each year) that occurs at least 30 days after the date on which the notice is furnished. 45 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. 47 48 26 C.F.R. §31.3401(a)-3 Amounts deemed wages under voluntary withholding agreements 49 (a) In general. 50

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1			Notwithstanding the exceptions to the definition of wages specified in section 3401(a) and the regulations
2			thereunder, the term "wages" includes the amounts described in paragraph (b)(1) of this section with respect
3			to which there is a voluntary withholding agreement in effect under section 3402(p). References in this chapter
4			to the definition of wages contained in section 3401(a) shall be deemed to refer also to this section (§31.3401(a)-
5			3).
6			(b) Remuneration for services.
7			(1) Except as provided in subparagraph (2) of this paragraph, the amounts referred to in paragraph (a) of this
8			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
10			performed by an agricultural worker or a domestic worker in a private home (amounts which are specifically
11			excluded from the definition of wages by section 3401(a) (2) and (3), respectively) are amounts with respect to
12			which a voluntary withholding agreement may be entered into under section 3402(p). See §§31.3401(c)–1 and
13			31.3401(d)–1 for the definitions of "employee" and "employer".
14	2.	The courts h	ave no authority under the Declaratory Judgments Act, 28 U.S.C. §2201(a) to declare you a franchisee called
	۷.		
15		a taxpayer	'. You own yourself.
16			Specifically, Rowen seeks a declaratory judgment against the United States of America with respect to "whether
17			or not the plaintiff is a taxpayer pursuant to, and/or under 26 U.S.C. \$7701(a)(14)." (See Compl. at 2.) <u>This</u>
18			Court lacks jurisdiction to issue a declaratory judgment "with respect to Federal taxes other than actions
19			brought under section 7428 of the Internal Revenue Code of 1986," a code section that is not at issue in the
20			instant action. See 28 U.S.C. §2201; see also Hughes v. United States, 953 F.2d. 531, 536-537 (9th Cir. 1991)
21			(affirming dismissal of claim for declaratory relief under § 2201 where claim concerned question of tax liability).
22			Accordingly, defendant's motion to dismiss is hereby GRANTED, and the instant action is hereby DISMISSED.
23			[Rowen v. U.S., 05-3766MMC. (N.D.Cal. 11/02/2005)]
24	3.	The revenue	laws may not be cited or enforced against a person who is not a "taxpayer":
25			"The revenue laws are a code or system in regulation of tax assessment and collection. They relate to taxpayers,
26			and not to nontaxpayers. The latter are without their scope. No procedure is prescribed for nontaxpayers, and no
27			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"
28 29			[Long v. Rasmussen, 281 F. 236 (1922)]
30			"Revenue Laws relate to taxpayers [officers, employees, instrumentalities, and elected officials of the Federal
31			Government] and not to non-taxpayers [American Citizens/American Nationals not subject to the exclusive
32			jurisdiction of the Federal Government and who did not volunteer to participate in the federal "trade or business"
33			franchise]. The latter are without their scope. No procedures are prescribed for non-taxpayers and no attempt
34 35			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)]
			"A The state of the Control of the C
36 27			"And by statutory definition, 'taxpayer' includes any person, trust or estate subject to a tax imposed by the revenue actSince the statutory definition of 'taxpayer' is exclusive, the federal courts do not have the power to create
37 38			nonstatutory taxpayers for the purpose of applying the provisions of the Revenue Acts"
39			[C.I.R. v. Trustees of L. Inv. Ass'n, 100 F.2d. 18 (1939)]
40	All	of the above	e requirements have in common that violating them would result in the equivalent of exercising eminent
41			private property of the private person without their consent and without just compensation, which the U.S.
42			aid violates the Fifth Amendment takings clause:
12			To lay, with one hand, the power of the government on the property of the citizen, and with the other to bestow
43 44			it upon favored individuals to aid private enterprises and build up private fortunes, is none the less a robbery
45			because it is done under the forms of law and is called taxation. This is not legislation. It is a decree under
46			legislative forms.
47			Nor is it taxation. 'A tax,' says Webster's Dictionary, 'is a rate or sum of money assessed on the person or
47 48			property of a citizen by government for the use of the nation or State.' 'Taxes are burdens or charges imposed
49			by the Legislature upon persons or property to raise money for public purposes.' Cooley, Const. Lim., 479.
50			Coultar I in Northern Libertias v. St. John's Church 13 Pa St. 104 agus yan foraibh. I think the commer-
50 51			Coulter, J., in Northern Liberties v. St. John's Church, 13 Pa.St. 104 says, very forcibly, '1 think the common mind has everywhere taken in the understanding that taxes are a public imposition, levied by authority of the
51 52			government for the purposes of carrying on the government in all its machinery and operations—that they are
52 53			imposed for a public purpose.' See, also Pray v. Northern Liberties, 31 Pa.St. 69; Matter of Mayor of N.Y., 11

1	Johns., 77; Camden v. Allen, 2 Dutch., 398; Sharpless v. Mayor, supra; Hanson v. Vernon, 27 Ia., 47; Whiting v
2	Fond du Lac, supra."
3	[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:

<u>Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction</u>, 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 under the color, but without the actual authority, of law. 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".

7. Index and Summary of Flawed Arguments to Avoid

This section provides an index of all the flawed arguments described in this document.

Table 3: Index of False Arguments

#	Argument	Corrected alternative argument	Section(s) where	See the following for additional information
			described	
1. F	lawed Tax Argument	ts of Government	3	
1.1	Constitutional citizens born within states of the Union and domiciled there are statutory "citizens of the United States" pursuant to 8 U.S.C. §1401, the Internal Revenue Code at 26 C.F.R. §1.1-1(c), 26 U.S.C. §911.	This confusion results from a misunderstanding about the meaning of the word "United States" based on the context in which it is used. The term "United States" within the Constitution includes states of the Union and excludes federal territory, while the term "United States" within federal statutory law includes federal territory and excludes states of the Union. People born within states of the Union are constitutional "citizens of the "United States" under the Fourteenth Amendment but not statutory "citizens of the United States" under any federal statute, including 8 U.S.C. §1401 because the term "United States" has an entirely different meaning within these two contexts.	8.1	1. Why Domicile and Becoming a "Taxpayer" Require Your Consent, Form #05.002 http://sedm.org/Forms/FormIndex.htm 2. The "Trade or Business" Scam, Form #05.001 http://sedm.org/Forms/FormIndex.htm
1.2	Nonresident or Nontaxpayer's Arguments are "frivolous"	"Taxpayer's" arguments are incorrect and here are the authorities from the law of the demonstrated (proven with evidence) domicile of the party which demonstrate precisely why.	8.2	1. Meaning of the Word "Frivolous", Form #05.027 http://sedm.org/Forms/FormIndex.htm 2. Non-Resident Non-Person Position, Form #05.020 http://sedm.org/Forms/FormIndex.htm 3. Your Rights as a "Nontaxpayer", Form #08.008 http://sedm.org/Forms/FormIndex.htm 4. Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction, Form #05.017 http://sedm.org/Forms/FormIndex.htm
1.3	States of the Union are NOT Legislatively "foreign" or "alien" in relation to the national government	States of the Union are legislatively "foreign" and "alien" in relation to the national government because of the separation of powers doctrine that is the foundation of the United States Constitution. That separation of powers was put there exclusively for the protection of your sacred constitutional rights. Anyone who claims otherwise is a tyrant, a communist, and intends to commit a criminal conspiracy against your private rights.	8.3	Government Conspiracy to Destroy the Separation of Powers, Form #05.023 http://sedm.org/Forms/FormIndex.htm Federal Jurisdiction, Form #05.018 http://sedm.org/Forms/FormIndex.htm
1.4	"Nontaxpayers" are eligible for "tax shelters"	"Nontaxpayers" by definition aren't eligible for tax shelters	8.4	26 U.S.C. §6700: Abusive tax shelters Who are "Taxpayers" and Who Needs a "Taxpayer Identification Number"?, Form #05.013 http://sedm.org/Forms/FormIndex.htm Your Rights as a "Nontaxpayer", Form #08.008 http://sedm.org/Forms/FormIndex.htm
1.5	"Nontaxpayers" must exhaust their administrative remedies before litigating their case	The I.R.C. cannot prescribe a duty, including the requirement to exhaust administrative remedies, upon a "nontaxpayer" not subject to it	8.5	Who are "Taxpayers" and Who Needs a "Taxpayer Identification Number"?, Form #05.013 http://sedm.org/Forms/FormIndex.htm
1.6	I.R.C. Subtitle A describes a "direct, unapportioned tax"	I.R.C. Subtitles A and C are an excise tax upon "public offices", franchises, and domiciliaries in the U.S. government. It is not "indirect" because it can't lawfully apply within a state of the Union	8.6	Great IRS Hoax, Form #11.302, Sections 5.1 through 5.1.11 http://sedm.org/Forms/FormIndex.htm

#	Argument	Corrected alternative argument	Section(s) where described	See the following for additional information
1.7	All people domiciled in a constitutional state are STATUTORY "persons" under the Internal Revenue Code.	Constitutional "persons" and STATUTORY "persons" are NOT synonymous and mutually exclusive. See section 8.16. To acquire a civil status under the statutes of the national government requires a domicile on federal territory not within the exclusive jurisdiction of a constitutional state or the execution of a contract or agreement. Those non-residents who do NOT consent to acquire the status of "individual" by applying for an INDIVIDUAL Taxpayer Identification Number retain their status as "nonpersons". Since you can only have a domicile in one place at a time, then you can only have a civil STATUTORY status in one place at a time. To confuse or ignore these two separate and distinct contexts or to UNCONSTITUTIONALY PRESUME that they are equivalent is to destroy the separation of powers that is the foundation of the United States Constitution, as described in Government Conspiracy to Destroy the Separation of Powers, Form #05.023; https://sedm.org/Forms/05-MemLaw/SeparationOfPowers.p. df.	8.7	 Revenue Ruling 2007-22; https://www.irs.gov/irb/2007-14_IRB#RR-2007-22. Source of this FALSE argument. Proof That There Is a "Straw Man", Form #05.042 – proves that most statutory "persons" are public officers in the government. https://sedm.org/Forms/FormIndex.htm Great IRS Hoax, Form #11.302, Section 5.2.6: The TWO Sources of Federal Civil Jurisdiction: "Domicile" and "Contract" https://sedm.org/Forms/FormIndex.htm Your Exclusive Right to Declare or Establish Your Civil Status, Form #13.008 -why no one can FORCE you to acquire ANY civil STATUTORY status, including "person" or "citizen". https://sedm.org/Forms/FormIndex.htm Government Identity Theft, Form #05.046-techniques by which words such as those in this revenue ruling are abused to commit criminal identity theft by the I.R.S. and government prosecutors. https://sedm.org/Forms/FormIndex.htm Legal Deception, Propaganda, and Fraud, Form #05.014 https://sedm.org/Forms/FormIndex.htm
1.8	A STATUTORY "U.S. Person" described in 26 U.S.C. §7701(a)(30) includes state citizens or residents and is not limited to territorial citizen or resident.	The term STATUTORY "U.S. Person", like every other civil status found in Title 26, requires a domicile on federal territory or at least physical presence there to lawfully acquire. Congress has no legislative jurisdiction in a Constitutional state other than for the subject matters found in Article 1, Section 8. The taxing powers found in Article 1, Section 8, Clauses 1 and 3 apply only to the geographical areas defined in 26 U.S.C. \$7701(a)(9) and (a)(10) and 4 U.S.C. \$110(d). Under the rules of statutory construction, anything not EXPRESSLY included is purposefully excluded by implication. Those areas include only federal territory and the federal enclaves within the Constitutional states. They do NOT include areas under the EXCLUSIVE or PLENARY jurisdiction of constitutional states.	8.8	1. Why You are a "national", "state national", and Constitutional but not Statutory Citizen, Form #05.006 http://sedm.org/Forms/FormIndex.htm 2. Great IRS Hoax, Form #11.302, Sections 3.9.1.24, 5.1.4, 5.2.12-5.2.13. http://sedm.org/Forms/FormIndex.htm 3. Sovereignty Forms and Instructions Online, Form #10.004, Cites by Topic: "U.S. Person" http://famguardian.org/TaxFreedom/CitesByTopic/USPerson.htm 4. Sovereignty Forms and Instructions Online, Form #10.004, Cites by Topic: "United States" http://famguardian.org/TaxFreedom/CitesByTopic/United States.htm

#	Argument	Corrected alternative argument	Section(s)	See the following for additional information
			where described	
1.9	Federal district and circuit Courts are established pursuant to Article III of the United States Constitution	Federal district and circuit courts are established pursuant to Article IV of the United States constitution, not Article III. Congress has never expressly invoked Article III in establishing ANY federal district or circuit court either in 28 U.S.C. (Title 28) or the Statutes At Large. All of the delegated authority of these courts are legislatively derived and NONE comes directly from the Constitution. The only jurisdiction they have is over federal property, federal territory, federal franchises, and persons domiciled on federal territory or committing crimes there. They are legislative "franchise" courts, not true constitutional courts.	8.9	 What Happened to Justice?, Litigation Tool #08.001 http://sedm.org/ItemInfo/Ebooks/WhatHappJustice/What HappJustice.htm The Tax Court Scam, Form #05.039-proves that U.S. Tax Court is a franchise court, not an Article III Court. If it is a franchise court, then changing the venue to a district court doesn't change the nature of the transaction or of the court hearing the transaction http://sedm.org/Litigation/LitIndex.htm Government Instituted Slavery Using Franchises, Form #05.030 http://sedm.org/Litigation/LitIndex.htm Authorities on Jurisdiction of Federal Courts, Family Guardian Fellowship http://famguardian.org/Subjects/LawAndGovt/ChallJurisd iction/AuthoritiesArticle/AuthOnJurisdiction.htm
1.10	The term "whatever sources derived" found in the Sixteenth Amendment and I.R.C. Section 61 includes everything you earn	The term "whatever source derived" does not include EVERYTHING that you receive. The income tax described in I.R.C. Subtitle A describes an excise tax upon the "trade or business" franchise. It is a franchise agreement that regulates the conduct of franchisees called "taxpayers". The only earnings subject to tax and therefore includible in taxable income or gross income are earnings connected to the "trade or business" franchise. Earnings are connected to this franchise by filing an information return such as IRS Forms W-2, 1042-s, 1098, and 1099.	8.10	1. The "Trade or Business" Scam, Form #05.001 http://sedm.org/Forms/FormIndex.htm 2. How the Government Defrauds You Out of Legitimate Deductions for the Market Value of Your Labor, Form #05.026: Proves that "income" as legally defined does NOT include everything you earn. http://sedm.org/Forms/FormIndex.htm 3. Sovereignty Forms and Instructions Online, Form #10.004, Cites by Topic: "income". http://famguardian.org/TaxFreedom/CitesByTopic/incom e.htm 4. Sovereignty Forms and Instructions Online, Form #10.004, Cites by Topic: "gross income" http://famguardian.org/TaxFreedom/CitesByTopic/GrossI ncome.htm 5. Sixteenth Amendment Annotated http://caselaw.lp.findlaw.com/data/constitution/amendme nt16/
1.11	Anti-Injunction Act Lawfully Applies to "Nontaxpayers"	The Anti-Injunction Act, 26 U.S.C. §7421, only applies to "taxpayers". These are the only "persons" who can be the subject of the Internal Revenue Code, Subtitle A franchise tax upon a "trade or business". Courts have repeatedly held that "nontaxpayers" are not subject to the I.R.C. and that none of their rights or remedies are undermined. It has always been lawful to challenge and enjoin UNLAWFUL tax collection or enforcement against persons who are not "taxpayers".	8.11	Anti-Injunction Act, 26 U.S.C. §7421 https://www.law.cornell.edu/uscode/text/26/7421 Civil Court Remedies for Sovereigns: Taxation, Litigation Tool #10.002. Describes exceptions to the anti-injunction act recognized by the courts in the case of parties who are "nontaxpayers" not subject to the Internal Revenue Code http://famguardian.org/Publications/GreatIRSHoax/GreatIRSHoax.htm

#	Argument	Corrected alternative argument	Section(s)	See the following for additional information
			where described	
1.12	Unlawful tax collection or enforcement by the IRS constitute "taxes" within the meaning of the Anti-Injunction Act, 26 U.S.C. §7421, and the Declaratory Judgments Act, 28 U.S.C. §2201(a).	Stealing from people can never be described as a lawful activity such as "taxes" nor protected using the force of law. Using a different word to describe THEFT doesn't change the criminal nature of the underlying act. It is an oxymoron and the grossest injustice to label unlawful activity as lawful activity and then invoke the law to protect it.	8.12	Anti-Injunction Act, 26 U.S.C. §7421 https://www.law.cornell.edu/uscode/text/26/7421 Declaratory Judgments Act, 28 U.S.C. §2201(a) http://famguardian.org/TaxFreedom/History/Congress/19 09-16thAmendCongrRecord.pdf
1.13	Selecting the "exempt" option on a government form is the ONLY method for avoiding the tax liability described on the form.	IRS publishes forms for ONLY "taxpayers". Their mission statement at Internal Revenue Manual (I.R.M.), Section 1.1.1.1 says they can ONLY help "taxpayers". Therefore, none of their forms recognize the existence of "nontaxpayers", who are persons "not subject" rather than "exempt" from the Internal Revenue Code, Subtitle A private law franchise agreement. Anyone wishing to use a "taxpayer" only form must modify it to add the "nontaxpayer" or "not subject" option and replace all references to "taxpayer" with "nontaxpayer" before they sign the form.	8.13	Who are "Taxpayers" and Who Needs a "Taxpayer Identification Number"?, Form #05.013 http://sedm.org/Forms/FormIndex.htm Non-Resident Non-Person Position, Form #05.020 http://sedm.org/Forms/FormIndex.htm "Taxpayer" v. "Nontaxpayer": Which One are You?, Family Guardian Fellowship http://famguardian.org/Subjects/Taxes/Remedies/TaxpayerVNontaxpayer.htm
1.14	The use of the word "includes" within a statutory definition allows the government to presume whatever they want is included in the meaning, or to presume that the common understanding of the term is also implied within the definition.	The purpose of law is to delegate and limit authority to the government. Everything that is included within the definition of a term must be expressly specified SOMEWHERE within the statutes or it is presumed to be purposefully excluded. This applies to all the definitions in the Internal Revenue Code, and especially those in 26 U.S.C. §7701.	8.14	Legal Deception, Propaganda, and Fraud, Form #05.014 http://sedm.org/Forms/FormIndex.htm Sovereignty Forms and Instructions Online, Form #10.004, Cites by Topic: "includes": http://famguardian.org/TaxFreedom/CitesByTopic/includes.htm
1.15	The receipt of government "benefits" of any kind creates an implied franchise or quasi-contract between the government and those receiving the benefit that is enforceable as a legal liability or duty under federal law.	Government "benefits" under the Social Security Act, 42 U.S.C. Chapter 7 identify themselves as "grants" and therefore GIFTS to states of the Union. Gifts are legally defined such that they CANNOT create an obligation on the part of the recipient.	8.15	The Government "Benefits" Scam, Form #05.040 http://sedm.org/Forms/FormIndex.htm Government Instituted Slavery Using Franchises, Form #05.030 http://sedm.org/Forms/FormIndex.htm

#	Argument	Corrected alternative argument	Section(s) where described	See the following for additional information
1.16	Constitutional "people" and statutory "persons" are equivalent	Constitutional "persons" and "citizens" are humans ONLY. Statutory "persons" and "citizens" are fictions of law and consist of only offices, creations, and franchises of Congress. Statutory statuses may only be invoked in a franchise court under the terms granted by the franchise itself. Corporations and franchisees have ONLY the PUBLIC rights attributed to them by Congress. Otherwise, they have no legal existence at all. The acceptance or invocation of a franchise status by a HUMAN constitutes a waiver of sovereign immunity under the franchise and removes the protections of equity and the common law from the party.	8.16	1. Why You are a "national", "state national", and Constitutional but not Statutory Citizen, Form #05.006, Section 3 http://sedm.org/Forms/FormIndex.htm 2. Government Instituted Slavery Using Franchises, Form #05.030, Section 31.5 http://sedm.org/Forms/FormIndex.htm 3. Corporatization and Privatization of the Government, Form #05.024, Section 11: Legal standing and status of corporations in federal court http://sedm.org/Forms/FormIndex.htm
1.17	"individual" in the Internal Revenue Code means a HUMAN, not a corporation	"Individual" means ONLY either corporation franchises, who are the only CIVIL STATUTORY "persons" or officers of such franchises. It doesn't mean a PRIVATE human not acting as a franchisee and public officer.	8.17	1. 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 2. Why Statutory Civil Law is Law for Government and Not Private Persons, Form #05.037 http://sedm.org/Forms/FormIndex.htm 3. The "Trade or Business" Scam, Form #05.001 http://sedm.org/Forms/FormIndex.htm
1.18	This document and your writings generally are just your opinion and mean nothing	The MASSIVE database of court admissible evidence that you rely upon and provide in each of your publications is court admissible evidence. Your INTERPRETATION of this evidence could be perceived as inadmissible as evidence, but only where it contradicts what the court admissible authorities you provide actually SAY. I have been searching for years for such a contradiction and have not yet found a single one, and I'm too lazy to find one, so I'll just resort to name calling and hope you are ignorant enough to not know how to rebut.	8.18	Reasonable Belief About Income Tax Liability, Form #05.007 http://sedm.org/Forms/FormIndex.htm Sovereignty Education and Defense Ministry Disclaimer http://sedm.org/disclaimer.htm Family Guardian Disclaimer http://famguardian.org/disclaimer.htm
1.19	Those wishing to challenge illegal tax enforcement actions against "nontaxpayers" have the burden of proving that they are "nontaxpayers" and "not liable". The government doesn't have to prove anything.	The innocent until proven guilty maxim of American Jurisprudence requires that you are innocent until proven guilty. The legal equivalent of "innocent" is that of a "nontaxpayer" who is NOT subject rather than statutorily "exempt". The government therefore has the burden of proving in court that you CONSENTED to BECOME a statutory "taxpayer" and had the legal capacity to consent before it may TREAT you as a statutory "taxpayer". Otherwise, INJUSTICE, identity theft, involuntary servitude, and THEFT results from illegal enforcements against those who are not subject.	8.19	Government Identity Theft, Form #05.046-the criminal consequences of forcing YOU to have the burden of proof that you are NOT a "customer" of government http://sedm.org/Forms/FormIndex.htm Government Burden of Proof, Form #05.025. http://sedm.org/Forms/FormIndex.htm

#	Argument	Corrected alternative argument	Section(s) where	See the following for additional information
			described	
1.20	The phrase "wherever resident" in 26 C.F.R. §1.1-1 means WHEREVER LOCATED, not WHEREVER DOMICILED OR LOCATED ABROAD.	The phrase "wherever resident" in 26 C.F.R. §1.1-1 means wherever they have the CIVIL STATUS of a "resident" in respect to the foreign country they are in. It has nothing to do with a state of the Union, because: 1. You can't simultaneously be a CITIZEN and a RESIDENT at the same time within a constitutional state. 2. State citizens protected by the Constitution aren't allowed to ALIENATE rights that the Declaration of Independence says are UNALIENABLE, and thus, they cannot become a privileged "RESIDENT" in relation to the government of any Constitutional State or the national government.	8.20	Non-Resident Non-Person Position, Form #05.020, Section 5.1-memorandum of law upon which this section is based. http://sedm.org/Forms/FormIndex.htm Why Domicile and Becoming a "Taxpayer" Require Your Consent, Form #05.002. http://sedm.org/Forms/FormIndex.htm Unalienable Rights Course, Form #12.038 http://sedm.org/Forms/FormIndex.htm Enumeration of Inalienable Rights, Form #10.002 http://sedm.org/Forms/FormIndex.htm
1.21	IRS can lawfully assess a tax liability against a "nontaxpayer" or "non- resident non-person" who does not FIRST assess themselves on a signed return	IRS has no authority to assess "nontaxpayers" or those who are "non-resident non-persons" not subject to civil Acts of Congress. A "non-resident non- person" is not domiciled on federal territory and therefore is not subject to the civil acts of Congress per Federal Rule of Civil Procedure 17.	8.21	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 Legal Requirement to File Federal Income Tax Returns, Form #05.009 http://sedm.org/Forms/FormIndex.htm Tax Deposition Questions, Form #03.016, Section 13: 26 U.S.C. §6020(b) Substitute For Returns http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Deposition.htm
1.22	IRS Form 4549 is valid legal evidence of the existence of a lawfully assessed tax liability.	IRS Form 4549 does NOT constitute legal evidence that a valid tax return has been filed. The VOLUNTARY filing of a tax return is the ONLY method provided for in the Internal Revenue Code Subtitle A to create a tax obligation.	8.22	1. I. 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 2. Tax Deposition Questions, Form #03.016, Section 13: 26 U.S.C. §6020(b) Substitute For Returns https://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Deposition.htm Sovereignty Forms and Instructions Online, Form #10.004, Cites by Topic: "Substitute For Return" https://famguardian.org/TaxFreedom/CitesByTopic/SubsForReturn.htm
1.23	Information returns filed against private humans not working for the government and receiving interest are valid legal evidence of the receipt of "income" within the meaning of the Internal Revenue Code, Subtitle A.	Only interest received by governmental units qualifies as reportable "income" to which information return reporting is subject.	8.23	Correcting Erroneous Information Returns, Form #04.001 http://sedm.org/Forms/FormIndex.htm 26 C.F.R. §1.6019-4(f): Return of information as to interest paid and original issue discount includible in gross income after December 31, 1982. https://www.law.cornell.edu/cfr/text/26/1.6049-4

#	Argument	Corrected alternative argument	Section(s)	See the following for additional information
			where described	
1.24	Statutory "U.S.** citizens" and "U.S.* residents" born on federal territory, domiciled there, and working there owe Subtitle A income tax on their earnings while there.	Statutory "U.S.** citizens" (8 U.S.C. §1401) and "U.S.** residents (aliens)" (26 U.S.C. §7701(b)(1)(A)) only owe tax on earnings earned abroad under 26 U.S.C. §911. They are not subject to either withholding or reporting when working in the "United States**" pursuant to 26 C.F.R. §1.1441(d). By "United States**", we mean that defined in 26 U.S.C. §7701(a)(9) and (a)(10) and 4 U.S.C. §110(d).	8.24	26 U.S.C. §911. Citizenship Status v. Tax Status, Form #10.011 -summary of citizenship status v. tax status, including how presence abroad affects it https://sedm.org/Forms/10-Emancipation/CitizenshipStatusVTaxStatus/CitizenshipVTaxStatus.htm Flawed Tax Arguments to Avoid, Form #08.004, Section 8.20: The phrase "wherever resident" in 26 C.F.R. §1.1-1 means WHEREVER LOCATED, not WHEREVER DOMICILED OR LOCATED ABROAD. http://sedm.org/Forms/FormIndex.htm
1.25	Our "beliefs" (presumptions) are the only authority we need to enforce against you. We don't need no STINKING evidence and we don't have to show you the evidence we have before we begin to enforce!	Due process ALWAYS allows you to confront your accuser and demand legally admissible evidence of the alleged obligation before it can lawfully be enforced. In court, without such evidence, the case has to be dismissed for lack of standing. The accuser is called the moving party, and the moving party ALWAYS has the burden of proof.	8.25	Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction, Form #05.017 https://sedm.org/Forms/05-MemLaw/Presumption.pdf Requirement for Reasonable Notice, Form #05.022 http://sedm.org/Forms/FormIndex.htm Requirement for Due Process of Law, Form #05.045. http://sedm.org/Forms/FormIndex.htm Sovereignty Forms and Instructions Online, Form #10.004, Cites by topic: "Due Process" https://famguardian.org/TaxFreedom/CitesByTopic/DueProcess.htm
1.26	The Internal Revenue Code, Subtitles A and C income tax couldn't possibly be a franchise or excise because it is upon ALL "citizens" or "residents" and nonresident aliens, and not a specific subset or class of them.	The Internal Revenue Code, Subtitles A and C income tax is imposed in the regulations under 26 U.S.C. §1 upon a specific class of "citizens", "residents", and nonresident aliens not all people generally. The "citizens" and "residents" must be STATUTORY/territorial and not state citizens and the "nonresident aliens" must be at home. Those citizens, residents ABROAD, and nonresident aliens at home are STATUTORY citizens and residents and "individuals" who are in receipt of the taxable privilege of a public office. If they were indeed absolutely private, nonresident to the federal zone, and not exercising the privilege of a public office, they do not fall within the class of parties subject. They would not be statutorily exempt, but NOT SUBJECT, which is different.	8.26	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. Why You are a "national", "state national", and Constitutional but not Statutory Citizen, Form #05.006 http://sedm.org/Forms/FormIndex.htm
1.27	"Nonresident aliens" are a subset or type of "alien"	"Nonresident aliens" are NOT equivalent to "aliens" nor are they a subset of "aliens" generally. They are a distinct class of persons all their own.	8.27	Legal Basis for the Term "Nonresident Alien", Form #05.036, http://sedm.org/Forms/FormIndex.htm Why You are a "national", "state national", and Constitutional but not Statutory Citizen, Form #05.006 http://sedm.org/Forms/FormIndex.htm

#	Argument	Corrected alternative argument	Section(s) where described	See the following for additional information
1.28	"Non-resident aliens" (foreign nationals) are the same as "STATUTORY "nonresident aliens" (foreign nationals AND state nationals)	CONSTITUTIONAL "non- resident aliens" are NOT equivalent to STATUTORY "nonresident aliens". CONSTITUTIONAL and STATUTORY contexts are not equivalent and it is equivocation and misrepresentation to make them the same. The result is THEFT for those engaged in such equivocation.	8.28	1. Non-Resident Non-Person Position, Form #05.020 http://sedm.org/Forms/FormIndex.htm 2. Why You are a "national", "state national", and Constitutional but not Statutory Citizen, Form #05.006 http://sedm.org/Forms/FormIndex.htm 3. Legal Basis for the Term "Nonresident Alien", Form #05.036 http://sedm.org/Forms/FormIndex.htm 4. Great IRS Hoax, Form #11.302, Chapter 5: http://sedm.org/Forms/FormIndex.htm
1.29	State nationals are not "U.S. nationals"	State nationals are in fact "U.S. nationals" or "nationals of the United States*** OF AMERICA"	8.29	Non-Resident Non-Person Position, Form #05.020, Section 10.4.5 http://sedm.org/Forms/FormIndex.htm Why You are a "national", "state national", and Constitutional but not Statutory Citizen, Form #05.006 http://sedm.org/Forms/FormIndex.htm
2. FI	awed Tax Argument	s of Freedom Advocates	-	
2.1	Income tax unconstitutional because the Sixteenth Amendment was never lawfully ratified	The Sixteenth Amendment is irrelevant because it conferred no new taxing powers	9.1	Great IRS Hoax, Form #11.302, Sections 3.8.11 through 3.8.11.11 http://sedm.org/Forms/FormIndex.htm
2.2	"Wages" are not taxable or are not "income"	You don't earn "wages" because you never submitted a W-4	9.2	Great IRS Hoax, Form #11.302, Sections 3.9.1.27, 5.6.7 http://sedm.org/Forms/FormIndex.htm
2.3	Only federal workers are subject to the income tax	Only "public offices" and those receiving federal payments are subject to the federal income tax	9.3	The "Trade or Business" Scam, Form #05.001 http://sedm.org/Forms/FormIndex.htm 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
2.4	Workers need not submit accurate tax forms	Workers are not required to submit IRS Form W-4 because it is an "agreement", but when they submit it, it should be accurate. No one can compel you to contract with the government and become a public officer without your consent, and your Constitutional rights are unalienable per the Declaration of Independence, which is organic law. Thus, you aren't allowed to consent to contract them away and may only contract them away and may only contract them away where the Constitution does NOT apply, which is on federal territory or abroad. Thus, those who want the "benefits" of being treated as a federal statutory "employee", such as Social Security MUST physically move to the District of Columbia and pursue an elected or appointed office in the government, as required by 4 U.S.C. §72.	9.4	Federal and State Tax Withholding Options for Private Employers, Form #04.101 http://sedm.org/Forms/FormIndex.htm
2.5	United States citizens are not subject to the Internal Revenue Code	All those domiciled on federal territory and engaged in a "public office" are subject to the I.R.C. Subtitle A income tax when abroad	9.5	Why Domicile and Becoming a "Taxpayer" Require Your Consent, Form #05.002 http://sedm.org/Forms/FormIndex.htm
2.6	The Internal Revenue Code only applies in the federal zone	I.R.C. Subtitle A applies only to federal territory and domiciliaries situated abroad pursuant to 26 U.S.C. §911 but not in states of the Union	9.6	Why Domicile and Becoming a "Taxpayer" Require Your Consent, Form #05.002 http://sedm.org/Forms/FormIndex.htm

#	Argument	Corrected alternative argument	Section(s) where described	See the following for additional information
2.7	Federal income taxes, IRS Form 1040, and the nation's tax laws only apply to federal officers, federal employees, and officials of the national government	I.R.C. Subtitle A only applies to the functions of public offices abroad or to the receipt of federal payments	9.7	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
2.8	Income from sources not connected with a "trade or business" within the United States government is not subject to the income tax	I.R.C. Subtitle A applies to earnings of a "public office" or payments from the U.S. government described in 26 U.S.C. §871	9.8	The "Trade or Business" Scam, Form #05.001 http://sedm.org/Forms/FormIndex.htm
2.9	There is no law that imposes an obligation to pay federal income taxes or file federal income tax returns	The I.R.C. is private law that only applies to "taxpayers", and the choice to become a "taxpayer" is voluntary	9.9	Who are "Taxpayers" and Who Needs a "Taxpayer Identification Number"?, Form #05.013 http://sedm.org/Forms/FormIndex.htm
2.10	Only federal employees or federal officeholders need to complete IRS Form W-	IRS Form W-4 is a voluntary agreement and since it is an agreement, anyone can sign it. However, you can't lawfully be forced to sign it and its STUPID to sign it	9.10	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
2.11	Income outside the federal zone is nontaxable	Only earnings of persons domiciled within the federal zone and temporarily abroad is taxable pursuant to 26 U.S.C. §911. There is no provision within the I.R.C. or Treasury Regulations that imposes a tax upon statutory "U.S. citizens" or "permanent residents" domiciled in the federal zone who are within a state of the Union and not abroad.	9.11	26 U.S.C. §911: Citizens and residents abroad
2.12	Federal courts have no jurisdiction for cases involving Title 26	Federal courts DO have jurisdiction over all cases involving Title 26, but they don't have jurisdiction over "nontaxpayers"	9.12	What Happened to Justice?, Litigation Tool #08.001_book http://sedm.org/ItemInfo/Ebooks/WhatHappJustice/WhatHappJustice.htm
2.13	You don't earn "money" so you can't earn taxable "income"	It is true that Black's Law Dictionary defines "money" to EXCLUDE "notes" and that Federal Reserve NOTES are "notes" within the meaning of that definition. However, the approach of the courts to date is to treat "corporate bonds" called "Federal Reserve Notes" as "income". This may not be lawful, but that is the path they have taken so far.	9.13	Article 1, Section 8, Clause 2: Authority to borrow Article 1, Section 8, Clause 5: Authority to coin money 12 U.S.C. §411: Issuance to Reserve Banks, Nature of obligation; Redemption
2.14	You don't want to be a nonresident alien. They are the main "taxpayers". The only liability statute in the I.R.C. at 26 U.S.C. §1461 relates to nonresident aliens.	The tax described in I.R.C. Subtitle A isn't on "nonresident aliens" or any other "person". Instead, it is an excise tax upon a "trade or business", which is defined as "the functions of a public office" in 26 U.S.C. §7701(a)(26) and also upon payments from the U.S. government. If you want to avoid the tax, simply avoid the activity and avoid federal franchises that might make you a recipient of federal payments.	9.14	1. The "Trade or Business" Scam, Form #05.001 http://sedm.org/Forms/FormIndex.htm 2. Sovereignty Forms and Instructions Online, Form #10.004, Cites by Topic: "nonresident alien" http://famguardian.org/TaxFreedom/CitesByTopic/NonresidentAlien.htm 3. Legal Basis for the Term "Nonresident Alien", Form #05.036 http://sedm.org/Forms/FormIndex.htm 4. Non-Resident Non-Person Position, Form #05.020 http://sedm.org/Forms/FormIndex.htm

#	Argument	Corrected alternative argument	Section(s) where	See the following for additional information
2.15	I'm not a "person" and therefore not subject to the I.R.C.	All "individuals" in the I.R.C. Subtitle A are "public officers". I am an "individual" in a common sense , but I am not THE STATUTORY "individual" described in all federal legislation, because that individual is a "public officer" pursuant to 5 U.S.C. §2105(a) and an alien pursuant to 26 C.F.R. §1.1441-1(c)(3). The only "citizens" who are also "individuals" are those who are abroad under 26 U.S.C. §911(d)(1). Since state nationals in a constitutional state are not "abroad" and are not statutory "citizens" per 8 U.S.C. §1401 or 8 U.S.C. §1101(a)(22)(A), then they would NEVER be statutory "INDIVIDUALS" under the Internal Revenue Code Subtitle A. See Form #10.011, Section 12 for details: https://sedm.org/Forms/10-Emancipation/CitizenshipStatus VTaxStatus/CitizenshipStatus	9.15	1. Policy Document: IRS Fraud and Deception About the Statutory Word "Person", Form #08.023 https://sedm.org/Forms/FormIndex.htm 2. Proof That There Is a "Straw Man", Form #05.042-proves that statutory "persons" are public officers in the government and not PRIVATE humans. https://sedm.org/Forms/FormIndex.htm 3. Sovereignty Forms and Instructions Online, Form #10.004, Cites by Topic: "person" http://famguardian.org/TaxFreedom/CitesByTopic/person.htm 4. Sovereignty Forms and Instructions Online, Form #10.004, Cites by Topic: "individual" http://famguardian.org/TaxFreedom/CitesByTopic/individual.htm 5. 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
2.17	A "notice of levy" is not a "levy"	tus.htm. The I.R.C defines what a "levy" in 26 U.S.C. §7701(a)(21), but that "levy" is not a "levy" issued by a court within the meaning of	9.17	http://famguardian.org/TaxFreedom/CitesByTopic/levy.htm
2.18	Title 26 is not positive law	the common law Title 26 is a "presumption" that may not be cited against persons protected by the Constitution, unless they make themselves subject by volunteering to become "taxpayers" engaged in the "trade or business" franchise, and written proof of informed consent to engage in the franchise must be proven on the record in order for them to become "taxpayers"	9.18	Requirement for Consent, Form #05.003, Sections 6.4, 9 to 9.6, and 14 http://sedm.org/Forms/FormIndex.htm
2.19	Federal income taxes are contractual	I.R.C. Subtitles A and C are private law that only apply to "taxpayers", and proof of informed consent to the private law/franchise must appear on the record in order to cite it against a person protected by the Constitution	9.19	Requirement for Consent, Form #05.003, Sections 9 to 9.6 http://sedm.org/Forms/FormIndex.htm
2.20	The IRS was created in 1933 as a Delaware Corporation	The IRS is a private corporation in which the U.S. government owns more than 51% of the stock. It is NOT an "agency" of the U.S. government	9.20	Tax Fraud Prevention Manual, Form #06.008, Chapter 2 http://sedm.org/ItemInfo/Ebooks/TaxFraudPrevMan/TaxFraudPrevMan.htm
2.21	Income taxes are voluntary for "taxpayers"	Income taxes are voluntary for "nontaxpayers" but not for "taxpayers"	9.21	Who are "Taxpayers" and Who Needs a "Taxpayer Identification Number"?, Form #05.013 http://sedm.org/Forms/FormIndex.htm

#	Argument	Corrected alternative argument	Section(s) where described	See the following for additional information
2.22	The Parallel Table of Authorities and Rules proves that the I.R.C. may not be enforced within states of the Union	You can't hold a person accountable for obeying any provision of the I.R.C. without proving either that implementing regulations are published in the Federal Register or that they are a member of the groups specifically exempted from the publication requirement found in 44 U.S.C. §1505(a) and 5 U.S.C. §553(a)(1)	9.23	IRS Due Process Meeting Handout, Form #03.008 http://sedm.org/Forms/FormIndex.htm
2.22	Tax collection violates due process of law.	All "taxpayers" are persons who made a decision to engage in a federal franchise. In the case of I.R.C. Subtitle A, that franchise is called a "trade or business" or consists of the receipt of payments from the government in connection with other franchises, such as Social Security. As such, they implicitly agreed to abide by all statutory law that regulates the exercise of the franchise and have NO basis to complain.	9.24	Federal Jurisdiction, Form #05.018. Sections 3 through 3.6 describes what participating in federal franchises does to your standing and your rights in federal court. IMPORTANT! http://sedm.org/Forms/FormIndex.htm Sovereignty Forms and Instructions Online, Form #10.004, Cites by Topic: "franchise" http://famguardian.org/TaxFreedom/CitesByTopic/franchise.htm The "Trade or Business" Scam, Form #05.001: The main franchise that causes a surrender of constitutional rights http://sedm.org/Forms/FormIndex.htm
2.23	Expatriation is a valid method to escape income taxation	Since I.R.C. Subtitle A is a tax on "public offices", then the only way to avoid the tax is to avoid a "trade or business", which you can do without expatriating	9.25	Legal Notice of Change in Domicile/Citizenship Records and Divorce from the United States, Form #10.001 http://sedm.org/Forms/FormIndex.htm
2.24	The regulations at 26 C.F.R. §1.861-8(f) describe and include all sources of income subject to tax under the Internal Revenue Code, Subtitle A. If your earnings do not fall within the list provided in this regulation, then you do not owe a tax and cannot claim "taxable income".	The income tax described in Internal Revenue Code, Subtitle A describes a privilege or excise tax upon persons working for the U.S. government as "public officers" and those receiving payments from the U.S. government. In the I.R.C., a "public office" is referred to as a "trade or business". The function of all information returns such as IRS Forms W-2, 1042-s, 1098, and 1099 is to connect specific payments to this excise taxable franchise. If you are not engaged in either a public office or the "trade or business" franchise and someone files an information return against you, you must promptly rebut it or you will be presumed to be a "taxpayer" who is liable, regardless of what "source" your earnings came from.	9.27	 The 861 "Source" Position, Great IRS Hoax, Form #11.302, Section 5.7.6 and following: http://famguardian.org/Publications/GreatIRSHoax/GreatIRSHoax.htm 861 Evidence Video, Larken Rose http://famguardian.org/Disks/TaxDVD/Multimedia/Rose, Larken/861Evidence/861.htm Legal Deception, Propaganda, and Fraud, Form #05.014. Proves that the definitions within the I.R.C. are limiting, and that the I.R.C. itself establishes all that is included within the meaning of the term "United States", "State", and "income". http://sedm.org/Forms/FormIndex.htm Requirement for Reasonable Notice, Form #05.022. Proves that the main purpose of statutes is to give "reasonable notice" of all that is "included" in the definition of "income" or "taxable income". http://sedm.org/Forms/FormIndex.htm

#	Argument	Corrected alternative argument	Section(s)	See the following for additional information
	3		where	J
			described	
2.25	Filing a tax return using standard IRS approved "taxpayer" forms and indicating zero income without correcting the corresponding information returns for the corresponding tax year is a valid way to get illegally withheld taxes back.	The only legitimate way to get all your money back is to: 1. Correct all information returns filed against you for the given tax period. 2. Send a NONTAXPAYER form, or an IRS form that has been modified to remove "taxpayer" presumptions. 3. Attach a note of explanation describing exactly what you are doing so that you are not falsely presumed to be a "taxpayer" or subjected to frivolous penalties that may only lawfully be assessed against "taxpayers".	9.28	 Federal Forms and Publications, Family Guardian Fellowship-amended/modified IRS forms to make them into NONTAXPAYER forms. http://famguardian.org/TaxFreedom/Forms/IRS/IRSForm sPubs.htm The "Trade or Business" Scam, Form #05.001-explains why you MUST file corrected information returns in order to permanently and irrefutably rebut the presumption that you are a franchisee engaged in the "trade or business" franchise http://sedm.org/Forms/FormIndex.htm Federal Nonresident Nonstatutory Claim for Return of Funds Unlawfully Paid to the Government, Form #15.001-federal return that meets all the criteria suggested in this section. http://sedm.org/Forms/FormIndex.htm
2.26	Earnings exempt from tax because a "state citizen" "natural born citizen", "sovereign citizen", "citizen of a state", etc	Income tax liability originates from the <i>coincidence</i> of one's choice of domicile on federal territory and their voluntary participation in the "trade or business" excise taxable activity and franchise. Those who have a domicile outside of federal territory cannot truthfully describe themselves as either a STATUTORY "citizen", a STATUTORY "resident", or a "permanent resident" on any FEDERAL form. They may also NOT file a "resident" tax form such as IRS Form 1040, which is only for use by "aliens" at home (26 C.F.R. §1.1-1) or STATUTORY "U.S.** citizens"/"U.S.** residents" abroad pursuant to 26 U.S.C. §911 who have a legal domicile on federal territory. If you are going to claim that you are domiciled outside of their jurisdiction and not protected by them, you MUST file the correct tax form, which is IRS Form 1040NR and NOT 1040 and fill out all your withholding paperwork consistent with the tax form.	9.29	1. Revenue Ruling 2007-22 2. Internal Revenue Bulletin 2007-14 3. Non-Resident Non-Person Position, Form #05.020 http://sedm.org/Forms/FormIndex.htm 4. Why You are a "national", "state national", and Constitutional but not Statutory Citizen, Form #05.006 http://sedm.org/Forms/FormIndex.htm

#	Amorromant	Compated alternative	Captie (-)	Coastha fallowing for additional information
#	Argument	Corrected alternative argument	Section(s) where	See the following for additional information
			described	
2.27	The application of the income tax has nothing whatever to do with "citizenship" or "residency". Tax law makes different provisions for how "income" (gains from taxable activities) received by each of several different kinds of persons is handled, taxed and/or accounted-for, but what is taxable and/or being taxed is exactly the same class of thing in each case, and when each of these kinds of persons engage in taxable activities, they all do so in exactly the same way and are taxable for exactly the same reasons.	This is a gross oversimplification of federal jurisdiction to tax that gets lots of people in trouble, including its own chief proponent, Pete Hendrickson. If Pete was correct on this issue, why did he end up in jail or even get prosecuted in the first place? Recall that Pete himself files RESIDENT tax returns available ONLY to those DOMICILED on federal territory and therefore SUBJECT to the income tax. Whether one is subject at ALL to the income tax is in fact determined by their receipt of "trade or business" excise taxable earnings as a public officer in the national government. Those with either a legislatively foreign domicile or who are not public officers are incapable of exercising "the functions of a public office" without at least evidence that Congress "expressly authorized" them to exercise the office in the specific geographic place they are physically situated as required by 4 U.S.C. §72. In the case of state citizens not lawfully elected or appointed to public office and with a legislatively foreign domicile by virtue of residence in a state, they are not the subject of the tax because they cannot lawfully either exercise "the functions of a public office" OR be subject to the civil legislative jurisdiction of Congress per 4 U.S.C. §72 and Federal Rule of Civil Procedure 17(b). This fact is recognized in 26 U.S.C. §7701(a)(31). The only reason they are the subject of illegal enforcement by the IRS is because they MISREPRESENT their domicile/citizenship on government forms to make them falsely appear as being subject to federal legislative jurisdiction.	9.30	 Why Domicile and Becoming a "Taxpayer" Require Your Consent, Form #05.002 - proves that domicile is a prerequisite to having ANY civil status under federal law, INCLUDING "taxpayer". Domicile is an important component of citizenship itself and in most cases is even a synonym for "citizenship" in federal court. Why You are a "national". "state national", and Constitutional but not Statutory Citizen, Form #05.006 http://sedm.org/Forms/FormIndex.htm Affidavit of Citizenship, Domicile, and Tax Status, Form #02.001-proves that domicile, which is a component of and synonym for "citizenship" in federal court, IS important. http://sedm.org/Forms/FormIndex.htm Citizenship, Domicile, and Tax Status Options, Form #10.003-domicile and citizenship limitations upon federal court useful in federal court. http://sedm.org/Forms/FormIndex.htm

#	Argument	Corrected alternative argument	Section(s) where described	See the following for additional information
2.28	The U.S. Supreme Court eliminated the common law in 1938, in the famous case of Erie Railroad v. Tompkins, 304 U.S. 64 (1938). You can't use the common law in any court, state or federal.	The U.S. Supreme Court declared that there is no FEDERAL common law applicable to a state of the Union. They did not invalidate the use of the common law in all courts. The Constitution, in fact, recognizes and invokes the common law so it can't be unilaterally repealed. The implication is that when a federal court is ruling on an issue between private parties domiciled within a state of the Union, the Rules of Decision Act, 28 U.S.C. §1652 requires that the common law OF THE STATE COURTS is the only basis for decision. No federal precedent may be cited as authority in such a case.	9.31	Sovereignty and Freedom Page, Section 10.4: Common Law -Family Guardian Fellowship http://famguardian.org/Subjects/Freedom/Freedom.htm Common Law Practice Guide, Litigation Tool #10.013 http://sedm.org/Litigation/LitIndex.htm
2.29	Revocations of Election for state nationals are a valid and effective process to restore your status as a "nontaxpayer".	Revocations of Election for state nationals are unnecessary, a waste of money, and a commercial scam designed to fleece the legally ignorant of their money.	9.32	Non-Resident Non-Person Position, Form #05.020 http://sedm.org/Forms/FormIndex.htm Unalienable Rights Course, Form #12.038 http://sedm.org/Forms/FormIndex.htm
3. Fl		ents Not Associated With T	axation	
3.1	People in states of the Union are NOT Fourteenth Amendment "citizens of the United States". A Fourteenth Amendment "citizen of the United States" is domiciled on federal territory and subject to the exclusive LEGISLATIVE jurisdiction of Congress.	All state citizens are, at this time, Fourteenth Amendment citizens. The fact that one is a Fourteenth Amendment "citizen of the United States" does not mean that they are subject to the exclusive LEGISLATIVE jurisdiction of Congress under Article 1, Section 8, Clause 17, but rather the POLITICAL jurisdiction. Political jurisdiction encompasses allegiance, nationality, being a "national", and political rights. Exclusive LEGISLATIVE jurisdiction of Congress, on the other hand, has domicile and/or physical presence on federal territory as a prerequisite.	10.1	1. Political Jurisdiction, Form #05.004-distinguishes POLITICAL jurisdiction from LEGISLATIVE jurisdiction. http://sedm.org/Forms/FormIndex.htm 2. Why You are a "national", "state national", and Constitutional but not Statutory Citizen, Form #05.006 http://sedm.org/Forms/FormIndex.htm 3. Fourteenth Amendment Annotated, Findlaw http://www.findlaw.com/casecode/constitution/ 4. Citizenship and Sovereignty Course, Form #12.001 http://sedm.org/Forms/FormIndex.htm 5. Affidavit of Citizenship, Domicile, and Tax Status, Form #02.001 http://sedm.org/Forms/FormIndex.htm 6. Citizenship, Domicile, and Tax Status Options, Form #10.003 http://sedm.org/Forms/FormIndex.htm Family Guardian Forums, Forum 6.1, Citizenship, Domicile, and Nationality http://famguardian.org/forums/forums/forum/6-issue-and-research-debates-anyone-can-read-only-members-can-post/61-citizenship-domicile-and-nationality/
3.2	The all caps name that the government uses against people in their correspondence is an enemy of the U.S. government who is an alien. That enemy is the subject of the Trading with the Enemy Act of 1917, 40 Stat. 911.	The all caps name the government uses is a federal public officer engaged in a "trade or business" or other federal franchise or "public right". The only way the government can write laws that apply to the natural person is to connect him with a public office or other franchise so that he becomes the proper subject of nearly all federal legislation.	10.2	Proof That There Is a "Straw Man", Form #05.042 http://sedm.org/Forms/FormIndex.htm Affidavit of Corporate Denial, Form #02.004 http://sedm.org/Forms/FormIndex.htm Resignation of Compelled Social Security Trustee, Form #06.002: Proves that the real "taxpayer" is a public official and trustee for the government http://sedm.org/Forms/FormIndex.htm Memorandum of Law on the Name, Gordon W. Epperly http://famguardian.org/Subjects/LawAndGovt/Articles/MemLawOnTheName.htm

#	Argument	Corrected alternative argument	Section(s) where described	See the following for additional information
3.3	Because the United States outlawed real money in 1933, then we can essentially make our own by issuing "drafts" that are sent to the Treasury to pay our tax bills. This is the same thing that banks can do by making money out of thin air by lending ten times the money they have on deposit. It must be legal if the banks can do it.	The Federal Reserve System is the equivalent of a "counterfeiting franchise", whereby only banks can manufacture money out of nothing by lending ten times what they have on deposit. Yes, counterfeiting is a crime if we do it, and yes it should be a crime if banks do it too, and it violates 18 U.S.C. §472. However, two wrongs don't make a right. The remedy for the fraudulent Federal Reserve system is not MORE fraud.	10.3	Money, Banking, and Credit Page, Family Guardian Website-Family Guardian Uniform Commercial Code UNIDROIT-the organization that writes and publishes the Uniform Commercial Code (UCC)
3.5	The Secretary of the Treasury is a foreign agent under the control of the IMF.	The Secretary of the Treasury is not a foreign agent under the control of the IMF.	10.5	
3.6	The gold fringed flag used in federal and state courts indicates admiralty jurisdiction.	Most federal and state courts are legislative courts that deal with franchises and "public rights". Nearly all federal or state franchises make the franchisee a public officer with a domicile or residence on federal territory who has no Constitutional rights.	10.8	Affidavit of Corporate Denial, Form #02.004 http://sedm.org/Forms/FormIndex.htm Resignation of Compelled Social Security Trustee, Form #06.002: Proves that the real "taxpayer" is a public official and trustee for the government http://sedm.org/Forms/FormIndex.htm
3.7	Land Patents can be used to defeat mortgages	It's wrong to steal. Any attempt to dishonor your loans, agreements, or commitments is stealing.	10.9	 Exodus 20:15-the ten commandments. Prohibits stealing. Prov. 1:10-19-prohibits hanging around with those who steal.
3.8	President Kennedy was assassinated because he tried to reform the money system.	President Kennedy was not assassinated because he tried to reform the money system.	10.8	
3.9	H.J.R192 is still enacted law	H.J.R192, which is the law that supposedly abandoned commodity based currency in 1933, is <i>no longer enacted into law</i> . It was repealed in 1982 when Title 31 of the U.S. Code was enacted into law. 38 Stat. 1065 et seq.	10.9	H.J.R192-Family Guardian Website http://famguardian.org/Subjects/MoneyBanking/Money/1 933-HJR192.pdf The Money Scam, Form #05.041-Section 10.4 contains the full text of H.J.R192. Section 10.5 contains the REPEAL of H.J.R192. http://sedm.org/Forms/FormIndex.htm Money, Banking, and Credit Page, Family Guardian Website-Family Guardian Website http://famguardian.org/Subjects/MoneyBanking/MoneyBanking,htm
3.10	Use of postal ZIP codes implies a domicile on federal territory	There is no evidence that any government has ever made the zip code portion of a person's mailing address into a material fact in court for determining whether that address is on federal territory and is therefore subject to federal civil law. One's mailing address is not the main criteria for judicially or administratively determining the domicile of a man or woman. Mailing address is only material to the determination of legal domicile in the <u>absence</u> of express declaration on a government form.	10.10	1. Why Domicile and Becoming a "Taxpayer" Require Your Consent, Form #05.002 http://sedm.org/Forms/FormIndex.htm

#	Argument	Corrected alternative argument	Section(s) where described	See the following for additional information
3.10	Use of postal ZIP codes implies a domicile on federal territory	There is no evidence that any government has ever made the zip code portion of a person's mailing address into a material fact in court for determining whether that address is on federal territory and is therefore subject to federal civil law. One's mailing address is not the main criteria for judicially or administratively determining the domicile of a man or woman. Mailing address is only material to the determination of legal domicile in the <u>absence</u> of express declaration on a government form.	10.10	1. Why Domicile and Becoming a "Taxpayer" Require Your Consent, Form #05.002 http://sedm.org/Forms/FormIndex.htm
3.11	The U.S. Government went bankrupt in 1933	There is no evidence to support the contention that the U.S. went bankrupt. Alleged quotes attributed to Congressman Louis Mcfadden that admit of bankruptcy are FALSE.	10.11	Highlights of American Legal and Political History CD, SEDM http://sedm.org/ItemInfo/Disks/HOALPH/HOALPH.htm Legal Research Sources, Family Guardian Website http://famguardian.org/TaxFreedom/LegalRef/LegalResrc hSrc.htm Legal Research and Writing Techniques Course, Form #12.013 http://sedm.org/Forms/FormIndex.htm

8. Government Flawed Tax Arguments

- The flawed arguments appearing in the following subsections have appeared in various government publications, court rulings, and correspondence that we have seen over the years. We welcome the government to send us a rebuttal of the
- treatment here and we will gladly add that rebuttal to this document if we receive it and if it directly addresses the entirety of
- both sides of the arguments described with evidence. We also emphasize that we have no ill feelings toward government and
- that the motivation for these sections is simply to ensure that everyone, including us, obeys the law.
- The main technique we will use to locate and explain flawed arguments used by the government is to point out that the
- government is contradicting either its own statements or what the law itself says on the subject and therefore is deceiving
- people at best or LYING at worst. Liars always contradict themselves and usually they lie because they covet something you
- have that the law does not entitle them to.

11

8.1 Statutory and Constitutional Citizens are Equivalent

<u>False Argument</u>: Constitutional citizens born within states of the Union and domiciled there are statutory "citizens of the United States" pursuant to 8 U.S.C. §1401, 26 U.S.C. §3121(e), 26 U.S.C. §911, and 26 C.F.R. §1.1-1(c).

<u>Corrected Alternative Argument</u>: This confusion results from a misunderstanding about the meaning of the word "United States", which, like most other words, changes meaning based on the context in which it is used. The term "United States" within the Constitution includes states of the Union and excludes federal territory, while the term "United States" within federal statutory law includes federal territory and excludes states of the Union. People born within states of the Union are <u>constitutional</u> "citizens of the "United States" under the Fourteenth Amendment but not <u>statutory</u> "citizens of the United States" under any federal statute, including 8 U.S.C. §1401 because the term "United States" has an entirely different meaning within these two contexts.

Further Information:

- 1. <u>Great IRS Hoax</u>, Form #11.302, Section 4.12.3 http://sedm.org/Forms/FormIndex.htm
- 2. Why You are a "national", "state national", and Constitutional but not Statutory Citizen, Form #05.006 http://sedm.org/Forms/FormIndex.htm
- 3. <u>Legal Notice of Change in Domicile/Citizenship Records and Divorce from the United States</u>, Form #10.001 http://sedm.org/Forms/FormIndex.htm

The most important aspect of tax liability is whether you are a member of "the club" called a STATUTORY "citizen" who is therefore liable to pay "club dues" called "taxes". The Constitution, in fact, establishes TWO separate "clubs" or political and legal communities, each of which is separated from the other by what is called the Separation of Powers Doctrine. One can only have a domicile in ONE of these two jurisdictions at a time, and therefore can be a "taxpayer" in only one of the two jurisdictions at a time. The U.S. Supreme Court admitted this 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)]

The main purpose of this separation of powers is to protect your constitutional rights from covetous government prosecutors and judges who want to get into your back pocket or enlarge their retirement check:

"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)]

This separation is necessary because people domiciled on federal territory HAVE NO RIGHTS, but only Congressionally granted statutory "privileges" as tenants on the king's land. That "king" or "emperor" is the President, who is the Julius Caesar for federal territory:

"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

1 2 3	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, <u>182 U.S. 244</u> (1901)]
4 5	We'll give you a hint: States of the Union are NOT "federal territory", and therefore "Caesar" has no jurisdiction there. Caesar is nothing more than a glorified facility or property manager for the community property of the states of the Union,
6	not the pagan deity he pretends to be. As an emperor, he has no clothes after you point out the truth to him:
7	"Territories' or 'territory' as including 'state' or 'states." While the term 'territories of the' United States may.
8	under certain circumstances, include the states of the Union, as used in the federal Constitution and in ordinary acts of congress "territory" does not include a foreign state.
9	oramary acts of congress territory aces not include a foreign state.
10	"As used in this title, the term 'territories' generally refers to the political subdivisions created by congress, and
11	not within the boundaries of any of the several states."
12	[86 Corpus Juris Secundum (C.J.S.), Territories, §1 (2003)]
13	
14	<u>Foreign States</u> : "Nations outside of the United StatesTerm may also refer to another state, i.e. a sister state.
15	The term 'foreign nations',should be construed to mean all nations and states other than that in which the
16	action is brought; and hence, one state of the Union is foreign to another, in that sense."
17	[Black's Law Dictionary, Sixth Edition, p. 648]
18	Foreign Laws: "The laws of a foreign country or sister state. In conflicts of law, the legal principles of
19	jurisprudence which are part of the law of a sister state or nation. Foreign laws are additions to our own laws,
20	and in that respect are called 'jus receptum'."
21	[Black's Law Dictionary, Sixth Edition, p. 647]
22	This flawed argument of confusing constitutional citizens with statutory citizens is self-servingly perpetuated mainly by the
23	federal courts and government prosecutors in order to unlawfully enlarge their jurisdiction and importance by destroying the
24	separation of powers between these two political communities and thereby compressing us into one mass as Thomas Jefferson
25	warned they would try to do:
23	warned they would try to do.
26	"When all government, domestic and foreign, in little as in great things, shall be drawn to Washington as the
27	center of all power, it will render powerless the checks provided of one government on another and will become
28	as venal and oppressive as the government from which we separated."
29	[Thomas Jefferson to Charles Hammond, 1821. ME 15:332]
30	"Our government is now taking so steady a course as to show by what road it will pass to destruction; to wit: by
31	consolidation first and then corruption, its necessary consequence. The engine of consolidation will be the
32	Federal judiciary; the two other branches the corrupting and corrupted instruments."
33	[Thomas Jefferson to Nathaniel Macon, 1821. ME 15:341]
34	"The [federal] judiciary branch is the instrument which, working like gravity, without intermission, is to press us
35	at last into one consolidated mass."
36	[Thomas Jefferson to Archibald Thweat, 1821. ME 15:307]
37	"There is no danger I apprehend so much as the consolidation of our government by the noiseless and therefore
38	unalarming instrumentality of the Supreme Court."
39	[Thomas Jefferson to William Johnson, 1823. ME 15:421]
40 41	"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
41 42	where, further withdrawn from the eyes of the people, they may more secretly be bought and sold as at market."
+2 43	[Thomas Jefferson to William Johnson, 1823. ME 15:450]
	[
14	"What an augmentation of the field for jobbing, speculating, plundering, office-building and office-hunting would
45	be produced by an assumption of all the State powers into the hands of the General Government!"
46	[Thomas Jefferson to Gideon Granger, 1800. ME 10:168]
17	"I see, and with the deepest affliction, the rapid strides with which the federal branch of our government is
48	advancing towards the usurpation of all the rights reserved to the States, and the consolidation in itself of all
49 -0	powers, foreign and domestic; and that, too, by constructions which, if legitimate, leave no limits to their power
50 51	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
52	and domestic."
53	[Thomas Jefferson to William Branch Giles, 1825. ME 16:146]

"We already see the [judiciary] power, installed for life, responsible to no authority (for impeachment is not even a scare-crow), advancing with a noiseless and steady pace to the great object of consolidation. The foundations are already deeply laid by their decisions for the annihilation of constitutional State rights and the removal of every check, every counterpoise to the engulfing power of which themselves are to make a sovereign part."

[Thomas Jefferson to William T. Barry, 1822. ME 15:388]

6 If you would like to know more about all the devious word games that this emperor with no clothes and his henchmen in the

courts have pulled over the years to destroy the separation of powers that is the main protection of your rights, please read

8 the following fascinating analysis:

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

The Bible warned us that the corruption of man would lead us to destroy this separation of power and that confusion and delusion by the courts and legal profession would be the vehicle when God said:

"Who is wise and understanding among you? Let him show by good conduct that his works are done in the meekness of wisdom. But if you have bitter envy and self-seeking in your hearts, do not boast and lie against the truth. This wisdom does not descend from above, but is earthly, sensual, demonic. For where envy and self-seeking exist, confusion and every evil thing are there. But the wisdom that is from above is first pure, then peaceable, gentle, willing to yield, full of mercy and good fruits, without partiality and without hypocrisy. 18 Now the fruit of righteousness is sown in peace by those who make peace."

[James 3:13-18, Bible, NKJV]

Some examples of this phenomenon of deliberate confusion of citizenship terms by the judiciary and the government appear in the following statements, which create unnecessary complexity and confusion about citizenship and domicile in order to purposefully complicate and obfuscate challenges to the government's or the court's jurisdiction.

"The term 'citizen', as used in the Judiciary Act with reference to the jurisdiction of the federal courts, is substantially synonymous with the term 'domicile'. <u>Delaware, L. & W.R. Co. v. Petrowsky, 2 Cir., 250 F. 554, 557.</u>"

[Earley v. Hershey Transit Co., 55 F.Supp. 981, D.C.PA. (1944)]

"Citizenship and domicile are substantially synonymous. Residency and inhabitance are too often confused with the terms and have not the same significance. Citizenship implies more than residence. It carries with it the idea of identification with the state and a participation in its functions. As a citizen, one sustains social, political, and moral obligation to the state and possesses social and political rights under the Constitution and laws thereof. Harding v. Standard Oil Co. et al. (C.C.), 182 F. 421; Baldwin v. Franks, 120 U.S. 678, 7 S.Ct. 763, 32 L.Ed. 766; Scott v. Sandford, 19 How. 393, 476, 15 L.Ed. 691."

[Baker v. Keck, 13 F.Supp. 486 (1936)]

"Domicile and citizen are synonymous in federal courts, Earley v. Hershey Transit Co., D.C. Pa., 55 F.Supp. 981, 982; inhabitant, resident and citizen are synonymous, Standard Stoker Co. v. Lower, D.C.Md., 46 F.2d. 678, 683."

[Black's Law Dictionary, Fourth Edition, p. 311]

"While the Privileges and Immunities Clause cites the term "Citizens," for analytic purposes citizenship and residency are essentially interchangeable. See United Building & Construction Trades Council v. Mayor and Council of Camden, 465 U.S. 208, 216, 104 S.Ct. 1020, 1026, 79 L.Ed.2d. 249 (1984)."

[Supreme Court of Virginia v. Friedman, 487 U.S. 59, 108 S.Ct. 2260 (U.S.Va., 1988)]

"...it is now established that the terms "citizen" and "resident" are "essentially interchangeable," Austin v. New Hampshire, 420 U.S. 656, 662, n. 8, 95 S.Ct. 1191, 1195, n. 8, 43 L.Ed.2d. 530 (1975), for purposes of analysis of most cases under the Privileges and Immunities Clause."

[United Bldg. and Const. Trades Council of Camden County and Vicinity v. Mayor and Council of City of Camden, 465 U.S. 208, 104 S.Ct. 1020 (U.S.N.J.,1984)]

Based on the above:

- 1. "Domicile", "residence", "citizenship", "inhabitance", and "residency" are all synonymous in federal courts.
- 2. "Citizens", "residents", and "inhabitants" in the context of federal court have in common a domicile in the "United States" as used in federal statutory law. That "United States", in turn, includes federal territory and excludes states of the Union or the "United States" mentioned in the constitution in every case we have been able to identify.

This matter is easy to clarify if we start with the definition of the "United States" provided by the U.S. Supreme Court in Hooven and Allison v. Evatt. In that case, the Court admitted that there are at least *three* definitions of the term "United States".

"The term 'United States' may be used in any one of several senses. It may be merely the name of a sovereign occupying the position analogous to that of other sovereigns in the family of nations. It may designate the territory over which the sovereignty of the United States extends, or it may be the collective name of the states which are united by and under the Constitution."

[Hooven & Allison Co. v. Evatt, 324 U.S. 652 (1945)]

9 We will now break the above definition into its three contexts and show what each means.

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Table 4: Meanings assigned to "United States" by the U.S. Supreme Court in Hooven & Allison v. Evatt

#	U.S. Supreme Court Definition of "United States" in Hooven	Context in which usually used	Referred to in this article as	Interpretation
1	"It may be merely the name of a sovereign occupying the position analogous to that of other sovereigns in the family of nations."	International law	"United States*"	"These <u>united States</u> ," when traveling abroad, you come under the jurisdiction of the President through his agents in the U.S. State Department, where "U.S." refers to the sovereign society. You are a "Citizen of the United States" like someone is a Citizen of France, or England. We identify this version of "United States" with a single asterisk after its name: "United States*" throughout this article.
2	"It may designate the territory over which the sovereignty of the United States extends, or"	"National government" Federal law Federal forms Federal territory ONLY and no part of any state of the Union	"United States**"	"The United States (the District of Columbia, possessions and territories)". Here Congress has exclusive legislative jurisdiction. In this sense, the term "United States" is a singular noun. You are a person residing in the District of Columbia, one of its Territories or Federal areas (enclaves). Hence, even a person living in the one of the sovereign States could still be a member of the Federal area and therefore a "citizen of the United States." This is the definition used in most "Acts of Congress" and federal statutes. We identify this version of "United States" with two asterisks after its name: "United States**" throughout this article. This definition is also synonymous with the "United States" corporation found in 28 U.S.C. §3002(15)(A).
3	"as the collective name for the states which are united by and under the Constitution."	"Federal government" States of the Union and NO PART of federal territory Constitution of the United States	"United States***"	"The several States which is the united States of America." Referring to the 50 sovereign States, which are united under the Constitution of the United States of America. The federal areas within these states are not included in this definition because the Congress does not have exclusive legislative authority over any of the 50 sovereign States within the Union of States. Rights are retained by the States in the 9th and 10th Amendments, and you are a "Citizen of these united States." This is the definition used in the Constitution for the United States of America. We identify this version of "United States" with a three asterisks after its name: "United States***" throughout this article.

The U.S. Supreme Court helped to clarify which of the three definitions above is the one used in the U.S. Constitution, when it ruled the following. Note they are implying the THIRD definition above and <u>not</u> the other two:

"The earliest case is that of Hepburn v. Ellzey, 2 Cranch, 445, 2 L.Ed. 332, in which this court held that, under that clause of the Constitution limiting the jurisdiction of the courts of the United States to controversies between citizens of different states, a citizen of the District of Columbia could not maintain an action in the circuit court of the United States. It was argued that the word 'state.' in that connection, was used simply to denote a distinct political society. 'But,' said the Chief Justice, 'as the act of Congress obviously used the word 'state' in reference to that term as used in the Constitution, it becomes necessary to inquire whether Columbia is a state in the sense of that instrument. The result of that examination is a conviction that the members of the American confederacy only are the states contemplated in the Constitution , . . . and excludes from the term the signification attached to it by writers on the law of nations.' This case was followed in Barney v. Baltimore, 6 Wall. 280, 18 L.Ed. 825, and quite recently in Hooe v. Jamieson, 166 U.S. 395, 41 L.Ed. 1049, 17 Sup.Ct.Rep. 596. The same rule was applied to citizens of territories in New Orleans v. Winter, 1 Wheat. 91, 4 L.Ed. 44, in which an attempt was made to distinguish a territory from the District of Columbia. But it was said that 'neither of them is a state in the sense in which that term is used in the Constitution.' In Scott v. Jones, 5 How. 343, 12 L.Ed. 181, and in Miners' Bank v. Iowa ex rel. District Prosecuting Attorney, 12 How. 1, 13 L.Ed. 867, it was held that under the judiciary act, permitting writs of error to the supreme court of a state in cases where the validity of a state statute is drawn in question, an act of a territorial legislature was not within the contemplation of Congress." [Downes v. Bidwell, <u>182 U.S. 244</u> (1901)]

Lower courts have held similarly by agreeing that "United States" in the Constitution means states of the Union.

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"... the Supreme Court in the Insular Cases 24 provides authoritative guidance on the territorial scope of the term "the United States" in the Fourteenth Amendment. The Insular Cases were a series of Supreme Court decisions that addressed challenges to duties on goods transported from Puerto Rico to the continental United States. Puerto Rico, like the Philippines, had been recently ceded to the United States. The Court considered the territorial scope of the term "the United States" in the Constitution and held that this term as used in the uniformity clause of the Constitution was territorially limited to the states of the Union. U.S. Const. art. I, § 8 ("[A]]ll Duties, Imposts and Excises shall be uniform throughout the United States." (emphasis added)); see Downes v. Bidwell, 182 U.S. 244, 251, 21 S.Ct. 770, 773, 45 L.Ed. 1088 (1901) ("[I]t can nowhere be inferred that the territories were considered a part of the United States. The Constitution was created by the people of the United States, as a union of States, to be governed solely by representatives of the States; ... In short, the Constitution deals with States, their people, and their representatives."); Rabang, 35 F.3d at 1452. Puerto Rico was merely 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, 182 U.S. at 287, 21 S.Ct. at 787.

The Court's conclusion in Downes was derived in part by analyzing the territorial scope of the Thirteenth and Fourteenth Amendments. The Thirteenth Amendment prohibits slavery and involuntary servitude "within the United States, or any place subject to their jurisdiction." U.S. Const. amend. XIII, § 1 (emphasis added). The Fourteenth Amendment states that persons "born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside." U.S. Const. amend XIV, § 1 (emphasis added). The disjunctive "or" in the Thirteenth Amendment demonstrates that "there may be places within the jurisdiction of the United States that are no[t] part of the Union" to which the Thirteenth Amendment would apply. Downes, 182 U.S. at 251, 21 S.Ct. at 773. Citizenship under the Fourteenth Amendment, however, "is not extended to persons born in any place 'subject to [the United States '] jurisdiction," but is limited to persons born or naturalized in the states of the Union. Downes, 182 U.S. at 251, 21 S.Ct. at 773 (emphasis added); see also id. at 263, 21 S.Ct. at 777 ("[I]n dealing with foreign sovereignties, the term 'United States' has a broader meaning than when used in the Constitution, and includes all territories subject to the jurisdiction of the Federal government, wherever located."). 25

[Valmonte v. I.N.S., 136 F.3d. 914 (C.A.2, 1998)]

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The Supreme Court further clarified that the Constitution implies the third definition above, which is the United States*** when they ruled the following. Notice that they say "not part of the United States within the meaning of the Constitution" and that the word "the" implies only ONE rather than multiple meanings:

> "As the only judicial power vested in Congress is to create courts whose judges shall hold their offices during good behavior, it necessarily follows that, if Congress authorizes the creation of courts and the appointment of judges for limited time, it must act independently of the Constitution upon territory which is not part of the United States within the meaning of the Constitution. [O'Donoghue v. United States, 289 U.S. 516, 53 S.Ct. 740 (1933)]

The U.S. Supreme Court has also held that territorial citizens, such as those STATUTORY "U.S. citizens" mentioned in 8 U.S.C. §1401 are not CONSTITUTIONAL or Fourteenth Amendment citizens. By the way, STATUTORY "U.S. citizens" under 8 U.S.C. §1401 are the ONLY "citizens" mentioned in the entire internal revenue code, as indicated by 26 C.F.R. §1.1-

> The Court today holds that the Citizenship Clause of the Fourteenth Amendment has no application to Bellei [an 8 U.S.C. §1401 STATUTORY citizen]. The Court first notes that Afroyim was essentially a case construing the Citizenship Clause of the Fourteenth Amendment. Since the Citizenship Clause declares that: 'All persons born or naturalized in the United States * * * are citizens of the United States * * *.' the Court reasons that the protections against involuntary expatriation declared in Afroyim do not protect all American citizens, but only those 'born or naturalized in the United States.' Afroyim, the argument runs, was naturalized in this country so he was protected by the Citizenship Clause, but Bellei, since he acquired his American citizenship at birth in Italy as a foreignborn child of an American citizen, was neither born nor naturalized in the United States and, hence, falls outside the scope of the Fourteenth Amendment guarantees declared in Afroyim. One could hardly call this a generous reading of the great purposes the Fourteenth Amendment was adopted to bring about. While conceding that Bellei is an American citizen, the majority states: 'He simply is not a Fourteenth-Amendmentfirst-sentence citizen.' Therefore, the majority reasons, the congressional revocation of his citizenship is not barred by the Constitution. I cannot accept the Court's conclusion that the Fourteenth Amendment protects the citizenship of some Americans and not others. [...]

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²⁴ De Lima v. Bidwell, 182 U.S. 1, 21 S.Ct. 743, 45 L.Ed. 1041 (1901); Dooley v. United States, 182 U.S. 222, 21 S.Ct. 762, 45 L.Ed. 1074 (1901); Armstrong v. United States, 182 U.S. 243, 21 S.Ct. 827, 45 L.Ed. 1086 (1901); and Downes v. Bidwell, 182 U.S. 244, 21 S.Ct. 770, 45 L.Ed. 1088 (1901).

²⁵ Congress, under the Act of February 21, 1871, ch. 62, § 34, 16 Stat. 419, 426, expressly extended the Constitution and federal laws to the District of Columbia. See Downes, 182 U.S. at 261, 21 S.Ct. at 777 (stating that the "mere cession of the District of Columbia" from portions of Virginia and Maryland did not "take [the District of Columbia] out of the United States or from under the aegis of the Constitution.").

1	The Court today puts aside the Fourteenth Amendment as a standard by which to measure congressional	
2	action with respect to citizenship, and substitutes in its place the majority's own vague notions of 'fairness.'	
3	The majority takes a new step with the recurring theme that the test of constitutionality is the Court's own view	
4	of what is 'fair, reasonable, and right.' Despite the concession that Bellei was admittedly an American citizen, and despite the holding in Afroyim that the Fourteenth Amendment has put citizenship, once conferred, beyond	
5 6	the power of Congress to revoke, the majority today upholds the revocation of Bellei's citizenship on the ground	
7	that the congressional action was not 'irrational or arbitrary or unfair.' The majority applies the 'shock-the-	
8	conscience' test to uphold, rather than strike, a federal statute. It is a dangerous concept of constitutional law	
9	that allows the majority to conclude that, because it cannot say the statute is 'irrational or arbitrary or unfair,'	
10	the statute must be constitutional.	
11	$[\ldots]$	
12	Since the Court this Term has already downgraded citizens receiving public welfare, Wyman v. James, 400 U.S.	
13	309, 91 S.Ct. 381, 27 L.Ed.2d. 408 (1971), and citizens having the misfortune to be illegitimate, Labine v. Vincent,	
14	401 U.S. 532, 91 S.Ct. 1917, 28 L.Ed.2d. 288, I suppose today's decision downgrading citizens born outside the	
15	United States should have been expected. Once again, as in James and Labine, the Court's opinion makes evident	
16	that its holding is contrary to earlier decisions. Concededly, petitioner was a citizen at birth, not by constitutional	
17	right, but only through operation of a federal statute. [Rogers v. Bellei, 401 U.S. 815 (1971)]	
18	[Rogers V. Bellet, 401 U.S. 815 (19/1)]	
19	Another important distinction needs to be made. Definition 1 above refers to the country "United States", but this country	y is
20	<u>not</u> a "nation", in the sense of international law. This very important point was made clear by the U.S. Supreme Court	
21	1794 in the case of <i>Chisholm v. Georgia</i> , 2 Dall. (U.S.) 419, 1 L.Ed. 440 (1793), when it said:	
21	1774 III the ease of Chisholm v. Georgia, 2 Dan. (0.5.) 417, 1 L.La. 440 (1775), when it said.	
22	This is a case of uncommon magnitude. One of the parties to it is a State; certainly respectable, claiming to be	
23	sovereign. The question to be determined is, whether this State, so respectable, and whose claim soars so high,	
24	is amenable to the jurisdiction of the Supreme Court of the United States? This question, important in itself,	
25	will depend on others, more important still; and, may, perhaps, be ultimately resolved into one, no less radical	
26	than this 'do the people of the United States form a Nation?'	
27	A cause so conspicuous and interesting, should be carefully and accurately viewed from every possible point of	
28	sight. I shall examine it; 1st. By the principles of general jurisprudence. 2nd. By the laws and practice of	
	Lyom the law of nationa little on no	
29	particular States and Kingdoms. From the law of nations little or no	
30	illustration of this subject can be expected. By that law the	
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component states are the units, with respect to the confederation, and the central government acts upon them, not upon the individual citizens. In a federal government, on the other hand, the allied states form a union,not, indeed, to such an extent as to destroy their separate organization or deprive them of quasi sovereignty with respect to the administration of their purely local concerns, but so that the central power is erected into a true state or nation, possessing sovereignty both external and internal, while the administration of national affairs is directed, and its effects felt, not by the separate states deliberating as units, but by the people of all. in their collective capacity, as citizens of the nation. The distinction is expressed, by the German writers, by the use of the two words "Staatenbund" and "Bundesstaut;" the former denoting a league or confederation of states, and the latter a federal government, or state formed by means of a league or confederation. [Black's Law Dictionary, Revised Fourth Edition, 1968, p. 740]

We would like to clarify that last quote above from Black's Fourth, p. 740. They use the phrase "possessing sovereignty both external and internal". As we pointed out earlier in section 3, the phrase "internal", in reference to a constitutional state of the Union, means that federal jurisdiction is limited to the following subject matters and NO OTHERS:

- Postal fraud. See Article 1, Section 8, Clause 7 of the U.S. Constitution...
- 2. Counterfeiting under Article 1, Section 8, Clause 6 of the U.S. Constitution.
- 3. Treason under Article 4, Section 2, Clause 3 of the U.S. Constitution.

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- 4. Interstate commercial crimes under Article 1, Section 8, Clause 3 of the U.S. Constitution.
- 5. Jurisdiction over naturalization and exportation of Constitutional aliens.
- Slavery, involuntary servitude, or peonage under the Thirteenth Amendment, 42 U.S.C. §1994, 18 U.S.C. §1581. and 18 U.S.C. §1589(3).

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

[Clyatt v. U.S., 197 U.S. 207 (1905)]

So the "United States*" the country is a "society" and a "sovereignty" but not a "nation" under the law of nations, by the Supreme Court's own admission. Because the Supreme Court has ruled on this matter, it is now incumbent upon each of us to always remember it and to apply it in all of our dealings with the Federal Government. If not, we lose our individual Sovereignty by default and the Federal Government assumes jurisdiction over us. So, while a sovereign Citizen will want to be the third type of Citizen, which is a "Citizen of the United States***" and on occasion a "citizen of the United States*", he would never want to be the second, which is a "citizen of the United States**". A person who is a "citizen" of the second is called a statutory "U.S. citizen" under 8 U.S.C. §1401, and he is treated in law as occupying a place not protected by the Bill of Rights, which is the first ten amendments of the United States Constitution. Below is how the U.S. Supreme Court, in a dissenting opinion, described this "other" United States, which we call the "federal zone":

> "The idea prevails with some, indeed it has found expression in arguments at the bar, that we have in this country substantially two national governments; one to be maintained under the Constitution, with all of its restrictions; the other to be maintained by Congress outside the independently of that instrument, by exercising such powers [of absolutism] as other nations of the earth are accustomed to.. I take leave to say that, if the principles thus announced should ever receive the sanction of a majority of this court, a radical and mischievous change in our system of government will result. We will, in that event, pass from the era of constitutional liberty guarded and protected by a written constitution into an era of legislative absolutism.. It will be an evil day for American liberty if the theory of a government outside the supreme law of the land finds lodgment in our constitutional jurisprudence. No higher duty rests upon this court than to exert its full authority to prevent all violation of the principles of the Constitution.

[Downes v. Bidwell, <u>182 U.S. 244</u> (1901)]

The second definition of "United States**" above is also a federal corporation. This corporation was formed in 1871. It is described in 28 U.S.C. §3002(15)(A):

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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
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EXHIBIT:___

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                           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.
       The above corporation was a creation of Congress in which the District of Columbia was incorporated for the first time. It is
       this corporation, in fact, that the Uniform Commercial Code (U.C.C.) recognizes as the "United States" in the context of the
       above statute:
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                            CHAP. LXII. - An Act to provide a Government for the District of Columbia
                            Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
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                           That all that part of the territory of the United States included within the limits of the District of Columbia be,
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                            and the same is hereby, created into a government of the name of the District of Columbia, by which name it
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                           is hereby constituted a body corporate for municipal purposes, and may contract and be contracted with, sue
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                           and be sued, plead and be impleaded, have a seal, and exercise all other powers of a municipal corporation not
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                            inconsistent with the Constitution and laws of the United States and the provisions of this act.
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                           [Statutes at Large, 16 Stat. 419 (1871);
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                            SOURCE: http://famguardian.org/Subjects/Taxes/16Amend/SpecialLaw/DCCorpStatuesAtLarge.pdf]
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                            Uniform Commercial Code (U.C.C.)
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                            § 9-307. LOCATION OF DEBTOR.
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                            (h) [Location of United States.]
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                            The United States is located in the District of Columbia.
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                           http://www.law.cornell.edu/ucc/search/display.html?terms=district%20of%20columbia&url=/ucc/9/article9.ht
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       The U.S. Supreme Court, in fact, has admitted that all governments are corporations when it said:
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                            "Corporations are also of all grades, and made for varied objects; <u>all governments are corporations, created by</u>
                           usage and common consent, or grants and charters which create a body politic for prescribed purposes; but
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                            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
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                           instrument by which the incorporation is made [the Constitution is the corporate charter]. One universal rule
                            of law protects persons and property. It is a fundamental principle of the common law of England, that the term
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                           freemen of the kingdom, includes 'all persons,' ecclesiastical and temporal, incorporate, politique or natural; it
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                           is a part of their magna charta (2 Inst. 4), and is incorporated into our institutions. The persons of the members
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                            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,'
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                            without due process of law, is a principle taken from magna charta, infused into all our state constitutions, and
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                           is made inviolable by the federal government, by the amendments to the constitution."
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                           [Proprietors of Charles River Bridge v. Proprietors of, 36 U.S. 420 (1837)]
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       If we are acting as a federal "public officer" or contractor, then we are representing the "United States** federal corporation"
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       known also as the "District of Columbia". That corporation is a statutory but not constitutional "U.S. citizen" under 8 U.S.C.
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       $1401 which is completely subject to all federal law. In fact, it is officers of THIS corporation who are the only real "U.S.
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       citizens" who can have a liability to file a tax return mentioned in 26 C.F.R. §1.6012-1(a). Human beings cannot fit into this
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       category without engaging in involuntary servitude and violating the Thirteenth Amendment.
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                            "A corporation is a citizen, resident, or inhabitant of the state or country by or under the laws of which it was
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                           created, and of that state or country only."
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                           [19 Corpus Juris Secundum (C.J.S.), Corporations, §886 (2003)]
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       Federal Rule of Civil Procedure 17(b) says that when we are representing that corporation as "officers" or "employees", we
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       therefore become statutory "U.S. citizens" completely subject to federal territorial law:
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IV. PARTIES > Rule 17.

Rule 17. Parties Plaintiff and Defendant; Capacity

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)]

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Yet on every government (any level) document we sign (e.g. Social Security, Marriage License, Voter Registration, Driver's License, BATF 4473, etc.) they either require you to be a "citizen of the United States" or they ask "are you a resident of Illinois?", and they very deliberately don't tell you which of the three "United States" they mean because:

- 1. They want to encourage people to presume that all three definitions are equivalent and apply simultaneously and in every case, even though we now know that is NOT the case.
- 2. They want to see if they can trick you into surrendering your sovereign immunity pursuant to 28 U.S.C. §1603(b)(3). A person who is a statutory and not constitutional citizen cannot be a "foreign sovereign" or an instrumentality of a "foreign state" called a state of the Union.
- 3. They want to ask you if you will voluntarily accept an uncompensated position as a "public officer" within the federal corporation "United States**". Everyone within the "United States**" is a statutory creation and "subject" of Congress. Most government forms, and especially "benefit applications", therefore serve the dual capacity of its original purpose PLUS an application to ILLEGALLY become a "public officer" within the government. The reason this must be so, is that they are not allowed to pay "benefits" to private citizens and can only lawfully pay them to public employees. Any other approach makes the government into a thief. See the article below for details on this scam:

<u>The Government "Benefits" Scam</u>, Form #05.040 http://sedm.org/Forms/FormIndex.htm

4. They want you to describe yourself with words that are undefined so that THEY and not YOU can decide which of the three "citizens of the United States" they mean. We'll give you a hint, they are always going to pick the second one because people who are domiciled in THAT United States are serfs with no 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, <u>182 U.S. 244</u> (1901)]

Most deliberately vague government forms that ask you whether you are a "U.S. citizen" or "citizen of the United States" therefore are in effect asking you to assume or presume the second definition, the "United States**" (federal zone), but they don't want to tell you this because then you would realize they are asking you:

- 1. To commit the crime of impersonating a statutory "U.S. citizen" (8 U.S.C. §1401) in violation of 18 U.S.C. §911.
- 2. To commit perjury on a government form under penalty of perjury by identifying yourself as a statutory "citizen of the United States" (8 U.S.C. §1401) even though you can't be as a person born within and domiciled within a state of the Union.
 - 3. To become a slave of their usually false and self-serving presumptions about you without any compensation or consideration.

- Based on the preceding deliberate and self-serving misconceptions by the courts and the legal profession, some people 1 mistakenly believe that: 2
 - 1. They are *not* constitutional "citizens of the United States" under the Fourteenth Amendment.
 - The term "United States" as used in the Constitution Fourteenth Amendment has the same meaning as that used in the statutory definitions of "United States" appearing in 8 U.S.C. §1101(a)(38) and 26 U.S.C. §7701(a)(9) and (a)(10) and as used in 8 U.S.C. §1401.
 - That a statutory "citizen of the United States" under the Internal Revenue Code, 26 C.F.R. §1.1-1(c) and under 8 U.S.C. §1401 is the same thing as a "citizen of the United States" under the Fourteenth Amendment.

The Supreme Court settled issue number one above in Boyd v. Nebraska, 143 U.S. 135 (1892), the U.S. Supreme Court, when it held that all persons born in a state of the Union are constitutional citizens, meaning citizens of the THIRD "United States***" above.

> "Mr. Justice Story, in his Commentaries on the Constitution, says: 'Every citizen of a state is ipso facto a citizen of the United States.' Section 1693. And this is the view expressed by Mr. Rawle in his work on the Constitution. Chapter 9, pp. 85, 86. Mr. Justice Curtis, in Dred Scott v. Sandford, 19 How. 393, 576, expressed the opinion that under the constitution of the United States 'every free person, born on the soil of a state, who is a citizen of that state by force of its constitution or laws, is also a citizen of the United States.' And Mr. Justice Swayne, in The Slaughter-House Cases, 16 Wall. 36, 126, declared that 'a citizen of a state is ipso facto a citizen of the United States.'

[Boyd v. Nebraska, 143 U.S. 135 (1892)]

See also *Minor v. Happersett*, 88 U.S. 162 (1875).

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As far as misconception #2 above, the term "United States", in the context of statutory citizenship found in Title 8 of the U.S. 21 Code, includes only federal territory subject to the exclusive or plenary jurisdiction of the general government and excludes 22 land under exclusive jurisdiction of states of the Union. This is confirmed by the definition of "United States", "State", and 23 "continental United States". Below is a definition of "United States" in the context of federal statutory citizenship: 24

TITLE 8 - ALIENS AND NATIONALITY CHAPTER 12 - IMMIGRATION AND NATIONALITY SUBCHAPTER I - GENERAL PROVISIONS Sec. 1101. - Definitions

> (a)(38) The term "United States", except as otherwise specifically herein provided, when used in a geographical sense, means the continental United States, Alaska, Hawaii, Puerto Rico, Guam, and the Virgin Islands of the United States.

Below is a definition of the term "continental United States" which reveals the dirty secret about statutory citizenship:

TITLE 8--ALIENS AND NATIONALITY CHAPTER I--IMMIGRATION AND NATURALIZATION SERVICE, 33 DEPARTMENT OF JUSTICE 34 PART 215--CONTROLS OF ALIENS DEPARTING FROM THE UNITED STATES 35 Section 215.1: Definitions 36

(f) The term continental United States means the District of Columbia and the several States, except Alaska and

The term "States", which is suspiciously capitalized and is then also defined elsewhere in Title 8 as follows: 40

TITLE 8 - ALIENS AND NATIONALITY 41 CHAPTER 12 - IMMIGRATION AND NATIONALITY 42 SUBCHAPTER I - GENERAL PROVISIONS 43 Sec. 1101. - Definitions 44

(a)(36) The term "State" includes the District of Columbia, Puerto Rico, Guam, and the Virgin Islands of the United States.

As far as misconception #3 above, the term "United States" appearing in the statutory definition of term "citizen of the United States" found in <u>8 U.S.C. §1401</u> includes only the federal zone and excludes states of the Union. On the other hand, the term "United States" as used in the Constitution refers to the collective states of the Union and excludes federal territories and

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possessions. Therefore, a constitutional "citizen of the United States" as defined in the Fourteenth Amendment is different 1 than a statutory "citizen of the United States" found in <u>8 U.S.C.</u> §1401. The two are mutually exclusive, in fact. The U.S. 2 Supreme Court agreed when it held: 3

> "The 1st section of the 14th article [Fourteenth Amendment], to which our attention is more specifically invited, opens with a definition of citizenship—not only citizenship of the United States[***], but citizenship of the states. No such definition was previously found in the Constitution, nor had any attempt been made to define it by act of Congress. It had been the occasion of much discussion in the courts, by the executive departments and in the public journals. It had been said by eminent judges that no man was a citizen of the United States[***] except as he was a citizen of one of the states composing the Union. Those therefore, who had been born and resided always in the District of Columbia or in the territories, though within the United States[*], were not citizens. [Slaughter-House Cases, 83 U.S. (16 Wall.) 36, 21 L.Ed. 394 (1873)]

A man or woman born within and domiciled within the states of the Union mentioned in the Constitution therefore is:

- A "citizen of the United States" under the Fourteenth Amendment.
- A "national" pursuant to 8 U.S.C. §1101(a)(21).

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- A "national of the United States of AMERICA" rather than the "United States".
- 4. NOT a statutory "citizen of the United States" under 8 U.S.C. §1401 or under the Internal Revenue Code.
- NOT born within the federal "States" (territories and possessions pursuant to 4 U.S.C. §110(d)) mentioned in federal statutory law or the Internal Revenue Code.
 - NOT A "U.S. national" or "national of the United States**" pursuant to 8 U.S.C. §1408. These people are born in American Samoa or Swains Island, because the statutory "United States" as used in this phrase is defined to include only federal territory and exclude states of the Union mentioned in the Constitution..
- Consequently, you can't be a citizen of a state of the Union if you don't want to be a constitutional "citizen of the United 22 States***" under the Fourteenth Amendment, because the two are synonymous. The Supreme Court affirmed this fact when 23 it held the following: 24

"It is impossible to construe the words 'subject to the jurisdiction thereof,' in the opening sentence, as less comprehensive than the words 'within its jurisdiction,' in the concluding sentence of the same section; or to hold that persons 'within the jurisdiction' of one of the states of the Union are not 'subject to the jurisdiction of the United States[***]." [U.S. v. Wong Kim Ark, 169 U.S. 649, 18 S.Ct. 456; 42 L.Ed. 890 (1898), emphasis added]

To help alleviate further misconceptions about citizenship, we have prepared the following tables and diagrams for your 30 edification: 31

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Table 5: "Citizenship status" vs. "Income tax status"

#	Citizenship status	Place of	Domicile	Accepting	Defined in		utus under 26 U.S.C./In		
		birth		tax treaty benefits?		"Citizen" (defined in 26 C.F.R. §1.1-1)	"Resident alien" (defined in 26 U.S.C. \$7701(b)(1)(A), 26 C.F.R. \$1.1441- 1(c)(3)(i) and 26 C.F.R. \$1.1- 1(a)(2)(ii))	"Nonresident alien INDIVIDUAL" (defined in 26 U.S.C. §7701(b)(1)(B) and 26 C.F.R. §1.1441-1(c)(3))	"Non-resident NON-person" (NOT defined)
1	"national and citizen of the United States** at birth" or "U.S.** citizen" or Statutory "U.S.** citizen"	Statutory "United States" pursuant to 8 U.S.C. §1101(a)(38), (a)(36) and 8 C.F.R. §215.1(f) or in the "outlying possessions of the United States" pursuant to 8 U.S.C. §1101(a)(29)	District of Columbia, Puerto Rico, Guam, Virgin Islands	NA	8 U.S.C. §1401; 8 U.S.C. §1101(a)(22)(A)	Yes (only pay income tax abroad with IRS Forms 1040/2555. See Cook v. Tait, 265 U.S. 47 (1924))	No	No	No
2	"non-citizen national of the United States** at birth" or "U.S.** national"	Statutory "United States" pursuant to 8 U.S.C. §1101(a)(38), (a)(36) and 8 C.F.R. §215.1(f) or in the "outlying possessions of the United States" pursuant to 8 U.S.C. §1101(a)(29)	American Samoa; Swain's Island; or abroad to U.S. national parents under 8 U.S.C. §1408(2)	NA	8 U.S.C. §1408 8 U.S.C. §1101(a)(22)(B); 8 U.S.C. §1452	No (see 26 U.S.C. §7701(b)(1)(B))	No	Yes (see IRS Form 1040NR for proof)	No
3.1	"U.S.A.***"nationa l" or "state national" or "Constitutional but not statutory U.S.**** citizen"	Constitutional Union state	State of the Union	NA (ACTA agreement)	8 U.S.C. §1101(a)(21); 14 th Amend., Sect. 1	No	No	No	Yes
3.2	"U.S.A.***"nationa l" or "state national" or "Constitutional but not statutory U.S.**** citizen"	Constitutional Union state	Foreign country	Yes	8 U.S.C. §1101(a)(21); 14 th Amend., Sect. 1	No	No	Yes	No
3.3	"U.S.A.***"nationa l" or "state national" or "Constitutional but not statutory U.S.**** citizen"	Constitutional Union state	Foreign country	No	8 U.S.C. §1101(a)(21); 14 th Amend., Sect. 1	No	No	No	Yes

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#	Citizenship status	Place of	Domicile	Accepting	Defined in	Tax St	atus under 26 U.S.C./In	ternal Revenue Cod	de
		birth		tax treaty benefits?		"Citizen" (defined in 26 C.F.R. §1.1-1)	"Resident alien" (defined in 26 U.S.C. §7701(b)(1)(A), 26 C.F.R. §1.1441- 1(c)(3)(i) and 26 C.F.R. §1.1- 1(a)(2)(ii))	"Nonresident alien INDIVIDUAL" (defined in 26 U.S.C. §7701(b)(1)(B) and 26 C.F.R. §1.1441-1(c)(3))	"Non-resident NON-person" (NOT defined)
3.4	Statutory "citizen of the United States**" or Statutory "U.S.* citizen"	Constitutional Union state	Puerto Rico, Guam, Virgin Islands, Commonwealth of Northern Mariana Islands	NA (ACTA agreement)	8 U.S.C. §1101(a)(21); 14 th Amend., Sect. 1; 8 U.S.C. §1101(a)(22)(B)	No	Yes	No	No
4.1	"alien" or "Foreign national"	Foreign country	Puerto Rico, Guam, Virgin Islands, Commonwealth of Northern Mariana Islands	NA	8 U.S.C. §1101(a)(21); 8 U.S.C. §1101(a)(3)	No	Yes	No	No
4.2	"alien" or "Foreign national"	Foreign country	State of the Union	Yes	8 U.S.C. §1101(a)(21); 8 U.S.C. §1101(a)(3)	No	No	Yes	No
4.3	"alien" or "Foreign national"	Foreign country	State of the Union	No	8 U.S.C. §1101(a)(21); 8 U.S.C. §1101(a)(3)	No	No	No	Yes
4.4	"alien" or "Foreign national"	Foreign country	Foreign country	Yes	8 U.S.C. §1101(a)(21)	No	No	Yes	No
4.5	"alien" or "Foreign national"	Foreign country	Foreign country	No	8 U.S.C. §1101(a)(21)	No	No	No	Yes

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- 1. Domicile is a prerequisite to having any civil status per Federal Rule of Civil Procedure 17. One therefore cannot be a statutory "alien" under 8 U.S.C. §1101(a)(3) without a domicile on federal territory. Without such a domicile, you are a transient foreigner and neither an "alien" nor a "nonresident alien".
- 2. "United States" is described in 8 U.S.C. §1101(a)(38), (a)(36) and 8 C.F.R. §215.1(f) and includes only federal territory and possessions and excludes all Constitutional Union states. This is a product of the separation of powers doctrine that is the heart of the United States Constitution.
- 3. A "nonresident alien individual" who has made an election under 26 U.S.C. §6013(g) and (h) to be treated as a "resident alien" is treated as a "nonresident alien" for the purposes of withholding under I.R.C. Subtitle C but retains their status as a "resident alien" under I.R.C. Subtitle A. See 26 C.F.R. §1.1441-1(c)(3) for the definition of "individual", which means "alien".
- 4. A "non-person" is really just a transient foreigner who is not "purposefully availing themselves" of commerce within the legislative jurisdiction of the United States on federal territory under the Foreign Sovereign Immunities Act, 28 U.S.C. Chapter 97. The real transition from a "NON-person" to an "individual" occurs when one:
 - 4.1. "Purposefully avails themself" of commerce on federal territory and thus waives sovereign immunity. Examples of such purposeful availment are the next three items.
 - 4.2. Lawfully and consensually occupying a public office in the U.S. government and thereby being an "officer and individual" as identified in 5 U.S.C. §2105(a). Otherwise, you are PRIVATE and therefore beyond the civil legislative jurisdiction of the national government.
 - 4.3. Voluntarily files an IRS Form 1040 as a citizen or resident abroad and takes the foreign tax deduction under 26 U.S.C. §911. This too is essentially an act of "purposeful availment". Nonresidents are not mentioned in section 911. The upper left corner of the form identifies the filer as a "U.S. individual". You

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- cannot be an "U.S. individual" without ALSO being an "individual". All the "trade or business" deductions on the form presume the applicant is a public officer, and therefore the "individual" on the form is REALLY a public officer in the government and would be committing FRAUD if he or she was NOT.
- 4.4. VOLUNTARILY fills out an IRS Form W-7 ITIN Application (IRS identifies the applicant as an "individual") AND only uses the assigned number in connection with their compensation as an elected or appointed public officer. Using it in connection with PRIVATE earnings is FRAUD.
- 5. What turns a "non-resident NON-person" into a "nonresident alien individual" is meeting one or more of the following two criteria:
 - 5.1. Residence/domicile in a foreign country under the residence article of an income tax treaty and 26 C.F.R. §301.7701(b)-7(a)(1).
 - 5.2. Residence/domicile as an alien in Puerto Rico, Guam, the Commonwealth of Northern Mariana Islands, the U.S. Virgin Islands, or American Samoa as determined under 26 C.F.R. §301.7701(b)-1(d).
- 6. All "taxpayers" are STATUTORY "aliens" or "nonresident aliens". The definition of "individual" found in 26 C.F.R. §1.1441-1(c)(3) does NOT include "citizens". The only occasion where a "citizen" can also be an "individual" is when they are abroad under 26 U.S.C. §911 and interface to the I.R.C. under a tax treaty with a foreign country as an alien pursuant to 26 C.F.R. §301.7701(b)-7(a)(1)

And when he had come into the house, Jesus anticipated him, saying, "What do you think, Simon? From whom do the kings [governments] of the earth [lawfully] take customs or taxes, from their sons [citizens and subjects] or from strangers ["aliens", which are synonymous with "residents" in the tax code, and exclude "citizens"]?"

Peter said to Him, "From strangers ["aliens"/"residents" ONLY. See 26 C.F.R. §§1.1-1(a)(2)(ii) and 26 C.F.R. §1.1441-1(c)(3)]."

Jesus said to him, "Then the sons ["citizens" of the Republic, who are all sovereign "nationals" and "nonresident aliens" under federal law] are free [sovereign over their own person and labor. e.g. SOVEREIGN IMMUNITY]. "

[Matt. 17:24-27, Bible, NKJV]

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Table 6: Effect of domicile on citizenship status

	CONDITION					
Description	Domicile WITHIN the FEDERAL ZONE and located in FEDERAL ZONE	Domicile WITHIN the FEDERAL ZONE and temporarily located abroad in foreign country	Domicile WITHOUT the FEDERAL ZONE and located WITHOUT the FEDERAL ZONE			
Location of domicile	"United States" per 26 U.S.C. §§7701(a)(9) and (a)(10), 7701(a)(39), 7408(d)	"United States" per 26 U.S.C. §§7701(a)(9) and (a)(10), 7701(a)(39), 7408(d)	Without the "United States" per 26 U.S.C. §§7701(a)(9) and (a)(10), 7701(a)(39), 7408(d)			
Physical location	Federal territories, possessions, and the District of Columbia	Foreign nations ONLY (NOT states of the Union)	Foreign nations states of the Union Federal possessions			
Tax Status	"U.S. Person" 26 U.S.C. §7701(a)(30)	"U.S. Person" 26 U.S.C. §7701(a)(30)	"Nonresident alien individual" if a public officer in the U.S. government. 26 C.F.R. §1.1441-1(c)(3) for the definition of "individual". "Non-resident NON-person" if NOT a public officer in the U.S. government			
Tax form(s) to file	IRS Form 1040	IRS Form 1040 plus 2555	IRS Form 1040NR: "alien individuals", "nonresident alien individuals" No filing requirement: "nonresident NON-person"			
Status if DOMESTIC "national of the United States*"	"national and citizen of the United States** at birth" per 8 U.S.C. §1401 and "citizen of the United States**" per 8 U.S.C. §1101(a)(22)(A) if born in on federal territory. (Not required to file if physically present in the "United States" because no statute requires it)	Citizen abroad 26 U.S.C. §911 (Meets presence test)	"non-resident" if born in a state of the Union 8 U.S.C. §1408, 8 U.S.C. §1452, and 8 U.S.C. §1101(a)(22)(B)if born in a possession.			
Status if FOREIGN "national" pursuant to 8 U.S.C. §1101(a)(21)	"Resident alien" 26 U.S.C. §7701(b)(1)(A)	"Resident alien abroad" 26 U.S.C. §911 (Meets presence test)	"Nonresident alien individual" if a public officer in the U.S. government. 26 C.F.R. §1.1441-1(c)(3) for the definition of "individual". "Non-resident NON-person" if NOT a public officer in the U.S. government			

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- 1. "United States" is defined as federal territory within 26 U.S.C. §§7701(a)(9) and (a)(10), 7701(a)(39), and 7408(d), and 4 U.S.C. §110(d). It does not include any portion of a Constitutional state of the Union.
- 2. The "District of Columbia" is defined as a federal corporation but not a physical place, a "body politic", or a de jure "government" within the District of Columbia Act of 1871, 16 Stat. 419, 426, Sec. 34. See: <u>Corporatization and Privatization of the Government</u>, Form #05.024; http://sedm.org/Forms/FormIndex.htm.
- 3. "nationals" of the United States of America who are domiciled outside of federal jurisdiction, either in a state of the Union or a foreign country, are "nationals" but not "citizens" under federal law. They also qualify as "nonresident aliens" under 26 U.S.C. \$7701(b)(1)(B). See sections 4.11.2 of the *Great IRS Hoax* for details.
- 4. Temporary domicile in the middle column on the right must meet the requirements of the "Presence test" documented in IRS publications.

5. "FEDERAL ZONE"=District of Columbia and territories of the United States in the above table

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6. The term "individual" as used on the IRS Form 1040 means an "alien" engaged in a "trade or business". All "taxpayers" are "aliens" engaged in a "trade or business". This is confirmed by 26 C.F.R. §1.1441-1(c)(3), 26 C.F.R. §1.1-1(a)(2)(ii), and 5 U.S.C. §552a(a)(2). Statutory "U.S. citizens" as defined in 8 U.S.C. §1401 are not "individuals" unless temporarily abroad pursuant to 26 U.S.C. §911 and subject to an income tax treaty with a foreign country. In that capacity, statutory "U.S. citizens" interface to the I.R.C. as "aliens" rather than "U.S. citizens" through the tax treaty.

NOTES:

1. Changing domicile from "foreign" on the left to "domestic" on the right can occur EITHER by:

1.1. Physically moving to the federal zone.

- Being lawfully elected or appointed to political office, in which case the OFFICE/STATUS has a domicile on federal territory but the OFFICER does not.
- Statuses on the right are civil franchises granted by Congress. As such, they are public offices within the national government. Those not seeking office should not claim any of these statuses.

On the subject of citizenship, the Department of Justice Criminal Tax Manual, Section 40.05[7] says the following:

40.05[7] Defendant Not A "Person" or "Citizen"; District Court Lacks Jurisdiction Over Non-Persons and State Citizens

40.05[7][a] Generally

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Another popular protester argument is the contention that the protester is not subject to federal law because he or she is not a citizen of the United States, but a citizen of a particular "sovereign" state. This argument seems to be based on an erroneous interpretation of 26 U.S.C. §3121(e)(2), which states in part: "The term 'United States' when used in a geographical sense includes the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa." The "not a citizen" assertion directly contradicts the Fourteenth Amendment, which states "all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside." The argument has been rejected time and again by the courts. See United States v. Cooper, 170 F.3d. 691, 691(7th Cir. 1999) (imposed sanctions on tax protester defendant making "frivolous squared" argument that only residents of Washington, D.C. and other federal enclaves are citizens of United States and subject to federal tax laws); United States v. Mundt, 29 F.3d. 233, 237 (6th Cir. 1994) (rejected "patently frivolous" argument that defendant was not a resident of any "federal zone" and therefore not subject to federal income tax laws); United States v. Hilgeford, 7 F.3d. 1340, 1342 (7th Cir. 1993) (rejected "shop worn" argument that defendant is a citizen of the "Indiana State Republic" and therefore an alien beyond the jurisdictional reach of the federal courts); United States v. Gerads, 999 F.2d. 1255, 1256-57 (8th Cir. 1993) (imposed \$1500 sanction for frivolous appeal based on argument that defendants were not citizens of the United States but instead "Free Citizens of the Republic of Minnesota" not subject to taxation); United States v. Silevan, 985 F.2d. 962, 970 (8th Cir. 1993) (rejected as "plainly frivolous" defendant's argument that he is not a "federal citizen"); United States v. Jagim, 978 F.2d. 1032, 1036 (9th Cir. 1992) (rejected "imaginative" argument that defendant cannot be punished under the tax laws of the United States because he is a citizen of the "Republic" of Idaho currently claiming "asylum" in the "Republic" of Colorado) United States v. Masat, 948 F.2d. 923, 934 (5th Cir. 1991); United States v. Sloan, 939 F.2d. 499, 500-01 (7th Cir. 1991) ("strange argument" that defendant is not subject to jurisdiction of the laws of the United States because he is a "freeborn natural individual" citizen of the State of Indiana rejected); United States v. Price, 798 F.2d. 111, 113 (5th Cir. 1986) (citizens of the State of Texas are subject to the provisions of the Internal Revenue Code). [SOURCE: http://www.usdoj.gov/tax/readingroom/2001ctm/40ctax.htm#40.05[7]]

Notice the self-serving and devious "word or art" games and "word tricks" played by the Dept. of Injustice in the above:

- 1. They deliberately don't show you the WHOLE definition in 26 U.S.C. §3121(e), which would open up a HUGE can of worms that they could never explain in a way that is consistent with everything that people know other than the way it is explained here.
- 2. They FALSELY and PREJUDICIALLY "presume" that there is no separation of powers between federal territory and states of the Union, which is a violation of your rights and Treason punishable by death. The separation of powers is the very foundation of the Constitution, in fact. See:

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

- 3. They deliberately refuse to recognize that the context in which the term "United States" is used determines its meaning.
- 4. They deliberately refuse to recognize that there are THREE definitions of the term "United States" according to the U.S. Supreme Court.
- 5. They deliberately refuse to reconcile <u>which</u> of the three mutually exclusive and distinct definitions of "United States" applies in each separate context and WHY they apply based on the statutes they seek to enforce.
 - 6. They deliberately refuse to recognize or admit that the term "United States" as used in the Constitution includes states of the Union and excludes federal territory.
 - 7. They deliberately refuse to apply the rules of statutory construction to determine what is "included" within the definition of "United States" found in 26 U.S.C. §3121(e)(2). They don't want to admit that the definition is ALL inclusive and limiting, because then they couldn't collect any tax, even though it is.

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<u>TITLE 26 > Subtitle C > CHAPTER 21 > Subchapter C > § 3121</u>
§ 3121. <u>Definitions</u>
```

(e) State, United States, and citizen

For purposes of this chapter— 2 (1) State The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa. [WHERE are the states of the Union?] (2) United States The term "United States" when used in a geographical sense includes the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa. [WHERE are the states of the Union?] "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 10 of the term excludes unstated meanings of that term"); Colautti v. Franklin, 439 U.S. at 392-393, n. 10 ("As a 11 rule, `a definition which declares what a term "means" . . . excludes any meaning that is not stated""); Western 12 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 13 (1935) (Cardozo, J.); see also 2A N. Singer, Sutherland on Statutes and Statutory Construction § 47.07, p. 152, 14 and n. 10 (5th ed. 1992) (collecting cases). That is to say, the statute, read "as a whole," post at 998 [530 U.S. 15 943] (THOMAS, J., dissenting), leads the reader to a definition. That definition does not include the Attorney 16 17 General's restriction -- "the child up to the head." Its words, "substantial portion," indicate the contrary." [Stenberg v. Carhart, 530 U.S. 914 (2000)] 18 19 "It is axiomatic that the statutory definition of the term excludes unstated meanings of that term. Colautti v. Franklin, 439 U.S. 379, 392, and n. 10 (1979). Congress' use of the term "propaganda" in this statute, as indeed 20 21 in other legislation, has no pejorative connotation. As judges, it is our duty to [481 U.S. 485] construe legislation as it is written, not as it might be read by a layman, or as it might be understood by someone who has not even 22 [Meese v. Keene, 481 U.S. 465, 484 (1987)] 24 "As a rule, `a definition which declares what a term "means" . . . excludes any meaning that is not stated" 25 [Colautti v. Franklin, 439 U.S. 379 (1979), n. 10] 26 Therefore, if you are going to argue citizenship in federal court, we STRONGLY suggest the following lessons learned by 27

Therefore, if you are going to argue citizenship in federal court, we STRONGLY suggest the following lessons learned by reading the Department of Justice Criminal Tax Manual article above:

1. Include all the language contained in sections 10.11 through 11.7 in your pleadings. That language is also incorporated in the following pre-made form that you can attach to your pleadings:

<u>Rules of Presumption and Statutory Interpretation</u>, Litigation Tool #01.006 http://sedm.org/Litigation/LitIndex.htm

- 2. If someone from the government asks you whether you are a "citizen of the United States" or a "U.S. citizen":
 - 2.1. Cite the <u>three</u> definitions of the "United States" explained by the Supreme Court and then ask them to identify which of the <u>three</u> definitions of "U.S." they mean in the Table 4 earlier. Tell them they can choose ONLY one of the definitions.
 - 2.1.1. The COUNTRY "United States*".

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- 2.1.2. Federal territory and no part of any state of the Union "United States**"
- 2.1.3. States of the Union and no part of federal territory "United States***"
- 2.2. Ask them WHICH of the three types of statutory citizenship do they mean in Title 8 of the U.S. Code and tell them they can only choose ONE:
 - 2.2.1. 8 U.S.C. §1401 statutory "citizen of the United States**". Born in and domiciled on a federal territory and possession and NOT a state of the Union.
 - 2.2.2. 8 U.S.C. §1408 and 8 U.S.C. §1101(a)(22)(B) statutory "national of the United States**". Born in and domiciled in American Samoa or Swains Island.
 - 2.2.3. 8 U.S.C. §1101(a)(21) state national. Born in and domiciled in a state of the Union and not subject to federal legislative jurisdiction but only subject to political jurisdiction.
- 2.3. Hand them the following short form printed on double-sided paper and signed by you. Go to section 7 and point to the "national" status in diagram. Tell them you want this in the court record or administrative record and that they agree with it if they can't prove it wrong with evidence.

<u>Citizenship, Domicile, and Tax Status Options,</u> Form #10.003 http://sedm.org/Forms/FormIndex.htm

If you want more details on how to field questions about your citizenship, fill out government forms describing your citizenship, or rebut arguments that you are wrong about your citizenship, we recommend sections 11 through 13 of the following:

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

- If your opponent won't answer the above questions, then forcefully accuse him of engaging in TREASON by trying to 4 destroy the separation of powers that is the foundation of the United States Constitution. Tell them you won't help them 5 engage in treason or undermine the main protection for your constitutional rights, which the Supreme Court said comes 6 from the separation of powers. Then direct them at the following document that proves the existence of such TREASON. 7 Government Conspiracy to Destroy the Separation of Powers, Form #05.023 http://sedm.org/Forms/FormIndex.htm
 - 4. Every time you discuss citizenship with a government representative, emphasize the three definitions of the "United States" explained by the Supreme Court and that respecting and properly applying these definitions consistently is how we respect and preserve the separation of powers.
 - Admit to being a *constitutional* "citizen of the United States***" but <u>not</u> a <u>statutory</u> "citizen of the United States**". This will invalidate almost all the case law they cite and force them to expose their presumptions about WHICH "United States" they are trying to corn-hole you into.
 - Emphasize that the context in which the term "United States" is used determines WHICH of the *three* definitions applies and that there are two main contexts.

"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)]

- 6.1. The Constitution: states of the Union and no part of federal territory. This is the "Federal government"
- 6.2. Federal statutory law: Community property of the states that includes federal territory and possession that is no party of any state of the Union. This is the "National government".
- Emphasize that you can only be a "citizen" in ONE of the TWO unique jurisdictions above at a time because you can only have a domicile in ONE of the two places at a time. Another way of saying this is that you can only have allegiance to ONE MASTER at a time and won't serve two masters, and domicile is based on allegiance.

"domicile. A person's legal home. That place where a man has his true, fixed, and permanent home and principal establishment, and to which whenever he is absent he has the intention of returning. Smith v. Smith, 206 Pa.Super. 310, 213 A.2d. 94. Generally, physical presence within a state and the intention to make it one's home are the requisites of establishing a "domicile" therein. The permanent residence of a person or the place to which he intends to return even though he may actually reside elsewhere. A person may have more than one residence but only one domicile. The legal domicile of a person is important since it, rather than the actual residence, often controls the jurisdiction of the taxing authorities and determines where a person may exercise the privilege of voting and other legal rights and privileges. [Black's Law Dictionary, Sixth Edition, p. 485]

"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, <u>347 U.S. 340</u> (1954)]

Emphasize that it is a violation of due process of law and an injury to your rights for anyone to PRESUME anything about which definition of "United States" applies in a given context or which type of "citizen" you are. EVERYTHING must be supported with evidence as we have done here.

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

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

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Emphasize that applying the CORRECT definition is THE MOST IMPORTANT JOB of the court, as admitted by the 1 U.S. Supreme Court, in order to maintain the separation of powers between the federal zone and the states of the Union, 2 and thereby protect your rights: 3 "The idea prevails with some, indeed it has found expression in arguments at the bar, that we have in this country 4 substantially two national governments; one to be maintained under the Constitution, with all of its restrictions; the other to be maintained by Congress outside the independently of that instrument, by exercising such powers [of absolutism] as other nations of the earth are accustomed to. I take leave to say that, if the principles thus announced should ever receive the sanction of a majority of this court, a radical and mischievous change in 8 our system of government will result. We will, in that event, pass from the era of constitutional liberty guarded 9 and protected by a written constitution into an era of legislative absolutism.. It will be an evil day for American 10

the principles of the Constitution."
[Downes v. Bidwell, 182 U.S. 244 (1901)]

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10. Emphasize that anything your opponent does not rebut with evidence under penalty of perjury is admitted pursuant to Federal Rule of Civil Procedure 8(b)(6) and then serve them with a Notice of Default on the court record of what they have admitted to by their omission in denying.

liberty if the theory of a government outside the supreme law of the land finds lodgment in our constitutional

jurisprudence. No higher duty rests upon this court than to exert its full authority to prevent all violation of

- 11. Focus on WHICH "United States" is implied in the definitions within the statute being enforced.
- 12. Avoid words that are not used in statutes, such as "state citizen" or "sovereign citizen" or "natural born citizen", etc. because they aren't defined and divert attention away from the core definitions themselves.
- 13. Rationally apply the rules of statutory construction so that your opponent can't use verbicide or word tricks to wiggle out of the statutory definitions with the word "includes". See:

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

- 14. State that all the cases cited in the Criminal Tax Manual are inapposite, because:
 - 14.1. You aren't arguing whether you are a "citizen of the United States", but whether you are a STATUTORY "citizen of the United States".
 - 14.2. They don't address the distinctions between the <u>statutory</u> and <u>constitutional</u> definitions nor do they consistently apply the rules of statutory construction.
- 15. Emphasize that a refusal to stick with the legal definitions and include only what is expressly stated and not "presume" or read anything into it that isn't there is an attempt to destroy the separation of powers and engage in a conspiracy against your Constitutionally protected rights.

"Judicial 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, during Watergate hearing]

"When words lose their meaning, people will lose their liberty."

[Confucius, 500 B.C.]

The subject of citizenship is covered in much more detail in the following sources, which agree with this section:

- 1. Why You are a "national", "state national", and Constitutional but not Statutory Citizen, Form #05.006: http://sedm.org/Forms/FormIndex.htm
- 2. <u>Great IRS Hoax</u>, Form #11.302, Sections 4.12 through 4.12.19.
- 3. <u>Tax Deposition Questions</u>, Form #03.016, Section 14: http://sedm.org/Forms/FormIndex.htm

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8.2 Nonresident or "Nontaxpayer's" Arguments are "frivolous"

False Argument: Nonresident or "nontaxpayer's" arguments are "frivolous".

<u>Corrected Alternative Argument</u>: "Taxpayer's" arguments are incorrect and here are the authorities **from the law of the demonstrated (proven with evidence) domicile of the party** which demonstrate precisely why.

Further information:

- Meaning of the Word "Frivolous", Form #05.027 http://sedm.org/Forms/FormIndex.htm
- 2. <u>Non-Resident Non-Person Position</u>, Form #05.020 <u>http://sedm.org/Forms/FormIndex.htm</u>
- 3. Your Rights as a "Nontaxpayer", Form #08.008 http://sedm.org/Forms/FormIndex.htm
- 4. <u>Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction</u>, Form #05.017 http://sedm.org/Forms/FormIndex.htm
- The deliberately false presumption that a litigant is a statutory but not constitutional citizen mentioned in the previous section
- is the most frequent false argument used by government prosecutors and judges. The second most frequent FRAUDULENT
- and FALSE accusation is that a litigant's arguments are "frivolous".
- The word "frivolous" is legally defined as follows:

6	"Frivolous. ²⁶
7	[1] Of little weight or importance.
8 9	[2] A pleading is 'frivolous' when it is clearly insufficient on its face, and does not controvert the material points of the opposite pleading, and is presumably interposed for mere purpose of delay or
10	[3]to embarrass the opponent.
11	[4] A claim or defense is frivolous if a proponent can present no rational argument based upon the evidence
12	or law in support of that claim or defense. Liebowitz v. Aimexco, Inc., Colo.App. 701 P.2d. 140, 142. [5]
13	Frivolous pleadings may be amended to proper form, or ordered stricken, under federal and state Rules of Civil
14	Procedure."
15	[Black's Law Dictionary, Sixth Edition, p. 668]

To therefore accuse a litigant of making a frivolous argument is to accuse them of:

1. Being irrational.

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- 2. Making slanderous remarks about the opponent that are not based upon evidence and therefore embarrass the opponent. Remarks that ARE based upon evidence but which embarrass the opponent would clearly NOT be "frivolous", but rather simply statements of fact relevant to the case.
- 3. Not presenting legally admissible evidence upon which they base their argument. This includes presenting OPINIONS.
 - 4. Not presenting law which they are DEMONSTRABLY SUBJECT TO in defense of their argument. The way they would be subject to a law is the following:
 - 4.1. <u>Civil law</u>: They have a domicile in the territory that civil statute attaches OR, the statute pertains to specific, intentional, and CONSENSUAL commercial acts against a foreign jurisdiction which caused a waiver of sovereign immunity under the Foreign Sovereign Immunities Act, 28 U.S.C. Chapter 97.
 - 4.2. <u>Criminal law</u>: They were physically present on the territory to which the criminal statute pertains AT THE TIME of the alleged crime.

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²⁶ The definition of "frivolous" has been broken up into clauses for the purpose of a more complete analysis and breakdown its meaning.

A thorough understanding of the following is crucial in satisfying the burden of proof that an argument is indeed "frivolous":

1. An understanding of what kind of court you are in. Franchise courts can only hear disputes in which BOTH parties consent to participate in the franchise agreement. If they are not, the case must be dismissed and referred instead of a CONSTITUTIONAL rather than LEGISLATIVE FRANCHISE court. Examples of franchises include federal and state income tax, Social Security, Medicare, Vehicle Code, etc. For more details, see:

<u>Government Instituted Slavery Using Franchises</u>, Form #05.030, Section 24 http://sedm.org/Forms/FormIndex.htm

- 2. A thorough understanding of the choice of law rules described earlier in section 3.
 - 3. A thorough understanding of the rules of evidence so as to be able to identify what constitutes legal evidence and what DOES NOT.
 - 3.1. Citing a statute which is NOT "positive law" is an example of making an argument not based upon "law" or "evidence" in a strict legal sense.
 - 3.2. That which is not positive law is NOT evidence by simply a presumption and no judge or government prosecutor can turn that which is not evidence into evidence on their own. A third party is needed to convey the status of evidence to such a claim.
 - 3.3. Statutes that are not positive law are "prima facie evidence", meaning that they are simply a presumption that cannot lawfully be used as evidence. "Prima facie" means PRESUMED, and presumptions cannot legally be used either as evidence or a substitute for evidence or a means of relieving any party to a suit from the burden of proving that they are evidence.

So in order to make an accusation that a litigant's argument is indeed frivolous, the burden of proof imposed upon the accuser must satisfy the following criteria:

- 1. The statute cited is NOT "positive law". OR . . .
- 2. The alleged party is NOT consensually participating in the franchise and therefore not subject to the private law civil franchise agreement. It is a VIOLATION of due process of law to PRESUME that a person consented to the franchise agreement or that a non-consenting party can lawfully have ANY status or right attached to said status under said franchise agreement. OR. . .

"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)]

3. <u>Allegation is not evidence:</u>

- 3.1. NO evidence is presented to substantiate the allegation.
- 3.2. Allegation is a PRESUMPTION. All presumptions are violations of due process of law and cannot act as a substitute for evidence.
- 3.3. The statement of fact upon which the allegation is based is NOT signed under penalty of perjury and therefore NOT evidence. OR
- 3.4. The witness who provided the evidence is impeachable because they have a conflict of interest and are likely to be lying to benefit themself.
- 3.5. The allegation was made by counsel for the government, even if signed under penalty of perjury. Government counsel CANNOT act as fact witnesses. A third party with demonstrated authority from their delegation of authority order to act as a witness is the only person in the government who can be a fact witness..
- 4. Civil dispute. The allegation satisfies any of the following criteria and is therefore frivolous:
 - 4.1. Both parties agree on the domicile of the litigant, that domicile is within the jurisdiction of the forum, and: (OR) 4.1.1. Law from the civil domicile of the litigant was either NOT cited or cited incorrectly.
 - 4.1.2. Law from a foreign state was cited without demonstrating WHY the alleged party was subject to it.
 - 4.2. Parties do NOT agree on the domicile of the litigant AND:
 - 4.2.1. Litigant does NOT demonstrate that the alleged party has a domicile where the civil law cited applies. OR
 - 4.2.2. Litigant demonstrates that the alleged party has a domicile in the place the law cited applies, but the alleged party is STILL not subject to it.
 - 4.3. Both parties agree on the domicile of the litigant, that domicile is in a foreign state and hence the party is a "NONRESIDENT" AND:

- 4.3.1. The Longarm statute criteria are not demonstrated to apply to the alleged party OR
- 4.3.2. Even thought there was commercial activity in a foreign state, the activity was compelled or non-consensual. OR
- 4.3.3. Litigant does not cite Federal Rule of Civil Procedure 44.1 to invoke the foreign law.
- 5. <u>Criminal dispute.</u> The allegation satisfies any of the following criteria and is therefore frivolous:
 - 5.1. Litigant was not physically on the territory to which the criminal law applied AT THE TIME of the offense. OR
 - 5.2. Litigant is a wrongfully accused party and therefore the court has no jurisdiction to hear the matter and must dismiss it.

When the government (usually falsely) accuses someone of being "frivolous", typically they use one or more of the following FRAUDULENT and CRIMINAL tactics:

1. They present no evidence upon which to base their allegation because:

- 1.1. They cite statutes from a franchise agreement that are NOT positive law. For instance, the entire Internal Revenue Code is NOT "positive law", as indicated by 1 U.S.C. §204 legislative notes.
- 1.2. The allegation is made by the U.S. attorney or sometimes even a corrupt judge, without a third party fact witness, and hence it is NOT evidence.
- 1.3. They are not required by the judge to satisfy the burden of proving their allegation WITH third party evidence from someone WITHOUT a financial conflict of interest. Everyone in the I.R.S. has a criminal and financial conflict of interest under 18 U.S.C. §208 in tax matters and hence cannot and should not be allowed to be a fact witness
- 2. They make UNAUTHORIZED declaratory judgments about the status of the litigant.
 - 2.1. For instance, federal judges are PROHIBITED by 28 U.S.C. §2201(a) from declaring a litigant a statutory "taxpayer".

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)]

- 2.2. Judges cannot do INDIRECTLY what they cannot do DIRECTLY. Hence, they cannot PRESUME the litigant is a franchisee called a statutory "taxpayer".
- 2.3. The I.R.S. cannot have any more authority than the judge to declare a litigant a "taxpayer" or ACT as though they are one. This is so because they aren't even part of the government! See:

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

- 3. They deliberately and fraudulently and silently PRESUME the following and thereby kidnap the legal identify of the litigant:
 - 3.1. The party is domiciled on federal territory when in fact they are not.
 - 3.2. The party is a statutory "U.S. person" per 26 U.S.C. §7701(a)(30), which is a public office in the U.S. government domiciled on federal territory.
 - 3.3. The party is a statutory "U.S. citizen" per 8 U.S.C. §1401 even though they are not if they are domiciled in a constitutional but not statutory state of the Union. It is a CRIME to impersonate a statutory "U.S. citizen" franchisee per 18 U.S.C. §911 and hence they are co-conspirators to this crime.
 - 3.4. The term "United States" as used on all tax forms includes the constitutional states of the Union. It DOES NOT and the rules of statutory construction FORBID adding anything to the statutory meanings.
 - 3.5. They deliberately and fraudulently and silently PRESUME that the party is representing a government entity as a public officer, which office is domiciled on federal territory under Federal Rule of Civil Procedure 17(b), 26 U.S.C. §§7701(a)(39), and 7408(d).
- 4. They maliciously, knowingly, and deceptively cite case law that is irrelevant to the circumstances of the litigant because:
 - 4.1. It originates from a FOREIGN STATE against as nonresident domiciled outside the statutory but not constitutional "United States", and hence abuses case law in effect as IRRELEVANT political propaganda.

- 4.2. Is associated with someone who is NOT "similarly situated" to the litigant. For instance, the case they cite did not contain a nonresident or nonresident party who was not "purposefully and consensually availing" themselves of commerce in a foreign state, namely, the "United States".
 - 4.3. The criteria with the following were not satisfied in order to apply foreign law to a nonresident defendant:
 - 4.3.1. The Foreign Sovereign Immunities Act, 28 U.S.C. Chapter 97.
 - 4.3.2. The Longarm Statutes of the state the litigant was domiciled within.
 - 5. They deliberately and lazily refuse to satisfy the burden of showing that the alleged defendant was domiciled AND physically present on federal territory and therefore who is subject to federal civil law.
 - 6. They accept and use what they KNOW is FALSE evidence, such as RESIDENT tax returns (I.R.S. 1040), even though they know that:
 - 6.1. They cannot lawfully offer or enforce federal franchises, including a "trade or business" (26 U.S.C. §7701(a)(26)) within a constitutional but not statutory state of the Union.
 - 6.2. The party is NOT domiciled on federal territory and cannot lawfully elect themselves into public office to acquire a civil domicile on federal territory. Hence, they are aiding and abetting the CRIMINAL filing of false tax returns by refusing to challenge whether the filer is in fact and indeed domiciled on federal territory AND engaged in a public office/"trade or business" franchise.
 - 6.3. They are engaged in a conspiracy to KIDNAP the legal identity of the litigant and transport it to the plunder zone/federal zone where rights do not exist using presumption and "words of art".

The use or abuse of any of the above tactics by corrupted de facto government operating as a SHAM trust instead of a PUBLIC trust are not only "frivolous" and non-responsive to the REAL legal issues, but constitute a criminal conspiracy by both the judge and/or the government prosecutor to undermine or destroy the PRIVATE rights that are the reason for their very existence, and thereby steal them and convert them to public rights and franchises. When they use them, the best method of response is:

1. State that the de jure court has been abandoned because:

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- 1.1. It is a franchise court enforcing franchise provisions against nonresident, non-consenting, non-franchisees.
- 1.2. The court has been hijacked by those acting a private de facto, sham trust capacity for personal financial gain and that you are the only remaining party representing the court.
- 2. State that it is your duty as a compelled public officer franchisee under criminal duress to report and convict the perpetrators or else become a party to their crimes pursuant to 18 U.S.C. §§3 and 4.
- 3. Put the offending government prosecutor and/or de facto judge in default on the issue raised on the record. Enter a declaratory judgment into the record as the only remaining de jure officer of the otherwise de facto court that:
 - 3.1. All facts that they agreed to by a failure to deny pursuant to Federal Rule of Civil Procedure 8(b)(6).
 - 3.2. The parties are hereby convicted of the crimes indicated above.
 - 3.3. The Bailiff is ordered to arrest the judge.
 - 3.4. The Department of Justice is ordered to investigate and prosecute the offenders per an attached criminal complaint.
 - 3.5. The judge must recuse him/her self.
- 4. Enter a criminal complaint into the record of the proceeding listing all of the criminal acts resulting from the tactics listed above.
- 5. Enter an Order to Show Cause why the accused should NOT be convicted of the crimes indicated above.
- For further details on how to deal with false charges of being "frivolous", we recommend the following memorandum of law:

Meaning of the Word "Frivolous", Form #05.027	
http://sedm.org/Forms/FormIndex.htm	

8.3 States of the Union are NOT Legislatively "foreign" or "alien" in relation to the "national" government

<u>False Argument</u>: States of the Union are NOT legislatively "foreign" and alien in relation to the "national" government. Instead, they are domestic.

<u>Corrected Alternative Argument</u>: States of the Union are legislatively "foreign" and "alien" in relation to the national government because of the separation of powers doctrine that is the foundation of the United States Constitution. That separation of powers was put there exclusively for the protection of your sacred constitutional rights. Anyone who claims otherwise is a tyrant, a communist, and intends to commit a criminal conspiracy against your private rights.

Further information:

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- 1. Why the Federal Income Tax is Limited to Federal Territory, Possessions, Enclaves, Offices, and Other Property, Form #04.404
 - http://sedm.org/Forms/FormIndex.htm
- Government Conspiracy to Destroy the Separation of Powers, Form #05.023 http://sedm.org/Forms/FormIndex.htm
- 3. <u>Federal Jurisdiction</u>, Form #05.018 http://sedm.org/Forms/FormIndex.htm

A favorite tactic abused by covetous judges and prosecutors is to claim that the states of the Union are not legislatively "foreign" or "alien" in relation to the national government. The motivation for this FRAUD is to unlawfully and unconstitutionally expand the jurisdiction and importance of judges and bureaucrats. It is most frequently used in courts across the land and Thomas Jefferson predicted it would be attempted, when he said:

"Contrary to all correct example, [the Federal judiciary] are in the habit of going out of the question before them, to throw an anchor ahead and grapple further hold for future advances of power. They are then in fact the corps of sappers and miners, steadily working to undermine the independent rights of the States and to consolidate all power in the hands of that government in which they have so important a freehold estate." [Thomas Jefferson: Autobiography, 1821. ME 1:121] 10 11 "The [federal] judiciary branch is the instrument which, working like gravity, without intermission, is to press us at last into one consolidated mass." 12 [Thomas Jefferson to Archibald Thweat, 1821. ME 15:307] 13 14 "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." 15 [Thomas Jefferson to William Johnson, 1823. ME 15:421 16 17 "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 18 19 as venal and oppressive as the government from which we separated." [Thomas Jefferson to Charles Hammond, 1821. ME 15:332] 20

This FRAUDULENT argument also takes the following additional forms:

- 1. There is no civil legislative separation between the states of the Union and the national government.
- 2. A "citizen" or "resident" under federal law has the same meaning as that under state of the Union law.
- 3. Statutory words have the same meaning under federal law as they have under state law.
- The context in which geographical or political "words of art" are used is unimportant. For instance, there is no difference in meaning between the STATUTORY and the CONSTITUTIONAL meaning of words.

Like every other type of deception perpetrated on a legally ignorant American public, this fraudulent claim relies on a deliberate confusion about the CONTEXT in which specific geographical and political "words of art" are used. What they are doing is confusing the STATUTORY and the CONSTITUTIONAL contexts, and trying to deceive the hearer into believing the false presumption that they are equivalent.

The following subsections dissect this argument and expose it as a MASSIVE fraud upon the American public.

8.3.1 The two contexts: Constitutional v. Statutory

- The terms "foreign" and "domestic" are opposites. There are two contexts in which these terms may be used:
- 1. <u>Constitutional</u>: The U.S. Constitution is political document, and therefore this context is also sometimes called "political jurisdiction".
- 5 2. <u>Statutory</u>: Congress writes statutes or "acts of Congress" to manage property dedicated to their care. This context is also called "legislative jurisdiction" or "civil jurisdiction".
- Any discussion of the terms "foreign" and "domestic" therefore must start by identifying ONE of the two above contexts.
- 8 Any attempt to avoid discussing which context is intended should be perceived as an attempt to confuse, deceive, and enslave
- 9 you by corrupt politicians and lawyers:

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"For where envy and self-seeking exist, confusion and every evil thing are there." [James 3:16, Bible, NKJV]
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The separation of powers makes states of the Union STATUTORILY/LEGISLATIVELY FOREIGN and sovereign in relation to the national government but CONSTITUTIONALLY/POLITICALLY DOMESTIC for nearly all subject matters of legislation. Every occasion by any court or legal authority to say that the states and the federal government are not foreign relates to the CONSTITUTIONAL and not STATUTORY context. Below is an example of this phenomenon, where "sovereignty" refers to the CONSTITUTIONAL/POLITICAL context rather than the STATUTORY/LEGISLATIVE context:

"The United States is not a foreign sovereignty as regards the several states, but is a concurrent, and, within its jurisdiction, paramount sovereignty."
[Claflin v. Houseman, 93 U.S. 130, 136 (1876)]

8.3.2 Evidence in support

Thomas Jefferson, our most revered founding father, had the following to say about the relationship between the states of the Union and the national government:

The extent of our country was so great, and its former division into distinct States so established, that we thought it better to confederate [U.S. government] as to foreign affairs only. Every State retained its self-government in domestic matters, as better qualified to direct them to the good and satisfaction of their citizens, than a general government so distant from its remoter citizens and so little familiar with the local peculiarities of the different parts."

[Thomas Jefferson to A. Coray, 1823. ME 15:483]

"I believe the States can best govern our home concerns, and <u>the General Government our foreign ones.</u>" [Thomas Jefferson to William Johnson, 1823. ME 15:450]

"My general plan [for the federal government] would be, to make the States one as to everything connected with foreign nations, and several as to everything purely domestic."

[Thomas Jefferson to Edward Carrington, 1787. ME 6:227]

"Distinct States, amalgamated into one as to their foreign concerns, but single and independent as to their internal administration, regularly organized with a legislature and governor resting on the choice of the people and enlightened by a free press, can never be so fascinated by the arts of one man as to submit voluntarily to his usurpation. Nor can they be constrained to it by any force he can possess. While that may paralyze the single State in which it happens to be encamped, [the] others, spread over a country of two thousand miles diameter, rise up on every side, ready organized for deliberation by a constitutional legislature and for action by their governor, constitutionally the commander of the militia of the State, that is to say, of every man in it able to bear arms."

[Thomas Jefferson to A. L. C. Destutt de Tracy, 1811. ME 13:19]

"With respect to our State and federal governments, I do not think their relations are correctly understood by foreigners. They generally suppose the former subordinate to the latter. But this is not the case. They are coordinate departments of one simple and integral whole. To the State governments are reserved all legislative and administration, in affairs which concern their own citizens only, and to the federal government is given whatever concerns foreigners, or the citizens of the other States; these functions alone being made federal. The one is domestic, the other the foreign branch of the same government; neither having control over the other, but within its own department."

subsistence, or of a reasonable per diem allowance in lieu of subsistence. The judge shall report to the

Administrative Office of the United States Courts any amount received pursuant to this subsection

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1	Definitions from Black's Law Dictionary:
2	Foreign States: "Nations outside of the United StatesTerm may also refer to another state; i.e. a sister state.
3	The term 'foreign nations',should be construed to mean all nations and states other than that in which the
4	action is brought; and hence, one state of the Union is foreign to another, in that sense."
5	[Black's Law Dictionary, Sixth Edition, p. 648]
6 7	Foreign Laws: "The laws of a foreign country or sister state." [Black's Law Dictionary, Sixth Edition, p. 647]
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8	<u>Dual citizenship.</u> Citizenship in two different Countries . Status of citizens of United States who reside
9	within a state; i.e., person who are born or naturalized in the U.S. are citizens of the U.S. and the state wherein
10	they reside.
11	[Black's Law Dictionary, Sixth Edition, p. 498]
12	The legal encyclopedia Corpus Juris Secundum says on this subject:
13	"Generally, the states of the Union sustain toward each other the relationship of independent sovereigns or
14	independent foreign states, except in so far as the United States is paramount as the dominating government, and
15	in so far as the states are bound to recognize the fraternity among sovereignties established by the federal
16	Constitution, as by the provision requiring each state to give full faith and credit to the public acts, records, and
17	judicial proceedings of the other states"
18	[81A Corpus Juris Secundum (C.J.S.), United States, §29 (2003), legal encyclopedia]
19	The phrase "except in so far as the United States is paramount" refers to subject matters delegated to the national government
20	under the United States Constitution. For all such subject matters ONLY, "acts of Congress" are NOT foreign and therefore
21	are regarded as "domestic". All such subject matters are summarized below. Every other subject matter is legislatively
22	"foreign" and therefore "alien":
23	1. Excise taxes upon imports from foreign countries. See Article 1, Section 8, Clause 1 of the U.S. Constitution. Congress
24	may NOT, however, tax any article exported from a state pursuant to Article 1, Section 9, Clause 5 of the Constitution.
25	Other than these subject matters, NO national taxes are authorized:
26	"The States, after they formed the Union, continued to have the same range of taxing power which they had
27	before, barring only duties affecting exports, imports, and on tonnage. 2 Congress, on the other hand, to lay
28	taxes in order 'to pay the Debts and provide for the common Defence and general Welfare of the United States',
29	Art. 1, Sec. 8, U.S.C.A.Const., can reach every person and every dollar in the land with due regard to Constitutional limitations as to the method of laying taxes."
30 31	[Graves v. People of State of New York, <u>306 U.S. 466</u> (1939)]
32	[Graves v. 1 etopic by State by Ivew Tork, <u>500 b.s. 400</u> (1757)]
33	"The difficulties arising out of our dual form of government and the opportunities for differing opinions
34	concerning the relative rights of state and national governments are many; but for a very long time this court
35	has steadfastly adhered to the doctrine that the taxing power of Congress does not extend to the states or their
36	political subdivisions. The same basic reasoning which leads to that conclusion, we think, requires like limitation
37	upon the power which springs from the bankruptcy clause. United States v. Butler, supra."
38	[Ashton v. Cameron County Water Improvement District No. 1, 298 U.S. 513; 56 S.Ct. 892 (1936)]
39	
40	"Thus, Congress having power to regulate commerce with foreign nations, and among the several States, and
41	with the Indian tribes, may, without doubt, provide for granting coasting licenses, licenses to pilots, licenses to
42	trade with the Indians, and any other licenses necessary or proper for the exercise of that great and extensive
43	power; and the same observation is applicable to every other power of Congress, to the exercise of which the
44	granting of licenses may be incident. All such licenses confer authority, and give rights to the licensee.
45	But very different considerations apply to the internal commerce or domestic trade of the States. Over this
46	commerce and trade Congress has no power of regulation nor any direct control. This power belongs exclusively
47	to the States. No interference by Congress with the business of citizens transacted within a State is warranted
48	by the Constitution, except such as is strictly incidental to the exercise of powers clearly granted to the
49	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."

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

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

[Clyatt v. U.S., 197 U.S. 207 (1905)]

The Courts also agree with this interpretation:

 "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)]

"The States between each other are sovereign and independent. They are distinct and separate sovereignties, except so far as they have parted with some of the attributes of sovereignty by the Constitution. They continue to be nations, with all their rights, and under all their national obligations, and with all the rights of nations in every particular; except in the surrender by each to the common purposes and objects of the Union, under the Constitution. The rights of each State, when not so yielded up, remain absolute."

[Bank of Augusta v. Earle, 38 U.S. (13 Pet.) 519, 10 L.Ed. 274 (1839)]

"In determining the boundaries of apparently conflicting powers between states and the general government, the proper question is, not so much what has been, in terms, reserved to the states, as what has been, expressly or by necessary implication, granted by the people to the national government; for each state possess all the powers of an independent and sovereign nation, except so far as they have been ceded away by the constitution. The federal government is but a creature of the people of the states, and, like an agent appointed for definite and specific purposes, must show an express or necessarily implied authority in the charter of its appointment, to give validity to its acts."

[People ex re. Atty. Gen. V. Naglee, 1 Cal. 234 (1850)]

The motivation behind this distinct separation of powers between the state and federal government was described by the Supreme Court. Its ONLY purpose for existence is to protect our precious liberties and freedoms. Hence, anyone who tries to confuse the CONSTITUTIONAL and STATUTORY contexts for legal terms is trying to STEAL your 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

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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)]
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We therefore have no choice to conclude, based on the definitions above that the sovereign 50 Union states of the United States of America are considered legislatively but not constitutionally "foreign states", which means they are outside the legislative jurisdiction of the federal courts in most cases. This conclusion is the inescapable result of the fact that the Tenth Amendment to the U.S. Constitution reserves what is called "police powers" to the states and these police powers include most criminal laws and every aspect of public health, morals, and welfare. There are exceptions to this general rule, but most of these exceptions occur when the parties involved reside in two different "foreign states" or in a territory (referred to as a "State") of the federal United States and wish to voluntarily grant the federal courts jurisdiction over their issues to simplify the litigation. The other interesting outcome of the above analysis is that We the People are "instrumentalities" of those foreign states, because we fit the description above as:

1. A separate legal person.

- 2. An organ of the foreign state, because we:
 - 2.1. Fund and sustain its operations with our taxes.
 - 2.2. Select and oversee its officers with our votes.
 - 2.3. Change its laws through the political process, including petitions and referendums.
 - 2.4. Control and limit its power with our jury and grand jury service.
 - 2.5. Protect its operation with our military service.

The people govern themselves through their elected agents, who are called public <u>servants</u>. Without the involvement of <u>every citizen</u> of every "foreign state" in the above process of self-government, the state governments would disintegrate and cease to exist, based on the way our system is structured now. The people, are the sovereigns, according to the Supreme Court: Juilliard v. Greenman, 110 U.S. 421 (1884); Perry v. U.S., 294 U.S. 330 (1935); Yick Wo v. Hopkins, 118 U.S. 356 (1886). Because the people are the sovereigns, then the government is there to <u>serve</u> them and without people to serve, then we wouldn't <u>need</u> a government! How much more of an "instrumentality" can you be as a natural person of the body politic of your state? We refer you back to section 4.1 to reread that section to find out just how very important a role you play in your state government. By the way, here is the definition of "instrumentality" right from Black's Law Dictionary, Sixth Edition, page 801:

Instrumentality: Something by which an end is achieved; a means, medium, agency. Perkins v. State, 61 Wis.2d 341, 212 N.W.2d. 141, 146.
[Black's Law Dictionary, Sixth Edition, p. 801]

Another section in that same Chapter 97 above says these foreign states have judicial immunity:

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TITLE 28 > PART IV > CHAPTER 97 > Sec. 1602.
Sec. 1602. - Findings and declaration of purpose
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The Congress finds that the determination by United States courts of the claims of foreign states to immunity from the jurisdiction of such courts would serve the interests of justice and would protect the rights of both foreign states and litigants in United States courts. Under international law, states are not immune from the jurisdiction of foreign courts insofar as their commercial activities are concerned, and their commercial property may be levied upon for the satisfaction of judgments rendered against them in connection with their commercial activities. Claims of foreign states to immunity should henceforth be decided by courts of the United States and of the States in conformity with the principles set forth in this chapter

8.3.3 Comity Clause in the Constitution removes the disabilities of "alienage"

Those domiciled within constitutional states of the Union are statutory "aliens" in relation both to every other state and in relation to the federal government. The following book on state citizenship proves this:



It is provided by the Federal Constitution²⁷ that: "The citizens of each State shall be entitled to all privileges and 2 immunities of citizens in the several States." This clause [Article 4, Section 2, Clause 1 of the United States Constitution] (hereafter called for the sake of 3 convenience the Comity Cause 28), it was said by Alexander Hamilton, may be esteemed the basis of the Union. 4 Its object and effect are outlined in Paul v. Virginia³⁰ in the following words: 5 It was undoubtedly the object of the clause in question to place the citizens of each State upon the same footing with citizens of other States, so far as the advantages resulting from citizenship in those States are concerned. It 8 relieves them from the disabilities of alienage in other States; it inhibits discriminating legislation against them by other States; It gives them the right of free ingress into other States and egress from them. It insures to them 9 10 in other States the same freedom possessed by the citizens of those States in the acquisition and enjoyment of property and in the pursuit of happiness; and it secures to them in other States the equal protection of the laws. 11 12 It has been justly said that no provision in the Constitution has tended so strongly to constitute the citizens of the United States one people as this. Indeed, without some provision of the kind removing from the citizens of 13 each State the disabilities of alienage in the other States, the Republic would have constituted little more than 14 a league of States; it would not have constituted the Union which now exists. 15 The words "privileges" and "immunities," like the greater part of the legal phraseology of this country, have been 16 carried over from the law of Great Britain, and recur constantly either as such or in equivalent expressions from 17 the time of Magna Charta. For all practical purposes they are synonymous in meaning, and originally signified 18 a peculiar right or private law conceded to particular persons or places whereby a certain individual or class of 19 individuals was exempted from the rigor of the common law. Privilege or immunity is conferred upon any person 20 when he is invested with a legal claim to the exercise of special or peculiar rights, authorizing him to enjoy some 21 particular advantage or exemption.31 22 The Comity Clause, as is indicated by the quotation from Paul v. Virginia, was primarily intended to remove the 23 disabilities of alienage from the citizens of every State while passing through or doing business in any of the several States. But even without this removal of disability, the citizens of the several States would have been 25 entitled to an enjoyment of the privileges and immunities accorded to alien friends; and these were by no means 26 27 inconsiderable at the English law. In the early period of English history practically the only class of aliens of any importance were the foreign merchants and traders. To them the law of the land afforded no protection; for 28 29 the privilege of trading and for the safety of life and limb they were entirely dependent on the royal favor, the control of commerce being a royal prerogative, hampered by no law or custom as far as concerned foreign 30 31 merchants. These could not come into or leave the country, or go from one place to another, or settle in any town 32 for purposes of trading, or buy and sell, except upon the payment of heavy tolls to the king. This state of affairs was changed by Magna Charta, chapter forty-one. . . 33 [The Privileges and Immunities of State Citizenship, Roger Howell, PhD, 1918, pp. 9-10; 34 SOURCE: http://famguardian.org/Publications/ThePrivAndImmOfStateCit/The privileges and immunities of state c.pdf] 35

NOTE the following VERY important facts which arise from the above:

- 1. They refer to franchise "privileges and immunities" as "private law", meaning obligatory ONLY upon those who contract with the government individually BY CONSENT.
- 2. They indicate that those who avail themselves of franchise "privileges" FORFEIT the protections of the common law. In other words, their "employment agreement", codified in the franchise, REPLACES the equality and equal protection they started with under the common law and the Constitution and REPLACES equal protection with PRIVILEGE and inferiority in relation to the government grantor of the statutory franchise.
- 3. Citizens, meaning those domiciled WITHIN one state, are STATUTORY "aliens" in relation to every other state of the Union.
- 4. "Alienage" is a product of DOMICILE and not NATIONALITY, because every citizen of every state shares United States* NATIONALITY.
- 5. The ALIENAGE is a STATUTORY relationship tied to domicile and NOT a CONSTITUTIONAL alienage tied to nationality.
- 6. The Comity clause **removes** the **DISABILITIES OF ALIENAGE** but NOT STATUTORY ALIENAGE itself.

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²⁸ Willoughby, Constitutional Law, vol. I, p. 213.

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²⁷ Art. 4, sec. 2, cl. I.

²⁹ The Federalist, No. LXXX.

^{30 8} Wall. 168, 19 L.Ed. 357.

³¹ See Magill v. Browne, Fed.Cas. No. 8952, 16 Fed.Cas. 408; 6 Words and Phrases, 5583, 5584; A J. Lien, "Privileges and Immunities of Citizens of the United States," in Columbia University Studies in History, Economics, and Public Law, vol. 54, p. 31.

- 7. There IS no "comity clause" that limits the FEDERAL government in relation to federal territories. Hence, state citizens are ALSO STATUTORY aliens in relation to these areas and may LAWFULLY be discriminated against by the NATIONAL government. In fact they ARE in the Internal Revenue Code, because:
 - 7.1. They are STATUTORY "non-resident NON-persons" instead of STATUTORY "U.S. citizens" per 26 U.S.C. §3121(e). If they are consensually physically or legally present on federal territory, their status changes to "nonresident alien NON-person". If they occupy a public office, they then become "nonresident alien individuals" while on official duty.
 - 7.2. They pay a FLAT 30% rate per 26 U.S.C. §871(a) instead of a reduced GRADUATED rate found in 26 U.S.C. §1.

https://www.law.cornell.edu/uscode/text/26/871

- 8. All "individuals" in the I.R.C. are statutory "aliens". See 26 C.F.R. §1.1441-1(c)(3), which therefore implies state or foreign domiciled parties. The only exception is found in 26 U.S.C. §911(d), in which STATUTORY "citizens of the United States**" are temporarily abroad and domiciled in the Statutory "United States**".
- 9. The "individual" identified at the top of the 1040 form as "U.S. individual" is a STATUTORY ALIEN, even if he has United States* nationality and is a STATUTORY "national" per 8 U.S.C. §1101(a)(21).
- The conclusions above are COMPLETELY CONSISTENT with the following resources, which identify state domiciled parties as STATUTORY "non-resident NON-persons" in relation to the national government:
 - 1. Why You are a "national", "state national", and Constitutional but not Statutory Citizen, Form #05.006 http://sedm.org/Forms/FormIndex.htm
- http://sedm.org/Forms/FormIndex.htm

 20 2. Citizenship Status v. Tax Status, Form #10.011
 http://sedm.org/Forms/FormIndex.htm
- 22 3. <u>Citizenship Diagrams</u>, Form #10.010 http://sedm.org/Forms/FormIndex.htm

8.3.4 Rebutted arguments against our position

A favorite tactic of members of the legal profession in arguing against the conclusions of this section is to cite the following U.S. Supreme Court cites and then to say that the federal and state government enjoy concurrent jurisdiction within states of the Union.

"The laws of the United States are laws in the several States, and just as much binding on the citizens and courts thereof as the State laws are. The United States is not a foreign sovereignty as regards the several States, but is a concurrent, and, within its jurisdiction, paramount sovereignty. Every citizen of a State is a subject of two distinct sovereignties, having concurrent jurisdiction in the State,-concurrent as to place and persons, though distinct as to subject-matter."
[Claflin v. Houseman, 93 U.S. 130, 136 (1876)]

"And the powers of the General Government, and of the State, although both exist and are exercised within the same territorial limits, are yet separate and distinct sovereignties, acting separately and independently of each other, within their respective spheres."
[Ableman v. Booth, 62 U.S. 506, 516 (1858)]

The issue raised above relates to the concept of what we call "dual sovereignty". Can <u>two</u> entities be <u>simultaneously</u> sovereign over a <u>single</u> geographic region and the same subject matter? Let's investigate this intriguing matter further, keeping in mind that such controversies result from a fundamental misunderstanding of what "sovereignty" really means.

We allege and a book on Constitutional government also alleges that it is a <u>legal impossibility</u> for two sovereign bodies to enjoy concurrent jurisdiction over the same subject, and especially when it comes to jurisdiction to tax.

"§79. This sovereignty pertains to the people of the United States as national citizens only, and not as citizens of any other government. 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]

What detractors are trying to do is deceive you, because they are confusing federal "States" described in federal statutes with states of the Union mentioned in the Constitution. These two types of entities are mutually exclusive and "foreign" with respect to each other.

"The earliest case is that of Hepburn v. Ellzey, 2 Cranch, 445, 2 L.Ed. 332, in which this court held that, under that clause of the Constitution limiting the jurisdiction of the courts of the United States to controversies between citizens of different states, a citizen of the District of Columbia could not maintain an action in the circuit court of the United States. It was argued that the word 'state.' in that connection, was used simply to denote a distinct political society. 'But,' said the Chief Justice, 'as the act of Congress obviously used the word 'state' in reference to that term as used in the Constitution, it becomes necessary to inquire whether Columbia is a state in the sense of that instrument. The result of that examination is a conviction that the members of the American confederacy only are the states contemplated in the Constitution , . . . and excludes from the term the signification attached to it by writers on the law of nations.' This case was followed in Barney v. Baltimore, 6 Wall. 280, 18 L.Ed. 825, and quite recently in Hooe v. Jamieson, 166 U.S. 395, 41 L.Ed. 1049, 17 Sup.Ct.Rep. 596. The same rule was applied to citizens of territories in New Orleans v. Winter, 1 Wheat. 91, 4 L.Ed. 44, in which an attempt was made to distinguish a territory from the District of Columbia. But it was said that 'neither of them is a state in the sense in which that term is used in the Constitution.' In Scott v. Jones, 5 How. 343, 12 L.Ed. 181, and in Miners' Bank v. Iowa ex rel. District Prosecuting Attorney, 12 How. 1, 13 L.Ed. 867, it was held that under the judiciary act, permitting writs of error to the supreme court of a state in cases where the validity of a state statute is drawn in question, an act of a territorial legislature was not within the contemplation of Congress." [Downes v. Bidwell, <u>182 U.S. 244</u> (1901)]

The definition of "State" for the purposes of federal income taxes confirms that states of the Union are NOT included within the definitions used in the Internal Revenue Code, and that only federal territories are. This is no accident, but proof that there really is a separation of powers and of legislative jurisdiction between states of the Union and the Federal government:

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TITLE 4 - FLAG AND SEAL, SEAT OF GOVERNMENT, AND THE STATES
24
                               CHAPTER 4 - THE STATES
25
                               Sec. 110. Same; definitions
26
27
                               (d) The term "State" includes any <u>Territory</u> or possession of the United States.
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                               \underline{TITLE\ 26} > \underline{Subtitle\ F} > \underline{CHAPTER\ 79} > \S\ 7701
30
                               § 7701. Definitions
31
                               (a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent
32
33
                               thereof-
                               (10)State
34
                               The term "State" shall be construed to include the District of Columbia, where such construction is necessary to
35
                               carry out provisions of this title.
36
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We like to think of the word "sovereignty" in the context of government as the combination of "exclusive authority" with "exclusive responsibility". The Constitution in effect very clearly divides *authority* and *responsibility* for specific matters between the states and federal government based on the specific subject matter, and ensures that the functions of each will never overlap or conflict. It delegates certain powers to each of the two sovereigns and keeps the two sovereigns from competing with each other so that public peace, tranquility, security, and political harmony have the most ideal environment in which to flourish.

If we therefore examine the Constitution and the Supreme court cases interpreting it, we find that the complex division of authority that it makes between the states and the federal government accomplishes the following objectives:

1. <u>Delegates primarily **internal** matters to the states</u>. These matters involve mainly public health, morals, and welfare and require exclusive legislative authority within the state.

"While the states are not sovereign in the true sense of that term, but only quasi sovereign, yet in respect of all powers reserved to them they are supreme-'as independent of the general government as that government within its sphere is independent of the States.' The Collector v. Day, 11 Wall. 113, 124. And since every addition to the national legislative power to some extent detracts from or invades the power of the states, it is of vital moment that, in order to preserve the fixed balance intended by the Constitution, the powers of the general government [298 U.S. 238, 295] be not so extended as to embrace any not within the express terms of the several grants or the implications necessarily to be drawn therefrom. It is no longer open to question that the general

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"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)]

"The grant of the power to lay and collect taxes is, like the power to regulate commerce, made in general terms, and has never been understood to interfere with the exercise of the same power by the State; and hence has been drawn an argument which has been applied to the question under consideration. But the two grants are not, it is conceived, similar in their terms or their nature. Although many of the powers formerly [22 U.S. 1, 199] exercised by the States, are transferred to the government of the Union, yet the State governments remain, and constitute a most important part of our system. The power of taxation is indispensable to their existence, and is a power which, in its own nature, is capable of residing in, and being exercised by, different authorities at the same time. We are accustomed to see it placed, for different purposes, in different hands. Taxation is the simple operation of taking small portions from a perpetually accumulating mass, susceptible of almost infinite division; and a power in one to take what is necessary for certain purposes, is not, in its nature, incompatible with a power in another to take what is necessary for other purposes. Congress is authorized to lay and collect taxes, and to pay the debts, and provide for the common defence and general welfare of the United States. This does not interfere with the power of the States to tax [internally] for the support of their own governments; nor is the exercise of that power by the States [to tax INTERNALLY], an exercise of any portion of the power that is granted to the United States [to tax EXTERNALLY]. In imposing taxes for State purposes, they are not doing what Congress is empowered to do. Congress is not empowered to tax for those purposes which are within the

exclusive province of the States. When, then, each government exercises the power of taxation, neither is exercising the power of the other. But,

when a State proceeds to regulate commerce with foreign nations, or among the several States, it is exercising the very power that is granted to Congress, [22 U.S. 1, 200] and is doing the very thing which Congress is authorized to do. There is no analogy, then, between the power of taxation and the power of regulating commerce. "

[Gibbons v. Ogden, <u>22 U.S. 21</u> (1824)]

"In Slaughter-house Cases, 16 Wall. 62, it was said that the police power is, from its nature, incapable of any exact definition or limitation; and in Stone v. Mississippi, 101 U.S. 818, that it is 'easier to determine whether particular cases come within the general scope of the power than to give an abstract definition of the power itself, which will be in all respects accurate.' That there is a power, sometimes called the police power, which has never been surrendered by the states, in virtue of which they may, within certain limits, control everything within their respective territories, and upon the proper exercise of which, under some circumstances, may depend the public health, the public morals, or the public safety, is conceded in all the cases. Gibbons v. Ogden, 9 Wheat. 203. In its broadest sense, as sometimes defined, it includes all legislation and almost every function of civil government. Barbier v. Connolly, 113 U.S. 31; S. C. 5 Sup.Ct.Rep. 357. [...] Definitions of the police power must, however, be taken subject to the condition that the state cannot, in its exercise, for any purpose whatever, encroach upon the powers of the general [federal] government, or rights granted or secured by the supreme law of the land.

"Illustrations of interference with the rightful authority of the general government by state legislation-which was defended upon the ground that it was enacted under the police power-are found in cases where enactments concerning the introduction of foreign paupers, convicts, and diseased persons were held to be unconstitutional as conflicting, by their necessary operation and effect, with the paramount authority of congress to regulate commerce with foreign nations, and among the several states. In Henderson v. Mayor of New York, 92 U.S. 263, the court, speaking by Mr. Justice MILLER, while declining to decide whether in the absence of congressional action the states can, or how far they may, by appropriate legislation protect themselves against actual paupers, vagrants, criminals, [115 U.S. 650, 662] and diseased persons, arriving from foreign countries, said, that no definition of the police power, and 'no urgency for its use, can authorize a state to exercise it in regard to a subject-matter which has been confided exclusively to the discretion of congress by the constitution.' Chy Lung v. Freeman, 92 U.S. 276. And in Railroad Co. v. Husen, 95 U.S. 474 Mr. Justice STRONG, delivering the oninion of

v. Husen, 95 U.S. 474, Mr. Justice STRONG, delivering the opinion of the court, said that 'the police power of a state cannot obstruct foreign commerce or interstate commerce beyond the necessity for its exercise; and, under color of it, objects not within its scope cannot be secured at the expense of the protection afforded by the federal constitution."

[New Orleans Gas Company v. Louisiana Light Company, 115 U.S. 650 (1885)]

And the Federalist Paper # 45 confirms this view in regards to taxation:

"It is true, that the Confederacy is to possess, and may exercise, the power of collecting internal as well as external taxes throughout the States; but it is probable that this power will not be resorted to, except for supplemental purposes of revenue; that an option will then be given to the States to supply their quotas by previous collections of their own; and that the eventual collection, under the immediate authority of the Union, will generally be made by the officers, and according to the rules, appointed by the several States. Indeed it is extremely probable, that in other instances, particularly in the organization of the judicial power, the officers of the States will be clothed with the correspondent authority of the Union."

"Should it happen, however, that separate collectors of internal revenue should be appointed under the federal government, the influence of the whole number would not bear a comparison with that of the multitude of State officers in the opposite scale."

"Within every district to which a federal collector would be allotted, there would not be less than thirty or forty, or even more, officers of different descriptions, and many of them persons of character and weight, whose influence would lie on the side of the State. The 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 former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce; with which last the power of taxation will, for the most part, be connected. The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State. The operations of the federal government will be most extensive and important in times of war and danger; those of the State governments, in times of peace and security. As the former periods will probably bear a small proportion to the latter, the State governments will here enjoy another advantage over the federal government. The more adequate, indeed, the federal powers may be rendered to the national defense, the less frequent will be those scenes of danger which might favor their ascendancy over the governments of the particular States." [Federalist Paper No. 45 (Jan. 1788), James Madison]

The introduction of the Sixteenth Amendment did not change <u>any</u> of the above, because Subtitle A income taxes only apply to persons domiciled within the <u>federal</u> United States, or *federal zone*, including persons temporarily abroad per 26 U.S.C. §911. Even the Supreme Court agreed in the case of *Stanton v. Baltic Mining* that the Sixteenth Amendment "conferred no new powers of taxation", and they wouldn't have said it and repeated it if they didn't mean it. Whether or not the Sixteenth Amendment was properly ratified is inconsequential and a nullity, because of the limited applicability of Subtitle A of the Internal Revenue Code primarily to persons domiciled in the federal zone no matter where resident. The Sixteenth Amendment authorized that:

Sixteenth Amendment

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

And in fact, the above described amendment is *exactly* what an income tax under Subtitle A that only operates against persons domiciled within the federal zone does: collect taxes on incomes *without* apportionment. Furthermore, because the federal zone is not protected by the Constitution or the Bill of Rights (see *Downes v. Bidwell*, 182 U.S. 244 (1901)), then there can be no violation of constitutional rights from the enforcement of the I.R.C. there. As a matter of fact, since due process of law is a requirement only of the Bill of Rights, and the Bill of Rights doesn't apply in the federal zone, then technically, Congress doesn't even need a *law* to legitimately collect taxes in these areas! The federal zone, recall, is a totalitarian socialist democracy, not a republic, and the legislature and the courts can do *anything* they like there without violating the Bill of Rights or our Constitutional rights.

With all the above in mind, let's return to the original Supreme Court cites we referred to at the beginning of the section. The Constitution and the Bill of Rights, which are the "laws" of the United States, apply equally to both the union states AND the federal government, as the cites explain. That is why either state or federal officers both have to take an oath to support and defend the Constitution before they take office. However, the <u>statutes</u> or legislation passed by Congress, which are called "<u>Acts of Congress</u>" have much more limited jurisdiction inside the Union states, and in most cases, <u>do not apply at all</u>. For example:

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1 2	<u>TITLE 18</u> > <u>PART III</u> > <u>CHAPTER 301</u> > Sec. 4001. <u>Sec. 4001 Limitation on detention; control of prisons</u>
3 4	(a) No citizen shall be imprisoned or otherwise detained by the United States except pursuant to an <u>Act of Congress</u> .
5 6 7	The reason for the above is because the federal government has no police powers inside the states because these are reserved by the Tenth Amendment to the state governments. Likewise, the feds have no territorial jurisdiction for most subject matters inside the states either. See <i>U.S. v. Bevans</i> , 16 U.S. 336 (1818).
8	Now if we look at the meaning of "Act of Congress", we find such a definition in Rule 54(c) of the Federal Rules of Criminal Procedure prior to Dec. 2002, wherein is defined "Act of Congress." Rule 54(c) states:
10	Federal Rule of Civil Procedure 54(c), prior to Dec. 2002
11 12	"Act of Congress" includes any act of Congress locally applicable to and in force in the District of Columbia, in Puerto Rico, in a territory or in an insular possession."
13 14 15 16 17 18	Keep in mind, the Internal Revenue Code is an "Act of Congress." The reason such "Acts of Congress" cannot apply within the sovereign states is because the federal government lacks what is called "police powers" inside the union states, and the Internal Revenue Code requires police powers to implement and enforce. THEREFORE, THE QUESTION IS, ON WHICH OF THE FOUR LOCATIONS NAMED IN RULE 54(c) IS THE UNITED STATES DISTRICT COURT ASSERTING JURISDICTION WHEN THE U.S. ATTORNEY HAULS YOUR ASS IN COURT ON AN INCOME TAX CRIME? Hint, everyone knows what and where the District of Columbia is, and everyone knows where Puerto Rico is, and territories and insular possessions are defined in Title 48 United States Code , happy hunting!
20 21 22	The preceding discussion within this section is also confirmed by the content of <u>4 U.S.C. §72</u> . Subtitle A is primarily a "privilege" tax upon a "trade or business". A "trade or business" is defined in <u>26 U.S.C. §7701(a)(26)</u> as "the functions of a public office":
23 24	<u>TITLE 26 > Subtitle F</u> > <u>CHAPTER 79</u> > § 7701 <u>§ 7701. Definitions</u>
25 26	(a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof—
27	(26) Trade or business
28	"The term 'trade or business' includes the performance of the functions of a public office."
29 30	Title 4 of the U.S. Code then says that all "public offices" MUST exist ONLY in the District of Columbia and no place else, except as expressly provided by law:
31 32	**TITLE 4 > CHAPTER 3 > \$ 72 § 72. Public offices; at seat of Government
33 34	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.
35 36 37 38	If the we then search all the titles of the U.S. Code electronically, we find only <u>one</u> instance where "public offices" are "expressly provided" by law to a place other than the seat of government in connection with the Internal Revenue Code. That reference is found in <u>48 U.S.C. §1612</u> , which expressly provides that public offices for the U.S. Attorney are extended to the Virgin Islands to enforce the provisions of the Internal Revenue Code.
39 40 41 42	Moving on, we find in <u>26 U.S.C. §7601</u> that the IRS has enforcement authority for the Internal Revenue Code only within what is called "internal revenue districts". <u>26 U.S.C. §7621</u> authorizes the President to establish these districts. Under <u>Executive Order 10289</u> , the President delegated the authority to define these districts to the Secretary of the Treasury in 1952. We then search the Treasury Department website for Treasury Orders documenting the establishment of these internal

revenue districts:

http://www.ustreas.gov/regs/

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- The only orders documenting the existence of "internal revenue districts" is Treasury Orders 150-01 and 150-02. Treasury 2 Order 150-01 established internal revenue districts that included federal land within states of the Union, but it was repealed in 1998 as an aftermath of the IRS Restructuring and Reform Act and replaced with Treasury Order 150-02. Treasury Order 150-02 used to say that all IRS administration must be conducted in the District of Columbia. Therefore, pursuant to 26 U.S.C. §7601, the IRS is only authorized to enforce the I.R.C. within the District of Columbia, which is the only remaining internal revenue district. That treasury order was eventually repealed but there is still only one remaining internal revenue
- district in the District of Columbia. This leads us full circle right back to our initial premise, which is:
 - 1. The definition of the term "United States" found in 26 U.S.C. §7701(a)(9) and (a)(10) and 4 U.S.C. §110(d), which is defined as the federal zone, means what it says and says what it means.
 - 2. Subtitle A of the Internal Revenue Code may only be enforced within the only remaining internal revenue district, which is the District of Columbia.
 - There is no provision of law which "expressly extends" the enforcement of the Internal Revenue Code to any land under exclusive state jurisdiction.
 - The Separation of Powers Doctrine therefore does not allow anyone in a state of the Union to partake of the federal "privilege" known as a "trade or business", which is the main subject of tax under Internal Revenue Code, Subtitle A This must be so because it involves a public office and all public offices must exist ONLY in the District of Columbia.
 - The only source of federal jurisdiction to tax is foreign commerce because the Constitution does not authorize any other type of tax internal to a state of the Union other than a direct, apportioned tax. Since the I.R.C. Subtitle A tax is not apportioned and since it is upon a privileged "trade or business" activity, then it is indirect and therefore need not be apportioned.
 - Q.E.D.-Quod Erod Demonstrandum (proven beyond a shadow of a doubt)
 - We will now provide an all-inclusive list of subject matters for which the federal government definitely does have jurisdiction within a state, and the Constitutional origin of that power. For all subjects of federal legislation other than these, the states of the Union and the federal government are FOREIGN COUNTRIES and FOREIGN STATES with respect to each other:
- 1. Foreign commerce pursuant to Article 1, Section 8, Clause 3 of the United States Constitution. This jurisdiction is 26 described within 9 U.S.C. §1 et seq. 27
- 2. Counterfeiting pursuant to Article 1, Section 8, Clause 5 of the United States Constitution. 28
 - Postal matters pursuant to Article 1, Section 8, Clause 7 of the United States Constitution.
- Treason pursuant to Article 4, Section 2, Clause 2 of the United States Constitution. 30
- Federal contracts, franchises, and property pursuant to Article 4, Section 3, Clause 2 of the United States Constitution. 31 This includes federal employment, which is a type of contract or franchise, wherever conducted, including in a state of 32 the Union. 33

In relation to that last item above, which is federal contracts and franchises, Subtitle A of the Internal Revenue Code fits into that category, because it is a franchise and not a "tax", which relates primarily to federal employment and contracts. The alleged "tax" in fact is a kickback scheme that can only lawfully affect federal contractors and employers, but not private persons. Those who are party to this contract or franchise are called "effectively connected with a trade or business". Saying a person is "effectively connected" really means that they consented to the contract explicitly in writing or implicitly by their conduct. To enforce the "trade or business" franchise as a contract in a place where the federal government has no territorial jurisdiction requires informed, voluntary consent in some form from the party who is the object of the enforcement of the contract. The courts call this kind of consent "comity". To wit:

> "Judge Story, in his treatise on the Conflicts of Laws, lays down, as the basis upon which all reasonings on the law of comity must necessarily rest, the following maxims: First 'that every nation possesses an exclusive sovereignty and jurisdiction within its own territory'; secondly, 'that no state or nation can by its laws directly affect or bind property out of its own territory, or bind persons not resident therein, whether they are natural born subjects or others.' The learned judge then adds: 'From these two maxims or propositions there follows a third, and that is that whatever force and obligation the laws of one country have in another depend solely upon the laws and municipal regulation of the latter; that is to say, upon its own proper jurisdiction and polity, and upon its own express or tacit consent." Story on Conflict of Laws §23." [Baltimore & Ohio Railroad Co. v. Chambers, 73 Ohio.St. 16., 76 N.E. 91, 11 L.R.A., N.S., 1012 (1905)]

When the federal government wishes to enforce one of its contracts or franchises in a place where it has no territorial jurisdiction, such as in China, it would need to litigate in the courts in China just like a private person. However, if the contract is within a state of the Union, the Separation of Powers Doctrine requires that all "federal questions", including federal contracts, which are "property" of the United States, must be litigated in a federal court. This requirement was eloquently explained by the U.S. Supreme Court in *Alden v. Maine*, 527 U.S. 706 (1999). Consequently, even though the federal government enjoys no territorial jurisdiction within a state of the Union for other than the above subject matters explicitly authorized by the Constitution itself, it *still* has subject matter jurisdiction within federal court over federal property, contracts and franchises, which are synonymous. Since the Internal Revenue Code is a federal contract or franchise, then the federal courts have jurisdiction over this issue with persons who participate in the "trade or business" franchise.

Finally, below is a very enlightening U.S. Supreme Court case that concisely explains the constitutional relationship between the exclusive and plenary <u>internal</u> sovereignty of the states or the Union and the exclusive <u>external</u> sovereignty of the federal government:

"It will contribute to the elucidation of the question if we first <u>consider the differences between the powers of</u> the federal government in respect of foreign or external affairs and those in respect of domestic or internal <u>affairs</u>. That there are differences between them, and that these differences are fundamental, may not be doubted.

The two classes of powers are different, both in respect of their origin and their nature. The broad statement that the federal government can exercise no powers except [299 U.S. 304, 316] those specifically enumerated in the Constitution, and such implied powers as are necessary and proper to carry into effect the enumerated powers, is categorically true only in respect of our internal affairs. In that field, the primary purpose of the Constitution was to carve from the general mass of legislative powers then possessed by the states such portions as it was thought desirable to vest in the federal government, leaving those not included in the enumeration still in the states. Carter v. Carter Coal Co., 298 U.S. 238, 294, 56 S.Ct. 855, 865. That this doctrine applies only to powers which the states had is self-evident. And since the states severally never possessed international powers, such powers could not have been carved from the mass of state powers but obviously were transmitted to the United States from some other source. During the Colonial period, those powers were possessed exclusively by and were entirely under the control of the Crown. By the Declaration of Independence, 'the Representatives of the United States of America' declared the United (not the several) Colonies to be free and independent states, and as such to have 'full Power to levy War, conclude Peace, contract Alliances, establish Commerce and to do all other Acts and Things which Independent States may of right do.'

As a result of the separation from Great Britain by the colonies, acting as a unit, the powers of external sovereignty passed from the Crown not to the colonies severally, but to the colonies in their collective and corporate capacity as the United States of America. Even before the Declaration, the colonies were a unit in foreign affairs, acting through a common agency-namely, the Continental Congress, composed of delegates from the thirteen colonies. That agency exercised the powers of war and peace, raised an army, created a navy, and finally adopted the Declaration of Independence. Rulers come and go; governments end and forms of government change; but sovereignty survives. A political society cannot endure [299 U.S. 304, 317] without a supreme will somewhere. Sovereignty is never held in suspense. When, therefore, the external sovereignty of Great Britain in respect of the colonies ceased, it immediately passed to the Union. See Penhallow v. Doane, 3 Dall. 54, 80, 81, Fed.Cas. No. 10925. That fact was given practical application almost at once. The treaty of peace, made on September 3, 1783, was concluded between his Brittanic Majesty and the 'United States of America.' 8 Stat., European Treaties, 80.

The Union existed before the Constitution, which was ordained and established among other things to form 'a more perfect Union.' Prior to that event, it is clear that the Union, declared by the Articles of Confederation to be 'perpetual,' was the sole possessor of external sovereignty, and in the Union it remained without change save in so far as the Constitution in express terms qualified its exercise. The Framers' Convention was called and exerted its powers upon the irrefutable postulate that though the states were several their people in respect of foreign affairs were one. Compare The Chinese Exclusion Case, 130 U.S. 581, 604, 606 S., 9 S.Ct. 623. In that convention, the entire absence of state power to deal with those affairs was thus forcefully stated by Rufus King:

The states were not 'sovereigns' in the sense contended for by some. They did not possess the peculiar features of [external] sovereignty,-they could not make war, nor peace, nor alliances, nor treaties. Considering them as political beings, they were dumb, for they could not speak to any foreign sovereign whatever. They were deaf, for they could not hear any propositions from such sovereign. They had not even the organs or faculties of defence or offence, for they could not of themselves raise troops, or equip vessels, for war.' 5 Elliot's Debates, 212.1 [299 U.S. 304, 318] It results that the investment of the federal government with the powers of external sovereignty did not depend upon the affirmative grants of the Constitution. The powers to declare and wage war, to conclude peace, to make treaties, to maintain diplomatic relations with other sovereignties, if they had never been mentioned in the Constitution, would have vested in the federal government as necessary concomitants of nationality. Neither the Constitution nor the laws passed in pursuance of it have any force in foreign territory unless in respect of our own

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 citizens (see American Banana Co. v. United Fruit Co., 213 U.S. 347, 356, 29 S.Ct. 511, 16 Ann.Cas. 1047); and operations of the nation in such territory must be governed by treaties, international understandings and compacts, and the principles of international law. As a member of the family of nations, the right and power of the United States in that field are equal to the right and power of the other members of the international family. Otherwise, the United States is not completely sovereign. The power to acquire territory by discovery and occupation (Jones v. United States, 137 U.S. 202, 212, 11 S.Ct. 80), the power to expel undesirable aliens (Fong Yue Ting v. United States, 149 U.S. 698, 705 et seq., 13 S.Ct. 1016), the power to make such international agreements as do not constitute treaties in the constitutional sense (Altma & Co. v. United States, 224 U.S. 583, 600, 601 S., 32 S.Ct. 593; Crandall, Treaties, Their Making and Enforcement (2d Ed.) p. 102 and note 1), none of which is expressly affirmed by the Constitution, nevertheless exist as inherently inseparable from the conception of nationality. This the court recognized, and in each of the cases cited found the warrant for its conclusions not in the provisions of the Constitution, but in the law of nations.

In Burnet v. Brooks, 288 U.S. 378, 396, 53 S.Ct. 457, 461, 86 A.L.R. 747, we said, 'As a nation with all the attributes of sovereignty, the United States is vested with all the powers of government necessary to maintain an effective control of international relations.' Cf. Carter v. Carter Coal Co., supra, 298 U.S. 238, at page 295, 56 S.Ct. 855, 865. [299 U.S. 304, 319] Not only, as we have shown, is the federal power over external affairs in origin and essential character different from that over internal affairs, but participation in the exercise of the power is significantly limited. In this vast external realm, with its important, complicated, delicate and manifold problems, the President alone has the power to speak or listen as a representative of the nation. He makes treaties with the advice and consent of the Senate; but he alone negotiates. Into the field of negotiaton the Senate cannot intrude; and Congress itself is powerless to invade it. As Marshall said in his great argument of March 7, 1800, in the House of Representatives, 'The President is the sole organ of the nation in its external relations, and its sole representative with foreign nations.' Annals, 6th Cong., col. 613. The Senate Committee on Foreign Relations at a very early day in our history (February 15, 1816), reported to the Senate, among other things, as follows:

'The President is the constitutional representative of the United States with regard to foreign nations. He manages our concerns with foreign nations and must necessarily be most competent to determine when, how, and upon what subjects negotiation may be urged with the greatest prospect of success. For his conduct he is responsible to the Constitution. The committee considers this responsibility the surest pledge for the faithful discharge of his duty. They think the interference of the Senate in the direction of foreign negotiations calculated to diminish that responsibility and thereby to impair the best security for the national safety. The nature of transactions with foreign nations, moreover, requires caution and unity of design, and their success frequently depends on secrecy and dispatch.' 8 U.S.Sen.Reports Comm. on Foreign Relations, p. 24.

It is important to bear in mind that we are here dealing not alone with an authority vested in the President by an [299 U.S. 304, 320] exertion of legislative power, but with such an authority plus the very delicate, plenary and exclusive power of the President as the sole organ of the federal government in the field of international relationsa power which does not require as a basis for its exercise an act of Congress, but which, of course, like every other governmental power, must be exercised in subordination to the applicable provisions of the Constitution. It is quite apparent that if, in the maintenance of our international relations, embarrassment-perhaps serious embarrassment-is to be avoided and success for our aims achieved, congressional legislation which is to be made effective through negotiation and inquiry within the international field must often accord to the President a degree of discretion and freedom from statutory restriction which would not be admissible were domestic affairs alone involved. Moreover, he, not Congress, has the better opportunity of knowing the conditions which prevail in foreign countries, and especially is this true in time of war. He has his confidential sources of information. He has his agents in the form of diplomatic, consular and other officials. Secrecy in respect of information gathered by them may be highly necessary, and the premature disclosure of it productive of harmful results. Indeed, so clearly is this true that the first President refused to accede to a request to lay before the House of Representatives the instructions, correspondence and documents relating to the negotiation of the Jay Treaty-a refusal the wisdom of which was recognized by the House itself and has never since been doubted. In his reply to the request, President Washington said:

The nature of foreign negotiations requires caution, and their success must often depend on secrecy; and even when brought to a conclusion a full disclosure of all the measures, demands, or eventual concessions which may have been proposed or contemplated would be extremely [299 U.S. 304, 321] impolitic; for this might have a pernicious influence on future negotiations, or produce immediate inconveniences, perhaps danger and mischief, in relation to other powers. The necessity of such caution and secrecy was one cogent reason for vesting the power of making treaties in the President, with the advice and consent of the Senate, the principle on which that body was formed confining it to a small number of members. To admit, then, a right in the House of Representatives to demand and to have as a matter of course all the papers respecting a negotiation with a foreign power would be to establish a dangerous precedent.' I Messages and Papers of the Presidents, p. 194.

The marked difference between foreign affairs and domestic affairs in this respect is recognized by both houses of Congress in the very form of their requisitions for information from the executive departments. In the case of every department except the Department of State, the resolution directs the official to furnish the information. In the case of the State Department, dealing with foreign affairs, the President is requested to furnish the information 'if not incompatible with the public interest.' A statement that to furnish the information is not compatible with the public interest rarely, if ever, is questioned. "
[United States v. Curtiss-Wright Export Corporation, 299 U.S. 304 (1936)]

If you would like to learn more about the relationship between federal and state sovereignty exercised within states of the Union, we recommend an excellent, short, succinct book on the subject as follows:

<u>Conflicts in a Nutshell</u>, 2nd Edition, David D. Seigel, West Publishing, 1994, ISBN 0-314-02952-4 https://www.amazon.com/Conflicts-Nutshell-Nutshells-David-Siegel/dp/0314160663/

8.4 "Nontaxpayers" being eligible for "tax shelters"

False Argument: "Nontaxpayers" are eligible for "tax shelters"

Corrected Alternative Argument: "Nontaxpayers" by definition aren't eligible for tax shelters

Further information:

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- 1. 26 U.S.C. §6700: Abusive tax shelters
- 2. Who are "Taxpayers" and Who Needs a "Taxpayer Identification Number"?, Form #05.013 http://sedm.org/Forms/FormIndex.htm
- 3. <u>Your Rights as a "Nontaxpayer"</u>, Form #08.008 http://sedm.org/Forms/FormIndex.htm

Subtitle A of the Internal Revenue Code is chiefly a source of government revenue connected with a "trade or business". The main but not necessarily *only* exceptions to that rule are:

- 1. <u>26 U.S.C. §871(a)</u>, which identifies income of nonresident aliens originating from within the "United States" as also be includible in "gross income".
- 2. 26 U.S.C. §861(a)(8) identifies Social Security income as also being includible in "gross income" without identifying it as being connected to a "trade or business".

Therefore, the main <u>subject</u> of this revenue "scheme" is the excise taxable activity called a "trade or business", which is defined in <u>26 U.S.C. \$7701</u>(a)(26) as "the <u>functions</u> [which is an verb and an activity] of a public office", and which is not enlarged elsewhere in the code to include anything else. This fact is exhaustively examined and explored in <u>Great IRS Hoax</u>, Form #11.302, Sections 5.6.13 through 5.6.13.1.

We also show in *Great IRS Hoax*, Form #11.302, Sections 5.6.13 through 5.6.13.1 that there are three "privileges" or financial benefits that one can engage in order to be classified as being engaged in a "trade or business". These three activities are:

- 1. Taking deductions associated with "trade or business" expenses under 26 U.S.C. §162.
- 2. Availing oneself of Earned Income Credit under <u>26 U.S.C. §32</u>.
 - 3. Applying a graduated rate of tax under 26 U.S.C. §1. Nonresident aliens who do not have any income connected with a "trade or business" under 26 U.S.C. §871(a) <u>cannot</u> apply a graduated rate of tax and must instead apply a flat 30% rate instead. This flat 30% rate is higher, in most cases, than the graduated rate appearing in 26 U.S.C. §1, and therefore the IRC creates a financial incentive for most people to connect their earnings to a "trade or business" in order to reduce an existing "perceived" but not "actual" liability.

All of the above types of deductions and reductions in liability may ONLY be taken by persons who are engaged in a "trade or business" and therefore who are "taxpayers". We also showed in <u>Great IRS Hoax</u>, Form #11.302, Sections 5.6.13 through 5.6.13.1 that "nonresident aliens" may <u>not</u> reduce their tax liability by any of the above methods for "income" which is described in <u>26 U.S.C. §871(a)</u> as not being connected to a "trade or business". Reducing one's "presumed" tax liability under Subtitle A of the Internal Revenue Code is therefore the "compensation" that a person receives for ILLEGALLY volunteering to become a person engaged in a "public office", which is a form of federal employment that is defined and described in <u>26 U.S.C. §3401(c)</u> and 26 C.F.R. §31.3401(c)-1. Engaging in such a form of privileged federal employment or

contracting creates a false presumption on the part of the government that one's domicile or "situs" for taxation is the District of Columbia under 4 U.S.C. §72 and Constitution Article 1, Section 8, Clause 17. See the following for further details:

http://caselaw.lp.findlaw.com/data/constitution/article01/43.html

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Consequently, when a person indicates that they have expenses in connection with a "trade or business", they are identifying themselves as being engaged in a public office and have elected to be treated as though that office is being exercised in the District of Columbia, even if it in fact is not. This is the main method by which most Americans in states of the Union become the proper subjects of the Internal Revenue Code. The other important factor to remember is that those activities or property against which a "trade or business" deduction or reduction is taken essentially have been devoted to a "public purpose". That, in fact, is what makes all "taxpayers" into public officers: They are fiduciaries over "public property" under 26 U.S.C. §6903 and handling monies earned in connection with that public property makes them into a "transferee" under 26 U.S.C. §6901-6902. Even the Supreme Court said that those who devote their property to a "public use" to procure the benefit of a government franchise give the public the right to control that use, and the means of control is the Internal Revenue Code, folks!

"Men are endowed by their Creator with certain unalienable rights,-'life, liberty, and the pursuit of happiness,' and to 'secure,' not grant or create, these rights, governments are instituted. That property which a man has honestly acquired he retains full control of, subject to these limitations: ...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, <u>143 U.S. 517</u> (1892)]

How does one donate their private property to a public use and associate it with a "public office", you might ask? The answer is simply connecting it with a federal identifying number, which the regulations say belongs to the government and not you. It is a crime to use public property for a private use, so you must have donated your private property to a public use by simply connecting it with a number that is the property of the government.

Title 20: Employees' Benefits
 PART 422—ORGANIZATION AND PROCEDURES
 Subpart B—General Procedures
 § 422.103 Social security numbers.
 (d) Social security number cards.

A person who is assigned a social security number will receive a social security number card from SSA within a reasonable time after the number has been assigned. (See §422.104 regarding the assignment of social security number cards to aliens.) Social security number cards are the property of SSA and must be returned upon request.

One additional method of reducing liability is also found in 26 U.S.C. §151, which authorizes "personal exemptions". 26 U.S.C. §151(e) states that a "TIN" must be provided for all such persons in order to claim a personal exemption.

36 TITLE 26 > Subtitle A > CHAPTER 1 > Subchapter B > PART V > § 151
37 § 151. Allowance of deductions for personal exemptions

(e) Identifying information required

No exemption shall be allowed under this section with respect to any individual unless the TIN of such individual is included on the return claiming the exemption.

The only persons who can have a "TIN", which is a "Taxpayer Identification Number" are "taxpayers" subject to the Internal Revenue Code. The definition of "taxpayer" in 26 U.S.C. §7701(a)(14) confirms this:

<u>26 U.S.C. Sec. 7701</u>(a)14:

Taxpayer

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Therefore, whatever vehicle a person chooses to employ to reduce their liability will result in them becoming taxpayers subject to the code, and the reason is because they are availing themselves of a "perceived" but in some cases not "actual" financial benefit and thereby becoming the legal equivalent of compensated federal "employees" or "contractors", even if no

money ever explicitly is paid by the federal government to the "employment applicant". In that sense, a 1040 form becomes:

6 1. A job application.

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- A private contract between the applicant and the federal government to procure a perceived but in most cases not "actual" financial benefit.
- 3. The equivalent of a "contractor profit and loss report" for those who choose to engage in commerce with the federal government. In that sense, Subtitle A of the Internal Revenue Code, the W-4 form, and the 1040 forms amount to the equivalent of a federal employment agreement. All such agreements are voluntary and an extension of your right to contract. They become binding only when one accepts "consideration" and manifests intent and consent by signing a perjury statement on a tax form.

With all the above issues fully clarified, we can now unequivocally state that:

- 1. There is absolutely no way that a person can <u>reduce</u> an existing tax liability, take a deduction, apply for earned income credit, or take a personal exemption WITHOUT being a "taxpayer" and/or engaging in a taxable activity.
- 2. It is completely misguided, bad faith, frivolous, and wrong for a person on the one hand to claim that they are a "nontaxpayer" but then on the other hand reduce, or attempt to reduce a "perceived" tax liability by any method available within the Internal Revenue Code franchise agreement. All they do it contradict themselves by claiming not to be subject to the franchise agreement and yet use its provisions for their own benefit.
- 3. Those who try to assist "taxpayers" in reducing their liability through fraud are essentially enticing them to defraud the government of "public property" that rightfully belongs to the government because you donated it to them based on your own voluntary consent. That is why most of the people the Department of Justice goes after are indicted for fraud or conspiracy to commit fraud in violation of 18 U.S.C. §287 and 18 U.S.C. §371.

Based on the above, we also wish to clearly and unambiguously state that:

- 1. This book and the website that it is found on is NOT for use by "taxpayers" or those subject to the Internal Revenue Code as private persons.
 - 2. We will <u>never</u> attempt to help people reduce an existing liability, because only "taxpayers" can have a liability, and "taxpayers" should not be reading and especially using our materials.
 - 3. If you find anything on our website or in our publications that does attempt to help people reduce an existing liability, we would appreciate you notifying us so that we can promptly remove it.
 - 4. You should regard as fiction any attempt to help anyone reduce an existing liability of a "taxpayer" that appears in this book or in any of the materials that appear on the website it is posted on.
 - 5. It is a legal impossibility to reduce the tax liability of a person who is a "nontaxpayer" and "nontaxpayers" are the only people who are authorized to read this or any other publication or materials that appear on the website it is posted on. This is confirmed by the definition of "tax shelter" as follows:

"Tax shelter. A device used by a taxpayer [and not a "nontaxpayer"]

to reduce or defer payment of taxes. Common forms of tax shelters include: limited partnership interests, real estate investments which have deductions such as depreciation, interest, taxes, etc. The Tax Reform Act of 1986 limited the benefits of tax shelters significantly by classifying losses from such shelters as passive and ruling that passive losses can only offset passive income in arriving at taxable income (with a few exceptions). Any excess losses are suspended and may be deducted in the year the investment is sold or otherwise disposed of."

[Black's Law Dictionary, Sixth Edition, pp. 1462-1463]

8.5 Requiring People Other than "franchisees" (e.g. "taxpayers") to Seek or Exhaust Administrative Remedies

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False Argument: "Nontaxpayers" must exhaust their administrative remedies before litigating their case

<u>Corrected Alternative Argument</u>: The I.R.C. cannot prescribe a duty, including the requirement to exhaust administrative remedies, upon a "nontaxpayer" not subject to it

Further information:

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- 1. Who are "Taxpayers" and Who Needs a "Taxpayer Identification Number"?, Form #05.013 http://sedm.org/Forms/FormIndex.htm
- 2. <u>Your Rights as a "Nontaxpayer"</u>, Form #08.008 http://sedm.org/Forms/FormIndex.htm

Many areas of federal law require that a person exhaust their administrative remedies before undertaking litigation in federal court. This requirement originates from the following provisions of law:

- 1. The U.S. Supreme Court stated in <u>Myers v. Bethlehem Shipbuilding Corp., 303 U.S. 41 (1938)</u> administrative remedies must be exhausted prior to pursuing an injunction.
- 2. <u>28 U.S.C. §2675(a)</u> requires exhaustion of administrative remedies before federal agencies in all matters affecting the agency.

The purpose of the above provisions is to prevent clogging the court with needless litigation. Below are a few examples:

- 1. <u>26 U.S.C.</u> §6673(a)(1)(C) allows a Tax Court to institute penalties up to \$25,000 against a "taxpayer" in connection with any proceeding undertaken without exhausting administrative remedies.
- 2. <u>26 U.S.C.</u> §7426(h)(2) requires that administrative remedies be exhausted in the case of lawsuits under 26 U.S.C. §7426(d).
- 3. 26 U.S.C. §7430(b) requires that courts may not award reasonable litigation costs to a party who has not exhausted administrative remedies under the Internal Revenue Code.
- 4. <u>26 U.S.C. §7432(d)</u> requires that a judgment for damages in connection with a lien under the I.R.C. may not be awarded to a party who had not exhausted their administrative remedies.
- 5. Title 26 Appendix, Rule 232, defines the protocol for determining whether a party has exhausted administrative remedies in connection with an award of reasonable litigation costs by a court.
- 6. Title 26 Appendix, Rule 231, defines the protocol for determining whether a party has exhausted administrative remedies in connection with an award of reasonable administrative costs by a court.

Some self-proclaimed "experts" are urging individuals to go to Tax Court ("taxpayer's" court) and urging the individuals to use their "administrative remedies". (Remember, Grandma doesn't have any administrative remedies to exhaust because she is not **subject to** the darned draft law in the first place.) How does an individual get to Tax Court? By acting like a "taxpayer", of course.

The Tax Court has jurisdiction only when the Commissioner issues a valid deficiency notice, and the <u>taxpaver</u> files a timely petition for <u>redetermination</u>. Scar v. C.I.R., 814 F.2d. 1363 (9th Cir. 1987). (Emphasis added.)

Some of you have even been told that the best way to control the taxing agencies is to use the agencies' administrative procedures and process. But ask yourself, if you subject yourself to the rules and regulations of a taxing agency, who is really in control? 28 U.S.C. §2675(a) establishes who must exhaust said remedies. The key point to emphasize in the statute below is that the offending officer of the United States is acting within "the scope of his office or employment", which is rarely the case with IRS agents who are illegally enforcing against those who are "nontaxpayers" with no "trade or business" earnings and no "Taxpayer Identification Number":

<u>TITLE 28</u> > <u>PART VI</u> > <u>CHAPTER 171</u> > **\$ 2675** § 2675. Disposition by federal agency as prerequisite; evidence

(a) An action shall not be instituted upon a claim against the United States for money damages for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, unless the claimant shall have first presented the claim to the appropriate Federal agency and his claim shall have been finally denied by the agency in writing and sent by certified or registered mail. The failure of an agency to make final disposition of a claim within six months after it is filed shall, at the option of the claimant any time thereafter, be deemed a final denial

Quite clearly, when an officer of the government is acting illegally and proceeding under the "color of law" but without actual lawful authority, then he is committing a trespass for which you have an immediate judicial remedy without further need to exhaust administrative remedies. To conclude otherwise is essentially to sanction penalizing private humans for the exercise of constitutionally protected rights to life, liberty, and property by abusing legal process and instituting essentially involuntary servitude in responding to the administrative demands of the agency, in violation of the Thirteenth Amendment, 42 U.S.C. §1994, and 18 U.S.C. §1589(3). Here is how the U.S. Supreme Court describes this:

"... the maxim that the King can do no wrong has no place in our system of government; yet it is also true, in respect to the State itself, that whatever wrong is attempted in its name is imputable to its government and not to the State, for, as it can speak and act only by law, whatever it does say and do must be lawful. That which therefore is unlawful because made so by the supreme law, the Constitution of the United States, is not the word or deed of the State, but is the mere wrong and trespass of those individual persons who falsely spread and act in its name."

"This distinction is essential to the idea of constitutional government. To deny it or blot it out obliterates the line of demarcation that separates constitutional government from absolutism, free self- government based on the sovereignty of the people from that despotism, whether of the one or the many, which enables the agent of the state to declare and decree that he is the state; to say 'L'Etat, c'est moi.' Of what avail are written constitutions, whose bills of right, for the security of individual liberty, have been written too often with the blood of martyrs shed upon the battle-field and the scaffold, if their limitations and restraints upon power may be overpassed with impunity by the very agencies created and appointed to guard, defend, and enforce them; and that, too, with the sacred authority of law, not only compelling obedience, but entitled to respect? And how else can these principles of individual liberty and right be maintained, if, when violated, the judicial tribunals are forbidden to visit penalties upon individual offenders, who are the instruments of wrong, whenever they interpose the shield of the

state? **The doctrine is not to be tolerated.** The whole frame and scheme of the political institutions of this country, state and federal, protest against it. Their continued existence is not compatible with it. It is the doctrine of absolutism, pure, simple, and naked, and of communism which is its twin, the double progeny of the same evil birth."

[Poindexter v. Greenhow, 114 U.S. 270, 5 S.Ct. 903 (1885)]

We also note that the Internal Revenue Code prescribes administrative remedies for ONLY "taxpayers" and that "nontaxpayers" are *not* within its scope. That means YOU folks!

"Revenue Laws relate to taxpayers and not to non-taxpayers. 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)]

The Internal Revenue Code, in fact, cannot prescribe a duty against those who are not subject to it, which includes "private citizens" of every description. It only prescribes a duty against "public officials" who in most cases are engaged in privileged, excise-taxable activities such as a "trade or business". The U.S. Supreme Court has said that the ability to "legislate generally" upon private rights to life, liberty, and property 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. Florez, Archbishop of San Antonio, 521 U.S. 507 (1997)]

How long are patriots going to let others talk them into acting like a "taxpayer" on one hand by providing prima facie evidence of "taxpayer" status, and at the same time, claim they are not **liable for (subject to)** the tax? Common sense alone should negate this two-sided position.

The same thing applies to using the appeal process to remedy wrongful actions of revenue officers. If you look on the IRS Form 9423, Collection Appeals Request, it says "taxpayer's name" above the name block and above just about every other block. If you are a "nontaxpayer" as most people are, you can't use this form, which by implication means you can't

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- administratively appeal a wrongful collection action and must go directly to court to sue the offending agent who is doing the 1
- wrongful collection. 2
- For further information on whether you are a "taxpayer", see the following article: 3

"Taxpayer" v. "Nontaxpayer": Which One are You?, Family Guardian Fellowship http://famguardian.org/Subjects/Taxes/Remedies/TaxpayerVNontaxpayer.htm

8.6 Internal Revenue Code Subtitle A describes a "direct, unapportioned tax"

False Argument: I.R.C. Subtitle A describes a "direct, unapportioned tax"

Corrected Alternative Argument: I.R.C. Subtitles A and C are an excise tax upon "public offices", franchises, and domiciliaries in the U.S. government. It is not "indirect" because it can't lawfully apply within a state of the Union. The franchise that is the subject of the excise tax is called a "trade or business" within the I.R.C. Subtitle A itself.

Further Information:

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- The "Trade or Business" Scam, Family Guardian Fellowship http://famguardian.org/Subjects/Taxes/Remedies/TradeOrBusinessScam.htm
- Great IRS Hoax, Form #11.302, Sections 5.15 and 5.19 http://sedm.org/Forms/FormIndex.htm
- Some people argue that IRS Form 1040 and Subtitle A of the Internal Revenue Code describe a "direct, unapportioned tax" upon "income" in violation of the Constitution, Article 1, Section 9, Clause 4 and Article 1, Section 2, Clause 3. This is simply false and we cover the many reasons why in *Great IRS Hoax*, Form #11.302, Sections 5.1 through 5.1.11 and 5.6.13
- through 5.6.13.11. Instead, Subtitle A of the Internal Revenue Code:
- 1. Describes a municipal donation program for the District of Columbia and other federal territories and possessions.
 - 2. May only be enforced against those who:
 - 2.1. Are domiciliaries or "U.S. persons" of the "United States", meaning the federal zone, including:
 - 2.1.1. Statutory "Aliens" with a "residence" in the District of Columbia. See Great IRS Hoax, Form #11.302, Section 5.4 and 26 C.F.R. §1.871-2(b).
 - 2.1.2. Statutory "U.S. Citizens" (persons born in the country and domiciled in a federal territory or possession) temporarily residing abroad with income from sources within the statutory "United States**" (federal territory under 26 U.S.C. §911.
 - 2.2. Contract for "social services" by voluntarily (absent duress from their private employer) filling out, signing under penalty of perjury, and submitting a W-4 form. Signing and submitting this form causes one to be treated AS IF they are a statutory government "employee" as defined in the I.R.C. See *Great IRS Hoax*, Form #11.302, Section 5.6.7.
 - 2.3. Are engaged in excise taxable activities such as a "trade or business", which is defined as "the functions of a public office" in 26 U.S.C. §7701(a)(26).
 - 2.4. Are receiving payments from the United States government as documented in 26 U.S.C. §871(a).
 - 2.5. Do not correct erroneous reports of income provided on W-2 or 1099 forms from ignorant private employers who are violating the law and their rights. See:
 - http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/FormW2/CorrectingIRSFormW2.htm
 - 2.6. Submit the wrong tax form, the IRS Form 1040, which indicates that they maintain a domicile in the statutory "United States**" (federal territory) according to IRS Document 7130, and who indicate other than a non-zero liability. The only thing we know of that can go on a 1040 form is "income" connected to a "trade or business", as indicated in 26 U.S.C. §864(c). See Great IRS Hoax, Form #11.302, Sections 5.5.2 and 5.5.3.
 - - 3.1. A federal officer, "employee" (see 5 U.S.C. §2105) or instrumentality "kickback program" in connection with earnings of those holding a "public office" in the U.S. government. That is why the tax forms are called "returns". Federal "employees" are "returning" earnings that actually belong to Uncle Sam. See
 - 3.1.1. *Great IRS Hoax*, Form #11.302, Section 5.6.10.
 - 3.1.2. Why Your Government is Either a Thief or You Are a "Public Officer" for Income Tax Purposes, Form #05.008:

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

- 3.2. An excise upon the taxable activity called a "trade or business", which is defined in <u>26 U.S.C. §7701(a)(26)</u> as "the functions of a public office". The excise is upon income earned within the statutory "United States**" (federal territory) and coming under <u>26 U.S.C. §§864</u> and 871(b). See:
 - 3.2.1. Family Guardian Website: http://famguardian.org/Subjects/Taxes/Articles/TradeOrBusinessScam.htm
 3.2.2. Trade or Business" Scam, Form #05.001: http://sedm.org/Forms/FormIndex.htm
- 3.3. The equivalent of a state/municipal income tax upon earnings not connected with a "trade or business" but originating from sources within the statutory "United States**" (federal territory) under 26 U.S.C. §871(a).
- 4. Has no jurisdiction within states of the Union against anyone other than federal instrumentalities and "employees" who are working on federal property (territory). This is confirmed by the enforcement provisions within 26 U.S.C. §6331(a), which permits "distraint" against only federal instrumentalities.
- 5. May not be enforced outside of the federal zone against anything other than federal "employees", "public officers", or instrumentalities as legally defined. The reason is that there are no enforcement regulations and these regulations are required if implemented against other than federal "employees", as required by 5 U.S.C. §552(a)(1), 5 U.S.C. §553(a)(2), 26 C.F.R. §601.702(a)(1), 31 C.F.R. §1.3(a)(4), and 44 U.S.C. §1505(a). The effect of Failure to Publish in the Federal Register is located in 26 C.F.R. §601.702(a)(2)(ii) and 5 U.S.C. §552(a)(1) and it says that a person's rights may not be adversely affected by failure to publish in the Federal Register. See *Great IRS Hoax*, Form #11.302, Sections 5.4.9 through 5.4.12.
- The reasons why Subtitle A of the Internal Revenue Code can only apply to federal officers, employees, contractors, and instrumentalities is clearly documented in the article below:

<u>"Public" v. "Private" Employment: You Really Work for Uncle Sam If You Receive Federal Benefits</u>, Family Guardian Fellowship

http://famguardian.org/Subjects/Taxes/Articles/PublicVPrivateEmployment.htm

Some federal district and circuit courts argue that the Sixteenth Amendment authorized a "direct unapportioned tax" upon earnings and this argument is simply false. Below is such a quote, which the government just loves to cite:

"Dickstein's argument that the sixteenth amendment does not authorize a direct, non-apportioned tax on United States citizens similarly is devoid of any arguable basis in law. Indeed, the Ninth Circuit recently noted "the patent absurdity and frivolity of such a proposition." In re Becraft, 885 F.2d. 547, 548 (9th Cir. 1989). For seventy-five years, the Supreme Court has recognized that the sixteenth amendment authorizes a direct non-apportioned tax upon United States citizens throughout the nation, not just in federal enclaves, see Brushaber v. Union Pac. R.R., 240 U.S. 1, 12-19, 60 L.Ed. 493, 36 S.Ct. 236 (1916); efforts to argue otherwise have been sanctioned as frivolous, see, e.g., Becraft, 885 F.2d. at 549 (Fed. R. App. P. 38 sanctions for raising frivolous sixteenth amendment argument in petition for rehearing); Lovell v. United States, 755 F.2d. 517, 519-20 (7th Cir. 1984) (Fed. R. App. P. 38 sanctions imposed on pro se litigants raising frivolous sixteenth amendment contentions)."

[U.S. v. Collins, 920 F.2d. 619 (1990)]

In the above case, for instance, Jeff Dickstein, a famous patriot attorney, apparently argued the issue in the context of "United States citizens", and we say in this document and elsewhere that statutory "U.S. citizens", as defined under 26 C.F.R. §1.1-1(c), when temporarily abroad (overseas in a foreign country) and who have "income" from sources within the statutory "United States**" (federal territory) coming under 26 U.S.C. §911, are subject to Internal Revenue Code, Subtitle A The Supreme Court confirmed this in *Cook v. Tait*, 265 U.S. 47 (1924). Dickstein either argued the wrong points or the court deliberately twisted his arguments so they would not have to face the issues directly. Based on the very careful choice of words described by the court above, we agree with their ruling, but we need to explain why so you aren't misled. Once again, our tax system and that of nearly every other country in the world is based on:

"Citizens abroad and aliens at home."

All "individuals" are aliens under Subtitle A of the Internal Revenue Code. See 26 C.F.R. §1.1441-1(c)(3). Even statutory "U.S. citizens" residing abroad (as defined under 26 C.F.R. §1.1-1(c) but <u>not</u> under the Fourteenth Amendment) fit the description of "aliens" within the I.R.C., because they are "aliens" in the context of a tax treaty with the foreign country they inhabit when they are temporarily overseas under 26 U.S.C. §911(d). Therefore, no matter which way you look at it, Internal Revenue Code, Subtitle A is a tax on "aliens" engaged in a "trade or business" who have a domicile in the federal zone. See the following short pamphlet for confirmation:

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

The 16th amendment is obviously a Constitutional excise tax (even though on what and on whom is left to one's imagination
-- which has no legal effect). By adhering to the actual language found in the Sixteenth Amendment, it is obvious that the
amendment can only refer to an indirect tax when it tells the reader emphatically...twice in fact...that the tax is not, cannot be,
a direct tax as defined in the Constitution because...it is laid (1) "without apportionment" and then again (2) it is laid "without
regard to any census or enumeration".

It's simply a contradiction to say that the Sixteenth Amendment authorizes a direct tax as defined in the Constitution, when the authors of the Amendment assert...unequivocally...that it has none of the required elements that define a Constitutional direct tax, nor does it establish a new class of tax not previously found in the Constitution:

"..by the previous ruling it was settled that the provisions of the Sixteenth Amendment conferred no new power of taxation but simply prohibited the previous complete and plenary 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 and being placed in the category of direct taxation subject to apportionment by a consideration of the sources from which the income was derived, that is by testing the tax not by what it was -- a tax on income, but by a mistaken theory deduced from the origin or source of the income taxed."

[Stanton v. Baltic Mining Co., 240 U.S. 103 (1916)]

The Amendment's authors did not give a new definition to 'direct' tax. They were only at pains to say that the tax has none of the defining elements of a Constitutional direct tax. And since 'direct' taxation is not redefined...the only alternative for Congress then is an indirect tax. The authors of the Amendment were equally at pains not to say what exactly is taxed [income is not defined] and who exactly is to be taxed [presumably those with 'income'...whatever that is]. If the skeptics claim the 16th Amendment proposes a Constitutional direct tax on property, they simply and irrationally disagree with the plain language of the Sixteenth Amendment.

Even the debates concerning the Sixteenth Amendment reveal that is was not the intention of the framers to propose a direct unapportioned tax. Three versions of the Sixteenth Amendment were proposed before the one we have now, the last one, was approved. The first two proposals included a direct, unapportioned tax and both of these versions were voted down. See:

<u>Legislative Intent of the Sixteenth Amendment</u>, Family Guardian Fellowship http://famguardian.org/Subjects/Taxes/16Amend/LegIntent16thAmend.htm

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Note that the court above didn't define the term "nation" in their ruling when they said:

"For seventy-five years, the Supreme Court has recognized that the sixteenth amendment authorizes a direct nonapportioned tax upon United States citizens throughout the nation, not just in federal enclaves, see Brushaber v. Union Pac. R.R., 240 U.S. 1, 12-19, 60 L.Ed. 493, 36 S.Ct. 236 (1916);"

We know from <u>Great IRS Hoax</u>, Form #11.302, Section 4.5.2 that the District of Columbia government legislates for two mutually exclusive jurisdictions both as a "national" government and a "federal government". It's clear that the court above was referring to the "national" government because that was the word they used, which is limited to the District of Columbia and the territories and possessions of the United States. The "federal government", on the other hand, legislates for the state also, but they didn't mention that government, so they basically agreed with Dickstein by their devious choice of words. This matter is further explained below:

<u>Two Political Jurisdictions: "National" Government v. "Federal" Government</u>, Family Guardian Fellowship http://famguardian.org/Subjects/Taxes/Remedies/USvUSA.htm

The circuit court also tried to deceive readers with other words of art relating to the Sixteenth Amendment in the above quote. For instance, they said that the Supreme Court recognized for seventy-five years that "the Sixteenth Amendment authorizes a direct non-apportioned tax throughout the nation upon United States citizens throughout the nation, not just in federal enclaves". This is very deceptive because the U.S. Supreme Court has always said that the Sixteenth Amendment:

1. "...conferred no new powers of taxation". See Stanton v. Baltic Mining Co., 240 U.S. 103 (1916).

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Prohibited the power of taxation possessed by Congress from being taken out of the category of indirect excises to which 1 it inherently belonged. See Stanton v. Baltic Mining Co., 240 U.S. 103 (1916) 2 uprohibited 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)] 5 Maintained the nature of federal income taxes as excise taxes. 6 ...the proposition and the contentions under [the 16th Amendment]...would cause one provision of the Constitution to destroy another; 8 That is, they would result in bringing the provisions of the Amendment exempting a direct tax from apportionment 10 into irreconcilable conflict with the general requirement that all direct taxes be apportioned; 11 This result, instead of simplifying the situation and making clear the limitations of the taxing power, which obviously the Amendment must have intended to accomplish, would create radical and destructive changes in our 12 13 constitutional system and multiply confusion... ...Moreover in addition the Conclusion reached in the Pollock Case did not in any degree involve holding that 14 15 income taxes generically and necessarily came within the class of direct taxes on property, but on the contrary recognized the fact that taxation on income was in its nature an excise entitled to be enforced as such unless 16 and until it was concluded that to enforce it would amount to accomplishing the result which the requirement as 17 to apportionment of direct taxation was adopted to prevent, in which case the duty would arise to disregard form 18 and consider substance alone and hence subject the tax to the regulation as to apportionment which otherwise as 19 an excise would not apply to it. 20 21 ...the Amendment demonstrates that no such purpose was intended and on the contrary shows that it was drawn with the object of maintaining the limitations of the Constitution and harmonizing their operation. 22 ...the [16th] Amendment contains nothing repudiating or challenging the ruling in the Pollock Case that the word 23 direct had a broader significance since it embraced also taxes levied directly on personal property because of its 24 ownership, and therefore the Amendment at least impliedly makes such wider significance a part of the 25 Constitution -- a condition which clearly demonstrates that the purpose was not to change the existing 26 interpretation except to the extent necessary to accomplish the result intended, that is, the prevention of the 27 28 resort to the sources from which a taxed income was derived in order to cause a direct tax on the income to be a direct tax on the source itself and thereby to take an income tax out of the class of excises, duties and imposts 29 and place it in the class of direct taxes... 30 31 [Brushaber v. Union Pacific Railroad Co., 240 U.S. 1 (1916)] If what the circuit court said about the Sixteenth Amendment authorizing a direct, unapportioned tax within states of the 32 Union on land not subject to plenary federal jurisdiction really was true and obvious, then why after over 80 years of litigation 33 in federal circuit and district courts can you not find universal agreement among each of the Eleven federal circuits as to 34 whether Subtitle A of the Internal Revenue Code describes a direct, unapportioned tax or an indirect excise tax? The purpose 35 of law is to protect the public, not the government, by giving reasonable notice that is clear of what conduct is expected. How 36 the HELL is the public supposed to receive reasonable notice of what conduct a "code" that is nothing but a presumption (see 37 1 U.S.C. §204) requires of them if the courts themselves can't even agree universally on what this "code" and civil religion 38 requires? See: 39 Requirement for Reasonable Notice, Form #05.022 http://sedm.org/Forms/FormIndex.htm

We analyze this obvious contradiction and injustice in <u>Great IRS Hoax</u>, Form #11.302, Sections 3.20.1 and 5.1.5. Furthermore, does anything a federal district or circuit court has to say on the tax subject have any relevancy to the average American since even the IRS refuses to be bound by its rulings and if there is no federal common law within states of the union anyway according to the U.S. Supreme Court in Erie Railroad v. Tompkins? If IRS can ignore these rulings as irrelevant, then we are entitled to the same <u>equal</u> protection, right?:

Internal Revenue Manual <u>4.10.7.2.9.8 (05-14-1999)</u> 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.

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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 [AND the circuit courts by implication], 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.

- We therefore must conclude that the circuit court was simply wrong and abused "words of art" to try to deceive the audience and maintain the illusion of federal authority to tax within states of the Union on other than federal territory by:
 - 1. Using the term "throughout the nation" and not defining which "nation" they meant. See <u>Great IRS Hoax</u>, Form #11.302, Sections 4.7 through 4.10 for details. It means federal territory and excludes land under exclusive federal jurisdiction.
 - 2. Associating all the arguments with statutory "U.S. citizens" as defined under 8 U.S.C. §1401 and 26 C.F.R. §1.1-1(c) instead of addressing the broader audience of "nationals but not citizens" domiciled in states of the Union and coming instead under and 8 U.S.C. §1101(a)(21). See <u>Great IRS Hoax</u>, Form #11.302, Section 4.12 and following for details on this scam.
 - 3. Disregarding and defying the clear language and precedents of the Supreme Court on the issue of the nature of the federal income tax under Internal Revenue Code, Subtitle A as shown above. Notice they didn't contradict or quote the authorities above, because they would have rendered their own arguments untrue.
 - 4. Using rulings of federal courts improperly as the equivalent of "political propaganda" against nonresidents such as the American public domiciled in states of the Union. There is no federal common law in states of the Union and federal rulings below the Supreme Court are simply IRRELEVANT there. Erie Railroad v. Tompkins, 304 U.S. 64 (1938)
- If you would like to learn more about this subjects discussed in this section, please refer to our free *Great IRS Hoax*, Form #11.302, Sections 5.1 through 5.1.13.

8.7 People domiciled in a constitutional state are STATUTORY "persons" under the Internal Revenue Code

<u>False Argument</u>: All people domiciled in a constitutional state are STATUTORY "persons" under the Internal Revenue Code.

Corrected Alternative Argument: Constitutional "persons" and STATUTORY "persons" are NOT synonymous and mutually exclusive. See section 8.16. To acquire a civil status under the statutes of the national government requires a domicile on federal territory not within the exclusive jurisdiction of a constitutional state or the execution of a contract or agreement. Those non-residents who do NOT consent to acquire the status of "individual" by applying for an INDIVIDUAL Taxpayer Identification Number retain their status as "non-persons". Since you can only have a domicile in one place at a time, then you can only have a civil STATUTORY status in one place at a time. To confuse or ignore these two separate and distinct contexts or to UNCONSTITUTIONALY PRESUME that they are equivalent is to destroy the separation of powers that is the foundation of the United States Constitution, as described in *Government Conspiracy to Destroy the Separation of Powers*, Form #05.023; https://sedm.org/Forms/05-MemLaw/SeparationOfPowers.pdf.

Further information:

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- 1. Revenue Ruling 2007-22; https://www.irs.gov/irb/2007-14_IRB#RR-2007-22. Source of this FALSE argument.
- 2. <u>Proof That There Is a "Straw Man"</u>, Form #05.042 proves that most statutory "persons" are public officers in the government.
 - https://sedm.org/Forms/FormIndex.htm
- 3. <u>Great IRS Hoax</u>, Form #11.302, Section 5.2.6: The TWO Sources of Federal Civil Jurisdiction: "Domicile" and "Contract"
 - https://sedm.org/Forms/FormIndex.htm
- 4. Your Exclusive Right to Declare or Establish Your Civil Status, Form #13.008 -why no one can FORCE you to acquire ANY civil STATUTORY status, including "person" or "citizen". https://sedm.org/Forms/FormIndex.htm
- Government Identity Theft, Form #05.046-techniques by which words such as those in this revenue ruling are abused to commit criminal identity theft by the I.R.S. and government prosecutors. https://sedm.org/Forms/FormIndex.htm

The source of this false argument is Revenue Ruling 2007-22, which reads as follows:

Rev.Rul. 2007-22

Frivolous tax returns; citizens of a state. This ruling discusses and refutes the frivolous position taken by some taxpayers that they are not subject to federal income tax, or that their income is excluded from taxation, because either (1) they claim to have rejected or renounced United States citizenship and are citizens exclusively of a state (sometimes characterized as a "natural-born citizen" of a "sovereign state"), or (2) they are not persons as identified by the Internal Revenue Code.

PURPOSE

The Internal Revenue Service (Service) is aware that some taxpayers are claiming that they are not subject to federal income tax, or that their income is excluded from taxation, because: 1) the taxpayers have declared that they have rejected or renounced United States citizenship because the taxpayers are citizens exclusively of a State (sometimes characterized as a "natural-born citizen" of a "sovereign state"); or 2) the taxpayers claim they are not persons as identified by the Internal Revenue Code. These taxpayers often furnish Forms W-4, Employee's Withholding Allowance Certificate, to their employers on which the taxpayers claim excessive withholding allowances or claim complete exemption from withholding. Based on these Forms W-4, federal income taxes are not withheld from wages paid. Alternatively, these taxpayers attempt to avoid their federal income tax liability by submitting a Form 4852, Substitute for Form W-2, Wage and Tax Statement, or Form 1099-R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc., to the Internal Revenue Service with a zero on the line for the amount of wages received. These taxpayers often either fail to file returns, or file returns showing no income and claiming a refund for any withheld income taxes. The Service is also aware that some promoters, including return preparers, market a book, package, kit, or other materials that claim to show taxpayers how they can avoid paying income taxes based on these and other meritless arguments.

This revenue ruling emphasizes to taxpayers, promoters and return preparers that all U.S. citizens and residents are subject to federal income tax. Any argument that a taxpayer's income is excluded from taxation because: 1) the taxpayer has rejected or renounced United States citizenship because the taxpayer is a citizen exclusively of a State (sometime characterized as a "natural-born citizen" of a "sovereign state"); or 2) the taxpayer is not a person as defined by the Internal Revenue Code and is, therefore, not subject to federal tax, has no merit and is frivolous.

The Service is committed to identifying taxpayers who attempt to avoid their federal tax obligations by taking frivolous positions. The Service will take vigorous enforcement action against these taxpayers and against promoters and return preparers who assist taxpayers in taking these frivolous positions. Frivolous returns and other similar documents submitted to the Service are processed through the Service's Frivolous Return Program. As part of this program, the Service determines whether taxpayers who have taken frivolous positions have filed all required tax returns; computes the correct amount of tax and interest due; and determines whether civil or criminal penalties should apply. The Service also determines whether civil or criminal penalties should apply to return preparers, promoters and others who assist taxpayers in taking frivolous positions, and recommends whether an injunction should be sought to halt these activities. Other information about frivolous tax positions is available on the Service website at www.irs.gov.

ISSUES

- 1. Whether a taxpayer may avoid federal income tax liability by maintaining that the taxpayer is not a citizen of the United States and, thus, is not subject to the federal income tax laws.
- 2. Whether a taxpayer may avoid federal income tax liability by claiming the taxpayer is not a "person" as defined by the Internal Revenue Code and, thus, is not subject to the federal income tax laws.

FACTS

Taxpayer A claims to be exempt from federal income tax because, as a "sovereign citizen" of Taxpayer A's state of residence, Taxpayer A is not a citizen or resident of the United States and is not subject to federal tax laws.

Taxpayer B claims that the Fourteenth Amendment, providing "[a]ll persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside," applies only to freed slaves and their descendants, and that all other persons are solely citizens of their state of residence.

Taxpayer C claims not to be a United States citizen or a person subject to tax because Taxpayer C has not requested, obtained, or exercised any privilege from an agency of government.

Taxpayer D claims not to be a "person" or a "taxpayer" as defined by the Internal Revenue Code because Taxpayer D is a freeborn and natural individual and not subject to the jurisdiction of the United States.

The taxpayer often furnishes a Form W-4, Employee's Withholding Allowance Certificate, to the employer on which the taxpayer claims excessive withholding allowances or claims complete exemption from withholding. Based on this Form W-4, federal income taxes are not withheld from wages paid. Alternatively, the taxpayer prepares a Form 4852 (Substitute for Form W-2) showing no wages received.

The taxpayer either fails to file a return, or files a return reporting zero income and claiming a refund for all taxes withheld. The taxpayer then contends the taxpayer is not covered by the federal tax laws and is not subject to federal income tax because the taxpayer is not a citizen of the United States, or the taxpayer is not a person as defined by the Internal Revenue Code.

LAW AND ANALYSIS

1. Citizenship

 The Fourteenth Amendment to the United States Constitution defines the basis for United States citizenship, stating that "[a]ll persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside." The Fourteenth Amendment, therefore, establishes simultaneous state and federal citizenship. See United States v. Cruikshank, 92 U.S. 542, 549 (1875) ("The same person may be at the same time a citizen of the United States and a citizen of a State. . . ."); In re Slaughter-House Cases, 83 U.S. (16 Wall.) 36, 74 (1873) (A man "must reside within the State to make him a citizen of it, but it is only necessary that he should be born or naturalized in the United States to be a citizen of the Union"). The Fourteenth Amendment's granting of citizenship applies to all persons born or naturalized in the United States, regardless of race. See, e.g., Bell v. State of Maryland, 378 U.S. 226, 249 (1964) (Douglas, J., concurring) ("The Fourteenth Amendment also makes every person who is born here a citizen; and there is no second or third or fourth class of citizenship.").

Section 7701(a)(9) of the Internal Revenue Code states that "[t]he term 'United States' when used in a geographical sense includes only the States and the District of Columbia." Claims that individuals are not citizens of the United States but are solely citizens of a sovereign state and not subject to federal taxation have been uniformly rejected by the courts. See, e.g., United States v. Hilgeford, 7 F.3d. 1340, 1342 (7th Cir. 1993) ("The defendant in this case apparently holds a sincere belief that he is a citizen of the mythical "Indiana State Republic" and for that reason is an alien beyond the jurisdictional reach of federal courts. This belief is, of course, incorrect."); United States v. Gerads, 999 F.2d. 1255, 1256 (8th Cir. 1993) ("[We] reject appellants' contention that they are not citizens of the United States, but rather "Free Citizens of the Republic of Minnesota" and, consequently, not subject to taxation."); O'Driscoll v. Internal Revenue Service, 1991 U.S. Dist. LEXIS 9829, *5-6 (E.D. Penn. 1991) ("Despite plaintiff's linguistic gymnastics, he is a citizen of both the United States and Pennsylvania, and liable for federal taxes.").

Similarly, the individual states are part of the United States and income earned within them is fully subject to United States taxation. See, e.g., Solomon v. Commissioner, T.C. Memo. 1993-509 (responding to argument that all of petitioner's income was earned outside of the United States, the court held that "petitioner attempts to argue an absurd proposition, essentially that the State of Illinois is not part of the United States.").

2. Definition of Person

The Internal Revenue Code defines "person" and sets forth which persons are subject to federal taxes. Section 7701(a)(14) defines "taxpayer" as "any person" subject to any internal revenue tax, and section 7701(a)(1) defines "person" to include an individual, trust, estate, partnership, or corporation.

Arguments that an individual is not a "person" within the meaning of the Internal Revenue Code have been uniformly rejected by the courts as have arguments with respect to the term "individual." See, e.g., United States v. Dawes, 874 F.2d. 746, 750-51 (10th Cir. 1989), overruled on other grounds, 895 F.2d. 1577 (10th Cir. 1990) ("The contention that appellants are not taxpayers because they are 'free born, white, preamble, sovereign, natural, individual common law 'de jure' citizens of Kansas' is frivolous. Individuals are 'persons' under the Internal Revenue Code and thus subject to 26 U.S.C. § 7203."); United States v. Studley, 783 F.2d. 934, 937 n.3 (9th Cir. 1986) (in holding that an individual is a person under the Internal Revenue Code, the court noted "this argument has been consistently and thoroughly rejected by every branch of the government for decades. Indeed advancement of such utterly meritless arguments is now the basis for serious sanctions imposed on civil litigants who raise them").

Courts have also uniformly rejected claims that a taxpayer is not a person subject to tax because the taxpayer did not request, obtain, or exercise any privileges of citizenship. See, e.g., Lovell v. United States, 755 F.2d. 517, 519

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(7th Cir. 1984) ("All individuals, natural or unnatural, must pay federal income tax on their wages, regardless of whether they received any 'privileges' from the government").

HOLDING

1. The Fourteenth Amendment of the United States Constitution establishes simultaneous state and federal

1. The Fourteenth Amendment of the United States Constitution establishes simultaneous state and federal citizenship. Therefore, an individual cannot reject citizenship in the United States in favor of state citizenship, or otherwise claim not to be a citizen of the United States for the purpose of avoiding federal tax liability. Furthermore, income earned within a state of the United States by a United States citizen or resident is taxable under federal tax laws. Accordingly, Taxpayer A and Taxpayer B are subject to federal income tax liability because they are citizens of the United States and citizens of the state in which they reside.

2. The term "person" as used by the Internal Revenue Code includes natural persons and individuals. Moreover, a taxpayer need not request, obtain, or exercise a privilege from an agency of the government to be a "person" within the meaning of the Internal Revenue Code. Therefore, Taxpayer C and Taxpayer D are subject to federal income tax liability.

CIVIL AND CRIMINAL PENALTIES

The Service will challenge the claims of individuals who improperly attempt to avoid or evade their federal tax liability. In addition to liability for the tax due plus statutory interest, taxpayers who fail to file valid returns or pay tax based on arguments that they are not citizens or persons as contemplated by the Internal Revenue Code and, thus, are not subject to federal tax face substantial civil and criminal penalties. Potentially applicable civil penalties include: (1) the section 6662 accuracy-related penalties, which are generally equal to 20 percent of the amount of tax the taxpayer should have paid; (2) the section 6663 penalty for civil fraud, which is equal to 75 percent of the amount of tax the taxpayer should have paid; (3) the section 6702(a) penalty of \$5,000 for a "frivolous tax return"; (4) the section 6702(b) penalty of \$5,000 for submitting a "specified frivolous submission"; (5) the section 6651 additions to tax for failure to file a return, failure to pay the tax owed, and fraudulent failure to file a return; (6) the section 6673 penalty of up to \$25,000 if the taxpayer makes frivolous arguments in the United States Tax Court; and (7) the section 6682 penalty of \$500 for providing false information with respect to withholding.

Taxpayers relying on these frivolous positions also may face criminal prosecution under: (1) section 7201 for attempting to evade or defeat tax, the penalty for which is a significant fine and imprisonment for up to 5 years; (2) section 7203 for willful failure to file a return, the penalty for which is a significant fine and imprisonment for up to 1 year; (3) section 7206 for making false statements on a return, statement, or other document, the penalty for which is a significant fine and imprisonment for up to 3 years or (4) other provisions of federal law.

Persons, including return preparers, who promote these frivolous positions and those who assist taxpayers in claiming tax benefits based on frivolous positions may face civil and criminal penalties and also may be enjoined by a court pursuant to sections 7407 and 7408. Potential penalties include: (1) a \$250 penalty under section 6694 for each return or claim for refund prepared by an income tax return preparer who knew or should have known that the taxpayer's position was frivolous (or \$1,000 for each return or claim for refund if the return preparer's actions were willful, intentional or reckless); (2) a penalty under section 6700 for promoting abusive tax shelters; (3) a \$1,000 penalty under section 6701 for aiding and abetting the understatement of tax; and (4) criminal prosecution under section 7206, for which the penalty is a significant fine and imprisonment for up to 3 years, for assisting or advising about the preparation of a false return, statement or other document under the internal revenue laws.

DRAFTING INFORMATION

This revenue ruling was authored by the Office of Associate Chief Counsel (Procedure and Administration), Administrative Provisions and Judicial Practice Division. For further information regarding this revenue ruling, contact that office at (202) 622-7950 (not a toll-free call).

The subject of what is a statutory civil "person" is exhaustively analyzed in the following memorandum, and it proves that nearly all such "persons" are public officers within the government corporation. It's pointless to repeat the content of this memorandum here, so it is incorporated by reference:

<u>Proof That There Is a "Straw Man"</u>, Form #05.042 – proves that most statutory "persons" are public officers in the government.

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

This Revenue Ruling also has LOTS of problems. Here are a just few, but we could go on for literally DAYS about all the problems:

1. The Revenue Ruling refuses to address the REAL audience who would read it, which is those who are non-resident to federal territory and who may lawfully PRESUME that they are PRIVATE and beyond government jurisdiction unless and until the GOVERNMENT as the moving party satisfies the burden of proof that they CONSENTED in some way to become statutory "taxpayers" and engage in excise taxable activities subject to tax such as a "trade or business" (26 U.S.C. §7701(a)(26)) or a public office.

"All rights and property are PRESUMED to be EXCLUSIVELY PRIVATE and beyond the control of government or the CIVIL statutory franchise codes 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."
- 2. It refuses to acknowledge HOW one can lawfully acquire a civil status in a place they are neither physically nor legally present within and refuse the status of "resident" within, such as a state national in relation to federal territory. Civil status includes "person", "individual", "taxpayer", "citizen", "resident", "spouse", "driver", etc. Domicile or contract are the only method to acquire a civil status and a state national cannot be domiciled on federal territory and a constitutional state at the same time and ALSO cannot alienate an unalienable right by contracting with the national government.

§ 29. Status

It may be laid down that the, status- or, as it is sometimes called, civil status, in contradistinction to political status - of a person depends largely, although not universally, upon domicil. The older jurists, whose opinions are fully collected by Story I and Burge, maintained, with few exceptions, the principle of the ubiquity of status, conferred by the lex domicilii with little qualification. Lord Westbury, in Udny v. Udny, thus states the doctrine broadly: "The civil status is governed by one single principle, namely, that of domicil, which is the criterion established by law for the purpose of determining civil status. For it is on this basis that the personal rights of the party - that is to say, the law which determines his majority and minority, his marriage, succession, testacy, or intestacy-must depend." Gray, C. J., in the late Massachusetts case of Ross v. Ross, speaking with special reference to capacity to inherit, says: "It is a general principle that the status or condition of a person, the relation in which he stands to another person, and by which he is qualified or made capable to take certain rights in that other's property, is fixed by the law of the domicil; and that this status and capacity are to be recognized and upheld in every other State, so far as they are not inconsistent with its own laws and policy."

[A Treatise on the Law of Domicil, National, Quasi-National, and Municipal, M.W. Jacobs, Little, Brown, and Company, 1887, p. 89]

For further details on this important subject, see:

- 1.1. <u>Why Domicile and Becoming a "Taxpayer" Require Your Consent,</u> Form #05.002, Section 11.17 https://sedm.org/Forms/FormIndex.htm
- 1.2. <u>Your Exclusive Right to Declare or Establish Your Civil Status</u>, Form #13.008 https://sedm.org/Forms/FormIndex.htm
- 3. It acknowledges the STATUTORY definition of "United States" and never asserts that it includes states of the Union, and yet REFUSES to apply those limitations to the term "citizen of the United States". 32 Citizenship is ALWAYS geographical and "United States" appears within the phrase "citizen of the United States". This is hypocrisy and equivocation. Judges CANNOT lawfully "legislate" by adding to this geographical definition and if they do, they are violating the separation of powers and acting as legislators. None of the court rulings they cite can add to statutory definitions and none apply to state nationals not engaged in a public office. The ability to regulate or tax exclusively PRIVATE property or PRIVATE rights has been held by the courts as repugnant to the constitution and therefore the

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³² It states: "Section 7701(a)(9) of the Internal Revenue Code states that "[t]he term 'United States' when used in a geographical sense includes only the States and the District of Columbia."

only thing any government can CIVILLY legislate for is PUBLIC rights of public officers on official business. The statutes they are enforcing are only intended for those exercising such a public office. The statutes only apply where the constitution DOES NOT apply, which is either federal territory, abroad, or to those serving in public offices. The following memorandum establishes how this FRAUD is effected and how to prove it is deception and best and FRAUD at worst:

Why You are a "national", "state national", and Constitutional but not Statutory Citizen, Form #05.006 https://sedm.org/Forms/FormIndex.htm

4. It implies that state nationals or state citizens are STAUTORY "individuals" when we know that you can't be a STATUTORY "individual" unless you are an "alien" present within the STATUTORY "United States" (federal territory per 26 U.S.C. §7701(a)(9) and (a)(10)) or abroad under 26 U.S.C. §911(d)(1). State nationals are NOT STATUTORY "aliens" but rather "nationals of the United States*" per 22 C.F.R. §51.2:

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

(c) Definitions

(3) Individual.

(i) Alien individual.

The term alien individual means an individual who is not a citizen or a national of the United States. See Sec. 1.1-1(c).

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

(c) Definitions

(3) Individual.

(ii) Nonresident alien individual.

The term nonresident alien individual means persons described in section 7701(b)(1)(B), alien individuals who are treated as nonresident aliens pursuant to § 301.7701(b)-7 of this chapter for purposes of computing their U.S. tax liability, or an alien individual who is a resident of Puerto Rico, Guam, the Commonwealth of Northern Mariana Islands, the U.S. Virgin Islands, or American Samoa as determined under § 301.7701(b)-1(d) of this chapter. An alien individual who has made an election under section 6013(g) or (h) to be treated as a resident of the United States is nevertheless treated as a nonresident alien individual for purposes of withholding under chapter 3 of the Code and the regulations thereunder.

5. It UNCONSTITUTIONALLY PRESUMES that everyone is a STATUTORY "taxpayer" and refuses to address precisely HOW one BECOMES a STATUTORY "taxpayer". American jurisprudence requires the OPPOSITE presumption, which is that you are INNOCENT until proven GUILTY with EVIDENCE rather than PRESUMPTION. That means they must be presumed to be "nontaxpayers" until the IRS proves that they consented to become "taxpayers". According to the Declaration of Independence, CONSENT is mandatory in ALL government civil enforcement actions or they are UNJUST. All such presumptions to the contrary are a violation of due process of law and result in CRIMINAL IDENTITY THEFT as documented in *Government Identity Theft*, Form #05.046; https://sedm.org/Forms/FormIndex.htm. How one BECOMES a STATUTORY "taxpayer" is the real question behind most of the statements they are trying to refute, and they simply REFUSE to deal with it, because it would hand the key to the chains that illegally bind most Americans to their feudal privileged tax system FRAUD. Even the U.S. Supreme Court has recognized the existence of those who are NOT STATUTORY "taxpayers". See South Carolina v. Regan, 465 U.S. 367, 394, 104 S.Ct. 1107, 1123 (1984). If the U.S. Supreme Court can recognize "nontaxpayers", why can't the IRS?

"The revenue laws are a code or system in regulation of tax assessment and collection. They <u>relate to taxpayers</u>, 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, 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]. 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)]

The above authorities establish WHY it is reasonable to conclude that the Internal Revenue Code Subtitle A is a franchise, and that you must be engage in the taxable activity called a "public office" and a "trade or business" (26 U.S.C. §7701(a)(26)) to lawfully BECOME a statutory "taxpayer". The REAL truth on this subject is published in the following IRS Pamphlet:

Your Rights as a "Nontaxpayer", Form #08.008 http://sedm.org/Forms/FormIndex.htm

- 6. It ignores the fact that everyone born in the country has a right to choose TWO different types of citizenship: 1. Articles of Confederation "free inhabitants"; 2. Constitutional "citizens of the United States". The Articles of Confederation identify themselves as "perpetual" and are enacted into law on the FIRST page of the Statutes At Large. Therefore, they continue in force. Once may legitimately choose to be a "free inhabitant" under the Articles INSTEAD of a "citizen of the United States" under the Fourteenth Amendment and NO one can lawfully deny them that choice without violating the First Amendment right of freedom from compelled association.
- 7. It conveniently overlooks that fact that even the U.S. Supreme Court has recognized that Fourteenth Amendment state citizens and STATUTORY "U.S. citizens" domiciled on federal territory are NOT equivalent. See Rogers v. Bellei, 401 U.S. 815 (1971), Slaughter-House Cases, 83 U.S. (16 Wall.) 36, 21 L.Ed. 394 (1873):

"The 1st section of the 14th article [Fourteenth Amendment], to which our attention is more specifically invited, opens with a definition of citizenship—not only citizenship of the United States[***], but citizenship of the states. No such definition was previously found in the Constitution, nor had any attempt been made to define it by act of Congress. It had been the occasion of much discussion in the courts, by the executive departments and in the public journals. It had been said by eminent judges that no man was a citizen of the United States[***] except as he was a citizen of one of the states composing the Union. Those therefore, who had been born and resided always in the District of Columbia or in the territories, though within the United States[*], were not citizens." [Slaughter-House Cases, 83 U.S. (16 Wall.) 36, 21 L.Ed. 394 (1873)]

More on this subject is found earlier in section 8.1 and:

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

8. It tries to confuse the STATUTORY context and CONSTITUTIONAL context for terms, which are mutually exclusive and non-overlapping. In legal parlance, this deception is called "equivocation". The abuse of such tactics is exhaustively proven to be a FRAUD and a deception in the following memorandum of law:

<u>Legal Deception, Propaganda, and Fraud</u>, Form #05.014, Section 15.1 http://sedm.org/Forms/FormIndex.htm

9. It identifies some of its claims as "facts", but is not signed under penalty of perjury and therefore CANNOT be a fact nor can it be admissible as evidence in any court. Only court admissible evidence compliant with the Federal Rules of Evidence can in deed be a "fact". In REAL fact, the IRS website says you can't trust ANYTHING they publish, INCLUDING this bogus revenue ruling:

"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 <u>should not be cited to sustain a position.</u>" [Internal Revenue Manual (I.R.M.), Section 4.10.7.2.8 (05-14-1999)]

Furthermore, anyone who only deals with "general information" as indicated above is a DECEIVER according to maxims of law on the subject. They could avoid dealing with "general information" by distinguishing the CONSTITUTIONAL and the STATUTORY context for terms, but in practice, they ABSOLUTELY REFUSE TO DEAL WITH IT because it would expose what they are doing as the CRIME that it is and open them to criminal liability:

"Dolosus versatur generalibus. A deceiver deals in generals. 2 Co. 34."

"Fraus latet in generalibus. Fraud lies hid in general expressions."

Generale nihil certum implicat. A general expression implies nothing certain. 2 Co. 34.

Ubi quid generaliter conceditur, in est haec exceptio, si non aliquid sit contra jus fasque. Where a thing is concealed generally, this exception arises, that there shall be nothing contrary to law and right. 10 Co. 78. [Bouvier's Maxims of Law, 1856]

10. It illegally and fraudulently threatens penalties against ALL readers of their propaganda, but REFUSES to acknowledge the limits placed by the I.R.C. on who the proper audience for those penalties is, found in 26 U.S.C. §6671(b), which is an officer or employee of a corporation or a partnership, which partnership can ONLY be between an otherwise PRIVATE party and the federal government:

<u>TITLE 26</u> > <u>Subtitle F</u> > <u>CHAPTER 68</u> > <u>Subchapter B</u> > <u>PART I</u> > § 6671 § 6671. Rules for application of assessable penalties

(b) Person defined

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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.

"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., <u>22 U.S. 738</u> (1824)]

We emphasize that the very ESSENCE of communism as legally defined is an absolute refusal to acknowledge or heed the limitations of statutes such as the above upon the behavior of public servants:

<u>TITLE 50</u> > <u>CHAPTER 23</u> > <u>SUBCHAPTER IV</u> > <u>Sec. 841</u>. <u>Sec. 841</u>. – <u>Findings and declarations of fact</u>

The Congress finds and declares that the Communist Party of the United States [consisting of the IRS, DOJ, and a corrupted federal judiciary], although purportedly a political party, is in fact an instrumentality of a conspiracy to overthrow the [de jure] Government of the United States [and replace it with a de facto government ruled by the judiciary]. It constitutes an authoritarian dictatorship [IRS, DOJ, and corrupted federal judiciary in collusion] within a [constitutional] republic, demanding for itself the rights and [FRANCHISE] privileges [including immunity from prosecution for their wrongdoing in violation of Article 1, Section 9, Clause 8 of the Constitution] accorded to political parties, but denying to all others the liberties [Bill of Rights] guaranteed by the Constitution [Form #10.002]. Unlike political parties, which evolve their policies and programs through public means, by the reconciliation of a wide variety of individual views, and submit those policies and programs to the electorate at large for approval or disapproval, the policies and programs of the Communist Party are secretly [by corrupt judges and the IRS in complete disregard of, Form #05.014, the tax franchise "codes", Form #05.001] prescribed for it by the foreign leaders of the world Communist movement [the IRS and Federal Reserve]. Its members [the Congress, which was terrorized to do IRS bidding by the framing of Congressman <u>Traficant</u>] have no part in determining its goals, and are not permitted to voice dissent to party objectives. Unlike members of political parties, members of the Communist Party are recruited for indoctrination [in the public FOOL system by homosexuals, liberals, and socialists] with respect to its objectives and methods, and are organized, instructed, and disciplined [by the IRS and a corrupted judiciary] to carry into action slavishly the assignments given them by their hierarchical chieftains. Unlike political parties, the Communist Party [thanks to a corrupted federal judiciary] acknowledges no constitutional or statutory limitations upon its conduct or upon that of its members [ANARCHISTS!, Form #08.020]. The Communist Party is relatively small numerically, and gives scant indication of capacity ever to attain its ends by lawful political means. The peril inherent in its operation arises not from its numbers, but from its failure to acknowledge any limitation as to the nature of its activities, and its dedication to the proposition that the present constitutional Government of the United States ultimately must be brought to ruin by any available means, including resort to force and violence [or using income taxes]. Holding that doctrine, its role as the agency of a hostile foreign power [the Federal Reserve and the American Bar Association (ABA)] renders its existence a clear present and continuing danger to the security of the United States. It is the means whereby individuals are seduced fillegally KIDNAPPED via identity theft!, Form #05.046] into the service of the world Communist movement [using FALSE information returns and other PERJURIOUS government forms, Form #04.001], trained to do its bidding [by FALSE government publications and statements that the government is not accountable for the accuracy of, Form #05.007], and directed and controlled [using FRANCHISES illegally enforced upon NONRESIDENTS, Form #05.030] in the conspiratorial performance of their revolutionary services. Therefore, the Communist Party should be outlawed

For an exhaustive analysis of why they can only penalize their own officers and employees and not PRIVATE people or nonresidents, see:

Why Penalties are Illegal for Anything But Government Franchisees, Employees, Contractors, and Agents, Form #05.010
https://sedm.org/Forms/FormIndex.htm

11. It identifies that which is being paid to the IRS as a "tax", even though the U.S. Supreme Court has held that it is NOT a "tax" if it is paid to PRIVATE parties such as human beings.

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)]

The only way out of this conundrum is to acknowledge that ALL "taxpayers" are in fact PUBLIC OFFICERS in the government and that tax refunds are paid to OFFICES, rather than the private human beings filling said office. See:

- 1.1. Why Your Government is Either a Thief or You are a "Public Officer" for Income Tax Purposes, Form #05.008 https://sedm.org/Forms/FormIndex.htm
- 1.2. <u>Proof That There Is a "Straw Man"</u>, Form #05.042 https://sedm.org/Forms/FormIndex.htm
- 12. The ruling cites federal district court authorities that have NO BEARING upon state citizens, according to the Ninth and Tenth Amendment. The only exception to this rule is if federal property is involved, such as CIVIL FRANCHISES under Article 4, Section 3, Clause 2. But the IRS denies this possibility in the Revenue Ruling by falsely stating that the parties are not "privileged" or that being a "taxpayer" DOESN'T involve privilege:

"Taxpayer C claims not to be a United States citizen or a person subject to tax because Taxpayer C <u>has not requested</u>, obtained, or exercised any privilege from an agency of government."

[...]

 Courts have also uniformly rejected claims that <u>a taxpayer is not a person subject to tax because the taxpayer did not request, obtain, or exercise any privileges of citizenship.</u> See, e.g., Lovell v. United States, 755 F.2d. 517, 519 (7th Cir. 1984) ("All individuals, natural or unnatural, must pay federal income tax on their wages, regardless of whether they received any 'privileges' from the government").

"Privileges" is in fact are involved, and they are: 1. STATUTORY "U.S. citizen" domiciled on federal territory; 2. A "trade or business" under 26 U.S.C. §7701(a)(26). The FRAUD of denying the existence of such a privilege to make the Subtitle A income tax falsely "appear" to apply to everyone is documented in the following:

<u>The "Trade or Business" Scam</u>, Form #05.001 https://sedm.org/Forms/FormIndex.htm

If being a STATUTORY "U.S. citizen" upon whom the tax is "imposed" in 26 U.S.C. §1 WAS NOT a "privilege", answer the following questions:

11.1. Why is STATUTORY "U.S. citizen" civil status under 8 U.S.C. §1401 and 8 U.S.C. §1101(a)(22)(A) identified as a "privilege"?

"Finally, this Court is mindful of the years of past practice in which territorial citizenship has been treated as a statutory [PRIVILEGE!], and

not a constitutional, right. In the unincorporated territories of Puerto Rico, Guam, the U.S. Virgin Islands, and the Northern Mariana Islands, birthright citizenship was conferred upon their inhabitants by various statutes many years after the United States acquired them. See Amicus Br. at 10-11. If the Citizenship Clause guaranteed birthright citizenship in unincorporated territories, these statutes would have been unnecessary. While longstanding practice is not sufficient to demonstrate constitutionality, such a practice

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1	requires special scrutiny before being set aside. See, e.g., Jackman v. Rosenbaum Co., 260 U.S. 22, 31 (1922)					
2	(Holmes, J.) ("If a thing has been practiced for two hundred years by common consent, it will need a strong case					
3	for the Fourteenth Amendment to affect it[.]"); Walz v. Tax Comm'n, 397 U.S. 664, 678 (1970) ("It is obviously					
4	correct that no one acquires a vested or protected right in violation of the Constitution by long use Yet an					
5	unbroken practice is not something to be lightly cast aside."). And while Congress cannot take away the					
6	citizenship of individuals covered by the Citizenship Clause, it can bestow citizenship upon those not within the					
7	Constitution's breadth. See U.S. Const, art. IV, § 3, cl. 2 ("Congress shall have Power to dispose of and make all					
8	needful Rules and Regulations respecting the Territory belonging to the United States [**1,"); id. at art. I, § 8, cl.					
9	4 (Congress may "establish an uniform Rule of Naturalization"). To date, Congress has not seen fit to bestow					
10	birthright citizenship upon American Samoa, and in accordance with the law, this Court must and will respect					
11	that choice.16"					
12	[Tuaua v. U.S.A, 951 F.Supp.2d. 88 (2013)]					
13	11.2. Why did the courts say the following in RELATION to such a "privilege"?					
14	"Unless the defendant can prove he is <u>not</u> a [STATUTORY] citizen of the United States** [under 8 U.S.C. §1401					
15	and NOT the constitution citizen], the IRS has the right to inquire and determine a tax liability."					
16	[U.S. v. Slater, 545 Fed.Supp. 179,182 (1982).]					
17	11.3. Why is the I.R.C. Subtitle A income tax imposed on those with the CIVIL STATUS of "citizen" and who are					
18	therefore EXERCISING such a privilege in 26 U.S.C. §1 if it applies to those who ARE NOT exercising					
	"privileges" as the Revenue Ruling alleges?					
19						
20	13. It uses the phrase "law and analysis" but the Internal Revenue Code, Title 26 is only PRIMA FACIE evidence,					
21	according to 1 U.S.C. §204 legislative notes. Therefore it is nothing but a huge unconstitutional statutory presumption					
22	that itself violates due process. It is not "law" because it does not apply equally to EVERYONE REGARDLESS OF					
23	THEIR CONSENT, but only to "public office" franchisees. ³³ It is "special law" or "private law" that applies to those					
	who individually consent to BECOME public officers. That which is "prima facie evidence" is a presumption, and all					
24						
25	presumptions violate due process of law.					
26	"Prima facie. Lat. At first sight on the first appearance; on the face of it; so far as can be judged from the first					
27	disclosure; presumably; a fact presumed to be true unless disproved by some evidence to the contrary. State ex					
28	rel. Herbert v. Whims, 68 Ohio.App. 39, 38 N.E.2d. 596, 499, 22 O.O. 110. See also Presumption."					
29	[Black's Law Dictionary, Sixth Edition, p. 1189]					
30	It is an unconstitutional act in violation of the separation of powers for a judge to impute the "force of law" to such a					
31	presumption, because judges are not legislators. Here is what the architect of our present three branch system of					
32	government said on this important subject of judges becoming legislators and at the same time acting as Executive					
33	Branch employees in administering "trade or business" franchises under Article IV rather than Article III.					
34	"When the legislative and executive powers are united in the same person, or in the same body of magistrates,					
35	there can be no liberty; because apprehensions may arise, lest the same monarch or senate should enact					
36	tyrannical laws, to execute them in a tyrannical manner.					
37	Again, there is no liberty, if the judiciary power be not separated from the legislative and executive. Were it					
38	joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control; for the judge					
39	would be then the legislator. Were it joined to the executive power, the judge might behave with violence and					
40	oppression [sound familiar?].					
41	There would be an end of everything, were the same man or the same body, whether of the nobles or of the					
+1 42	people, to exercise those three powers, that of enacting laws, that of executing the public resolutions, and of					
43	trying the causes of individuals."					
14	[]					
15	In what a situation must the poor subject be in those republics! The same body of magistrates are possessed,					
45 46	as executors of the laws, of the whole power they have given themselves in quality of legislators. They may					
+6 47	plunder the state by their general determinations; and as they have likewise the judiciary power in their hands,					
+7 48	every private citizen may be ruined by their particular decisions."					
49	[The Spirit of Laws, Charles de Montesquieu, Book XI, Section 6, 1758;					
50	SOURCE: http://famguardian.org/Publications/SpiritOfLaws/sol_11.htm]					
	- 					

³³ For more information on what constitutes "law" as legally defined, see: What is "law"?, Form #05.048; https://sedm.org/Forms/FormIndex.htm.

Under the concept of equal protection and equal treatment, all people have an EQUAL right to PRESUME the opposite, which is that they and their property are EXCLUSIVELY private and therefore beyond the legislative control of Congress unless and until the IRS a moving party asserting a liability meets the burden of proving that:

a. They EXPRESSLY consented to convert that property to PUBLIC property subject to taxation and regulation; b.

They had the legal capacity to consent because domiciled and present in a place where their rights were unalienable, such as federal territory. The moving party asserting a tax liability, which is the I.R.S., ALWAYS has the burden of proof and it is clearly prejudicial to put ordinary Americans in the untenable position of proving a NEGATIVE, which is that they ARE NOT STATUTORY "taxpayers" or are NOT liable:

"All rights and property are PRESUMED to be EXCLUSIVELY PRIVATE and beyond the control of government or the CIVIL statutory franchise codes 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."

For more information on this subject see section 9.18:

In conclusion, all the fraudsters at the IRS want to do is play "word games" to deceive you and make you appear like a "taxpayer" when you are not in fact one. Former IRS Commissioner Shelton Cohen admitted as much in an interview with Aaron Russo:

<u>Interview of Former IRS Commissioner Shelton Cohen by Aaron Russo</u>, SEDM Exhibit #11.004 https://sedm.org/Exhibits/ExhibitIndex.htm

Shelton Cohen, by the way, was the quintessential Pharisee Jew, which is why he wanted to be commissioner: so he would be intimately involved in DECEIVING people to pay money they didn't owe in the largest FRAUD in history. Here U.S. Supreme Court Justice Scalia (now deceased) admitted the same. Watch Exhibits #03.005 and 11.006 in the above link. For an exhaustive treatment on all the ways that corrupt covetous Pharisee lawyers abuse words to deceive and commit criminal identity theft, see the following:

- 1. <u>Legal Deception, Propaganda, and Fraud</u>, Form #05.014 https://sedm.org/Forms/FormIndex.htm
 - 2. <u>Foundations of Freedom Course</u>, Form #12.021, Video 4: Willful Government Deception and Propaganda https://sedm.org/Forms/FormIndex.htm
- Additional information on the subject of this section can be found later in section 9.15.

8.8 <u>A STATUTORY "U.S. Person" includes state citizens or residents and is not limited to territorial citizens or residents</u>

<u>False Argument</u>: A STATUTORY "U.S. Person" described in 26 U.S.C. §7701(a)(30) includes state citizens or residents and is not limited to territorial citizens or residents.

<u>Corrected Alternative Argument</u>: The STATUTORY term "U.S. Person", like every other civil status found in Title 26, requires a domicile on federal territory or at least physical presence there to lawfully acquire. Congress has no

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³⁴ See: Who Were the Pharisees and Saducees?, Form #05.047; https://sedm.org/Forms/FormIndex.htm.

legislative jurisdiction in a Constitutional state other than for the subject matters found in Article 1, Section 8. The taxing powers found in Article 1, Section 8, Clauses 1 and 3 apply only to the geographical areas defined in 26 U.S.C. §7701(a)(9) and (a)(10) and 4 U.S.C. §110(d). Under the rules of statutory construction, anything not EXPRESSLY included is purposefully excluded by implication. Those areas include only federal territory and the federal enclaves within the Constitutional states. They do NOT include areas under the EXCLUSIVE or PLENARY jurisdiction of constitutional states.

Further information:

- 1. Why You are a "national", "state national", and Constitutional but not Statutory Citizen, Form #05.006 http://sedm.org/Forms/FormIndex.htm
- 2. <u>Great IRS Hoax</u>, Form #11.302, Sections 3.9.1.24, 5.1.4, 5.2.12-5.2.13. http://sedm.org/Forms/FormIndex.htm

 $\underline{TITLE\ 26} > \underline{Subtitle\ F} > \underline{CHAPTER\ 79} > Sec.\ 7701.$

- 3. <u>Sovereignty Forms and Instructions Online</u>, Form #10.004, Cites by Topic: "U.S. Person" http://famguardian.org/TaxFreedom/CitesByTopic/USPerson.htm
- Sovereignty Forms and Instructions Online, Form #10.004, Cites by Topic: "United States" http://famguardian.org/TaxFreedom/CitesByTopic/UnitedStates.htm
- We call this approach "The U.S. Person Position". A STATUTORY "U.S. Person" is defined in 26 U.S.C. §7701(a)(30) as follows:

```
Sec. 7701. - Definitions
 4
                             (a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent
                             thereof-
 6
                             (30) United States person
                             The term "United States person" means -
 8
                             (A) a citizen or resident of the United States,
                             (B) a domestic partnership,
10
                             (C) a domestic corporation,
11
                             (D) any estate (other than a foreign estate, within the meaning of paragraph (31)), and
12
13
                             (E) any trust if -
                             (i) a court within the United States is able to exercise primary supervision over the administration of the trust,
14
15
                             and
                             (ii) one or more United States persons have the authority to control all substantial decisions of the trust.
16
       The term "United States" as used in the above definition is defined in a geographical sense as follows.
17
                             <u>TITLE 26</u> > <u>Subtitle F</u> > <u>CHAPTER 79</u> > Sec. 7701. [Internal Revenue Code]
18
                             Sec. 7701. - Definitions
19
                             (a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent
20
21
                             (9) United States
22
                             The term "United States" when used in a geographical sense includes only the States and the District of
23
                             Columbia.
24
                             (10) State
25
                             The term "State" shall be construed to include the District of Columbia, where such construction is necessary to
26
                             carry out provisions of this title.
27
28
                             TITLE 4 - FLAG AND SEAL, SEAT OF GOVERNMENT, AND THE STATES
29
                             CHAPTER 4 - THE STATES
30
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Sec. 110. Same; definitions

Those who would argue that "United States" in a geographical sense includes states of the Union have the burden of proving 2 with "non-prima facie" evidence that the term includes states of the Union. The rules of statutory construction FORBID any 3 adding anything to statutory definitions: "When a statute includes an explicit definition, we must follow that definition, even if it varies from that term's 5 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 10 (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. 11 943] (THOMAS, J., dissenting), leads the reader to a definition. That definition does not include the Attorney 12 General's restriction -- "the child up to the head." Its words, "substantial portion," indicate the contrary." 13 [Stenberg v. Carhart, 530 U.S. 914 (2000)] 14 "It is axiomatic that the statutory definition of the term excludes unstated meanings of that term. Colautti v. 15 Franklin, 439 U.S. 379, 392, and n. 10 (1979). Congress' use of the term "propaganda" in this statute, as indeed 16 in other legislation, has no pejorative connotation. As judges, it is our duty to [481 U.S. 485] construe legislation 17 as it is written, not as it might be read by a layman, or as it might be understood by someone who has not even 18 read it.' 19 [Meese v. Keene, 481 U.S. 465, 484 (1987)] 20 "As a rule, `a definition which declares what a term "means" . . . excludes any meaning that is not stated" 21 [Colautti v. Franklin, 439 U.S. 379 (1979) 22 Adding things to statutory definitions that DO NOT expressly appear is a LEGISLATIVE and not JUDICIAL function. 23 Allowing judges to act as legislators puts an end to ALL FREEDOM, according to the architect of our three branch system 24 of government, Charles de Montesquieu. Note that franchise judges, such as those in U.S. Tax Court and even Article III 25 judges presiding over Article IV franchise tax matters such as the income tax are in the Executive Branch, according to the 26 U.S. Supreme Court in Freytag v. Commissioner, 501 U.S. 868 (1991): 27 28 "When the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty; because apprehensions may arise, lest the same monarch or senate should enact 29 tyrannical laws, to execute them in a tyrannical manner. 30 31 Again, there is no liberty, if the judiciary power be not separated from the legislative and executive. Were it joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control; for the judge 32 would be then the legislator. Were it joined to the executive power, the judge might behave with violence and 33 oppression [sound familiar?]. 34 There would be an end of everything, were the same man or the same body, whether of the nobles or of the 35 people, to exercise those three powers, that of enacting laws, that of executing the public resolutions, and of trying the causes of individuals. 37 *[...]* 38 In what a situation must the poor subject be in those republics! The same body of magistrates are possessed, 39 as executors of the laws, of the whole power they have given themselves in quality of legislators. They may 40 plunder the state by their general determinations; and as they have likewise the judiciary power in their hands, 41 every private citizen may be ruined by their particular decisions. 42 [The Spirit of Laws, Charles de Montesquieu, Book XI, Section 6, 1758; 43 44 SOURCE: http://famguardian.org\Publications\SpiritOfLaws\sol_11.htm] Constitutional and statutory "citizens" are mutually exclusive, non-overlapping groups, as we show earlier in section 8.1 and 45 46

also prove in:

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

The "citizen" and "resident" described in 26 U.S.C. §7701(a)(30) invokes the STATUTORY context and therefore is limited 47 to that. You are trying to abuse EQUIVOCATION to deceive the reader or hearer into falsely believing that the two contexts 48

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- for the words "citizen" or "resident" are equivalent when they are not. Any attempt to confuse the two results in the following CRIMES:
- 1. Impersonating a citizen of the United States. 18 U.S.C. §911.
 - 2. Impersonating a public officer. 18 U.S.C. §912. All statutory fictions of law, including statutory citizens and even "taxpayers", are public offices.
- Imposing the above statuses or the civil obligations associated with them against a non-resident non-person and state citizen who does not consent is also identity theft, as described in:

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

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- There are also strong commercial and privacy motivations and incentives to try to adopt the "U.S. Person Position", because STATUTORY "U.S. Persons":
 - 1. Are not subject to withholding in most financial transactions. 26 U.S.C. Chapter 3 only dictates withholding on nonresident aliens and foreign corporations. U.S. citizens and residents are not mentioned.
 - 2. Only have to pay income tax on foreign earned income under 26 U.S.C. §911. They do not have to deduct, report, or withhold on earnings within any constitutional state or even on federal territory, unless they are public officers of the national government on official business.
 - 3. Include "citizens" under 26 U.S.C. §7701(a)(30), which most state citizens would falsely PRESUME they are. Unfortunately, the "citizen" they are talking about in Title 26 is NOT a human being domiciled or present within a constitutional state.
- All of the above motivations are "privileges", "immunities", or "benefits" of a franchise. All those who "purposefully avail" themselves of such "benefits" forfeit their Constitutional rights and in-effect facilitate CRIMINAL IDENTITY THEFT by transporting their legal identity to what Mark Twain called "The District of Criminals".
 - 6. The Court will not pass upon the constitutionality of a statute at the instance of one who has availed himself of its benefits. ³⁵ Great Falls Mfg. Co. v. Attorney General, 124 U.S. 581; Wall v. Parrot Silver & Copper Co., 244 U.S. 407, 411-412; St. Louis Malleable Casting Co. v. Prendergast Construction Co., 260 U.S. 469.
 - 7. "When the validity of an act of the Congress is drawn in question, and even if a serious doubt of constitutionality is raised, it is a cardinal principle that this Court will first ascertain whether a construction of the statute is fairly possible by which the question may be avoided." Crowell v. Benson, 285 U.S. 22, 62. [8] [Ashwander v. Tennessee Valley Authority Et Al, 297 U.S. 288, 346-348 (1936)]
 - Furthermore, Congress is FORBIDDEN by the License Tax Cases from offering or enforcing any national franchise within the borders of a Constitutional State:

"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."

EXHIBIT:_____

³⁵ Compare Electric Co. v. Dow, 166 U.S. 489; Pierce v. Somerset Rv., 171 U.S. 641, 648; Leonard v. Vicksburg, S. & P.R. Co., 198 U.S. 416, 422.

- Notice in the above case the language "Congress cannot authorize a trade or business within a State in order to tax it.".
- As we repeatedly point out the I.R.C. Subtitle A income tax is a franchise tax upon public offices in the national government,
- which is called a "trade or business" in the Internal Revenue Code. It is telling that the above case uses this PRECISE term
- to say what is FORBIDDEN within a constitutional state. "trade or business" is defined in 26 U.S.C. §7701(a)(26) as "the
- functions of a public office". The nature of the income tax as a franchise tax upon public offices is exhaustively covered in:

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

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- There are many other problems with the U.S. Person Position. In order to claim a PRIVILEGED/FRANCHISE exemption from withholding as a STATUTORY "U.S. person", you must:
- 9 1. Supply a PRIVILEGED Social Security Number or Taxpayer Identification Number, none of which apply within a state of the Union.
 - 2. Often supply a W-9 form to the payor in financial transactions, which only applies to territorial citizens or residents WHEN they are acting as officers of the government.
 - 3. Falsely admit or imply that you as a state citizen are a "citizen" under the laws of Congress and subject to the laws of Congress. All "citizens" under every act of Congress are territorial citizens born on and domiciled within federal territory not within any state.
 - 4. Create the false impression that you must report all financial transactions abroad and are subject to F.A.T.C.A. See: https://www.irs.gov/businesses/corporations/foreign-account-tax-compliance-act-fatca
 - State citizens, on the other hand, are "non-resident non-persons" in respect to Acts of Congress and need not comply with ANY act of Congress relating to their PRIVATE compensation. Coercion and even criminal extortion by financial institutions acting under the falsely alleged but not actual authority of law is the only reason people believe otherwise. False IRS propaganda that the IRS is NOT accountable for the truth of and which courts have even said you can be FINED for relying on is the only stated reason these mis-informed financial institutions perpetuate the mis-application of the revenue franchise codes extra-territorially within states of the Union. This is covered in:

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

- It is a fact that one cannot have ANY civil status or statutory status, including "person", "individual", "citizen", "resident",

 "taxpayer", or "U.S. person" under any act of Congress without as a bare minimum a domicile on federal territory. This is
 exhaustively proven in:
- 1. <u>Why Domicile and Becoming a "Taxpayer" Require Your Consent,</u> Form #05.002 http://sedm.org/Forms/FormIndex.htm
- 29 2. <u>Your Exclusive Right to Declare or Establish Your Civil Status</u>, Form #13.008 30 <u>http://sedm.org/Forms/FormIndex.htm</u>
- It is also exhaustively proven that the only people who must use Social Security Numbers or Taxpayer Identification Numbers are public officers on official business, and that ONLY when people are officers of the government do they need to use such numbers, and even then only in connection with excise taxable franchise activities.
- 1. Who are "Taxpayers" and Who Needs a "Taxpayer Identification Number"?, Form #05.013 http://sedm.org/Forms/FormIndex.htm
- About SSNs and TINs on Government Forms and Correspondence, Form #05.012
 http://sedm.org/Forms/FormIndex.htm
- 38 3. Why It is Illegal for Me to Request or Use a "Taxpayer Identification Number", Form #04.205 http://sedm.org/Forms/FormIndex.htm
 - 8.9 <u>Federal District and Circuit Courts are Article III Courts</u>

<u>False Argument</u>: Federal district and circuit courts are established pursuant to Article III of the United States Constitution. Judges hold office during good behavior and this MUST be so.

Corrected Alternative Argument: Federal district and circuit courts are established pursuant to Article IV of the United States constitution, not Article III. Congress has never expressly invoked Article III in establishing ANY federal district or circuit court. There is no enactment within Title 28 or the Statutes At Large that mentions Article III powers, and the term "State" as used in 28 U.S.C. §1332(e) confirms that they have no diversity jurisdiction under Article III. All of their powers are legislatively derived and NONE comes directly from the Constitution. The only jurisdiction they have is over federal property, federal territory, federal franchises, and persons domiciled on federal territory or committing crimes there. They are "franchise" courts, not constitutional courts.

Further information:

- 1. What Happened to Justice?, Litigation Tool #08.001 http://sedm.org/ItemInfo/Ebooks/WhatHappJustice/WhatHappJustice.htm
- 2. <u>The Tax Court Scam</u>, Form #05.039-proves that U.S. Tax Court is a franchise court, not an Article III Court. If it is a franchise court, then changing the venue to a district court doesn't change the nature of the transaction or of the court hearing the transaction
 - http://sedm.org/Litigation/LitIndex.htm
- 3. <u>Authorities on Jurisdiction of Federal Courts, Family Guardian Fellowship</u>
 http://famguardian.org/Subjects/LawAndGovt/ChallJurisdiction/AuthoritiesArticle/AuthOnJurisdiction.htm
- 4. <u>Government Instituted Slavery Using Franchises</u>, Form #05.030-shows how the federal courts administer franchises, such as the I.R.C. Subtitle A income tax http://sedm.org/Litigation/LitIndex.htm
- 5. <u>SEDM Litigation Tools Page</u>-tools you can use to litigate successfully in federal court http://sedm.org/Litigation/LitIndex.htm
- 6. <u>Court Remedies for Sovereigns: Taxation</u>, Litigation Tool #10.002 http://sedm.org/Litigation/LitIndex.htm
- Several government publications, the federal courts, and even government prosecutors frequently argue that the United States
- District Courts and Circuit (Appeal) Courts are established pursuant to Article III of the United States Constitution. Such an assertion is nothing more than an inadmissible presumption for which there is NO evidentiary support within the statutory
- law. Federal district and circuit courts are, in fact, Article IV, legislative, territorial courts that may only hear cases involving
- iaw. Federal district and circuit courts are, in fact, Afficie TV, registative, territorial courts that may only hear cases involving
- the following matters relating to "community property" of the states of the Union under their care and protection. This
- 6 community property includes:
 - Federal territory.

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2. Federal franchises. For instance, Social Security and the federal income tax described in Internal Revenue Code, Subtitle A is a franchise called a "trade or business", which 26 U.S.C. §7701(a)(26) defines as "the functions of a public office". This is exhaustively proven in:

<u>The "Trade or Business" Scam</u>, Family Guardian Fellowship

http://famguardian.org/Subjects/Taxes/Remedies/TradeOrBusinessScam.htm

3. Persons domiciled on federal territory and NOT within states of the Union (domicile is a "protection franchise"). See:

Why Domicile and Becoming a "Taxpayer" Require Your Consent, Family Guardian Fellowship http://famguardian.org/Subjects/Taxes/Remedies/DomicileBasisForTaxation.htm

- 4. Federal chattel property.
- The jurisdiction of the federal district and circuit courts over the above subject matters originates under Article 4, Section 3, Clause 2 of the United States constitution:

15 U.S. Constitution
16 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.

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"Levin v. United States (C.C.A.) 128 F. 826, 830, 831. In that case, Judge Sanborn, in a very carefully drawn opinion, pointed out that Congress cannot vest any portion of the judicial power granted by section 1 and defined by section 2 of the third article of the Constitution in courts not ordained and established by itself; that the judicial power there granted and defined necessarily extended only to the trial of the classes of cases named in section 2; but that these sections neither expressly nor impliedly prohibited Congress from conferring judicial power upon other courts. 'Thus,' he says, 'the authority granted *567 to territorial courts to hear and determine controversies arising in the territories of the United States is judicial power. But it is not a part of that judicial power granted by section 1, and defined by section 2, of article 3 of the Constitution. Nevertheless, under the constitutional grant to Congress of power to 'make all needful rules and regulations respecting the territory ** * belonging to the United States' (article 4, s 3), that body may create territorial courts not contemplated or authorized by article 3 of the Constitution, and may confer upon them plenary judicial power, because the establishment of such courts and the bestowal of such authority constitute appropriate means by which to exercise the congressional power to make needful rules respecting the territory belonging to the United States. [Williams v. U.S., 289 U.S. 553, 53 S.Ct. 751, (1933)]

In the above sense, federal circuit and district courts are "property courts", which lawfully officiate <u>only</u> over disputes relating to international affairs and the community property of the states of the Union under their care and protection. Jurisdiction of the federal courts pursuant to the above constitutional provision extends <u>everywhere</u> that such property is found, and including within states of the Union:

"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 *510 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, 1856 WL 8721 (U.S.1856)]

The above facts are exhaustively proven in the following book with thousands of pages of evidence:

<u>What Happened to Justice?</u>, Litigation Tool #08.001 http://sedm.org/ItemInfo/Ebooks/WhatHappJustice/WhatHappJustice.htm

Only an Article III constitutional court could lawfully hear a matter <u>not</u> involving federal property, contracts, domiciliaries, territory, or franchises, and we have no Article III constitutional courts. The U.S. Supreme Court has held that it is a violation of the separation of powers to delegate matters NOT involving the adjudication of franchises, which it calls "public rights", to a legislative court, and by implication, the federal district and circuit courts:

"The distinction between public rights and private rights has not been definitively explained in our precedents. FN22 Nor is it necessary to do so in the present cases, for it suffices to observe that a matter of public rights must at a minimum arise "between the government and others." Ex parte Bakelite Corp., supra, at 451, 49 S.Ct., at 413. FN23 In contrast, "the liability of one individual to another under the law as defined," Crowell v. Benson, supra, at 51, 52 S.Ct., at 292, is a matter of private rights. Our precedents clearly establish that only controversies in the former category may be removed from Art. III courts and delegated to legislative courts or administrative agencies for their determination. See Atlas Roofing Co. v. Occupational Safety and Health Review Comm'n, 430 U.S. 442, 450, n. 7, 97 S.Ct. 1261, 1266, n. 7, 51 L.Ed.2d. 464 (1977); Crowell v. Benson, supra, 285 U.S., at 50-51, 52 S.Ct., at 292. See also Katz, Federal Legislative Courts, 43 Harv.L.Rev. 894, 917-918 (1930). FN24 Private-rights disputes, on the other hand, lie at the core of the historically recognized judicial power."

[Northern Pipeline Const. Co. v. Marathon Pipe Line Co., 458 U.S. 50, 102 S.Ct. 2858 (1983)]

The federal courts, including the U.S. Supreme Court, have repeatedly held that federal district and circuit courts only have such jurisdiction as is *expressly* granted by Congress in a statute. The implication is that NONE of their authority derives directly and only from the constitution.

"But whatever may be the correct interpretation of the constitution upon this point, it has long been settled, that the Circuit Courts can exercise no jurisdiction but what is conferred upon them by law. The judiciary act does not vest them with jurisdiction where a State is a party. On the contrary, in a case like the present, it vests exclusive jurisdiction in the Supreme Court."

[Osborn v. Bank of U.S., 22 U.S. 738, 1824 WL 2682 (U.S., 1824)]

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"Neither party has questioned that jurisdiction, but it is the duty of this court to see to it that the jurisdiction of
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                           the circuit court, which is defined and limited by statute, is not exceeded. This duty we have frequently performed
                           of our own motion. Mansfield, C. & L. M. R. Co. v. Swan, 111 U.S. 379, 382, 28 S. L.Ed. 462, 463, 4 Sup. Ct. Rep.
                           510; King Iron Bridge & Mfg. Co. v. Otoe County, 120 U.S. 225, 30 L.Ed. 623, Sup.Ct.Rep. 552; Blacklock v.
                           Small, 127 U.S. 96, 105, 32 S. L.Ed. 70, 73, 8 Sup.Ct.Rep. 1096; Cameron v. Hodges, 127 U.S. 322, 326, 32 S.
                           L.Ed. 132, 134, 8 Sup.Ct.Rep. 1154; Metcalf v. Watertown, <u>128 U.S. 586, 587</u>, 32 S. L.Ed. 543, 9 Sup.Ct.Rep.
                           173; Continental Nat. Bank v. Buford, 191 U.S. 120, 48 L.Ed. 119, 24 Sup.Ct.Rep. 54. "
                           [Louisville RR v. Motley, 211 U.S. 149, 29 S.Ct. 42 (1908)]
                           "The national courts have jurisdiction only of those things conferred upon them by law. And at the time of the
                           creation of the national courts and at time of writing the Constitution itself the State courts were kept as a
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                           separate and distinct judicial institution."
                           [Williamson v. Puerifoy, 316 F.2d. 774 (5 Cir. 1963)]
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       Consistent with the above, there are NO statutes that expressly authorize federal jurisdiction within a state of the Union as
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       confirmed by 28 U.S.C. §1332(e), which is the ONLY definition of "State" anywhere in Title 28 of the U.S. Code.
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                           <u>TITLE 28</u> > <u>PART IV</u> > <u>CHAPTER 85</u> > § 1332
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                           § 1332. Diversity of citizenship; amount in controversy; costs
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                           (e) The word "States", as used in this section, includes the Territories, the District of Columbia, and the
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                           Commonwealth of Puerto Rico.
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       Title 28 is the source of ALL of the jurisdiction of the federal district and circuit courts. Nowhere in Title 28 of the U.S.
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       Code is the term "State" ever defined to include any land under the exclusive or general jurisdiction of any state of the Union.
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       The reason for this is clear, according to the U.S. Supreme Court:
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                            "It is no longer open to question that the general government, unlike the states, Hammer v. Dagenhart, 247 U.S.
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                           251, 275, 38 S.Ct. 529, 3 A.L.R. 649, Ann. Cas. 1918E 724, possesses no inherent power in respect of the internal
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                           affairs of the states; and emphatically not with regard to legislation.
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                           [Carter v. Carter Coal Co., 298 U.S. 238, 56 S.Ct. 855 (1936)]
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       It is also a violation of the separation of powers doctrine for a judge to function BOTH as an Article IV and an Article III
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       judge. These two functions MUST be separate or a conflict of interest would inevitably result in violation of 18 U.S.C. §208
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       and 28 U.S.C. §455. One cannot simultaneously be in charge of protecting constitutional rights, and at the same time running
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       or supervising those engaged in a government franchise or business whose sole purpose it is to DESTROY and regulate and
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       tax the exercise of rights. That would be putting the fox in charge of the chickens. Pretty STUPID.
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       Federal courts are famous for trying to unlawfully expand their jurisdiction by declaring themselves to have Article III powers
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       when in fact, they do not. They CANNOT lawfully extend their jurisdiction by decree or fiat. Not even the Supreme Court
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       could lawfully do such a thing:
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                            "The judicial Power" created by Article III, § 1, of the Constitution is not whatever judges choose to do, see
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                           Valley Forge Christian College v. Americans United for Separation of Church and State, Inc., 454 U.S. 464,
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                           487, 102 S.Ct. 752, 70 L.Ed.2d. 700 (1982); cf. Grupo Mexicano de Desarrollo, S.A. v. Alliance Bond Fund,
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                           Inc., 527 U.S. 308, 332-333, 119 S.Ct. 1961, 144 L.Ed.2d. 319 (1999), or even whatever Congress chooses to
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                           assign them, see Lujan v. Defenders of Wildlife, 504 U.S. 555, 576-577, 112 S.Ct. 2130, 119 L.Ed.2d. 351
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                           (1992); Chicago & Southern Air Lines, Inc. v. Waterman S.S. Corp., 333 U.S. 103, 110-114, 68 S.Ct. 431, 92
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                           L.Ed. 568 (1948). It is the power to act in the manner traditional for English and American courts. One of the
                           most obvious limitations imposed by that requirement is that judicial action must be governed by standard, by
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                           rule. Laws promulgated by the Legislative Branch can be inconsistent, illogical, and ad hoc; law pronounced by
                           the courts must be principled, rational, and based upon reasoned distinctions.
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                           [Vieth v. Jubelirer, 541 Û.S. 267, 277-278, 124 S.Ct. 1769, 1776 - 1777 (U.S.Pa., 2004)]
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                            "It is contended that Congress has reversed this current by permitting the Supreme Court to legislate upon it.
                           Congress could not confer, nor could the Supreme Court exercise the authority to ordain and establish 'inferior
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                           federal courts' and fix the jurisdiction thereof which power*615 was given to Congress alone by the
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                           Constitution. Suffice it to say Congress gave the Supreme Court 'power to prescribe * * * rules of pleading,
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                           practice, and procedure * * * in criminal cases in district courts of the United States. '18 U.S.C.A. § 687. Unless
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                           the transfer of jurisdiction from one court to another is governed by rules of pleading, practice and procedure,
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The ability for ANY court to decree that it has Article III powers would be completely inconsistent with the above rulings where we showed that ALL of their jurisdiction must be expressly found in a statute. The reason their jurisdiction is confined

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the statute was of no avail.FN41"

[U.S. v. Bink, 74 F.Supp. 603, D.C.Or. (1947)]

exclusively by statute is that federal district and circuit courts are nowhere directly conferred jurisdiction within the Constitution. The U.S. Supreme Court is the only court that has original jurisdiction and powers granted directly by the Constitution, which explains why there are not any statutes that regulate its activities within Title 28 of the U.S. Code. Congress cannot regulate what they themselves did not create. The PEOPLE, and not Congress, wrote the Constitution. Only Congress is expressly conferred jurisdiction within the Constitution to define the powers of federal circuit and district courts and they do so legislatively:

United States Constitution Article 3, Section 1, Clause 1

The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

Whenever Congress creates a court under the authority of Article 3, Section 1, Clause 1, above, it MUST <u>expressly invoke</u> Article III in its enactment. No such provision has EVER appeared in any act of Congress in the context of any federal circuit or district court, and if a government attorney or judge argues otherwise, DEMAND that he produce the statute from the Statute At Large that expressly confers Article 3 jurisdiction upon the specific court he is litigating before. We'll give you a hint: He won't be able to produce it. If such an invocation of constitutional authority is <u>not</u> expressly made in a statute <u>somewhere</u>, under the rules of statutory construction, it must be presumed NOT to exist:

"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]

The whole purpose of law is the definition and limitation and delegation of power in writing. It serves as the equivalent of a delegation of authority order. Pursuant to the Tenth Amendment to the United States Constitution, what is not expressly delegated to the federal government is reserved to the people and the states by implication. Law therefore <u>DEFINES</u> the power of those it delegates authority to. It is therefore a "definition", and all definitions operate under the rules of statutory construction:

"When we consider the nature and the theory of our institutions of government, the principles on 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.

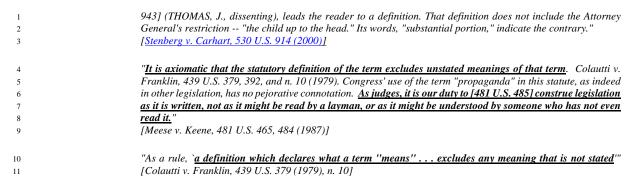
And the law is the definition and limitation of power. It is, indeed, quite

true that there must always be lodged somewhere, and in some person or body, the authority of final decision; and in many cases of mere administration, the responsibility is purely political, no appeal lying except to the ultimate tribunal of the public judgment, exercised either in the pressure of opinion, or by means of the suffrage. But the fundamental rights to life, liberty, and the pursuit of happiness, considered as individual possessions, are secured by those maxims of constitutional law which are the monuments showing the victorious progress of the race in securing to men the blessings of civilization under the reign of just and equal laws, so that, in the famous language of the Massachusetts bill of rights, the government of the commonwealth 'may be a government of laws and not of men.' For the very idea that one man may be compelled to hold his life, or the means of living, or any material right essential to the enjoyment of life, at the mere will of another, seems to be intolerable in any country where freedom prevails, as being the essence of slavery itself."

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

"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.

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The book <u>What Happened to Justice?</u>, Litigation Tool #08.001 mentioned above features an entire chapter, which is Chapter 5, that enumerates all the deception, falsehoods, and lies on the subject of Article III jurisdiction of federal courts proffered by members of the legal profession, the courts, the U.S. government printing office, freedom advocates, etc. We encourage you to obtain that book and use the thousands of pages of evidence supporting it to prove that the conclusions of this section are wrong.

On the subject of Article III jurisdiction, the following requirements apply:

 1. Federal courts must resolve questions of Article III jurisdiction BEFORE reaching the merits of a plaintiff's claim.

"Steel Co. v. Citizens for a Better Environment, 523 U.S. 83, 118 S.Ct. 1003, 140 L.Ed.2d. 210 (1998), directs federal courts to resolve questions of Article III jurisdiction before reaching the merits of a plaintiff's claim." [Spargo v. New York State Com'n on Judicial Conduct, 351 F.3d. 65 (C.A.2 (N.Y.),2003)]

2. A claim that the court lacks jurisdiction under Article III may not be waived and must be addressed.

"A claim that the court lacks jurisdiction under Article III of the Constitution may not be waived, since the jurisdiction at issue goes to the foundation of the court's power to resolve a case, and the court is obliged to address it sua sponte."

[Doe ex rel. Fein v. District of Columbia, 93 F.3d. 861, 871 (D.C.Cir.1996)]

3. Article III Jurisdiction cannot be "presumed" or assumed, but must be proven to exist on the record of the proceeding:

"A court may not decide a cause of action before resolving whether the court has Article III jurisdiction; <u>standing cannot be assumed</u>. See Steel Co. v. Citizens for a Better Env't, 523 U.S. 83, 93-94, 118 S.Ct. 1003, 140 L.Ed.2d. 210 (1998)."

[RK Ventures, Inc. v. City of Seattle, 307 F.3d. 1045 (C.A.9 (Wash.), 2002]

4. No action of the parties can confer subject matter jurisdiction upon federal courts:

Moreover, because subject-matter jurisdiction is "an Art. III as well as a statutory requirement ... no action of the parties can confer subject-matter jurisdiction upon a federal court." Ins. Corp. of Ireland, Ltd. v. Compagnie des Bauxites de Guinee, 456 U.S. 694, 702, 102 S.Ct. 2099, 2104, 72 L.Ed.2d. 492 (1982). [Akinseye v. District of Columbia, 339 F.3d. 970, 971 (D.C.Cir.2003)]

5. Matters of statutory standing may be decided BEFORE Article III jurisdiction is decided. Consequently, the court may still rule on whether a jurisdiction exists under a particular statute BEFORE they dismiss a case because the plaintiff lacks standing under Article III. This is very important in cases where jurisdiction is challenged in tax litigation and the definition of terms is at issue such as "State", "United States", "trade or business", "employer", etc. Those definitions can therefore be challenged and decided INDEPENDENT of whether the plaintiff lacks standing and BEFORE the court dismisses the case.

In Steel Co., the Supreme Court noted that <u>courts may determine whether a cause of action exists under a given statute</u>, an issue of statutory construction that goes to the merits of the action, before addressing the zone-of-interests prudential dimension of standing, an issue the Court labeled as statutory standing. See id. at 97, 118 S.Ct. 1003; see also Nat'l R.R. Passenger Corp. v. Nat'l Ass'n of R.R. Passengers, 414 U.S. 453, 465 n. 13, 94 S.Ct. 690, 38 L.Ed.2d. 646 (1974) (deciding whether a statutory cause of action existed before determining whether the plaintiff met the statutory standing requirements). As the Supreme Court explained:

[T]he merits inquiry and the statutory standing inquiry often 'overlap.' The question whether this plaintiff has a 2 cause of action under the statute, and the question whether any plaintiff has a cause of action under the statute are closely connected-indeed, depending upon the asserted basis for lack of statutory standing, they are 3 sometimes identical, so that it would be exceedingly artificial to draw a distinction between the two. Steel Co., 523 U.S. at 97 n. 2, 118 S.Ct. 1003 (internal citation omitted). Thus, at least in some circumstances, lack of statutory standing does not divest a district court of jurisdiction to determine the underlying merits of the action. In declining to require statutory standing as a prerequisite to jurisdiction when the merits of whether a 8 cause of action exists are so intertwined with the statutory standing question, the Supreme Court reasoned that if "all cause-of-action questions may be regarded as jurisdictional questions, and thus capable of being decided where there is no genuine case or controversy, it is hard to see what is left of that limitation in Article III." Id. at 10 11 [Lerner v. Fleet Bank, N.A., 318 F.3d. 113 (C.A.2 (N.Y.),2003)] 12 If a court which lacks Article III jurisdiction to hear a case and rules anyway, its holding is simply advisory and political 13 in nature, rather than legal in nature: 14 "Finally, the main object underlying Steel Co. is that courts not declare the law *418 where they do not have 15 Article III jurisdiction because any opinion in such a situation would be advisory, thus raising separation of 16 powers problems. Steel Co., 523 U.S. at 101, 118 S.Ct. at 1016. 17 18 [Bowers v. National Collegiate Athletic Ass'n, 346 F.3d. 402 (C.A.3 (N.J.), 2003)] 19 Diversity jurisdiction must be satisfied under Constitution Article III, Section 2 and 28 U.S.C. §1332(a) for ALL DEFENDANTS in an action, not just some of them. If any defendant or respondent does not satisfy the criteria, the 20 whole case must be dismissed or the offending party must be removed from the action. Diversity of citizenship under 21 28 U.S.C. §1332(a) relates only to the federal "States" (e.g. territories) mentioned in 28 U.S.C. §1332(e) while diversity 22 under Constitution Article III, Section 2 relates only to states of the Union and excludes federal states: 23 Federal subject matter jurisdiction in this case is based on diversity. Although Article III of the Constitution 24 would permit the federal courts to exercise jurisdiction over a broader class of diversity cases, see State Farm 25 Fire & Cas. Co. v. Tashire, 386 U.S. 523, 530-31, 87 S.Ct. 1199, 18 L.Ed.2d. 270 (1967), Congress has limited 26 the scope of diversity jurisdiction to cases involving particular alignments of parties. See 28 U.S.C. § 1332(a). FMG 27 The diversity jurisdiction statute, as construed for nearly 200 years, requires that to bring a diversity case in 28 federal court against multiple defendants, each plaintiff must be diverse from each defendant. Schacht, 524 U.S. 29 at 388, 118 S.Ct. 2047; Strawbridge v. Curtiss, 7 U.S. (3 Cranch) 267, 2 L.Ed. 435 (1806). 30 FN6. 28 U.S.C. §1332(a) provides, in pertinent part: 31 The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the 32 sum or value of \$75,000 ... and is between-33 (1) citizens of different States; 34 (2) citizens of a State and citizens or subjects of a foreign state; 35 (3) citizens of different States and in which citizens or subjects of a foreign state are additional parties; and 36 (4) a foreign state ... as plaintiff and citizens of a State or of different States. 37 That compliance with the diversity statute, including its complete diversity requirement, is the sine qua non of 38 diversity *1005 jurisdiction was made clear in Newman-Green, Inc. v. Alfonzo-Larrain, 490 U.S. 826, 109 S.Ct. 39 2218, 104 L.Ed.2d. 893 (1989). In a case involving claims against multiple defendants, "the plaintiff must meet 40 the requirements of the diversity statute for each defendant." Id. at 829, 109 S.Ct. 2218 (emphasis added and 41 42 emphasis in original omitted). One of the Newman-Green defendants, an American citizen who lived overseas, fell within none of the statutory categories of parties over whom the federal courts may exercise diversity 43 44 jurisdiction. Because he was not domiciled in any state, this defendant was "stateless" for purposes of the diversity statute, and, under the strictures of § 1332, the plaintiff could not pursue an action in federal court 45 46 against him. Id. at 828, 109 S.Ct. 2218. For this reason, the defendant's presence in the case destroyed "complete diversity," rendering the entire case beyond the federal court's power to decide unless he was dismissed. Id. at 47 829, 109 S.Ct. 2218. 48 [Lee v. American Nat. Ins. Co., 260 F.3d. 997 (C.A.9 (Cal.), 2001)] 49 Article III jurisdiction need not be proven in order to challenge an unlawful search or seizure. 50

9. The plaintiff in every action bears the burden of proof in establishing that the court has subject matter jurisdiction.

III jurisdiction, Rakas v. Illinois, 439 U.S. 128, 139-40, 99 S.Ct. 421, 58 L.Ed.2d. 387 (1978)'

[U.S. v. Huggins, 299 F.3d. 1039 (C.A.9 (Or.), 2002)]

"Standing to challenge a search or seizure is a matter of substantive Fourth Amendment law rather than of Article

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"The party invoking federal jurisdiction bears the burden of establishing these elements. See FW/PBS, Inc. v. Dallas, 493 U.S. 215, 231, 110 S.Ct. 596, 608, 107 L.Ed.2d. 603 (1990); Warth, supra, 422 U.S., at 508, 95 S.Ct., at 2210. Since they are not mere pleading requirements but rather an indispensable part of the plaintiff's case, each element must be supported in the same way as any other matter on which the plaintiff bears the burden of proof, i.e., with the manner and degree of evidence required at the successive stages of the litigation. See Lujan v. National Wildlife Federation, 497 U.S. 871, 883-889, 110 S.Ct. 3177, 3185-3189, 111 L.Ed.2d. 695 (1990); Gladstone, Realtors v. Village of Bellwood, 441 U.S. 91, 114-115, and n. 31, 99 S.Ct. 1601, 1614-1615, and n. 31, 60 L.Ed.2d. 66 (1979); **2137 Simon, supra, 426 U.S., at 45, n. 25, 96 S.Ct., at 1927, and n. 25; Warth, supra, 422 U.S., at 527, and n. 6, 95 S.Ct., at 2219, and n. 6 (Brennan, J., dissenting)."

[Lujan v. Defenders of Wildlife, 504 U.S. 555, 561, 112 S.Ct. 2130, 119 L.Ed.2d. 351 (1992)]

10. The court may dismiss a complaint for lack of subject-matter jurisdiction only if it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.

A complaint may be dismissed for lack of subject matter jurisdiction only if "it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.'" Sinclair v. Kleindienst, 711 F.2d. 291, 293 (D.C.Cir.1983) (quoting Conley v. Gibson, 355 U.S. 41, 45-46, 78 S.Ct. 99, 101-02, 2 L.Ed.2d. 80 (1957)). In our review, this court assumes the truth of the allegations made and construes them favorably to the pleader. Scheuer v. Rhodes, 416 U.S. 232, 236, 94 S.Ct. 1683, 1686, 40 L.Ed.2d. 90 (1974). [Empagran S.A. v. F. Hoffman-LaRoche, Ltd., 315 F.3d. 338, 343 (D.C.Cir.2003)]

11. Because subject-matter jurisdiction focuses on the court's power to hear the claim, however, the court must give the plaintiff's factual allegations closer scrutiny when resolving a Rule 12(b)(1) motion than would be required for Rule 12(b)(6) motion for failure to state a claim.

Macharia v. United States, 334 F.3d. 61, 64, 69 (D.C.Cir.2003); Grand Lodge of Fraternal Order of Police v. Ashcroft, 185 F.Supp.2d. 9, 13 (D.D.C.2001).

12. The Eleventh Amendment limits the Article III jurisdiction of federal courts to hear cases against States and state officers acting in their official capacities.

The Eleventh Amendment FN2 limits the Article III jurisdiction *184 of the federal courts to hear cases against States and state officers acting in their official capacities. Eleventh Amendment immunity does not extend to mere political subdivisions of a State such as counties or municipalities. Mt. Healthy City School Dist. Bd. of Education v. Doyle, 429 U.S. 274, 280, 97 S.Ct. 568, 50 L.Ed.2d. 471 (1977) (citing Lincoln County v. Luning, 133 U.S. 529, 530, 10 S.Ct. 363, 33 L.Ed. 766 (1890)). However, the amendment does confer sovereign immunity on an arm of the State. Mt. Healthy, 429 U.S. at 280, 97 S.Ct. 568. There is no clear line separating those state instrumentalities that are entitled to sovereign immunity from those that are not, and we follow the Supreme Court's admonition that courts should seek guidance in the twin purposes of the Eleventh Amendment, namely: 1) "the State's fears that 'federal courts would force them to pay their Revolutionary War debts, leading to their financial ruin,' " and 2) "the integrity retained by each State in our federal system." Hess v. Port Auth. Trans-Hudson Corp., 513 U.S. 30, 39, 115 S.Ct. 394, 130 L.Ed.2d. 245 (1994). Accordingly, the principal factor to be considered is "whether a judgment against the government entity would have to be paid from the State's treasury." Cash v. Granville County Bd. of Education, 242 F.3d. 219, 223 (4th Cir. 2001) (citations omitted). This is often the end of the inquiry, for if the "State treasury will be called upon to pay a judgment against a governmental entity ... consideration of any other factor becomes unnecessary," and the entity will be immune. Cash, 242 F.3d. at 223. A finding to the contrary weighs against immunity. However, even if the state's treasury will not be used to satisfy a judgment, we still must determine if the relationship of the entity with the state is close enough to implicate the "dignity of the State as a sovereign." 242 F.3d. at 224. We apply three additional factors in this determination: 1) the degree of control that the State exercises over the entity; 2) whether the entity deals with local rather than statewide concerns; and 3) "the manner in which State law treats the entity." 242 F.3d. at 224 (citations omitted). [Kitchen v. Upshaw, 286 F.3d. 179 (C.A.4 (Va.), 2002)]

13. Court is not limited to the allegations contained in the complaint in deciding jurisdiction.

"The <u>District Court, however, is not limited to the allegations of the complaint</u> in deciding a <u>Rule 12(b)(1)</u> motion. Here the District Court properly relied on extra-pleading material in deciding the motion. <u>5 C. WRIGHT & A. MILLER, FEDERAL PRACTICE AND PROCEDURE § 1350 at 549-550 & n. 77 (1969 & 1985 Supp.)</u> (collecting citations)."

[Hohri v. United States, 782 F.2d. 227, 241 (D.C.Cir.1986), vacated on other grounds, <u>482 U.S. 64, 107 S.Ct. 2246, 96 L.Ed.2d. 51 (1987).</u>]

14. The court may consider materials outside the pleadings to determine whether it has jurisdiction over the claim,

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"Under settled law, the District Court may in appropriate cases dispose of a motion to dismiss for lack of subject matter jurisdiction under Fed.R.Civ.P. 12(b)(1) on the complaint standing alone. But where necessary, the court may consider the complaint supplemented by undisputed facts evidenced in the record, or the complaint supplemented by undisputed facts plus the court's resolution of disputed facts. Williamson v. Tucker, 645 F.2d. 404, 413 (5th Cir.1981). See also Land v. Dollar, 330 U.S. 731, 735 n. 4, 67 S.Ct. 1009, 1011 n. 4, 91 L.Ed. 1209 (1947); Hohri v. United States, 782 F.2d. 227, 241 (D.C.Cir.1986), vacated on other grounds, 482 U.S. 64, 107 S.Ct. 2246, 96 L.Ed.2d. 51 (1987); Wilderness Soc'y v. Griles, 824 F.2d. 4, 16-17 n. 10 (D.C.Cir.1987); 5A C. WRIGHT & A. MILLER, FEDERAL PRACTICE AND PROCEDURE § 1350, at 213 (1990) (collecting citations). The posture in which the motion is presented to trial court has a profound effect on the manner in which this Court will review its disposition."

[Herbert v. Natl. Acad. of Scis., 974 F.2d. 192, 197 (D.C.Cir.1992)]

15. To bring a suit, the plaintiff must satisfy the constitutional requirement for standing.

In order to bring a suit in federal court, a plaintiff must first satisfy the constitutional requirement of standing. A plaintiff must allege an "injury in fact,' that is, a sufficiently concrete interest in the outcome of [his] suit to make it a case or controversy *400 subject to a federal court's Art. III jurisdiction" Singleton v. Wulff, 428 U.S. 106, 112, 96 S.Ct. 2868, 2873, 49 L.Ed.2d. 826 (1976). [Kaplan v. County of Sullivan, 74 F.3d. 398 (1996)]

16. Suits against foreign sovereigns must satisfy some provision within the Foreign Sovereign Immunities Act, 28 U.S.C. §1603 et seq.

"To promote these federal interests, Congress exercised its Art. I powers by enacting a statute comprehensively regulating the amenability of foreign nations to suit in the United States. The statute must be applied by the district courts in every action against a foreign sovereign, since subject-matter jurisdiction in any such action depends on the existence of one of the specified exceptions to foreign sovereign immunity, 28 U.S.C. \$1330(a). At the threshold of every action in a district court against a foreign state, therefore, the court must satisfy itself that one of the exceptions applies-and in doing so it must apply the detailed federal law standards set forth in the Act. Accordingly, an action against a foreign sovereign arises under federal law, for purposes of Art. III jurisdiction."

[In re Delta America Re Ins. Co., 900 F.2d. 890 (1990)]

We will now list some of the deception, falsehoods, and LIES on this subject right from the legal profession, the government, and even the courts themselves on the subject of Article III powers of federal circuit and district courts:

1. <u>U.S. Government Manual</u>. This manual simply presumes but cannot prove the common fallacy that because a judge is appointed for life, then he MUST be an Article III judge who is serving in an Article III court. HOGWASH!

At present, each district court has from 2 to 28 Federal district judgeships, depending upon the amount of judicial work within its territory. Only one judge is usually required to hear and decide a case in a district court, but in some limited cases it is required that three judges be called together to comprise the court (28 U.S.C. 2284). The judge senior in commission who is under 70 years of age (65 at inception of term), has been in office for at least 1 year, and has not previously been chief judge, serves as chief judge for a 7-year term. There are altogether 645 permanent ~ ~~ district judgeships in the 50 States and 15 in the District of Columbia. There are 7 district judgeships in Puerto Rico.

District judges hold their offices during good behavior as provided by Article III, section 1, of the Constitution. However, Congress may create temporary judgeships for a court with the provision that when a future vacancy occurs in that district, such vacancy shall not be filled. Each district court has one or more United States magistrate judges and bankruptcy judges, a clerk, a United States attorney, a United States marshal, probation officers, court reporters, and their staffs. The jurisdiction of the district courts is set forth in title 28, chapter 85, of the United States Code and at 18 V.S.C. 3231. Cases from the district courts are reviewable on appeal by the applicable court of appeals. Territorial Courts Pursuant to its authority to govern the Territories (an. IV, 3, clause 2, of the Constitution), Congress has established district courts in the territories of Guam and the Virgin islands. The District Court of the Canal Zone was abolished on April 1, 1982, pursuant to the Panama Canal Act of 1979 (22 U.S.C. § 3601 note). Congress has also established a district court in the Northern Mariana Islands, which presently is administered by the United States under a trusteeship agreement with the United Nations. These Territorial courts have jurisdiction not only over the subject described in the judicial article of the Constitution but also over many local matters that, within the States, are decided in State courts. The district court of Puerto Rico, by contrast, is established under Article Ill, is classified like other "district courts," is called a "court of the United States" (28 U.S.C. 451). There is one judge each in Guam and the Northern Mariana Islands, and two in the Virgin Islands. The judges in these courts are appointed for terms of 10 years. [U.S. Government Manual, Year 2000, pp. 73-74]

- 2. <u>Tax Procedure and Tax Fraud</u>, Patricia T. Morgan, West Group, Chapter 6, pp. 97-127, ISBN 0-314-06586-5. In this book, the author closes the chapter with the table below, showing that United States District Courts are Article III courts. This table contains lies.
 - **Table 7: Civil Tax Litigation Comparison of Courts**

Characteristic	Tax Court	District Court	Claims Court
Must pay tax before filing	No	Yes	Yes
suit			
Jury trial available	No	Yes	No
Appeal from adverse	U.S. Circuit Courts of	Same as Tax Court	Federal Circuit Ct. of
decision to which court	Appeals; based on		Appeals
	taxpayer's residence		
Precedent followed	Circuit Ct. of Appeals to	Same as Tax Court	Federal Circuit Ct. of
	which appeal lies; based		Appeals former Ct. of
	on taxpayer's residence		Claims
Established under Art. I or	Art. I	Art. III [WRONG!]	Art. I
Art III of U.S. Const'n			
Respondent (party against	Commissioner of IRS	United States	United States
whom suit filed)			
Government represented by	Appeals Division, Office	Tax Division, U.S.	Same as U.S. Dist. Ct.
attorneys from	of Chief Counsel;	Department of Justice	
	District Counsel		

- 5 Every case heard in any federal district or circuit court relates to federal territory or property of one kind or another. In law:
- 6 1. All rights are property.

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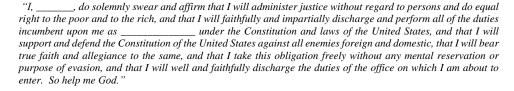
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- 2. Anything that conveys rights is property.
 - 3. Contracts convey rights, and are therefore property.
- 9 4. All franchises are contracts, and therefore property.

Examples of "property" within the meaning of Article 4, Section 3, Clause 2 of the United States Constitution are the Social Security, Medicare, and I.R.C. Subtitle A income tax franchises. These franchises are implemented and paid for using excise taxes upon an activity called a "trade or business", which is defined in 26 U.S.C. §7701(a)(26) as "the functions of a public office". The ONLY reason that federal district courts can hear matters relating to these franchises is because they are in fact "contracts", consent to them is in writing, and they convey MUTUAL consideration, obligations, and rights to <u>both</u> the grantor of the franchise, and the franchisees called "taxpayers". Otherwise, they could not and would not be "property" and therefore disputes could not be settled in property courts such as the Federal District Courts and Circuit Courts.

The oath of office of judicial officers of these federal district and circuit "franchise courts", in fact, reveals that they are "property courts" because they take a statutory "employee" oath defined in 5 U.S.C. §3331 and 28 U.S.C. §453 rather than the constitutional oath mandated by Article VI of the United States Constitution. Only by taking the Article VI constitutional oath could they in fact be "constitutional officers" rather than simply non-discretionary "employees" and custodians over community property of the states. Below is the judge oath, courtesy of the Administrative Office of the United States Courts:



Notice that the above oath uses the phrase "without regard to persons". In other words, they don't care whether you are a "person" within the meaning of the Bill of Rights. Obviously, a judge who takes such an oath is therefore a <u>property judge</u>, not a "constitutional officer". All of the proceedings before these "property" judges:

Relate only to creations of Congress, which include corporations and officers of corporations. The power to tax is the 1 power to destroy, and the Constitution does not confer upon Congress the power to either tax or destroy WE THE 2 PEOPLE. Congress can only destroy that which it creates, and it didn't create YOU! Congress was created BY YOU 3 to protect you, not destroy you. 4 "The great principle is this: because the constitution will not permit a state to destroy, it will not permit a law 5 [including a tax law] involving the power to destroy. 6 [Providence Bank v. Billings, 29 U.S. 514 (1830)] "The power to tax involves the power to destroy; the power to destroy may defeat and render useless the power 8 to create; and there is a plain repugnance in conferring on one government [THE FEDERAL GOVERNMENT] a power to control the constitutional measures of another [WE THE PEOPLE], which other, 10 11 with respect to those very measures, is declared to be supreme over that which exerts the control. [Van Brocklin v. State of Tennessee, <u>117 U.S. 151</u> (1886)] 12 "What is a Constitution? It is the form of government, delineated by the mighty hand of the people, in which 13 certain first principles of fundamental laws are established. The Constitution is certain and fixed; it contains the permanent will of the people, and is the supreme law of the land; it is paramount to the power of the Legislature, 15 and can be revoked or altered only by the authority that made it. The life-giving principle and the death-doing 16 stroke must proceed from the same hand." 17 [VanHorne's Lessee v. Dorrance, 2 U.S. 304 (1795)] GOD created you! Only GOD can destroy you, not some judge who is nothing more than a property manager or facility 19 manager for community property of the states called federal territory. 20 Are "in rem" against the property, and not the man or woman. They proceed against the "res", which is the "public 21 office", and not against the flesh and blood person. If you are engaged in a federal franchise, you have consented or 22 agreed to become surety for this office. If the judge knows you do not lawfully occupy said "public office", he is 23 committing the crime of impersonating a public officer by allowing you to appear before him in court as surety for this 24 "public office" in criminal violation of 18 U.S.C. §912. If he won't admit to you that you are appearing as a "public 25 officer" pursuant to Federal Rule of Civil Procedure 17(d) and that you are appearing in a representative capacity pursuant 26 to Federal Rule of Civil Procedure 17(b), then he is committing constructive FRAUD. 27 in rem. A technical term used to designate proceedings or actions instituted against the thing, in contradistinction 28 to personal actions, which are said to be in personam. 29 "In rem" proceedings encompass any action brought against person in which essential purpose of suit is to 30 31 determine title to or to affect interests in specific property located within territory over which court has jurisdiction. ReMine ex rel. Liley v. District Court for City and County of Denver, Colo., 709 P.2d. 1379, 1382. 32 It is true that, in a strict sense, a proceeding in rem is one taken directly against property, and has for its object 33 34 the disposition of property, without reference to the title of individual claimants; but, in a larger and more general 35 sense, the terms are applied to actions between parties, where the direct object is to reach and dispose of property owned by them, or of some interest therein. Such are cases commenced by attachment against the property of 36 debtors, or instituted to partition real estate, foreclose a mortgage, or enforce a lien. Pannoyer v. Neff, 95 U.S. 37 714, 24 L.Ed. 565. In the strict sense of the term, a proceeding "in rem" is one which is taken directly against 38 39 property or one which is brought to enforce a right in the thing itself. Actions in which the court is required to have control of the thing or object and in which an adjudication is made 40 as to the object which binds the whole world and not simply the interests of the parties to the proceeding. Flesch 41 v. Circle City Excavating & Rental Corp., 137 Ind.App. 695, 210 N.E.2d. 865. 42 See also In personam, In rem jurisdiction; Quasi in rem jurisdiction. 43 Judgment in rem. See that title. 44 45 Quasi in rem. A term applied to proceedings which are not strictly and purely in rem, but are brought against the defendant personally, though the real object is to deal with particular property or subject property to the 46 47 discharge of claims asserted; for example foreign attachment, or proceedings to foreclose a mortgage, remove cloud from title, or effect a partition. Freeman v. Alderson, 119 U.S. 185, 7 S.Ct. 165, 30 L.Ed. 372. An action 48 in which the basis of jurisdiction is the defendant's interest in property, real or personal, which is within the 49

court's power, as distinguished from in rem jurisdiction in which the court exercises power over the property

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itself, not simply the defendant's interest therein.

[Black's Law Dictionary, Sixth Edition, p. 793]

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

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

[Black's Law Dictionary, Sixth Edition, pp. 1304-1306]

3. Do not and cannot relate to <u>private</u> men and women, because they aren't "persons" within federal law. The only thing the government can lawfully regulate is the exercise of "public rights" by "public officers", and these rights are statutorily defined and enforced ONLY by federal franchises.

"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. Florez, Archbishop of San Antonio, 521 U.S. 507 (1997)]

"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 Internal Revenue Code, Subtitle Al so long as he does not trespass upon their rights."

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

4. Relate to artificial "persons" who are "public officers" within the government engaged in the "trade or business" franchise as described, for instance, in 26 U.S.C. §6671(b) and 26 U.S.C. §7343.

The only reason that federal judges and federal prosecutors self-servingly maintain beliefs and opinions in conflict with this section is because:

- 1. They don't want to admit that they need your consent to be governed. All franchises and excises require written proof of consent, usually in the form of a license, to be enforceable. In the case of the "trade or business" franchise, that consent can only come in the form of an Article VI constitutional oath.
- 2. They don't want to deflate their own importance.

- 3. They don't want to advertise to the public that they have been violating the law for most of their lives and are ignorant of the law.
- 4. They don't want to be the subject of the wave of constitutional tort actions that would result if they admitted the truth and enforced it in court.
- 52 5. They don't want to reduce the gravy train of plunder that funds their fat federal retirement or "benefits".
 - 6. They care more about money than they care about truth or freedom.
 - 7. They don't want to admit that they can't rule on a tax matter without having a conflict of interest in criminal violation of 18 U.S.C. §208 and 28 U.S.C. §455 because they are a recipient of the very "benefits" that are the subject of all franchise litigation.

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Of the above travesty of justice, Thomas Jefferson prophetically said the following: 1 "Contrary to all correct example, [the Federal judiciary] are in the habit of going out of the question before them, 2 to throw an anchor ahead and grapple further hold for future advances of power. They are then in fact the corps of sappers and miners, steadily working to undermine the independent rights of the States and to consolidate 4 all power in the hands of that government in which they have so important a freehold estate. [Thomas Jefferson: Autobiography, 1821. ME 1:121] 6 7 "We all know that permanent judges acquire an esprit de corps; that, being known, they are liable to be tempted by bribery; that they are misled by favor, by relationship, by a spirit of party, by a devotion to the executive or legislative; that it is better to leave a cause to the decision of cross and pile than to that of a judge biased to one 9 10 side; and that the opinion of twelve honest jurymen gives still a better hope of right than cross and pile does.' [Thomas Jefferson to Abbe Arnoux, 1789. ME 7:423, Papers 15:283] 11 <u>"It is not enough that honest men are appointed judges. All know the influence of interest on the mind of man,</u> 12 and how unconsciously his judgment is warped by that influence. To this bias add that of the esprit de corps, 13 of their peculiar maxim and creed that 'it is the office of a good judge to enlarge his jurisdiction,' and the 14 absence of responsibility, and how can we expect impartial decision between the General government, of which 15 they are themselves so eminent a part, and an individual state from which they have nothing to hope or fear? 16 [Thomas Jefferson: Autobiography, 1821. ME 1:121] 17 "At the establishment of our Constitutions, the judiciary bodies were supposed to be the most helpless and 18 harmless members of the government. Experience, however, soon showed in what way they were to become the 19 most dangerous; that the insufficiency of the means provided for their removal gave them a freehold and 20 irresponsibility in office; that their decisions, seeming to concern individual suitors only, pass silent and 21 unheeded by the public at large; that these decisions nevertheless become law by precedent, sapping by little and 22 23 little the foundations of the Constitution and working its change by construction before any one has perceived that that invisible and helpless worm has been busily employed in consuming its substance. In truth, man is not 24 made to be trusted for life if secured against all liability to account." 25 [Thomas Jefferson to A. Coray, 1823. ME 15:486] 26 27 "I do not charge the judges with willful and ill-intentioned error; but honest error must be arrested where its toleration leads to public ruin. As for the safety of society, we commit honest maniacs to Bedlam; so judges 28 should be withdrawn from their bench whose erroneous biases are leading us to dissolution. It may, indeed, 29 injure them in fame or in fortune; but it saves the republic, which is the first and supreme law." 30 31 [Thomas Jefferson: Autobiography, 1821. ME 1:122] <u>"The original error [was in] establishing a judiciary independent of the nation, and which, from the citadel of</u> 32 the law, can turn its guns on those they were meant to defend, and control and fashion their proceedings to its 33 own will. 34 [Thomas Jefferson to John Wayles Eppes, 1807. FE 9:68] 35 "It is a misnomer to call a government republican in which a branch of the supreme power [the Federal 36 37 Judiciary] is independent of the nation. [Thomas Jefferson to James Pleasants, 1821. FE 10:198] 38 39 "It is left... to the juries, if they think the permanent judges are under any bias whatever in any cause, to take on themselves to judge the law as well as the fact. They never exercise this power but when they suspect 40 partiality in the judges; and by the exercise of this power they have been the firmest bulwarks of English 41 <u>liberty.</u>' 42 Thomas Jefferson to Abbe Arnoux, 1789. ME 7:423, Papers 15:283 43 The term "whatever sources derived" found in the Sixteenth Amendment and I.R.C. Section 61 includes 8.10 44 45

EVERYTHING you earn

<u>False Argument</u>: The term "whatever source derived" found in the Sixteenth Amendment and I.R.C. Section 61 includes EVERYTHING that you receive.

Corrected Alternative Argument: The term "whatever source derived" does not include EVERYTHING that you receive. The income tax described in I.R.C. Subtitle A describes an excise tax upon the "trade or business" franchise. It is a franchise agreement that regulates the conduct of franchisees called "taxpayers". The only earnings subject to tax and therefore includible in taxable income or gross income are earnings connected to the "trade or business" franchise. Earnings are connected to this franchise by filing an information return such as IRS Forms W-2, 1042-s, 1098, and 1099.

Further information:

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- 1. <u>The "Trade or Business" Scam</u>, Form #05.001 http://sedm.org/Forms/FormIndex.htm
- 2. <u>How the Government Defrauds You Out of Legitimate Deductions for the Market Value of Your Labor</u>, Form #05.026: Proves that "income" as legally defined does NOT include everything you earn. http://sedm.org/Forms/FormIndex.htm
- 3. <u>Sovereignty Forms and Instructions Online</u>, Form #10.004, Cites by Topic: "income". http://famguardian.org/TaxFreedom/CitesByTopic/income.htm
- Sovereignty Forms and Instructions Online, Form #10.004, Cites by Topic: "gross income" http://famguardian.org/TaxFreedom/CitesByTopic/GrossIncome.htm
- 5. Sixteenth Amendment Annotated http://caselaw.lp.findlaw.com/data/constitution/amendment16/
- The Department of Justice and the IRS often argue that the statutory term "income" includes everything that people make. They do this in litigation before the federal district courts, the U.S. Tax Court, and at audits daily around the country. This argument is simply FALSE and FRAUDULENT. Like many freedom advocates have, the government itself should be enjoined pursuant to 26 U.S.C. §6700 from making any more such arguments. The only reason they are not, is because both the courts and the IRS itself says YOU CAN"T TRUST OR BELIEVE ANYTHING THEY SAY. See the amazing truth for yourself:

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

7 The term "whatever sources derived" is found in both the Sixteenth Amendment, for instance:

8 United States Constitution 9 Sixteenth Amendment

The Congress shall have power to lay and collect taxes on incomes, <u>from whatever source derived</u>, without apportionment among the several States, and without regard to any census or enumeration.

Of the above, the U.S. Supreme Court has said:

"The Court has hitherto consistently held that a literal reading of a provision of the Constitution which defeats a purpose evident when the instrument is read as a whole, is not to be favored... [and one of the examples they give is...]'From whatever source derived,' as it is written in the Sixteenth Amendment, does not mean from whatever source derived. Evans v. Gore, 253 U.S. 245, 40 S.Ct. 550, 11 A.L.R. 519. See, also, Robertson v. Baldwin, 165 U.S. 275, 281, 282 S., 17 S.Ct. 326; Gompers v. United States, 233 U.S. 604, 610, 34 S.Ct. 693, Ann.Cas.1915D, 1044: Bain Peanut Co. v. Pinson, 282 U.S. 499, 501, 51 S.Ct. 228, 229; United States v. Lefkowitz, 285 U.S. 452, 467, 52 S.Ct. 420, 424, 82 A.L.R. 775."
[Wright v. U.S., 302 U.S. 583 (1938)]

The phrase "whatever source derived" is also found in I.R.C. Section 61. This section is frequently quoted by the IRS at audits and examinations as justification why EVERYTHING you earn must be reported and subject to tax:

TITLE 26 > Subtitle A > CHAPTER 1 > Subchapter B > PART 1 > § 61 § 61. Gross income defined (a) General definition

Except as otherwise provided in this subtitle, gross income means all income <u>from whatever source derived</u>, <u>including (but not limited to)</u> the following items:

1	(1) Compensation for services, including fees, commissions, fringe benefits, and similar items;			
2	(2) Gross income derived from business;			
3	(3) Gains derived from dealings in property;			
4	(4) Interest;			
5	(5) Rents;			
6	(6) Royalties;			
7	(7) Dividends;			
8	(8) Alimony and separate maintenance payments;			
9 10	(9) Annuities; (10) Income from life insurance and endowment contracts;			
11	(11) Pensions;			
12	(12) Income from discharge of indebtedness;			
13	(13) Distributive share of partnership gross income;			
14	(14) Income in respect of a decedent; and			
15	(15) Income from an interest in an estate or trust.			
16	The above phrase has the same meaning as in the Sixteenth Amendment, and it DOES NOT mean everything that one	earns.		
17	but rather only earnings connected to the "trade or business" franchise, upon which the income tax, which is an excise tax			
18	may be imposed.			
19	"We must reject in this case, as we have rejected in cases arising under the Corporation Excise Tax Act of 1909			
20	(Doyle, Collector, v. Mitchell Brothers Co., 247 U.S. 179, 38 Sup.Ct. 467, 62 L.Ed), the broad contention			
21	submitted on behalf of the government that all receipts—everything that comes in-are income within the proper			
22	definition of the term 'gross income,' and that the entire proceeds of a conversion of capital assets, in whatever			
23	form and under whatever circumstances accomplished, should be treated as gross income. Certainly the term			
24	"income' has no broader meaning in the 1913 act than in that of 1909 (see Stratton's Independence v. Howbert,			
25	231 U.S. 399, 416, 417 S., 34 Sup.Ct. 136), and for the present purpose we assume there is no difference in its			
26	meaning as used in the two acts."			
27	[Southern Pacific Co. v. Lowe, 247 U.S. 330, 335, 38 S.Ct. 540 (1918)]			
28				
29	"Income has been taken to mean the same thing as used in the Corporation Excise Tax Act of 1909 (36 Stat. 112)			
30	in the 16th Amendment, and in the various revenue acts subsequently passed."			
31	[Bowers v. Kerbaugh-Empire Co., 271 U.S. 170, 174 (1926)]			
32				
33	"As repeatedly pointed out by this court, the Corporation Tax Law of 1909imposed an excise or privilege tax,			
33 34	and not in any sense, a tax upon property or upon income merely as income. It was enacted in view of the			
35	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,			
36	39 L.Ed. 1108, 15 Sup. Ct. Rep. 912, which held the income tax provisions of a previous law to be unconstitutional			
37	because amounting in effect to a direct tax upon property within the meaning of the Constitution, and because			
38	not apportioned in the manner required by that instrument."			
39	[U.S. v. Whiteridge, 231 U.S. 144, 34 S.Sup.Ct. 24 (1913)]			
40				
41	"The conclusion reached in the Pollock case recognized the fact that taxation on income was, in its nature, an			
42 43	excise" [Brushaber v. Union Pacific Railroad Co., 240 U.S. 1, 16-17 (1916)]			
44	The only reason any IRS employee, U.S. attorney, or judge would argue against the content of this section is because:			
45	1. They are IGNORANT of the law and have not read or do not understand it.			
46	2. They are a "taxpayer" who is subject to IRS extortion.			
47	3. They are a recipient of benefits derived from the income tax, meaning a "tax consumer" and do not want to see	e their		
	benefits reduced. This is a criminal violation of 18 U.S.C. §208 in the case of an IRS employee or U.S. Attorney			
48		. 11 18		
49	a violation of 28 U.S.C. §144, and 28 U.S.C. §455 in the case of a judge.			
50 51	"The king establishes the land by justice, but he who receives bribes overthrows it." [Prov. 29:4, Bible, NKJV]			
52	"And you shall take no bribe, for a bribe blinds the discerning and perverts the words of the righteous."			
53	[Exodus 23:8, Bible, NKJV]			
54	"He who is greedy for gain troubles his own house,			
55	But he who hates bribes will live."			
56	[Prov. 15:27, Bible, NKJV]			

8.11 Anti-Injunction Act Lawfully Applies to "nontaxpayers"

False Argument: The Anti-Injunction Act, 26 U.S.C. §7421, applies equally to "taxpayers" and to "nontaxpayers".

<u>Corrected Alternative Argument</u>: The Anti-Injunction Act, 26 U.S.C. §7421, only applies to "taxpayers". These are the only "persons" who can be the subject of the Internal Revenue Code, Subtitle A franchise tax upon a "trade or business". Courts have repeatedly held that "nontaxpayers" are not subject to the I.R.C. and that none of their rights or remedies are undermined. It has always been lawful to challenge and enjoin UNLAWFUL tax collection or enforcement against persons who are not "taxpayers".

Further information:

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- Anti-Injunction Act, 26 U.S.C. §7421 https://www.law.cornell.edu/uscode/text/26/7421
- 2. <u>Civil Court Remedies for Sovereigns: Taxation</u>, Litigation Tool #10.002. Describes exceptions to the anti-injunction act recognized by the courts in the case of parties who are "nontaxpayers" not subject to the Internal Revenue Code.. http://famguardian.org/Publications/GreatIRSHoax/GreatIRSHoax.htm
- Federal courts and government prosecutors are famous for mis-quoting and mis-enforcing the Anti-Injunction Act against
- "nontaxpayers", which we define here as those who:
- 1. Do not satisfy the definition of "taxpayer" found in 26 U.S.C. §7701(a)(14) and 26 U.S.C. §1313.
 - 2. Do not satisfy the definition of "person" found in 26 U.S.C. §6671(b) or 26 U.S.C. §7343.
 - 3. Are domiciled outside of exclusive federal civil jurisdiction.
- 4. Not engaged in a public office or a "trade or business" per 26 U.S.C. §7701(a)(26).
- All such actions by federal judges and federal prosecutors in the Department of Justice:
 - 1. Are unlawful and have been recognized as such by the U.S. Supreme Court is South Carolina v. Regan, 465 U.S. 367 (1984).
 - 2. Constitute a treasonous attempt to undermine the protection of private rights for which government was established in the first place.
 - 3. Constitute criminal identity theft as described below:

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

There is no question that "taxpayers" may not challenge the LAWFUL assessment or collection of "taxes" as legally defined.

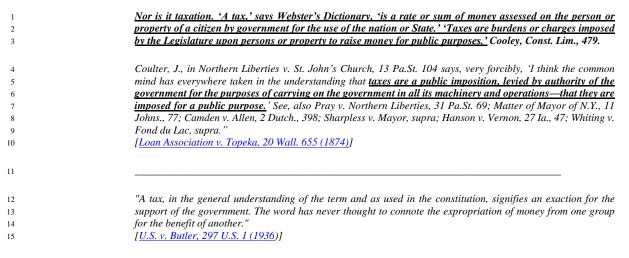
The U.S. Supreme Court already acknowledged this fact, but they said NOTHING about those who are NOT statutory "taxpayers":

"In Frothingham v. Mellon, 262 U.S. 447 (1923), this Court ruled that a federal taxpayer is without standing to challenge the constitutionality of a federal statute. That ruling has stood for 45 years as an impenetrable barrier to suits against Acts of Congress brought by individuals who can assert only the interest of federal taxpayers." [Flast v. Cohen, 392 U.S. 83 (1968)]

The problem is that what is currently being collected is NOT a "tax" as historically or constitutionally defined, but rather a kickback of the earnings of a federal office to the parent of the Office. These kickbacks are redistributed to otherwise PRIVATE people illegally, and hence CANOT be "taxes":

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.

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A whole book has been written proving that the current I.R.C. Subtitle A income tax is actually a public officer kickback disguised to LOOK like a legitimate tax as follows, which we encourage you to read:

IRS Humbug: IRS Weapons of Enslavement, Frank Kowalik, ISBN 0-9626552-0-1, 1991, Universalistic Publishers

It is precisely the above restraint upon the powers of all legitimate governments that explains why they had to legally define a "tax" as a "gift" in 31 U.S.C. §321(d): Because they are soliciting tithes to a state-sponsored church in which the voluntary franchise "codes" function as the equivalent of a state-sponsored bible. The nature of the civil religion implemented by the I.R.C. is documented in:

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

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1 U.S.C. §204 notes say that the entire I.R.C. is "prima facie", meaning it is a presumption that is inadmissible as evidence without YOUR consent as a parishioner of the church to give is "the force of law" and impose the status of "legal evidence" against you. That consent is manifested by CONSENTING to the status of "taxpayer", firing God as your protector, and bowing and worshipping Caesar as your new pagan deity and protector. Otherwise, 28 U.S.C. §2201(a) prohibits even federal judges from making it into legal evidence of an obligation or declaring the rights of anyone in relation to it. This statute uses the phrase "federal taxes" but they can really ONLY mean "taxpayers" and LAWFULLY ASSESSED and COLLECTED "taxes" as historically defined and not CURRENTLY defined (gifts in 31 U.S.C. §321(d)). And don't PRESUME that you are a "taxpayer". Read REAL, POSITIVE law for yourself to determine that. In the socialist religion, presumption serves as a substitute for religious faith.

The Anti-Injunction Act is found at 26 U.S.C. §7421. That act reads as follows:

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<u>TITLE 26</u> > <u>Subtitle F</u> > <u>CHAPTER 76</u> > <u>Subchapter B</u> > § 7421
32
                               § 7421. Prohibition of suits to restrain assessment or collection
33
                               (a) Tax
34
                               Except as provided in sections 6015 (e), 6212 (a) and (c), 6213 (a), 6225 (b), 6246 (b), 6330 (e)(1), 6331 (i), 6672
35
                               (c), 6694 (c), and 7426 (a) and (b)(1), 7429 (b), and 7436, no suit for the purpose of restraining the assessment
                               or collection of any tax shall be maintained in any court by any person, whether or not such person is the person
37
                               against whom such tax was assessed.
38
39
                               (b) Liability of transferee or fiduciary
                               No suit shall be maintained in any court for the purpose of restraining the assessment or collection (pursuant to
40
                               the provisions of chapter 71) of-
41
                               (1) the amount of the liability, at law or in equity, of a transferee of property of a taxpayer in respect of any
42
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                               internal revenue tax, or
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(2) the amount of the liability of a fiduciary under section 3713 (b) of title 31, United States Code 111 in respect of

the Court concluded that the suit was an action to restrain "the assessment or collection of any tax" within the

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³⁶ Because of our disposition of the statutory issue, we need not reach the State's contention that application of the Act to bar this suit would unconstitutionally restrict this Court's original jurisdiction.

meaning of the Anti-Injunction Act. 416 U.S., at 738-739, 94 S.Ct., at 2046-2047. Applying the Williams Packing test, the Court found that the Act barred the suit because the taxpayer failed to demonstrate that it was certain to succeed on the merits. Id., at 749, 94 S.Ct., at 2052. In rejecting the taxpayer's challenge to the Act on due process grounds, however, the Court relied on the availability of a refund suit, noting that "our conclusion might well be different" if the aggrieved party had no access to judicial review. 416 U.S., at 746, 94 S.Ct., at 2050. Similarly, the Court left open the question whether the Due Process Clause would be satisfied if an organization had to rely on a "friendly donor" to obtain judicial review of the Service's revocation of its tax-exemption. Id., at 747 n. 21, 94 S.Ct., at 2051 n. 21. 37

In addition, in Commissioner v. "Americans United" Inc., 416 U.S. 752, 94 S.Ct. 2053, 40 L.Ed.2d. 518 (1974), decided the same day as Bob Jones, the Court considered a taxpayer's action to require the Service to reinstate its tax-exempt status.³⁸ The **1113 Court applied the Williams Packing test and held that the action was barred *376 by the Act. Finally, in United States v. American Friends Service Committee, 419 U.S. 7, 95 S.Ct. 13, 42 L.Ed.2d. 7 (1974) (per curiam), the taxpayers sought to enjoin the Government from requiring that a portion of their wages be withheld. The taxpayers argued that the withholding provisions violated their First Amendment right to bear witness to their religious beliefs. The Court again applied the Williams Packing rule and found that the suit was barred by the Anti-Injunction Act. In both of these cases, the taxpayers argued that the Williams Packing test was irrelevant and the Act inapplicable because they did not have adequate alternative remedies. In rejecting this argument, the Court expressly relied on the availability of refund suits. 416 U.S., at 761, 94 S.Ct., at 2058; 419 U.S., at 11, 95 S.Ct., at 15. This emphasis on alternative remedies would have been irrelevant had the Court meant to decide that the Act applied in the absence of such remedies. We therefore turn to that question.

The analysis in Williams Packing and its progeny of the purposes of the Act provides significant support for our holding today. Williams Packing expressly stated that the Act was intended to protect tax revenues from judicial interference "and to require that the legal right to the disputed sums be determined in a suit for a refund." 370 U.S., at 7, 95 S.Ct., at 1129 (emphasis added). Similarly, the Court concluded that the Act was also designed as "protection of the collector from litigation pending a suit for a refund," id., at 7-8, 95 S.Ct., at 1129 (emphasis added). The Court's concerns with protecting the expeditious collection of revenue and protecting the collector from litigation were expressed in the context of a procedure that afforded the taxpayer the remedy of a refund suit.³⁹

Nor is our conclusion inconsistent with the 1966 amendment to the Anti-Injunction Act. In 1966, in § 110(c) of the Federal Tax Lien Act, Pub.L. No. 89-719, 80 Stat. 1125, Congress amended the Anti-Injunction Act to read, in pertinent part, that "no suit for the purpose of restraining the assessment or collection of any tax shall be maintained in any court, by any person whether or not such person is the person against whom such tax was assessed." Id., § 110(c), 80 Stat. 1144. The central focus of the added phrase, "by any person whether or not such person is the person against whom such tax was assessed," was on third parties whose property rights competed with federal tax liens. Bob Jones, supra, 416 U.S., at 732 n. 6, 94 S.Ct., at 2044 n. 6. Prior to the adoption of the Tax Lien Act, such parties were often unable to protect their property interests. Id.; H.R.Rep. No. 1884, 89th Cong., 2d Sess. 27-28 (1966). Section 110(a) of the Tax Lien Act gave such third parties a right of action against the United States. The amendment to the Anti-Injunction Act was primarily designed to insure that the right of action granted by § 110(a) of the Federal Tax Lien Act was exclusive. 416 U.S., at 732 n. 6, 94 S.Ct., at 2044 n. 6. The language added to the Anti-Injunction Act by the 1966 amendment is, therefore, largely irrelevant to the issue before us today. The amendment is to the issue before us today.

³⁷ A "friendly donor" suit is a suit in which a donor claims that his contributions to an organization should be tax deductible because the organization's tax-exempt status had been revoked improperly.

³⁸ In Americans United, the IRS had revoked the organization's <u>\$501(c)(3)</u> status, but found that it was eligible for <u>\$501(c)(4)</u> status. Although the organization's income remained tax exempt, "the effect of this change in status was to render respondent liable for unemployment (FUTA) taxes under the Code § 3301, <u>26 U.S.C.</u> § 3301, and to destroy its eligibility for tax deductible contributions under § 170." <u>416 U.S.</u>, at 755, 94 S.Ct., at 2056 (footnote omitted).

³⁹ Unlike Justice O'CONNOR, we do not believe that Congress's concerns with judicial interference overrode all other concerns. This case is difficult because it implicates Congress's concern with providing remedies as well as its concern with limiting remedies.

⁴⁰ Any dicta in Bob Jones suggesting that, prior to the enactment of the Tax Lien Act, the Anti-Injunction Act barred suits by third parties claiming that a federal tax lien impaired their property rights may be disregarded. <u>416 U.S.</u>, at 732 n. 6, 94 S.Ct., at 2044 n. 6. The Anti-Injunction Act had been widely construed not to apply to such actions. See, e.g., *Campbell v. Bagley*, <u>276 F.2d</u>, <u>28 (CA5 1960)</u>; *Tomlinson v. Smith*, <u>128 F.2d</u>, <u>808 (CA7 1942)</u>; American Bar Association, Final Report of the Committee on Federal Liens, at 48, 116, reprinted in Hearings before the Committee on Ways and Means on H.R. 11256 and H.R. 11290, House of Representatives, 89th Cong., 2d Sess. (1966).

⁴¹ Section 110(a) provides in pertinent part:

[&]quot;If a levy has been made on property or property has been sold pursuant to a levy, any person (other than the person against whom is assessed the tax out of which such levy arose) who claims an interest in or lien on such property and that such property was wrongfully levied upon may bring a civil action against the United States in a district court of the United States."

⁴² In Bob Jones, we held that the 1966 amendment did not merely limit the remedies of third parties challenging federal tax liens. Rather, the amendment was also intended as a reaffirmation of the plain language of the Act. <u>416 U.S.</u>, at 732 n. 6, 94 S.Ct., at 2044 n. 6. In that sense, we found the statute to be

Similarly, we stated in Americans United that "a suit to enjoin the assessment or collection of anyone's taxes 2 triggers the literal terms" of the Act. 416 U.S., at 760, 94 S.Ct., at 2058. Of course, this statement was meant to 3 apply only if the aggrieved party has an alternative remedy. Justice O'CONNOR relies heavily on Assistant Treasury Secretary Surrey's statement to the House Ways and 4 Means Committee to support her view that the 1966 amendment to the Anti-Injunction Act was intended to prohibit third parties from suing to restrain the collection of taxes regardless of whether Congress has provided 6 them with an alternative remedy. Post, at 1120. This reliance is misplaced. 7 8 Although the Assistant Secretary described the amendment as a restriction on third-party suits, when read in 9 context, it is unclear whether he was referring to all third parties, including those without alternative remedies, 10 as Justice O'CONNOR believes, or only to those third parties who were granted a right of action by Section 110(a) of the Federal Tax Lien Act. See Statement by the Hon. Stanley S. Surrey, Assistant Secretary of the 11 12 Treasury, reprinted in Hearings Before the Committee on Ways and Means on H.R. 11256 and H.R. 11290, 89th Cong., 2d Sess., 58 (1966). 13 Even if Assistant Secretary Surrey viewed the 1966 amendment as prohibiting suits by third-parties who had no 14 alternative remedies, there is nothing in the legislative history of that amendment to support the view that 15 Congress shared that belief. Justice O'CONNOR relies on the statements in the House and Senate Reports that 16 '[u]nder present law ... the United States cannot be sued by third persons where its collection activities interfere 17 with their property rights," "Post, at 1120, quoting H.R.Rep. No. 1884, 89th Cong., 2d Sess., 27 (1966); S.Rep. 18 No. 1708, 89th Cong., 2d Sess., 29 (1966), U.S.Code Cong. & Admin.News, pp. 3722, 3750. Since the Anti-19 Injunction Act had been widely construed not to bar such suits, see n. 13, supra, however, this statement simply 20 could not have been intended as a description of the effect of that Act. 21 22 In sum, the Act's purpose and the circumstances of its enactment indicate that Congress did not intend the Act to apply to actions brought by aggrieved parties for whom it has not provided an alternative remedy. 43 ENIT In this 23 case, if the plaintiff South Carolina issues bearer bonds, its bondholders will, by virtue of § 310(b)(1) of TEFRA, 24 be liable for the tax on the interest earned on those bonds. South Carolina will incur no tax liability. Under these 25 circumstances, the State will be unable to utilize any statutory procedure to contest the constitutionality of § 26 310(b)(1). Accordingly, the Act cannot bar this action. 27 Justice O'CONNOR relies on statements in the legislative history of I.R.C. § 7478 indicating that Congress 28 believed that, prior to the enactment of that section, prospective issuers of State and local bonds had no means to 29 determine whether the interest on their bonds would be tax-exempt. Post, at 1121 - 1122. In her view, these 30 31 statements are strong evidence that Congress intended the Anti-Injunction Act to apply regardless of the availability of an alternative remedy. 32 We find these statements unpersuasive. To the extent that these statements, which do not even refer to the Anti-33 Injunction Act, may be read as expressing the view that the Act should be construed to bar suits regardless of the 34 availability of alternative remedies, they are the views of a subsequent Congress and, therefore, at best, "form a 35 hazardous basis for inferring the intent of an earlier one." Consumer Product Safety Commission v. GTE 36 Sylvania, 447 U.S. 102, 117, 100 S.Ct. 2051, 2060, 64 L.Ed.2d. 766 (1980), quoting United States v. Price, 361 37 U.S. 304, 313, 80 S.Ct. 326, 331, 4 L.Ed.2d. 334 (1960). 38 Justice O'CONNOR, relying on Red Lion Broadcasting Co. v. FCC, 395 U.S. 367, 380-381, 89 S.Ct. 1794, 1801-39 1802, 23 L.Ed.2d. 371 (1969) and Federal Housing Admin. v. The Darlington, Inc., 358 U.S. 84, 90, 79 S.Ct. 141, 40 145, 3 L.Ed.2d. 132 (1958), argues that these statements should be given "'great weight'" in construing the 41 Anti-Injunction Act. This reliance is misplaced. In Red Lion we stated that "[s]ubsequent legislation declaring 42 43 the intent of an earlier statute is entitled to great weight." 395 U.S., at 380, 89 S.Ct., at 1801 (emphasis added). The Darlington stands for the same proposition. We have previously rejected the argument that the Red Lion rule 44 45 should be applicable to the committee reports that accompany subsequent legislation. In Consumer Product Safety Comm'n, supra, 447 U.S., at 118 n. 13, 100 S.Ct., at 2061 n. 13, we stated that "[w]ith respect to 46 47 subsequent legislation ... Congress has proceeded formally through the legislative process. A mere statement in 48 a conference report of such legislation as to what the Committee believes an earlier statute meant is obviously 49 less weighty.' Indeed, Justice O'CONNOR does not consistently accord "great weight" to the legislative history of § 7478. In 50 Part I of her opinion, she states that the legislative history of § 7478 represents Congress's "belief that the Tax 51

[&]quot;declaratory" rather than "innovative." Ibid. Because the Act, as originally enacted, did not cover third parties who were not given an alternative action in which to press their claims, our construction of the 1966 amendment in Bob Jones is entirely consistent with our holding today.

⁴³ As the Secretary notes, <u>I.R.C. § 7478</u> does not provide plaintiff with an action in which he may contest the constitutionality of § 310(b)(1). That section permits the Tax Court to, "make a declaration whether ... prospective obligations are described in section 103(a)." The issue in this case involves the constitutionality of section 310(b)(1), not whether the bonds that the State desires to issue are "described in section 103." Therefore, § 7478 does not provide the State with an alternative procedure to contest the legality of section 310(b)(1).

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Anti-Injunction Act generally bars nontaxpayers from bringing the kind of injunctive action the State of South Carolina asks leave to file today." Post, at 1121. Under this view, the statement in the Senate Report accompanying § 7478 that "present law does not allow the State ... government to go to court," S.Rep. No. 95-1263, 95th Cong., 2d Sess. 150 (1978), U.S.Code Cong. & Admin.News, pp. 6761, 6913, must mean that Congress believed that the Anti-Injunction Act barred original actions in this court as well as actions in lower courts. Yet, in reaching her conclusion that the Act does not apply to bar original actions in this Court, Justice O'CONNOR apparently accords no weight at all to this legislative history. Post, at 1125 - 1126.

For similar reasons, we find the remaining post-enactment history upon which Justice O'CONNOR relies, post, at 1121, to be unconvincing. Whatever the weight to which these statements are entitled, they are ultimately unpersuasive in light of the other evidence of congressional intent discussed above.

The Secretary suggests that the State may obtain judicial review of its claims by issuing bearer bonds and urging a purchaser of those bonds to bring a suit contesting the legality of § 310(b)(1). But the nature of this proposed remedy only buttresses our conclusion that the Act was not intended to apply to this kind of action. First, instances in which a third party may raise the constitutional rights of another are the exception rather than the rule. Singleton v. Wulff, 428 U.S. 106, 114, 96 S.Ct. 2868, 2874, 49 L.Ed.2d. 826 (1976). More important, to make use of this remedy the State "must first be able to find [an individual] willing to subject himself to the rigors of litigation against the Service, and then must rely on [him] to present the relevant arguments on [its] behalf." Bob Jones, supra, 416 U.S., at 747 n. 21, 94 S.Ct., at 2051 n. 21. Because it is by no means certain that the State would be able to convince a taxpayer to raise its claims,⁴⁴ reliance on the remedy suggested by the Secretary would create the risk that the Anti-Injunction Act would entirely deprive the State of any opportunity to obtain review of its claims. For these reasons, we should not lightly attribute to Congress an intent to require plaintiff to find a third party to contest its claims. Here, the indicia of congressional intent-the Act's purposes and the circumstances of its enactment-demonstrate that Congress did not intend the Act to apply where an aggrieved party would be required to depend on the mere possibility of persuading a third party to assert his claims. Rather, the Act was intended to apply only when Congress has provided an alternative avenue for an aggrieved party to litigate its claims on its own behalf.⁴⁵ Because Congress did not prescribe an alternative remedy for the plaintiff in this case, the Act does not bar this suit.

Justice O'CONNOR also appears to suggest that our holding today renders the Act a restatement of the equitable principles governing the issuance of injunctions at the time the statute was enacted. Post, at 1119 - 1120 n. 5. This argument is without merit since these equitable principles did not require that injunctions issue only when no alternative remedy was available. See, e.g., Dows v. Chicago, 78 U.S. (11 Wall.) 108, 109-110, 20 L.Ed. 65 (1871) (suit to restrain collection of taxes will lie if plaintiff shows that enforcement will cause irreparable harm or lead to a multiplicity of suits); Hannewinkle v. Georgetown, 82 U.S. (15 Wall.) 547, 548-549, 21 L.Ed. 231 (1873) (same).

[...]

In answering the first question, the Court reaches the unwarranted conclusion that the Tax Anti-Injunction Act proscribes only those suits in which the complaining party, usually a taxpayer, can challenge the validity of a taxing measure in an alternative forum. The Court holds that suits by nontaxpayers generally are not barred. In my opinion, the Court's interpretation fundamentally misconstrues the congressional anti-injunction policy. Accordingly, I cannot join its opinion.

The Tax Anti-Injunction Act provides, in pertinent part, that "no suit for the purpose of restraining the assessment or collection of any tax shall be maintained in any court by any person, whether or not such person is the person against whom such tax was assessed." 26 U.S.C. §7421(a). The Act's language "could scarcely be more explicit" in prohibiting nontaxpayer suits like this one, Bob Jones University v. Simon, 416 U.S. 725, 736, 94 S.Ct. 2038, 2045, 40 L.Ed.2d. 496 (1974), since the suit indisputably would have the purpose and effect of restraining taxes. See id., at 738-742, 94 S.Ct., at 2046-2048. The Act plainly bars not only "a taxpayer's *386 attempt to enjoin the collection of his own taxes, ..." but also "a suit to enjoin the assessment or collection of anyon[e] [else's] taxes ..." Alexander v. "Americans United" Inc., 416 U.S. 752, 760, 94 S.Ct. 2053, 2058, 40 L.Ed.2d. 518 (1974). Though the Internal Revenue Code (Code) contains a few exceptions to this nearly complete ban, 46 for the most part Congress has restricted the judicial role to resolution of concrete disputes over specific sums of money, either by way of a deficiency proceeding in the Tax Court, see 26 U.S.C. §8 6212, 6213, or by way of a taxpayer's suit for refund, see 26 U.S.C. §8 6532, 7422.

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⁴⁴ It is not irrelevant that the IRS routinely audits the returns of taxpayers who litigate claims for refunds. Department of the Treasury, Chief Counsel's Directives Manual (35)(17)50.

⁴⁵ Justice O'CONNOR suggests that our holding today will enable taxpayers to evade the Anti-Injunction Act by forming organizations to litigate their tax claims. Post, at 1111, 1115. We disagree. Because taxpayers have alternative remedies, it would elevate form over substance to treat such organizations as if they did not possess alternative remedies. Accordingly, such organizations could not successfully argue that the Act does not apply because they are without alternative remedies.

⁴⁶ See *infra*, at 1120 - 1122 (describing some exceptions); see also <u>26 U.S.C. §§ 6694(c)</u>, <u>7429(b)</u>.

1	In depriving courts of jurisdiction to resolve abstract tax controversies, Congress has determined that the United
2	States must be able "to assess and collect taxes alleged to be due without judicial intervention" Enochs v.
3	Williams Packing & Navigation Co., 370 U.S. 1, 7, 82 S.Ct. 1125, 1129, 8 L.Ed.2d. 292 (1962). "[T] axes are the
4	life-blood of government," <u>Bull v. United States, 295 U.S. 247, 259, 55 S.Ct. 695, 699, 79 L.Ed. 1421 (1935)</u> , and
5	the anti-injunction prohibition is Congress' recognition that "the tenacity of the American taxpayer" constantly
6	threatens to drain the nation of a life-sustaining infusion of revenues. See Gorovitz, Federal Tax Injunctions and
7	the Standard Nut Cases, 10 Taxes 446, 446 (1932). The Act's proscription literally extends to nontaxpayer as well
8	as taxpayer suits, if only to prevent taxpayers from sidestepping the anti-injunction policy by bringing suit through
9	non-taxpaying associations of taxpayers. 47 $st 387$ Moreover, by broadly precluding both taxpayer and nontaxpayer
0	suits, the Act serves a collateral objective of protecting "the collector from litigation pending a suit for refund."
1	Enochs v. Williams Packing & Navigation Co., supra, 370 U.S., at 7-8, 82 S.Ct., at 1129. The tax collector is an
2	attractive target for all kinds of litigation, see, e.g., Simon v. Eastern Kentucky Welfare Rights Organization, 426
3	U.S. 26, 96 S.Ct. 1917, 48 L.Ed.2d. 450 (1976), and the Act ensures that only Congress and the Treasury, not a
4	host of private plaintiffs, will determine the focus of the collector's energies.
5	The Act's history expressly reflects the congressional desire that all injunctive suits against the tax collector be
6	prohibited. First enacted in 1867, ⁴⁸ it apparently was designed to protect the federal tax system from being
7	inundated with the same type of injunctive suits that were then sweeping over the state tax systems. See State
8	Railroad Tax Cases, 92 U.S. 575, 613, 23 L.Ed. 663 (1876); Snyder v. Marks, 109 U.S. 189, 193-194, 3 S.Ct. 157,
9	159-160, 27 L.Ed. 901 (1883). There is little contemporaneous documentation, ⁴⁹ but this Court's decisions
0	indicate that the 39th Congress acted with a:
1	" sense of the evils to be feared if courts of justice could, in any case, interfere with the process of
2	collecting*388 the taxes on which the government depends for its continued existence." State Railroad Tax Cases,
3	supra, 92 U.S., at 613, 23 L.Ed. 663.
J	supru, 72 0.0., ai 010, 23 2.24. 000.
4	The experience in the states demonstrated the grave dangers which accompany intrusion of the injunctive power
5	of the courts into the administration of the revenue:
6	"If there existed in the courts any general power of impeding or controlling the collection of taxes, or relieving
7	the hardship incident to taxation, the very existence of the government might be placed in the power of a hostile
8	judiciary." Cheatham v. United States, 92 U.S. 85, 89, 23 L.Ed. 561 (1876).
9	To avoid these evils and to safeguard the federal tax system, the 39th Congress committed administration of the
0	Code to the discretion of the Secretary of the Treasury. ⁵⁰
1	This broad anti-injunction ban remained essentially untouched for almost a century, ⁵¹ In 1966, however,
2	Congress took steps to "reaffirm the plain meaning of the original language of the Act." Alexander v. "Americans
3	United" Inc., 416 U.S. 752, 760, and n. 11, 94 S.Ct. 2053, 2058, and n. 11, 40 L.Ed.2d. 518 (1974). In § 110(c)
4	of the Federal Tax Lien Act, Pub.L. No. 89-719, 80 Stat. 1125, Congress amended the Act to emphasize that no
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⁴⁷ Non-taxpaying associations of taxpayers and nontaxpayer organizations previously have attempted to avoid the congressional policy against judicial resolution of abstract tax controversies. See, *e.g.*, *Investment Annuity*, *Inc.* v. *Blumenthal*, 609 F.2d. 1 (CADC 1979) (insurers seeking declaration that certain investment annuity contracts are eligible for favorable tax treatment); *Educo*, *Inc.*, v. *Alexander*, 557 F.2d. 617 (CA7 1977) (company engaged in designing and administering educational benefit plans for corporate employees sues to protect its clients' tax benefits); *Cattle Feeders Tax Committee v. Shultz*, 504 F.2d. 462 (CA10 1974) (unincorporated association representing participants in tax shelter cattle feed program seeking injunction to prevent Treasury from disallowing certain year-end deductions); *McGlotten v. Connally*, 338 F.Supp. 448, 453 n. 25 (DC 1972) (nontaxpayer challenge to tax-exempt status of racially discriminatory fraternal organization), disapproved in *Bob Jones University v. Simon*, 416 U.S. 725, 732, and n. 6, 94 S.Ct. 2038, 2044, and n. 6, 40 L.Ed.2d. 496 (1974).

⁴⁸ See Act of Mar. 2, 1867, § 10, 14 Stat. 475.

⁴⁹ The Act was introduced on March 1, 1867, by Mr. Fessenden, Chairman of the Senate Committee on Finance, as an amendment to a section which made a taxpayer appeal to the Commissioner of Internal Revenue a condition precedent to suit for the recovery of taxes. See Congressional Globe, 39th Cong., 2d Sess., pt. III, p. 1933 (proposing amendment to the Act of July 13, 1866, ch. 184, § 19, 14 Stat. 152, presently codified at 26 U.S.C. § 6532(a). The House initially objected to this amendment, see Congressional Globe, *supra*, p. 1949, but the Senate would not recede, *id.*, at 1950. After a conference, the House agreed to the amendment. See *id.*, at 1968. No other recorded legislative history has been uncovered. See Note, Enjoining the Assessment and Collection of Federal Taxes Despite Statutory Prohibition, 49 Harv.L.Rev. 109, and n. 9 (1935).

⁵⁰ The circumstances of the enactment do not, as the Court suggests, see *ante*, at 1111 - 1112, indicate that Congress meant to prohibit injunctions only where the statutory scheme provided an alternative remedy. Rather, "[s]ince equitable principles militating against the issuance of federal injunctions in tax cases existed independently of the Anti-Injunction Act, it is most unlikely that Congress would have chosen the stringent language of the Act if its purpose was merely to restate existing law and not to compel litigants to make use solely of the avenues of review opened by Congress." *Bob Jones University v. Simon, supra*, 426 U.S., at 742-743, n. 16, 94 S.Ct., at 2048-2049, n. 16. "'Enacted in 1867, [the Anti-Injunction Act], for more than sixty years, [was] consistently applied as precluding relief, whatever the equities alleged.'" *Id.*, at 745, n. 18, 94 S.Ct., at 2050, n. 18 (quoting *Miller v. Standard Nut Margerine Co.*, 284 U.S. 498, 511, 52 S.Ct. 260, 264, 76 L.Ed. 422 (1932) (Stone, J., dissenting)).

⁵¹ In the revised statutes, the term "any" was added so that the statute read: "No suit for the purpose of restraining the assessment or collection of any tax shall be maintained in any court." *Snyder v. Marks*, 109 U.S. 189, 192, 3 S.Ct. 157, 159, 27 L.Ed. 901 (1883).

injunctive action "by any person, whether or not such person is the person against whom such tax was assessed" 2 could be maintained in the courts. Id., § 110(c), 80 Stat. 1144 (emphasis added). The Treasury Department proposed the 1966 amendment, and its principal spokesperson, Assistant Secretary Surrey, testified that: 3 "Subsection (c) of section 110 of the bill amends section 7421(a) of the code. That section presently prohibits 4 injunctions against the assessment or collection of tax. The cases decided under this provision raise a question as to whether this prohibition applies against actions by persons other than the taxpayer. New section 7426 will 6 specifically allow actions by third parties to enjoin the enforcement of a levy or sale of property. The amendment 8 to section 7421 makes clear that third parties may bring injunction suits only under the circumstances provided in new section 7426(b)(1) of the code." Statement by the Hon. Stanley S. Surrey, Assistant Secretary of the Treasury, reprinted in Hearings Before the Committee on Ways and Means on H.R. 11256 and H.R. 11290, 89th 10 11 Cong., 2d Sess., 58 (1966). 12 The House Committee on Ways and Means and the Senate Committee on Finance apparently shared Mr. Surrey's understanding of the rights of nontaxpayers under prior law, for their reports both state: 13 "Under present law, ... the United States cannot be sued by third persons where its collection activities interfere 14 with their property rights. This includes cases where the Government wrongfully levies on one person's property 15 in attempting to collect from a taxpayer. However, some courts allow suits to be brought against district directors 16 of Internal Revenue where this occurs." H.R.Rep. No. 1884, 89th Cong., 2d Sess., 27 (1966); S.Rep. No. 1708, 17 89th Cong., 2d Sess., 29 (1966), U.S.Code Cong. & Admin.News, p. 3750. 18 To accommodate these conflicting rights, both committees recommended that Congress enact § 7426. allowing 19 20 "persons other than taxpayers" to bring suits against the United States to protect pre-existing liens on property levied upon by the Treasury, and amend § 7421(a) to forbid suits by all third persons, excepting those within the 21 22 ambit of new § 7426. Congress followed the committees' recommendations, on the understanding that the new language in § 7421(a) was "declaratory, not innovative." Bob Jones University v. Simon, supra, 416 U.S., at 23 731-732, n. 6, 94 S.Ct., at 2043-2044, n. 6.52 24 25 Similarly, I do not believe, as the Court apparently does, see ante, at nn. 14, 16, that statements in Bob Jones University v. Simon, supra, to the effect that the Act bars third-party suits, can or should be "disregarded." Those 26 statements were made after studious interpretation of both the original Act and its 1966 amendment. They reflect 27 what I believe is the only faithful reading of the statute's language and history. 28 Congress has since relaxed the statutory proscription against third-party suits on several occasions. For example, 29 30 in 1974, it provided that certain designated persons could obtain declaratory judgments in the Tax Court with respect to the tax status of pension plans. See 26 U.S.C. § 7476. Similarly, in 1976, because "[u]nder [prevailing] 31 law no court review of [Internal Revenue Service] ruling[s] [was] available," S.Rep. No. 94-938, pt. II, p. 463 32 (1976), U.S.Code Cong. & Admin.News, pp. 2897, 4169, Congress provided declaratory judgment procedures 33 for determining the tax status of charitable organizations and of certain property transfers. See 26 U.S.C. §§ 34 7428, 7477; see also S.Rep. No. 94-938, supra, pp. 523-524, U.S.Code Cong. & Admin.News, p. 4223 ("Under 35 present law, the Tax Court can hear declaratory judgment suits only on the tax status of employee retirement 36 plans. In no other case may an individual or an organization seek a declaratory judgment as to an organization's 37 38 tax-exempt status."). Finally, in 1978, in 26 U.S.C. § 7478, Congress provided a mechanism whereby State or local governments could seek declaratory judgments as to the tax status of proposed municipal bond issuances.⁵³ 39 40 The relevant Senate Report noted that: 41 "As a practical matter, there is no effective appeal from a Service private letter ruling (or failure to issue a private 42 letter ruling) that a proposed issue of municipal bonds is taxable. In those cases, although there may be a real 43 controversy between a State or local government and the Service, present law does not allow the State or local government to go to court. The controversy can be resolved only if the bonds are issued, a bondholder excludes 44 45 interest on the bonds from income, the exclusion is disallowed, and the Service asserts a deficiency in its statutory notice of deficiency. This uncertainty coupled with the threat of the ultimate loss of the exclusion, invariably 46 47 makes it impossible to market the bonds. In addition, it is impossible for a State or local government to question 48 the Service rulings and regulations directly. "[S]tate and local government[s] should have a right to court adjudication in the situation described above. The 49

bill deals with the problem by providing ... for a declaratory judgment as to the tax status of a proposed*392

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⁵² I am at a complete loss to understand the Court's assertion that the "language added to the Anti-Injunction Act by the 1966 amendment is ... largely irrelevant to the issue before us today." Ante, at 1114. This conclusion follows only if the Court begins with a premise that it need pay no attention to either the 1966 amendment's language or its legislative history.

⁵³ Section 7478 does not directly apply to this case because it permits the Tax Court only to "make a declaration whether ... prospective obligations are described in section 103(a)." The issue in this case involves the constitutionality of § 310(b)(1), not whether the bonds South Carolina desires to issue are "described in section 103." Nevertheless, § 7478 demonstrates that Congress believed that, prior to the enactment of that section, prospective issuers had no means to determine whether the interest on their bonds would be tax exempt. See S.Rep. No. 95-1263, pp. 150-151 (1978).

issue of municipal bonds." S.Rep. No. 95-1263, pp. 150-151 (1978), U.S.Code Cong. & Admin.News, pp. 6913-2 The Conference Report reflects a similar view of prevailing law. See H.R.Conf.Rep. No. 95-1800, p. 240 (1978). 3 Thus, in 1974, 1976, and again in 1978, Congress expressed its belief that the Tax Anti-Injunction Act generally bars nontaxpayers from bringing the kind of injunctive action the State of South Carolina asks leave to file today.54 5 These subsequently enacted provisions and the legislative understanding of them are entitled to "great weight" in construing earlier, related legislation. See, e.g., Red Lion Broadcasting Co. v. FCC, 395 U.S. 367, 380-381, 8 89 S.Ct. 1794, 1801-1802, 23 L.Ed.2d. 371 (1969), Federal Housing Admin. v. The Darlington, Inc., 358 U.S. 84, 90, 79 S.Ct. 141, 145, 3 L.Ed.2d. 132 (1958). Combined with the legislative purposes obviously motivating the 9 10 39th and 89th Congresses, these provisions conclusively demonstrate that, absent express exemption, the Act generally precludes judicial resolution of all abstract tax controversies, even if the complaining parties would 11 12 have no other forum in which to bring their challenges. The Court drew these same conclusions in Bob Jones University v. Simon. See 416 U.S. 725, 736-746, 94 S.Ct. 13 2038, 2045-2050, 40 L.Ed.2d. 496. In that case, the Court rejected a private institution's request that an 14 additional exception beyond the one created in Enochs v. Williams Packing & Navigation Co., 370 U.S. 1, 82 15 S.Ct. 1125, 8 L.Ed.2d. 292 (1962) (equity court may issue injunction where it is clear that under no circumstances 16 could the Government prevail), be carved out of the Act. 55 The Court responded that Williams Packing: 17 18 was meant to be the capstone to judicial construction of the Act. It spells an end to a cyclical pattern of allegiance" to the plain meaning of the Act, followed by periods of uncertainty caused by the judicial departure from that 19 20 meaning, and followed in turn by the Court's redisclosing of the Act's purpose." 416 U.S., at 742, 94 S.Ct., at 21 Bob Jones University then reaffirmed that, except where a litigant can show both that the government would 22 "under no circumstances prevail" and that equity jurisdiction is otherwise present, the Act would be given its "literal effect." Id., at 736, 742-745, 94 S.Ct., at 2045, 2048-2050. 23 24 Because the plaintiffs in Bob Jones University were assured ultimately of having access to a judicial forum, the 25 Court did not definitively resolve whether Congress could bar a tax suit in which the complaining party would be denied all access to judicial review. See 416 U.S., at 746, 94 S.Ct., at 2050. But the Court's reference to "a case 27 28 in which an aggrieved party has no access at all to judicial review" came in the context of its discussion of the taxpayer's claim that postponement of its challenge to the revocation of its tax-exempt status would violate due 29 30 process. Bob Jones University's dictum, therefore, should be interpreted only as reflecting the established rule that Congress cannot, consistently with due process, deny a taxpayer with property rights at stake all opportunity 31 for an ultimate judicial determination of the legality of a tax assessment against him. See Phillips v. 32 Commissioner, 283 U.S. 589, 596-597, 51 S.Ct. 608, 611-612, 75 L.Ed. 1289 (1931). 33 On this reading, Bob Jones University's recognition that the complete inaccessibility of judicial review might 34 implicate due process concerns provides absolutely no basis for crafting an exception in this case. The State of 35 South Carolina is not a "person" within the meaning of the Due Process Clause. See South Carolina v. 36 Katzenbach, 383 U.S. 301, 323-324, 86 S.Ct. 803, 815-816, 15 L.Ed.2d. 769 (1966). Nor does the State assert a 37 right cognizable as a "property" interest protected by that Clause. See generally Logan v. Zimmerman Brush 38 Co., 455 U.S. 422, 430-433, 102 S.Ct. 1148, 1155-1156, 71 L.Ed.2d. 265 (1982) (cataloguing cases). Therefore, 39 it has no due process right to review of its claim in a judicial forum.⁵ 40

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⁵⁴ Our cases make clear that the constitutional nature of a challenge to a tax, as distinct from its probability of success, is of no consequence under the Anti-Injunction Act. See <u>Alexander v. "Americans United" Inc.</u>, 416 U.S. 752, 759, 94 S.Ct. 2053, 2057, 40 L.Ed.2d. 518 (1974); <u>Bailey v. George</u>, 259 U.S. 16, 20, 42 S.Ct. 419, 420, 66 L.Ed. 816 (1922); <u>Dodge v. Osborn</u>, 240 U.S. 118, 121, 36 S.Ct. 275, 276, 60 L.Ed. 557 (1916). Congress can be presumed to have had knowledge of those cases when it amended the Act in 1966 and in later years when it passed related legislation. See <u>Merrill Lynch</u>, <u>Pierce</u>, <u>Fenner & Smith</u>, <u>Inc. v. Curran</u>, 456 U.S. 353, 382, and n. 66, 102 S.Ct. 1825, 1841, and n. 66 (1982); <u>Lorillard v. Pons</u>, 434 U.S. 575, 580-581, 98 S.Ct. 866, 870, 55 L.Ed.2d. 40 (1978).

⁵⁵ The Williams Packing exception is not applicable in this case. Though South Carolina's Tenth Amendment and intergovernmental tax immunity claims are serious ones, we cannot say that there are no circumstances under which the Government could prevail. Thus, even if § 310(b) would cause the State irreparable injury, South Carolina could not rely on the Williams Packing exception to invoke a court's authority to review.

⁵⁶ Taxing measures inevitably have a pecuniary impact on nontaxpayers who are linked to the persons against whom a tax is imposed. This Court has held that the indirect impacts of a tax, no matter how detrimental, generally do not invade any interest cognizable under the Due Process Clause. See, e.g., Bob Jones University v. Simon, supra (indirect impact on charitable organization); *United States v. American Friends Service Committee*, 419 U.S. 7, 95 S.Ct. 13, 42 L.Ed.2d. 7 (1974) (per curiam) (indirect impact on First Amendment interests of employees). There is no occasion here to address when, if ever, such indirect impacts would implicate Due Process concerns if no judicial review of the complaining party's direct tax liabilities would ultimately be available. Cf. *Bob Jones University v. Simon, supra*, 416 U.S., at 747-748, 94 S.Ct., at 2051 (discussing powerful governmental interests); *Investment Annuity, Inc. v. Blumenthal*, 609 F.2d. 1, 7-10 (CADC 1979) (indirect impact on nontaxpaying business does not implicate Due Process Clause even though no judicial review otherwise available).

In holding that the Act does not bar suits by nontaxpayers with no other remedies, the Court today has created a "breach in the general scheme of taxation [that] gives an opening for the disorganization of the whole plan [.]" Allen v. Regents, 304 U.S. 439, 454, 58 S.Ct. 980, 987, 82 L.Ed. 1448 (Reed, J., concurring in the result). Nontaxpaying associations of taxpayers, and most other nontaxpayers, will now be allowed to sidestep Congress' policy against judicial resolution of abstract tax controversies. They can now challenge both Congress' tax statutes and the Internal Revenue Service's regulations, revenue rulings, and private letter decisions. In doing so, they can impede *395 the process of collecting federal revenues and require Treasury to focus its energies on questions deemed important not by it or Congress but by a host of private plaintiffs. The Court's holding travels "a long way down the road to the emasculation of the Anti-Injunction Act, and down the companion pathway that leads to the blunting of the strict requirements of Williams Packing" Commissioner v. Shapiro, 424 U.S. 614, 635, 96 S.Ct. 1062, 1074, 47 L.Ed.2d. 278 (1976) (BLACKMUN, J., dissenting). I simply cannot join such a fundamental undermining of the congressional [South Carolina v. Regan, 465 U.S. 367 (1984)]

The federal courts have developed six criteria for use in determining whether a challenge to the assessment or collection of internal revenue taxes may survive the Anti-Injunction Act. These criteria are identified in the case of Elias v. Connett, 908 F.2d. 521, 523 (9thCir.1990).

Actions to enjoin the assessment and collection of taxes by the IRS are narrowly limited by the Anti-Injunction Act ("Act"), 26 U.S.C. §7421. Cool Fuel, Inc. v. Connett, 685 F.2d. 309, 313 (9th Cir.1982). In pertinent part, the Act states that "no suit for the purpose of restraining the assessment or collection of any tax shall be maintained in any court by any person..." 26 U.S.C. §7421(a). There are, however, several statutory exceptions and one judicial exception to the Act. See id. §§ 6212(a), (c), 6213(a), 6672(b), 6694(c), 7426(a), (b)(1), 7429(b); Bob Jones University v. Simon, 416 U.S. 725, 736-37, 94 S.Ct. 2038, 2045-46, 40 L.Ed.2d. 496 (1974).

The district court must dismiss for lack of subject matter jurisdiction any suit that does not fall within one of the exceptions to the Act. Alexander v. "Americans United" Inc., 416 U.S. 752, 757-58, 94 S.Ct. 2053, 2056-57, 40 L.Ed.2d. 518 (1974); Jensen, 835 F.2d. at 198. Thus, "[o]nce a taxpayer satisfies one of the exceptions to the Act, he is no longer jurisdictionally barred from seeking an injunction." Jensen, 835 F.2d. at 198. The taxpayer, however, must, in addition to satisfying an exception to the Act, also allege sufficient grounds to warrant equitable relief. See id. at 198-99; Maxfield v. United States Postal Serv., 752 F.2d. 433, 434 (9th Cir.1984). [Elias v. Connett, 908 F.2d. 521, 523 (9thCir.1990)]

The above six criteria are:

- 1. 26 U.S.C. §6212(a), (c): Notice of Deficiency sent to "taxpayer"
- 2. 26 U.S.C. §6213(a): Time for filing petition and restriction on assessment
- 3. 26 U.S.C. §6672(b): Preliminary notice requirement
- 4. 26 U.S.C. §6694(c): Extension of period of collection where preparer pays 15 percent of penalty
- 5. 26 U.S.C. §7426(a), (b)(1): Actions permitted by persons other than "taxpayers"; Adjudication
 - 6. <u>26 U.S.C. §7429(b)</u>: Judicial review of jeopardy or levy assessment

Note in the above ruling that:

- 1. The word "taxpayer" is used in describing the limitations of the above act.
- 2. All the exceptions come from the Internal Revenue Code, which the courts have said only applies to statutory "taxpayers". This is because it is private law and a franchise that only activates upon the consent of franchisees called "taxpayers":

"Revenue Laws relate to taxpayers and not to non-taxpayers. 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)]

The U.S. Supreme Court also recognized the existence of "nontaxpayers" in South Carolina v. Regan, 465 U.S. 367, 380-381, 104 S.Ct. 1107, 1115 (1984) and Flast v. Cohen, 392 U.S. 83, 98, 88 S.Ct. 1942, 1952 (U.S.968). Specifically, in South Carolina v. Reagan, the U.S. Supreme Court recognized that "nontaxpayers" are not constrained by any provisions within the Anti-Injunction Act.

"In holding that the Act does not bar suits by nontaxpayers with no other remedies, the Court today has created a "breach in the general scheme of taxation [that] gives an opening for the disorganization of the whole plan [.]" Allen v. Regents, 304 U.S. 439, 454, 58 S.Ct. 980, 987, 82 L.Ed. 1448 (Reed, J., concurring in the result). Non-taxpaying associations of taxpayers, and most other nontaxpayers, will now be allowed to sidestep Congress' policy against judicial resolution of abstract tax controversies. They can now challenge both Congress' tax

The only statutory provision mentioned by the court that relates to "nontaxpayers" is 26 U.S.C. §7426(a), (b)(1). That statute is insufficient to cover all adverse impacts of unlawful IRS enforcement directed against "nontaxpayers" because:

1. It does not authorize unlawful liens to be removed.

2. It does not address the relationship between a "notice of levy" and an actual levy issued by a court. In fact, nowhere in the I.R.C is this distinction made, which imperils the property and liberty of "nontaxpayers" who are victimized by unlawful IRS enforcement actions. A "notice of levy" and a "levy" are not the same.

A "levy" requires that property be brought into legal custody through seizure, actual or constructive, levy being an absolute appropriation in law of property levied on, and mere notice of intent to levy is insufficient. United States v. O'Dell, 6 Cir., 1947, 160 F.2d. 304, 307. Accord, In re Holdsworth, D.C.N.J. 1953, 113 F.Supp. 878, 888; United States v. Aetna Life Ins. Co. of Hartford, Conn., D.C. Conn. 1942, 146 F.Supp. 30, 37, in which Judge Hincks observed that he could "find no statute which says that a mere notice shall constitute a 'levy.'" There are cases which hold that a warrant for distraint is necessary to constitute a levy. Givan v. Cripe, 7 Cir., 1951, 187 F.2d. 225; United States v. O'Dell, supra. The Court of Appeals for the Third Circuit state in its opinion, 221 F.2d. at page 642, "These sections [26 U.S.C. §§3690-3697] require that levy by a deputy collector be accompanied by warrants of distraint [issued by a judge in a legal proceeding]." In re Brokol Manufacturing Co., supra.

I am constrained to conclude that a levy upon both tangible and intangible property under §3692 requires the execution of warrant for distraint and then effective only to amounts affixed thereon. As noted above, the Court of Appeals for this Circuit declared when this matter was before it that §\$3690-3697 "require that a levy by a deputy collector be accompanied by warrants of distraint."

The distress authorized by §3690 is different from anything know to the common law, both because it authorizes sale of the property seized, and because it extends to other personality than chattels. By its very nature it requires that demands of procedural due process of law be rigorously honored. [Freeman v. Mayer, 152 F.Supp. 383 (1957)]

This paragraph describes a mere statement or notice of claim. Nothing alleged to have been done amounts to a levy, which requires that the property be brought into legal custody through seizure, actual or constructive, levy being 'an absolute appropriation in law of the property levied upon.' Rio Grande R. Co. v. Gomila, 132 U.S. 478, 10 S.Ct. 155, 33 L.Ed. 400; In re Weinger, Bergman & Co., D.C., 126 F. 875, 877; Smith v. Packard. 7 Cir., 98 F. 793. Levy is not effected by mere notice. Hollister v. Goodale, 8 Conn. 332, 21 Am.Dec. 674; Meyer v. Missouri Glass Co., 65 Ark. 286, 45 S.W. 1062, 67 Am.St.Rep. 927; Jones v. Howard, 99 Ga. 451, 27 S.E. 765, 59 Am.St.Rep. 231. [United States v. O'Dell, 160 F.2d. 304 (1947)]

3. <u>26 U.S.C.</u> §7426(c) requires that the assessment upon which the enforcement action is based shall be conclusively presumed to be valid. This is problematic if the assessment was unlawful, which is most of the time. See:

Why the Government Can't Lawfully Assess Human Beings with an Income Tax Liability Without Their Consent, Form #05.011, Form #05.011 http://sedm.org/Forms/FormIndex.htm

Courts try to avoid the limitations upon the Anti-Injunction Act that it doesn't apply to "nontaxpayers" and that what is being collected is not a 'tax" as historically defined by PRESUMING that ALL litigants before them are statutory "taxpayers", which is simply FALSE and leads to an unconstitutional deprivation of due process of law.

"It is apparent,' this court said in the Bailey Case (219 U.S. 239, 31 S.Ct. 145, 151) 'that a constitutional prohibition cannot be transgressed indirectly by the creation of a statutory presumption any more than it can be violated by direct enactment. The power to create presumptions is not a means of escape from constitutional restrictions.'

[Heiner v. Donnan, 285 U.S. 312 (1932)]

It is everyone's job who goes before any and every federal and state court on a tax issue to challenge all such presumptions BEFORE they are engaged in so that NO DISCRETION is left to the judge to evade or avoid the limitations imposed upon his/her authority by this section. It is also the job of these same litigants to emphasize that not even the judge can declare you a "taxpayer", because you are the customer of government protection and the customer is always right and always sovereign.

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)]

8.12 <u>Unlawful tax collection or enforcement constitute "taxes" within the meaning of the Anti-Injunction Act and the Declaratory Judgments Act</u>

<u>False Argument</u>: Unlawful tax collection or enforcement by the IRS constitute "taxes" within the meaning of the Anti-Injunction Act, 26 U.S.C. §7421, and the Declaratory Judgments Act, 28 U.S.C. §2201(a). It is perfectly lawful to protect <u>any</u> unlawful activity the government embarks upon as long as the label "taxes" is used to describe it.

<u>Corrected Alternative Argument</u>: Stealing from people can never be described as a lawful activity such as "taxes" nor protected using the force of law. Using a different word to describe THEFT doesn't change the criminal nature of the underlying act. It is an oxymoron and the grossest injustice to label unlawful activity as lawful activity and then invoke the law to protect it.

Further information:

- 1. Anti-Injunction Act, 26 U.S.C. §7421 https://www.law.cornell.edu/uscode/text/26/7421
- Declaratory Judgments Act, 28 U.S.C. §2201(a) https://www.law.cornell.edu/uscode/text/28/2201

A popular unlawful technique employed by federal courts is to invoke either the Anti-Injunction Act, 26 U.S.C. §7421 or the Declaratory Judgments Act, 28 U.S.C. §2201(a), and to use these acts as an unconstitutional and criminal excuse to either dismiss or to not rule on a particular case or fact relating to unlawful IRS collection. In effect, they employ these acts as an excuse to omit to do justice and to protect innocent persons who have become the victims of illegal or unlawful enforcement acts by the IRS.

"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)]

The Declaratory Judgments Act, 28 U.S.C. §2201(a), states the following:

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<u>TITLE 28</u> > <u>PART VI</u> > <u>CHAPTER 151</u> > § 2201
§ 2201. Creation of remedy
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(a) In a case of actual controversy within its jurisdiction, except with respect to Federal taxes other than actions brought under section 7428 of the Internal Revenue Code of 1986, a proceeding under section 505 or 1146 of title 11, or in any civil action involving an antidumping or countervailing duty proceeding regarding a class or kind of merchandise of a free trade area country (as defined in section 516A(f)(10) of the Tariff Act of 1930), as determined by the administering authority, any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such.

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What the above act is really referring to and can only be referring to are "persons" within the meaning of the Internal Revenue 1 Code, who are defined in 26 U.S.C. §6671(b) and 26 U.S.C. §7343, all of whom are "public officers" engaged in a "trade or 2 business" within the federal corporation "United States". For these franchisees, who collectively are called "taxpayers" in 3 26 U.S.C. §7701(a)(14), declaratory judgments in relation to lawfully collected taxes may not be made by federal courts. 4 This makes sense, and in effect functions as an extension of the franchise agreement itself: 5

> Although Crowell and Raddatz do not explicitly distinguish between rights created by Congress and other rights, such a distinction underlies in part Crowell's and Raddatz' recognition of a critical difference between rights created by federal statute and rights recognized by the Constitution. Moreover, such a distinction seems to us to be necessary in light of the delicate accommodations required by the principle of separation of powers reflected in Art. III. The constitutional system of checks and balances is designed to guard against "encroachment or aggrandizement" by Congress at the expense of the other branches of government. Buckley v. Valeo, 424 U.S., at 122, 96 S.Ct., at 683. But when Congress creates a statutory right [a "privilege" in this case, such as a "trade or business"], it clearly has the discretion, in defining that right, to create presumptions, or assign burdens of proof, or prescribe remedies; it may also provide that persons seeking to vindicate that right must do so before particularized tribunals created to perform the specialized adjudicative tasks related to that right.FN35 Such provisions do, in a sense, affect the exercise of judicial power, but they are also incidental to Congress' power to define the right that it has created. No comparable justification exists, however, when the right being adjudicated is not of congressional creation. In such a situation, substantial inroads into functions that have traditionally been performed by the Judiciary cannot be characterized merely as incidental extensions of Congress' power to define rights that it has created. Rather, such inroads suggest unwarranted encroachments upon the judicial power of the United States, which our Constitution reserves for Art. III courts. [Northern Pipeline Const. Co. v. Marathon Pipe Line Co., 458 U.S. at 83-84, 102 S.Ct. 2858 (1983)]

HOWEVER, in the case of persons who are NOT franchisees called "taxpayers" nor "public officers" engaged in a "trade or business" nor subject to the franchise agreement codified in I.R.C. Subtitle A, no law can be invoked which might impair their constitutionally protected rights. To enact a law that interfered with the protection of private rights of such persons would constitute treason on the part of Congress:

> "Revenue Laws relate to taxpayers [officers, employees, 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]. 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)]

> "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)]

Below is an example of how one federal court unlawfully invoked the Declaratory Judgments Act to protect unlawful activity and to undermine the Constitutionally protected rights of those under their care and protection. The application was unlawful because the court did not prove with evidence that Rowen was a franchisee called a "taxpayer" BEFORE they issued a ruling, and they had to reach that conclusion to justify the application of any provision of the I.R.C. Subtitle A franchise agreement against him, such as the Declaratory Judgments Act. Federal law only applies to "persons" as defined in 26 U.S.C. §6671(b), and Rowen was never proven to be a "person" and a public officer engaged in federal franchises. He must therefore be presumed innocent and a private person beyond the reach of the court who was not subject to the Declaratory Judgments Act cited by the court and protected only by the Constitution. All "persons" that the government can legislate for civilly are "public officers", because the ability to regulate private conduct is repugnant to the constitution, according to the Supreme Court:

> 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)]

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Below is a ruling by no less than the U.S. Supreme Court in which they plainly state that unlawfully collected monies are not "taxes" as legally defined:

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

Nor is it taxation. 'A tax,' says Webster's Dictionary, 'is a rate or sum of money assessed on the person or property of a citizen by government for the use of the nation or State.' 'Taxes are burdens or charges imposed by the Legislature upon persons or property to raise money for public purposes.' Cooley, Const. Lim., 479."

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

We covered the Anti-Injunction Act in the previous section. Similar arguments apply to the invocation of the Anti-Injunction Act, which is part of the I.R.C. Subtitle A franchise agreement. It constitutes involuntary servitude to enforce a franchise agreement against those who did not explicitly and in writing consent to the franchise agreement and who do not satisfy the requirements to participate. Such foreign law statutes may not be enforced against nonresident persons domiciled in a state of the Union without demonstrating an express waiver of sovereign immunity under the Foreign Sovereign Immunities Act. As a bare minimum, courts must at least demonstrate with evidence and NOT presumption that the person against whom they are enforcing the Anti-Injunction act is a "public officer" within the U.S. Government lawfully engaged in the "trade or business" franchise as defined in 26 U.S.C. §7701(a)(26) ONLY within the District of Columbia pursuant to 4 U.S.C. §72, and who is therefore a "taxpayer" as defined in 26 U.S.C. §7701(a)(14). Any other approach is a deprivation of Constitutionally protected rights in the case of a person domiciled outside of federal territory and within a state of the Union who is therefore protected by the Constitution. It is also a violation of due process of law to PRESUME that a person meets any or all of the qualifications for being a franchisee called a "taxpayer" who is therefore subject to the I.R.C. Subtitle A franchise agreement. Only evidence on the record of the court can establish that the litigant is a "taxpayer", and such evidence is never either demanded nor used to make such a determination by any federal court that we have ever found. See the following for proof:

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

It is an unconstitutional violation of due process of law for any judge or prosecutor to "presume" that you are a franchisee called a "taxpayer" without any supporting evidence. All such presumptions also amount to the establishment of a religion by the government, because they amount to a belief that either is not supported by evidence or is not required to be supported by evidence. Judges and prosecutors who employ this underhanded technique are trying to invoke the terms of a private law franchise agreement against people they know are not participants in order to advantage themselves and the government, and doing so is a violation of their oath to support and defend the constitution and to protect private rights. All governments are established mainly to protect private rights, and what they are doing is refusing to recognize the existence of such rights so they can pad their pockets and unduly enlarge their own importance and influence.

We encourage any reader to sue judges and prosecutors for deprivation of rights who has been victimized and injured by such injurious, malicious, and self-serving prejudicial presumptions. Standing for such a lawsuit would be as following:

- 1. Establishment of a religion in violation of the First Amendment and the Religious Freedom Restoration Act, 42 U.S.C. Chapter 21B.
- 2. Constitutional Tort Action for deprivation of rights.

- 3. 1983 action pursuant to 42 U.S.C. §1983 in the case of state and not federal personnel.
- 4. Conspiracy against rights pursuant to 18 U.S.C. §241.
 - 5. Involuntary servitude in violation of 18 U.S.C. §1589, 42 U.S.C. §1983, and the Thirteenth Amendment.

Let's turn this argument around on the government. As long as we call whatever it is we are doing, including organized crime, "federal taxes", the federal courts are powerless to enjoin or punish anything we do. If the government can protect the unlawful and criminal enforcement activities of IRS agents by simply calling them "taxes", then ANYONE can call any illegal action they want, including the assessment and collection of personal penalties against offending IRS agents, as "federal taxes" and the federal courts cannot interfere with it. This is a natural consequence of the requirement for equal protection and equal treatment that is the foundation of the United States Constitution.

If the government is going to institute slavery by forcing me into becoming a franchisee called a "taxpayer" and one of its "public officers" using unconstitutional and prejudicial presumptions, then I'm going to call everything I do "taxes" and collect penalties I assess against government employees and IRS agents called "taxes" and the federal courts will be powerless to interfere with my activities as long as I invoke the Anti-Injunction Act and the Declaratory Injunction Act consistently, just like the Department of Justice and the federal judiciary unlawfully do in most cases. You can't protect SOME unlawful activity without protecting ALL of it, or else you are depriving me of equal protection.

Another question naturally presents itself relating to the content of this section. If the federal courts can't make declaratory judgments relating to federal taxes, then how can they decide that you are a "taxpayer" who is subject to the franchise agreement to begin with? If they are enjoined from declaring people "taxpayers", then they can't enforce the franchise agreement against anyone because they can't determine who is subject to it. Pretty hypocritical, huh?

The IRS itself also emulates this label game tactic by the federal courts by mislabeling those who engage in political activism to stop ILLEGAL enforcement as "tax protest". A "tax" is a sum of money LAWFULLY collected to support only the government. This is confirmed by the legal definition of "tax":

"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]

The Internal Revenue Code describes LAWFUL methods for collecting income taxes. Anything not in strict conformance to that code is UNLAWFUL and therefore no longer a "tax" but simply THEFT, ORGANIZED CRIME, and the equivalent of a "protection racket".

"Unlawful. That which is contrary to, prohibited, or <u>unauthorized by law</u>. That which is not lawful. The acting contrary to, or in defiance of the law; disobeying or disregarding the law. <u>Term is equivalent to "without excuse or justification."</u> State v. Noble, 90 N.M. 360, 563 P.2d. 1153, 1157. While necessarily not implying the element of criminality, it is broad enough to include it."
[Black's Law Dictionary, Sixth Edition, p. 1536]

The IRS, in its typical fashion, deceptively uses the same label "tax" to describe its own ILLEGAL activity so they can associate those who oppose *unlawful* enforcement actions by the government as un-American, unpatriotic, lawbreakers who ought to be hanged by juries and ostracized. This is a propaganda vehicle that must be stopped. They do this using such words as "tax defier", "tax denier", or "tax protester" on people who are simply opposing unlawful enforcement or collection activity, theft, and organized crime by the government. Below is an example of such propaganda:

<u>Tax Protesters Handbook</u>, Training 3203-154 (10-96), Internal Revenue Service http://famguardian.org/Publications/IRSTaxProtMan/IRSTax

The IRS plays this devious label and propaganda game at tax examinations and audits by asking you whether you are a "tax protester" or "tax defier" or accusing you of being one. The answer to this label game should be:

"What you are collecting is not a 'tax' as legally defined, but simply naked theft, organized crime, and extortion. I protest <u>crime</u>, not lawful <u>tax</u> collection, and what you are doing is a crime and unlawful. Any enforcement action you engage in not expressly authorized by the Internal Revenue Code is <u>crime</u> and theft, not '<u>taxes</u>'. I U.S.C. §204 says the I.R.C. is "prima facie evidence", which means it is nothing more than a presumption that is not evidence of a liability. You are engaging in religion, not law enforcement. Presumptions are NOT evidence and can't be used as a substitute for evidence without violating the First Amendment prohibition against establishment of religion. You are relying on false information returns connecting me to 'trade or business' franchise activities I am <u>not</u> engaged in and cannot lawfully engage in. These information returns were filed ONLY because you didn't tell the WHOLE truth in your publications about what a 'trade or business' is. You obviously want people to misapply the tax code so that they can become a slave to your presumptions in violation

Flawed Tax Arguments to Avoid, Version 1.27 Copyright Family Guardian Fellowship, http://famguardian.org Last Revised: 1/23/2018

of the Thirteenth Amendment. THIS IS CONSTRUCTIVE FRAUD and you thereby are engaging in the criminal activity of conspiring to impersonate a public officer in violation of 18 U.S.C. §912. You know that 4 U.S.C. §72 prohibits these offices from being executed outside the District of Columbia and you know that the 'United States' in the Internal Revenue Code section 7701(a)(9) and (a)(10) is limited to the District of Columbia. I am not a public officer in the government and you obviously know that only public officers lawfully occupying their offices can be 'taxpayers'. I.R.C. section 7701(a)(31) confirms that those not engaged in a 'trade or business' are foreign with respect to the code and not subject to it, which includes me. You are trying to maintain the pretense of lawful authority because deep down, you love money more than you love justice or truth or the people like me you are supposed to be serving. You're a liar and a thief if you won't admit this and correct the false information return reports and terminate this unlawful collection."

8.13 "Exempt" on a government form is the only method for avoiding the liability for tax

<u>False Argument</u>: Selecting the "exempt" option on a government form is the ONLY method for avoiding the tax liability described on the form.

<u>Corrected Alternative Argument</u>: IRS publishes forms for ONLY "taxpayers". Their mission statement at Internal Revenue Manual (I.R.M.), Section 1.1.1.1 says they can ONLY help "taxpayers". Therefore, none of their forms recognize the existence of "nontaxpayers", who are persons "not subject" rather than "exempt" from the Internal Revenue Code, Subtitle A private law franchise agreement. Anyone wishing to use a "taxpayer" only form must modify it to add the "nontaxpayer" or "not subject" option and replace all references to "taxpayer" with "nontaxpayer" before they sign the form.

Further information:

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- 1. Who are "Taxpayers" and Who Needs a "Taxpayer Identification Number"?, Form #05.013 http://sedm.org/Forms/FormIndex.htm
- 2. <u>Non-Resident Non-Person Position</u>, Form #05.020 http://sedm.org/Forms/FormIndex.htm
- 3. <u>"Taxpayer" v. "Nontaxpayer": Which One are You?</u>, Family Guardian Fellowship http://famguardian.org/Subjects/Taxes/Remedies/TaxpayerVNontaxpayer.htm
- Another devious technique frequently used on government forms to trick "nonresident aliens" into making an unwitting election to become "resident aliens" is:
 - 1. Omit the "not subject" option.
 - 2. Present the "exempt" option as the only method for avoiding the liability described.
- 16 3. Do one of the following:
 - 3.1. Statutorily define the term "exempt" to exclude persons who are "not subject".
 - 3.2. PRESUME that the word "exempt" excludes persons who are "not subject" and hope you don't challenge the presumption.
- This form of abuse exploits the common false presumption among most Americans, which is the following:
 - 1. That the ONLY options available are STATUTORY. The CONSTITUTION does not provide a way to make one's earnings CONSTITUTIONALLY exempt but not STATUTORILY exempt.
- 23 Covernment form presents ALL of the lawful options available to avoid the liability described. In fact, government is
 24 famous for limiting options in order to advantage or benefit them. In fact, they only present the STATUTORY options,
 25 but deliberately omit CONSTITUTIONAL options and argue that there are not CONSTITUTIONAL options.
- In effect, they are constraining your options to compel you to select the lesser of evils and remove the ability to avoid all evil.

 This devious technique is also called an "adhesion contract". In summary, they are violating the First Amendment by instituting compelled association in which you are coerced to engage in commercial activity with them and become subject to their pagan laws.
- On the subject of "exempt", the U.S. Supreme Court has held the following:
 - In imposing a tax, says Mr. Chief Justice Marshall, the legislature acts upon its constituents. "All subjects," he adds, "over which the power of a State extends are objects of taxation, but those over which it does not extend

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4 From the above, we can see that:

- 5 1. The civil laws enacted by the legislature act ONLY upon "constituents" and "subjects". They DO NOT act upon "all people", but only on "constituents" and "subjects".
 - 2. You have to VOLUNTEER to become a "constituent" or "subject". See:

Why Domicile and Becoming a "Taxpayer" Require Your Consent, Form #05.002 http://sedm.org/Forms/FormIndex.htm

- 3. "Constituents" and "subjects" include STATUTORY "citizens" pursuant to 8 U.S.C. §1401, 26 U.S.C. §3121(e) and 26 C.F.R. §1.1-1(c) and exclude state domiciled CONSTITUTIONAL citizens, who are "non-residents under statutory law. If you are not a STATUTORY citizen, which the court calls a "SUBJECT" or "constituent", then you can't be taxed. The court refers to those who can't be taxed as "aliens", and they can only mean STATUTORY aliens, not CONSTITUTIONAL aliens.
- 4. Federal tax liability is a CIVIL liability, and therefore, those who are not STATUTORY citizens domiciled on federal territory cannot have such a CIVIL liability.
- 5. Like most other legal "words of art", there are TWO contexts in which the word "exempt" can be used:
 - 5.1. Statutory law. This includes people who are "subjects" or "constituents", but who otherwise are granted a privilege or exemption by virtue of their circumstances. An example would be the "exempt individual" found in 26 U.S.C. §7701(b)(5).
 - 5.2. Common law. This implies people who never consented to be and therefore are NOT "subjects" or "constituents". Those who are NOT "subjects", are "not subject".

8.13.1 Earnings "not taxable by the Federal Government under the Constitution"

The present treasury regulations RECOGNIZE that earnings can be "<u>not taxable by the Federal Government under the Constitution</u>" WITHOUT being "exempt" under the Internal Revenue Code. Earlier versions the Internal Revenue Code and Treasury Regulations refer to this type of exemption as "fundamental law. Earnings "Not taxable by the Federal Government under the Constitution" are recognized in 26 C.F.R. §1.312-6:

Title 21
Part 1-Income Taxes
§ 1.312-6 Earnings and profits.

(b) Among the items entering into the computation of corporate earnings and profits for a particular period are all income exempted by statute, income not taxable by the Federal Government under the Constitution, as well as all items includible in gross income under section 61 or corresponding provisions of prior revenue acts. Gains and losses within the purview of section 1002 or corresponding provisions of prior revenue acts are brought into the earnings and profits at the time and to the extent such gains and losses are recognized under that section. Interest on State bonds and certain other obligations, although not taxable when received by a corporation, is taxable to the same extent as other dividends when distributed to shareholders in the form of dividends.

This omission is designed to make you believe that the ONLY way to avoid a tax liability is to find a STATUTORY "exemption" or to be a statutory "exempt individual" as defined in 26 U.S.C. §7701(b)(5). This is clearly a ruse designed to DECEIVE and ENSLAVE YOU.

The early U.S. Supreme Court recognized CONSTITUTIONAL but not statutory exemptions when it held:

"All subjects," he adds, "over which the power of a State extends are objects of taxation, but those over which it does not extend are, upon the soundest principles, exempt from taxation. This proposition *334 may almost be pronounced self-evident." McCulloch v. Maryland, 4 Wheat. 316, 428.

There are limitations upon the powers of all governments, without any express designation of them in their organic law; limitations which inhere in their very nature and structure, and this is one of them, — that no rightful authority can be exercised by them over alien subjects, or citizens resident abroad or over their property there situated. This doctrine may be said to be axiomatic..."

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

1	The Internal Revenue Code very deliberately does NOT define what is "not taxable by the Federal Government under the
2	Constitution". If they did, they probably would lose MOST of their income tax revenues! The U.S. Supreme Court calls
3	the Constitution "fundamental law" in Marbury v. Madison.
4	"Certainly all those who have framed written constitutions contemplate them as forming the fundamental and
5	paramount law of the nation, and, consequently, the theory of every such government must be, that an act of the
6	legislature, repugnant to the constitution, is void."
7	[Marbury v. Madison, 5 U.S. 137 (1803)]
8	The Founding Fathers in the Federalist Papers also recognized the U.S.A. Constitution as fundamental law:
9	"No legislative act [including a statutory presumption] contrary to the Constitution can be valid. To deny this
10	would be to affirm that the deputy (agent) is greater than his principal; that the servant is above the master;
11	that the representatives of the people are superior to the people; that men, acting by virtue of powers may do
12	not only what their powers do not authorize, but what they forbid[text omitted] It is not otherwise to be
13	supposed that the Constitution could intend to enable the representatives of the people to substitute their will
14	to that of their constituents. It is far more rational to suppose, that the courts were designed to be an intermediate
15	body between the people and the legislature, in order, among other things, to keep the latter within the limits
16	assigned to their authority. The interpretation of the laws is the proper and peculiar province of the courts. \underline{A}
17	Constitution is, in fact, and must be regarded by judges, as fundamental law. If there should happen to be an irreconcilable variance between the two, the Constitution is to be preferred to the statute."
18 19	[Alexander Hamilton, Federalist Paper # 78]
20 21	Earlier versions of the Internal Revenue Code and Treasury Regulations recognized in the statutes themselves exemptions under "fundamental law":
22	Treasury Regulations of (1939)
23	"Sec. 29.21-1. Meaning of net income. The tax imposed by chapter 1 is upon income. Neither income
24	exempted by statute or fundamental law enter into the computation of net income as defined by section 21."
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26	Internal Revenue Code (1939)
27	"Sec 22(b). No other items are exempt from gross income except
28	(1) those items of income which are, under the Constitution, not taxable by the Federal Government;
29	(2) those items of income which are exempt from tax on income under the provisions of any Act of Congress still
30	in effect; and (3) the income exempted under the provisions of section 116."
31	Not surprisingly, the IRS also does NOT provide a line or box on any tax form we have seen to deduct "income exempt by
32	fundamental law". They do this in order to create the false PRESUMPTION that everything you earn is taxable. The U.S.
33	Supreme Court, however, recognized that not EVERYTHING you earn is "income" or falls into the category of "gross
34	income".
35	"We must reject in this case, as we have rejected in cases arising under the Corporation Excise Tax Act of
36	1909 (Doyle, Collector, v. Mitchell Brothers Co., 247 U.S. 179, 38 Sup.Ct. 467, 62 L.Ed), the broad
37	contention submitted on behalf of the government that all receipts—everything that comes in-are income
38	within the proper definition of the term 'gross income,' and that the entire proceeds of a conversion of capital
39	assets, in whatever form and under whatever circumstances accomplished, should be treated as gross income.
40	Certainly the term "income' has no broader meaning in the 1913 act than in that of 1909 (see Stratton's
41	Independence v. Howbert, 231 U.S. 399, 416, 417 S., 34 Sup.Ct. 136), and for the present purpose we assume
42	there is not difference in its meaning as used in the two acts."
43	[Southern Pacific Co. v. Lowe, 247 U.S. 330, 335, 38 S.Ct. 540 (1918)]
44	What the U.S. Supreme Court is recognizing indirectly above is that the income tax is an excise tax on the "trade or business"
45	(public office) activity, and that only earnings connected to that activity constitute "income" or "gross income". Such
46	earnings, in turn, are the only earnings reportable on an information return under 26 U.S.C. §6041(a). The statutory definition
47	of "income" itself in the I.R.C. also recognizes that not everything one makes is "income":
19	TITLE 26 > Subtitle A > CHAPTER 1 > Subchapter J > PART I > Subpart A > § 643
48 49	§ 643. Definitions applicable to subparts A, B, C, and D
	<u>n</u>

(b) Income

For purposes of this subpart and subparts B, C, and D, the term "income", when not preceded by the words "taxable", "distributable net", "undistributed net", or "gross", means the amount of income of the estate or trust for the taxable year determined under the terms of the governing instrument and applicable local law. Items of gross income constituting extraordinary dividends or taxable stock dividends which the fiduciary, acting in good faith, determines to be allocable to corpus under the terms of the governing instrument and applicable local law shall not be considered income.

The "trust" they are talking about above is the PUBLIC trust, meaning the national government. PRIVATE trusts are not engaged in the "trade or business" excise taxable activity because the ability to regulate or tax PRIVATE activity or PRIVATE rights is repugnant to the constitution. The "estate" they are talking about is that of a deceased public officer and not private 10 human being. 11

8.13.2 Avoiding deception on government tax forms

There are two ways that one can use to describe oneself on government forms:

- "Exempt". This is a person who is otherwise subject to the provision of law administering the form because they are an "individual" or "person" and yet who is expressly made exempt by a particular provision of the statutes forming the franchise agreement. This option appears on most government forms.
- "Not subject". This would be equivalent to a nonresident "nontaxpayer" who is not a "person" or franchisee within the meaning of the statute in question. You almost never see this option on government forms.

There is a world of difference between these two statuses and we MUST understand the difference before we can know 19 whether or how to fill out a specific government form describing our status. In this section we will show you how to choose 20 the correct status above and all the affects that this status has on how we fill out government forms. 21

We will begin our explanation with an illustration. If you are domiciled in California, you would describe yourself as 22 "subject" to the laws in California. However, in relation to the laws of every other civil jurisdiction outside of California, 23 you would describe yourself as: 24

- "Not subject" to the civil laws of that place unless you are physically visiting that place. 25
- Not ANYTHING described in the civil law that the government has jurisdiction over or may impose a "duty" upon, such 26 as a "person", "individual", "taxpayer", etc. 27
- Not a "foreign person" because not a "person" under the civil law. 28
- "foreign". 4. 29

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- 5. A "nonresident". 30
 - A "transient foreigner".

A human being who is domiciled in California, for instance, would not be subject to the civil laws of China unless he was 32 either visiting China or engaged in commerce within the legislative jurisdiction of China with people who were domiciled 33 there and therefore protected by the civil laws there. He would not describe himself as being "exempt" from the laws of 34 China, because one cannot be "exempt" without FIRST also being "subject" by having a domicile or residence within that 35 foreign jurisdiction. Another way of stating this is that he would not be a "person" under the civil laws of China and would 36 be "foreign" unless and until he either physically moved there or changed his domicile or residence to that place and thereby 37 became a "protected person" subject to the civil jurisdiction of the Chinese government. 38

All income taxation within the United States of America takes the form of an excise tax upon an "activity" implemented by 39 the civil law. In the case of the Internal Revenue Code, Subtitle A, that activity is called a "trade or business". This fact 40 exhaustively proven in the following amazing article: 41

The "Trade or Business" Scam, Form #05.001 http://sedm.org/Forms/FormIndex.htm

A "trade or business" is then defined in 26 U.S.C. §7701(a)(26) as follows:

<u>TITLE 26</u> > <u>Subtitle F</u> > <u>CHAPTER 79</u> > § 7701

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1	<u>§ 7701. Definitions</u>
2	(a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof—
4	(26) "The term 'trade or business' includes the performance of the functions [activities] of a public office."
5	Those who therefore lawfully engage in a public office in the U.S. government BEFORE they sign or submit any tax form are then described as a "franchisee" called a "taxpayer" under the terms of the excise tax or franchise agreement codified in
7 8 9 0 1 2	Internal Revenue Code, Subtitle A. Those who are not "public officers" also cannot lawfully "elect" themselves into "public office" by signing or submitting a tax form either, because this would constitute impersonating an officer or employee of the government in violation of 18 U.S.C. §912. This is confirmed by 26 U.S.C. §7701(a)(31), which describes all those who are nonresident within the "United States" (federal territory not within any state of the Union) and not engaged in the "trade or business"/"public office" activity as being a "foreign estate", which simply means "not subject", to the Internal Revenue Code, Subtitle A franchise or excise tax:
3	<u>TITLE 26 > Subtitle F</u> > <u>CHAPTER 79</u> > § 7701 <u>§ 7701. Definitions</u>
5 6	(a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof—
7	(31) Foreign estate or trust
8	(A) Foreign estate
9 0 1	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.
2 3 4 5	The entity or "person" described above would NOT be "exempt", but rather simply "not subject". The reason is that the term "exempt" has a specific legal definition that does not include the situation above. Notice that the term "exempt" is used along with the word "individual", meaning that you must be a "person" and an "individual" BEFORE you can call yourself "exempt":
6	$\frac{TITLE\ 26}{Sec.\ 7701} > \frac{Subtitle\ F}{Sec.\ 7701} > Sec.\ 7701.$
8	(b)(5) Exempt individual defined
9	For purposes of this subsection -
0	(A) In general
1	An individual is an exempt individual for any day if, for such day, such individual is -
2	(i) a foreign government-related individual,
3	(ii) a teacher or trainee,
4	(iii) a student, or
5	(iv) a professional athlete who is temporarily in the United States to compete in a charitable sports event described in section $274(1)(1)(B)$.
7	(B) Foreign government-related individual
8 9	The term "foreign government-related individual" means any individual temporarily present in the United States by reason of -
0	(i) diplomatic status, or a visa which the Secretary (after consultation with the Secretary of State) determines represents full-time diplomatic or consular status for purposes of this subsection,

1	(ii) being a full-time employee of an international organization, or
2	(iii) being a member of the immediate family of an individual described in clause (i) or (ii).
3	(C) Teacher or trainee
4	The term "teacher or trainee" means any individual -
5 6	(i) who is temporarily present in the United States under subparagraph (J) or (Q) of section $101(15)$ of the Immigration and Nationality Act (other than as a student), and
7	(ii) who substantially complies with the requirements for being so present.
8	(D) Student
9	The term "student" means any individual -
10	(i) who is temporarily present in the United States -
11	(I) under subparagraph (F) or (M) of section 101(15) of the Immigration and Nationality Act, or
12 13	(II) as a student under subparagraph (J) or (Q) of such section 101(15), and (ii) who substantially complies with the requirements for being so present.
14	(E) Special rules for teachers, trainees, and students
15	(i) Limitation on teachers and trainees
16 17 18 19 20	An individual shall not be treated as an exempt individual by reason of clause (ii) of subparagraph (A) for the current year if, for any 2 calendar years during the preceding 6 calendar years, such person was an exempt person under clause (ii) or (iii) of subparagraph (A). In the case of an individual all of whose compensation is described in section 872(b)(3), the preceding sentence shall be applied by substituting "4 calendar years" for "2 calendar years".
21	(ii) Limitation on students
22 23 24 25 26	For any calendar year after the 5th calendar year for which an individual was an exempt individual under clause (ii) or (iii) of subparagraph (A), such individual shall not be treated as an exempt individual by reason of clause (iii) of subparagraph (A), unless such individual establishes to the satisfaction of the Secretary that such individual does not intend to permanently reside in the United States and that such individual meets the requirements of subparagraph (D)(ii).
27	The Internal Revenue Code itself does not and cannot regulate the conduct of those who are not "taxpayers".
28 29 30 31 32	"Revenue Laws relate to taxpayers [officers, employees, 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]. 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)]
33 34 35	Consequently, all tax forms you (a human being) fill out PRESUPPOSE that the applicant filling it out is a franchis a "taxpayer" who occupies a public office within the U.S. government and who is therefore a statutory "person", "inc "employee", and public officer under 5 U.S.C. §2105(a). Since the Internal Revenue Code is civil law, it also must present the context of the contex

Consequently, all tax forms you (a human being) fill out PRESUPPOSE that the applicant filling it out is a franchisee called a "taxpayer" who occupies a public office within the U.S. government and who is therefore a statutory "person", "individual", "employee", and public officer under 5 U.S.C. §2105(a). Since the Internal Revenue Code is civil law, it also must presuppose that all "persons" or "individuals" described within it are domiciled on federal territory that is no part of a state of the Union. This is confirmed 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), which is defined as federal territory and not part of any state of the Union. If you do not lawfully occupy such a public office, it would therefore constitute fraud and impersonating a public officer in violation of 18 U.S.C. §912 to even fill such a form out. If a company hands a "nontaxpayer" a tax form to fill out, the only proper response is ALL of the following, and any other response will result in the commission of a crime:

- 1. To not complete or sign any provision of the form.
- 2. To line out the entire form.

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3. To write above the line "Not Applicable".

To NOT select the "exempt" option within the form or select <u>any</u> status at all on the form. If you aren't subject to the Internal Revenue Code because you don't have a domicile on federal territory and don't engage in taxable activities, then you can't be described as a "person", "individual", "taxpayer", or anything else who might be subject to the I.R.C.

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

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

- To either not return the form to the person who asked for it or to return it with the modifications above.
 - If you return the form to the person who asked for it, to clarify on the form why you are not "exempt", but rather "not subject".
 - To attach the following form to the tax form:

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Tax Form Attachment, Form #04.201 http://sedm.org/Forms/FormIndex.htm

Another alternative to all the above would be to simply add a "Not subject by fundamental law" option or to select "Exempt" and then redefine the word to add the "not subject by fundamental law" option to the definition. Then you could attach the Tax Form Attachment mentioned above, which also redefines words on the government form to immunize yourself from government jurisdiction.

If we had an honorable government that loved the people under its care and protection more than it loved deceiving you out of and stealing your money, then they would indicate at the top of the form in big bold letters EXACTLY what laws are being enforced and who the intended audience is so that those who are not required to fill it out would not do so. However, if they did that, hardly anyone would ever pay taxes again. Of this SCAM, the Bible and a famous bible commentary says the following:

> "Getting treasures by a lying tongue [or by deliberate omission intended to deceive] is the fleeting fantasy of those who seek death. [<u>Prov. 21:6</u>, Bible, NKJV]

> "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, I. 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]

- In the case of income tax forms, for instance, the warning described above would say the following:
- This form is only intended for those who satisfy <u>all</u> the following conditions:
 - 1.1. "taxpayer" as defined in 26 U.S.C. §7701(a)(14):

"Revenue Laws relate to taxpayers [officers, employees, and elected officials of the Federal Government] and not to non-taxpayers [American Citizens/American Nationals not subject to the exclusive jurisdiction of the

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- 1.2. Lawfully engaged in a "public office" in the U.S. government, which is called a "trade or business" in the Internal Revenue Code, Subtitle A at 26 U.S.C. §7701(a)(26).
 - 1.3. Exercising the public office ONLY within the District of Columbia as required by 4 U.S.C. §72, which is within the only remaining internal revenue district, as confirmed by Treasury Order 150-02.
 - 2. If you do not satisfy <u>all</u> the requirements indicated above, then you DO NOT need to fill out this form, nor can you claim the status of "exempt".
 - 3. This form is ONLY for use by "taxpayers". If you are a "nontaxpayer", then we don't have a form you can use to document your status. This is because our mission statement only allows us to help "taxpayers". It is self-defeating to help "nontaxpayers" because it only undermines our revenue and importance. We are a business and we only focus our energies on things that make money for us, such as deceiving "nontaxpayers" into thinking they are "taxpayers". That is why we don't put a "nontaxpayer" or "not subject" option on our forms: Because we want to self-servingly and prejudicially presume that EVERYONE is engaged in our franchise and subject to our plunder and control.

Internal Revenue Manual (IRM) <u>1.1.1.1 (02-26-1999)</u>
IRS Mission and Basic Organization

The IRS Mission: <u>Provide America's taxpayers top quality service</u> by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all.

We hope that you have learned from this section that:

- 1. He who makes the rules or the forms always wins the game. The power to create includes the power to define.
- 2. All government forms are snares or traps designed to trap the innocent and ignorant into servitude to the whims of corrupted politicians and lawyers.

"The Lord is well pleased for His righteousness' sake; <u>He will exalt the law and make it honorable</u>. <u>But this is a people robbed and plundered!</u> [by the IRS] <u>All of them are snared in [legal] holes [by the sophistry of greedy IRS lawyers]</u>, 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 for plunder, and Israel to the robbers? [IRS] 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 42:21-25, Bible, NKJV]a

3. The snare is the presumptions which they deliberately do not disclose on the forms and which are buried in the "words of art" contained in their void for vagueness codes. See:

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

4. The main reason for reading and learning the law is to reveal all the presumptions and deceptive "words of art" that are hidden on government forms so that you can avoid them.

"My [God's] people are destroyed [and enslaved] for lack of knowledge [of God's Laws and the lack of education that produces it]."
[Hosea 4:6, Bible, NKJV]

"And thou shalt teach them ordinances and laws [of both God and man], and shalt shew them the way wherein they must walk, and the work [of obedience to God] that they must do."

[Exodus 18:20, Bible, NKJV]

"This Book of the Law shall not depart from your mouth, but you shall meditate in it day and night, that you may observe to do according to all that is written in it. For then you will make your way prosperous, and then you will have good success. Have I not commanded you? Be strong and of good courage; do not be afraid, nor be dismayed, for the LORD your God is with you wherever you go."

[Joshua 1:8-9, Bible, NKJV]

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5. Government forms deliberately do not disclose the presumptions that are being made about the proper audience for the form in order to maximize the possibility that they can exploit your legal ignorance to induce you to make a "tithe" to their state-sponsored civil religion and church of socialism. That religion is exhaustively described below:

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

- 6. All government forms are designed to encourage you to waive sovereign immunity and engage in commerce with the government. Government does not make forms for those who refuse to do business with them such as "nontaxpayers", "nonresidents", or "transient foreigners". If you want a form that accurately describes your status as a "nontaxpayer" and which preserves your sovereignty and sovereign immunity, you will have to design your own. Government is never going to make it easy to reduce their own revenues, importance, power, or control over you. Everyone in the government is there because they want the largest possible audience of "customers" for their services. Another way of saying this is that they are going to do everything within their power to rig things so that it is impossible to avoid contracting with or doing business with them. This approach has the effect of compelling you to contract with them in violation of Article 1, Section 10 of the Constitution, which is supposed to protect your right to NOT contract with the government.
- 7. The Thirteenth Amendment prohibits involuntary servitude. Consequently, the government cannot lawfully impose any duty, including the duty to fill out or submit a government form. Therefore, you should view every opportunity that presents itself to fill out a government form as an act of contracting away your rights.
- 8. In the case of government tax forms, the purpose of all government tax forms is to ask the following presumptuous and prejudicial question:

"What kind of 'taxpayer' are you?"

...rather than the question:

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"Are you a 'taxpayer'?"

The above approach results in what the legal profession refers to as a "leading question", which is a question contaminated by a prejudicial presumption and therefore inadmissible as evidence. Federal Rule of Evidence 611(c) expressly forbids such leading questions to be used as evidence, which is also why no IRS form can really qualify as evidence that can be used against anyone: It doesn't offer a "nontaxpayer" or a "foreigner" option. An example of such a question is the following:

"Have you always beat your wife?"

The presumption hidden within the above leading question is that you are a "wife beater". Replace the word "wife beater" with "taxpayer" and you know the main method by which the IRS stays in business.

- 9. If none of the above traps, or "springes" as the U.S. Supreme Court calls them, work against you, the last line of defense the IRS uses is to FORCE you to admit you are a "taxpayer" by:
 - 9.1. Telling you that you MUST have a "Taxpayer Identification Number".
 - 9.2. Telling you that BECAUSE you have such a number, you MUST be a "taxpayer".
 - 9.3. Refusing to talk to you on the phone until you disclose a "Taxpayer Identification Number" to them. We tell them that it is a NONTAXPAYER Identification Number (NIN), and make them promise to treat us as a NONTAXPAYER before it will be disclosed. We also send them an update to the original TIN application making it a NONTAXPAYER number and establishing an anti-franchise franchise that makes THEM liable if they use the number for any commercial purpose that benefits them. See, for instance:

Employer Identification Number (EIN) Application Permanent Amendment Notice, Form #06.022 http://sedm.org/Forms/FormIndex.htm

8.14 Word "includes" in a statutory definition allows the government to presume whatever they want is

39 "included"

Flawed Tax Arguments to Avoid, Version 1.27 Copyright Family Guardian Fellowship, http://famguardian.org Last Revised: 1/23/2018 <u>False Argument</u>: The use of the word "includes" within a statutory definition allows the government to presume whatever they want is included in the meaning, or to presume that the common understanding of the term is also implied within the definition.

<u>Corrected Alternative Argument</u>: The purpose of law is to delegate and limit authority to the government. Everything that is included within the definition of a term must be expressly specified SOMEWHERE within the statutes or it is presumed to be purposefully excluded. This applies to all the definitions in the Internal Revenue Code, and especially those in 26 U.S.C. §7701.

Further information:

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- 1. <u>Legal Deception, Propaganda, and Fraud</u>, Form #05.014 http://sedm.org/Forms/FormIndex.htm
- Sovereignty Forms and Instructions Online, Form #10.004, Cites by Topic: "includes": http://famguardian.org/TaxFreedom/CitesByTopic/includes.htm

A frequent flawed argument used by the state or federal tax agencies in order to unlawfully expand their power and violate due process of law is to expand the meaning of a statutory definition to include whatever they want to include in order to win an argument about their jurisdiction to collect a tax. In other words, they use "verbicide" to entrap, enslave, and injure you to their own benefit.

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"Judicial 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, during Watergate hearing]

"When words lose their meaning, people will lose their liberty."

[Confucius, 500 B.C.]
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This method to abuse and destroy the rights of Americans who the government was created instead to protect is implemented using the following technique. The audience of people who it is most effective against are those who either are ignorant of the law in general or who don't know enough about their rights to even recognize when those rights have been violated:

- 1. You cite a definition from the Internal Revenue Code as proof that you are not the entity or activity described and therefore are not subject to tax.
- 2. They respond by citing the definition of "includes" found in 26 U.S.C. §7701(c) as authority.

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17 TITLE 26 > Subtitle F > CHAPTER 79 > § 7701

§ 7701. Definitions

19 (c) Includes and including

20 The terms "includes" and "including" when used in a definition contained in this title shall not be deemed to exclude other things otherwise within the meaning of the term defined.
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- 3. The government then abuses the above definition to imply that it allows them to add any of the following to the definition:
 - 3.1. The ordinary or common meaning of the term in addition to the statutory definition. . .OR
 - 3.2. Whatever they want to "presume" is included.

For instance, if you cite the definition of "trade or business" in 26 U.S.C. §7701(a)(26) and state that it is limited to a public office in the government and that you are not engaged in a "public office":

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<u>26 U.S.C. §7701(a)(26)</u>
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"The term 'trade or business' <u>includes</u> the performance of the functions of a <u>public office</u>."

...then the government and maybe even a corrupt "taxpayer" judge with a conflict of interest (in violation of 28 U.S.C. §§144 and 455, as well as 18 U.S.C. §208) might then rebut with the following deception and abuse:

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1	The term "trade or business" uses the word "includes". 26 U.S.C. §7701(c) implies that the definition includes
2	the common or ordinary meaning of the term, meaning that it includes anything a person might do. It is not
3	limited to public offices in the government. For instance, someone who works for a private company is not an
4	"employee" of the government but can still be engaged in a trade or business.

Essentially what the speaker above is doing is the equivalent of eminent domain based on presumption. By presuming that a person is engaged in a "trade or business", they are converting private property to a public use, public purpose, and a public

office without compensation in violation of the Fourth Amendment takings clause. In effect, the speaker is using presumption

- to STEAL private property from the owner and convert it to a public use in criminal violation of 18 U.S.C. §912
- (impersonating a public officer) and 18 U.S.C. §654 (conversion).
 - Below is an example of such unlawful abuse by a federal court as well:

"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)]

You can read a rebuttal to the above in section 12.2.1 of the following: 16

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

Definitions of words within the I.R.C. which employ the words "includes" or "including" and which are therefore susceptible 17 to this type of abuse, conspiracy against rights, and violation of due process include: 18

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"employee": 26 U.S.C. §3401(c)
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- "gross income": 26 U.S.C. §872 2.
- "<u>person</u>": 26 U.S.C. §7701(a)(1), 26 U.S.C. §7343, 26 U.S.C. §6671(b) 21
- "State": 26 U.S.C. §7701(a)(10) 22
 - 5. "trade or business": 26 U.S.C. §7701(a)(26)
- "United States": 26 U.S.C. §7701(a)(9) 24

This malicious and self-serving approach by the government is based upon a violation of the rules of statutory construction 25 on the subject, which consist of the following. You can use the rules in your own defense when confronted by the FALSE 26 government argument about the meaning of words: 27

- The word "includes" can imply one of only two legal meanings: 28
 - 1.1. "Is limited to" . . . OR
 - 1.2. "In addition to". In this sense, it is used as a method of enlargement.

"<u>Include</u>. (Lat. Inclaudere, to shut in. keep within.) To confine within, hold as an inclosure. Take in, attain, shut up, contain, inclose, comprise, comprehend, embrace, involve. Term may, according to context, express an enlargement and have the meaning of and or in addition to, or merely specify a particular thing already 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. 763]

When the term "includes" is used as implying enlargement or "in addition to", it only fulfills that sense when the definitions to which it pertains are scattered across multiple definitions or statutes within an overall body of law. In each instance, such "scattered definitions" must be considered AS A WHOLE to describe all things which are included. The U.S. Supreme Court confirmed this when it said:

> "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)]

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EXHIBIT:___

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1		An example of the "enlargement" or "in addition to" context of the use of the word "includes" might be as follows, where
2		the numbers on the left are a fictitious statute number :
3		2.1. "110 The term "state" includes a territory or possession of the United States."
4		2.2. "121 In addition to the definition found in section 110 earlier, the term "state" includes a state of the Union."
5	3.	What is not expressed in a definition <u>somewhere</u> shall conclusively be presumed to be purposefully <u>excluded</u> .
3	٥.	what is not expressed in a definition somewhere shall conclusively be presumed to be purposerumy executed.
6		"Expressio unius est exclusio alterius. A maxim of statutory interpretation meaning that the expression of one
7		thing is the exclusion of another. Burgin v. Forbes, 293 Ky. 456, 169 S.W.2d. 321, 325; Newblock v. Bowles,
8		170 Okl. 487, 40 P.2d. 1097, 1100. Mention of one thing implies exclusion of another. When certain persons or
9		things are specified in a law, contract, or will, an intention to exclude all others from its operation may be
10		<u>inferred.</u> Under this maxim, if statute specifies one exception to a general rule or assumes to specify the effects
11		of a certain provision, other exceptions or effects are excluded."
12		[Black's Law Dictionary, Sixth Edition, p. 581]
13	4.	The definition of a word excludes unstated meanings of the term.
14		"It is axiomatic that the statutory definition of the term excludes unstated meanings of that term. Colautti v.
15		Franklin, 439 U.S. 379, 392, and n. 10 (1979). Congress' use of the term "propaganda" in this statute, as indeed
16		in other legislation, has no pejorative connotation. [19] As judges, it is our duty to [481 U.S. 485] construe
17		legislation as it is written, not as it might be read by a layman, or as it might be understood by someone who
18		has not even read it."
19		[Meese v. Keene, 481 U.S. 465, 484 (1987)]
20		"When a statute includes an explicit definition, we must follow that definition, even if it varies from that term's
21		ordinary meaning. Meese v. Keene, 481 U.S. 465, 484-485 (1987) ("It is axiomatic that the statutory definition
22		of the term excludes unstated meanings of that term"); Colautti v. Franklin, 439 U.S. at 392-393, n. 10 ("As a
23		rule, `a definition which declares what a term "means" excludes any meaning that is not stated""); Western
24		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
25		(1935) (Cardozo, J.); see also 2A N. Singer, Sutherland on Statutes and Statutory Construction § 47.07, p. 152,
26		and n. 10 (5th ed. 1992) (collecting cases). That is to say, the statute, read "as a whole," post at 998 [530 U.S.
27		943] (THOMAS, J., dissenting), leads the reader to a definition. That definition does not include the Attorney
28		General's restriction "the child up to the head." Its words, "substantial portion," indicate the contrary."
29		[Stenberg v. Carhart, 530 U.S. 914 (2000)]
30	5.	All doubts about the meaning of a term must be resolved in favor of the citizen and <u>against</u> the government.
21		"In the intermediation of attatas lauring taxes it is the established rule not to extend their previous by
31		"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
32		implication <u>beyond the clear import of the language used, or to enlarge</u> their operations so as to embrace matters not specifically <u>pointed out</u> . In case of doubt they are construed most strongly against the government and in
33		not specifically <u>pointed out.</u> In case of doubt they are construed most strongly against the government and in favor of the citizen."
34 35		[Gould v. Gould, <u>245 U.S. 151</u> , at 153 (1917)]
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36	6.	All presumptions about the meaning of a word are a violation of Constitutional rights and or due process of law.
27		"Statutes creating permanent irrebuttable presumptions have long been disfavored under the Due Process
37		Clauses of the Fifth and Fourteenth Amendments, In Heiner v. Donnan, 285 U.S. 312, 52 S.Ct. 358, 76 L.Ed.
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39		772 (1932), the Court was faced with a constitutional challenge to a federal statute that created a conclusive presumption that gifts made within two years prior to the donor's death were made in contemplation of death,
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41		thus requiring payment by his estate of a higher tax. In holding that this irrefutable assumption was so arbitrary
42		and unreasonable as to deprive the taxpayer of his property without due process of law, the Court stated that
43		it had 'held more than once that a statute creating a presumption which operates to deny a fair opportunity to
44		rebut it violates the due process clause of the Fourteenth Amendment.' Id., at 329, 52 S.Ct., at 362. See, e.g.,
45		Schlesinger v. Wisconsin, 270 U.S. 230, 46 S.Ct. 260, 70 L.Ed. 557 (1926); Hoeper v. Tax Comm'n, 284 U.S.
46		206, 52 S.Ct. 120, 76 L.Ed. 248 (1931), See also Tot v. United States, 319 U.S. 463, 468-469, 63 S.Ct. 1241,
47		1245-1246, 87 L.Ed. 1519 (1943); Leary v. United States, 395 U.S. 6, 29-53, 89 S.Ct. 1532, 1544-1557, 23
48		L.Ed.2d. 57 (1969), Cf. Turner v. United States, 396 U.S. 398, 418-419, 90 S.Ct. 642, 653-654, 24 L.Ed.2d. 610
49		(1970)."

"The Schlesinger Case has since been applied many times by the lower federal courts, by the Board of Tax Appeals, and by state courts; FN2 and none of them seem to have been **361 at any loss to understand the basis of the decision, namely, that a statute which imposes a tax upon an assumption of fact which the taxpayer is forbidden to controvert is so arbitrary and unreasonable that it cannot stand under the Fourteenth Amendment."

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[Vlandis v. Kline, 412 U.S. 441 (1973)]

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It is apparent,' this court said in the Bailey Case (219 U.S. 239, 31 S.Ct. 145, 151) 'that a constitutional prohibition cannot be transgressed indirectly by the creation of a statutory presumption any more than it can be violated by direct enactment. The power to create presumptions is not a means of escape from constitutional restrictions.'

[Heiner v. Donnan, 285 U.S. 312 (1932)]

Presumption may not be used in determining the meaning of a statute. Doing otherwise is a violation of due process, a violation of rights, and a religious sin under Numbers 15:30 (Bible). A person reading a statute cannot be required by statute or by "judge made law" to read anything into a Title of the U.S. Code that is not expressly spelled out. See:

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

The above rules of statutory construction were created in order to fulfill the intent of the founding fathers to avoid placing arbitrary discretion in the hands of anyone in the government, and especially the courts:

"It has been frequently remarked, with great propriety, that a voluminous code of laws is one of the inconveniences necessarily connected with the advantages of a free government. To avoid an arbitrary discretion in the courts, it is indispensable that they should be bound down by strict rules [of statutory construction and interpretation] and precedents, which serve to define and point out their duty in every particular case that comes before them; and it will readily be conceived from the variety of controversies which grow out of the folly and wickedness of mankind, that the records of those precedents must unavoidably swell to a very considerable bulk, and must demand long and laborious study to acquire a competent knowledge of them."

[Federalist Paper No. 78, Alexander Hamilton]

If you would like to learn more about how to argue against this unscrupulous, injurious, presumptuous, and illegal tactic by the government, see the following resources, a detailed analysis of the rules of statutory construction is contained in the following publication on our website:

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

- 23 If you want tools and techniques for combating the abuse of verbicide described in this section, then see:
- 1. Section 10.11 later.

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2. The following form, which you can attach to any tax form and which defines all the terms on the form unambiguously so that you don't become the victim of the injurious presumptions of others about your status:

<u>Tax Form Attachment</u>, Form #04.201 http://sedm.org/Forms/FormIndex.htm

3. The following form, which you can attach to your court pleadings which provides rules of presumption and definitions used during litigation in order to prevent presumption and abuse by the judge or other parties to the litigation:

<u>Rules of Presumption and Statutory Interpretation</u>, Litigation Tool #01.006 http://sedm.org/Litigation/LitIndex.htm

29 **8.15** Government "Benefits" constitute consideration under an implied franchise or quasi-contract between the government and the recipient

<u>False Argument</u>: The receipt of government "benefits" of any kind creates an implied franchise or quasi-contract between the government and those receiving the benefit that is enforceable as a legal liability or duty under federal law.

<u>Corrected Alternative Argument</u>: Government "benefits" under the Social Security Act, 42 U.S.C. Chapter 7 identify themselves as "grants" and therefore GIFTS to states of the Union. Gifts are legally defined such that they CANNOT create an obligation on the part of the recipient.

Further information:

- 1. <u>The Government "Benefits" Scam</u>, Form #05.040 http://sedm.org/Forms/FormIndex.htm
- Government Instituted Slavery Using Franchises, Form #05.030 http://sedm.org/Forms/FormIndex.htm
- Those who refuse to accept government franchises and services and lawfully refuse to pay for these services are sometimes illegally prosecuted by zealous but <u>criminal</u> government attorneys for "willful failure to file" under <u>26 U.S.C. §7203</u> and "tax evasion" under <u>26 U.S.C. §7201</u>. The government's offense in these cases is like a broken record:

"Mr./Ms. _____ accepts the 'benefits' of living in this country but refuses to pay his/her 'fair share'. He/she is a LEECH and you ought to hang him!"

For an example of the above such rhetoric from an actual criminal tax case, see:

Tax Protester Gets Federal Prison Time http://famguardian.org/Subjects/Taxes/News/TPConv-030523.pdf

- We will prove in this section that all such arguments amount to FRAUD and their basis is to make the government UNEQUAL
- and SUPERIOR in relation to the citizen, thus destroying equal protection that is the foundation of the Constitution, and
- substituting a civil religion of socialist idolatry in its place as described below:

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

- 42 U.S.C. Chapter 7 identifies all federal "benefits" as "grants". Here are a few examples:
- 1. SUBCHAPTER I—GRANTS TO STATES FOR OLD-AGE ASSISTANCE (§§ 301—306)
 - 2. SUBCHAPTER III—GRANTS TO STATES FOR UNEMPLOYMENT COMPENSATION ADMINISTRATION (§§ 501—504)
 - 3. SUBCHAPTER IV—GRANTS TO STATES FOR AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN AND FOR CHILD-WELFARE SERVICES (§§ 601—681_to_687)
- 4. SUBCHAPTER X—GRANTS TO STATES FOR AID TO BLIND (§§ 1201—1206)
 - 5. SUBCHAPTER XIV—GRANTS TO STATES FOR AID TO PERMANENTLY AND TOTALLY DISABLED (§§ 1351—1355)
 - 6. SUBCHAPTER XIX—GRANTS TO STATES FOR MEDICAL ASSISTANCE PROGRAMS (§§ 1396—1396w1)
- 7. SUBCHAPTER XX—BLOCK GRANTS TO STATES FOR SOCIAL SERVICES (§§ 1397—1397f)
- The legal definition of "grant" is as follows:

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29 30 Grant. To bestow; to confer upon some one other than the person or entity which makes the grant. Porto Rico Ry., Light & Power Co. v. Colom, C.C.A.Puerto Rico, 106 F.2d. 345, 354. To bestow or confer, with or without compensation, a gift or bestowal by one having control or authority over it, as of land or money. Palmer v. U.S. Civil Service Commission, D.C.Ill., 191 F.Supp. 495, 537.

A conveyance; i.e. transfer of title by deed or other instrument. Dearing v. Brush Creek Coal Co., 182 Tenn. 302, 186 S.W.2d. 329, 331. Transfer of property real or personal by deed or writing. Commissioner of Internal Revenue v. Plestcheeff, C.C.A.9, 100 F.2d. 62, 64, 65. A generic term applicable to all transfers of real property, including transfers by operation of law as well as voluntary transfers. White v. Rosenthal, 140 Cal. App. 184,35 P.2d. 154, 155. A technical term made use of in deeds of conveyance of lands to import a transfer.

1 2		A deed for an incorporeal interest such as a reversion. As distinguished from a mere license, a grant passes some estate or interest, corporeal or incorporeal, in the lands which it embraces.
3		To give or permit as a right or privilege; e.g. grant of route authority to a public carrier.
4 5 6 7		By the word "grant," in a treaty, is meant not only a formal grant, but any concession, warrant, order, or permission to survey, possess, or settle, whether written or parol, express, or presumed from possession. Such a grant may be made by law, as well as by a patent pursuant to a law. Bryan v. Kennett, 113 U.S. 179, 5 S.Ct. 407, 28 L.Ed. 908.
8		In England, an act evidenced by letters patent under the great seal, granting something from the king to a subject. [Black's Law Dictionary, Sixth Edition, pp. 699-799]
10	The statutory "S	States" identified above are not constitutional or sovereign States of the Union, but federal territories.
11	1. <u>Original 19</u>	35 Social Security Act Definition:
12 13		"The term State (except when used in section 531) includes Alaska, Hawaii, and the District of Columbia." [Social Security Act of 1935, Section 1101(a)(1).]
14	2. <u>Current De</u>	finition:
15 16 17 18 19 20 21 22 23 24 25 26		"(1) The term 'State', except where otherwise provided, includes the District of Columbia and the Commonwealth of Puerto Rico, and when used in titles IV, V, VII, XI, XIX, and XXI includes the Virgin Islands and Guam. Such term when used in titles III, IX, and XII also includes the Virgin Islands. Such term when used in title V and in part B of this title also includes American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. Such term when used in titles XIX and XXI also includes the Northern Mariana Islands and American Samoa. In the case of Puerto Rico, the Virgin Islands, and Guam, titles I, X, and XIV, and title XVI (as in effect without regard to the amendment made by section 301 of the Social Security Amendments of 1972[3]) shall continue to apply, and the term 'State' when used in such titles (but not in title XVI as in effect pursuant to such amendment after December 31, 1973) includes Puerto Rico, the Virgin Islands, and Guam. Such term when used in title XX also includes the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands. Such term when used in title IV also includes American Samoa." [42 U.S.C. §1301(a)(1)]
27 28		the rules of statutory construction alone, neither the states of the Union nor the people domiciled therein and E United States Constitution are LAWFULLY ALLOWED to participate in any federal franchise or "benefit"
29	program.	contect States Constitution are LYWY CLET FILLOWED to participate in any rederal manerinse of scheme
30 31 32 33 34 35 36		"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]
37	In fact, it is a cr	iminal violation of the separation of powers doctrine to:
38	1. Create or en	nforce any federal franchise or privilege within a constitutional state of the Union:
39 40 41 42 43		"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.
44 45 46 47 48		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

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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 de facto license such as a Social Security Number or

Taxpayer identification Number] 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)]

Note the use of the phrase "trade or business" by the U.S. Supreme Court, which has NEVER overruled the above ruling. And WHAT is the current income tax on? It is an excise tax on none other than 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 and not state government. What could be plainer? Even if Social Security Numbers or Taxpayer Identification Numbers are not CALLED licenses, they presently behave as such, and the U.S. Supreme Court has also held that we must judge things by how they WORK, and not the way they are DESCRIBED.

2. Use federal franchises or their illegal enforcement to break down the separation of powers between the states of the Union and the federal government. See:

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

3. Include states of the Union within the definition of "State" within any federal law.

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- 4. Bribe states of the Union to surrender their sovereignty and thereby become UNEQUAL as parties to a federal franchise. This destroys equal protection that is the foundation of the United States Constitution.
- 5. Allow a state of the Union to either become or to be for all intents and purposes, a federal territory subject to federal law or any law that only applies within exclusive federal jurisdiction. This would destroy all the rights of those domiciled therein, because the purpose of this separation, according to the U.S. Supreme Court, is to protect PRIVATE rights, meaning rights of those OTHER than the government.
 - 6. Bribe any official of a state with "benefits" in order to influence him to turn people under his or her care into public officers of the national government by condoning the filing of false information returns or the enforcement of federal law of a foreign state or foreign corporation against people under their care and protection. See: 18 U.S.C. §§201, 210, and 211.
 - 7. Allow any judge to rule on an income tax matter who is financially interested. This includes those state judges who collect federal "benefits" or whose pay and/or benefits derive from federal income taxes either directly or indirectly. This is a criminal bribery and this bribery was first implemented at the federal level unlawfully starting in 1939.
- 8. Make any officer of a state government into a public officer in the federal government. All franchises require those who participate to be public officers in the national government. Nearly all states of the Union have either a constitutional prohibition or a statutory prohibition against simultaneously serving in BOTH a state public office and a federal public office at the SAME TIME. Hence, it is ILLEGAL for public officers of a de jure constitutional state to participate in federal franchises or benefits of any kind. A survey of all 50 states for laws on this subject are contained in:

<u>SEDM Jurisdictions Database</u>, Litigation Tool #09.008 http://sedm.org/Litigation/LitIndex.htm

It is not only a violation of the separation of powers doctrine, but a criminal offense to allow anyone in a constitutional state of the Union to participate in any federal "benefit" program or to use government identifying numbers as a "de facto license" to either establish or administer any federal franchise within a constitutional but not statutory state of the Union. See:

- 1. Why It is Illegal for Me to Request or Use a "Taxpayer Identification Number", Form #04.205 http://sedm.org/Forms/FormIndex.htm
- 2. <u>Why You Aren't Eligible for Social Security</u>, Form #06.001 http://sedm.org/Forms/FormIndex.htm
- 3. <u>Resignation of Compelled Social Security Trustee</u>, Form #06.002. This form was sent to you certified mail and you didn't rebut it and therefore agree you are in violation of the law to allow me to participate in Social Security http://sedm.org/Forms/FormIndex.htm
 - 4. <u>About SSNs and TINs on Government Forms and Correspondence</u>, Form #05.012 http://sedm.org/Forms/FormIndex.htm

To make matters MUCH worse, federal prosecutors use as their MAIN argument in tax prosecutions for "willful failure to file" or "tax evasion" the fact that the defendant collected these same "benefits" and yet did not pay their "fair share" for the cost of said benefits. To take this hypocritical and unconscionable approach is to:

1. Hypocritically treat a GIFT instead as a contract with strings attached AFTER receipt, which is FRAUD.

Flawed Tax Arguments to Avoid, Version 1.27	
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Last Revised: 1/23/2018	

1	2.	Make a business out destroying, regulating, and taxing rights that are incapable of being alienated and which it is a
2		violation of fiduciary duty to alienate. An "unalienable right" is, in fact, that which by definition cannot be sold,
3		bargained away, or transferred through ANY commercial process, including a franchise. This makes the public trust
4		into a sham trust:
_		"We had done could be a 10 without the all more many and done do the done many death and be done to
5		"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator
6		with certain unalienable Rights, that among these are Life, Liberty and the pursuit of HappinessThat to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the
7		governed, - "
8 9		[Declaration of Independence]
10		"Unalienable. Inalienable; incapable of being aliened, that is, sold and transferred [by ANY means]."
11		[Black's Law Dictionary, Fourth Edition, p. 1693]
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12	3.	Unconstitutionally deprive the recipient of "reasonable notice" of the conditions of the implied but not written contract.
13		See:
		Requirement for Reasonable Notice, Form #05.022
		http://sedm.org/Forms/FormIndex.htm
	1	Illegally enforce federal law outside of federal territory.
14	4.	
15	5.	Prejudicially add things to the definition of "State" through judicial or administrative fiat that do not in fact expressly
16		appear in the act administering the benefit, and hence to engage in law-making power within the judicial branch in
17		violation of the separation of powers and the rules of statutory construction:
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18		"Expressio unius est exclusio alterius. A maxim of statutory interpretation meaning that the expression of one
19		thing is the exclusion of another. Burgin v. Forbes, 293 Ky. 456, 169 S.W.2d. 321, 325; Newblock v. Bowles,
20		170 Okl. 487, 40 P.2d. 1097, 1100.Mention of one thing implies exclusion of another. When certain persons or
21		things are specified in a law, contract, or will, an intention to exclude all others from its operation may be
22		<u>inferred.</u> Under this maxim, if statute specifies one exception to a general rule or assumes to specify the effects
23		of a certain provision, other exceptions or effects are excluded."
24		[Black's Law Dictionary, Sixth Edition, p. 581]
	_	There are sintensification of the second the relieur of the second throughout the second transfer of
25	6.	Turn a society of law into a society of men and the policy of men, thus undermining any hope for the security of
26		private rights.
27	7.	Destroy the foundations of comity and federalism, which requires that even with consent of either states of the Union
28		or the people in them, NO federal enforcement is allowed:
29		"comity. Courtesy; complaisance; respect; a willingness to grant a privilege, not as a matter of right, but out
30		of deference and good will. Recognition that one sovereignty allows within its territory to the legislative,
31		executive, or judicial act of another sovereignty, having due regard to rights of its own citizens. Nowell v. Nowell,
32		Tex. Civ. App., 408 S.W.2d. 550, 553. In general, principle of "comity" is that courts of one state or jurisdiction
33		will give effect to laws and judicial decisions of another state or jurisdiction, not as a matter of obligation, but
34		out of deference and mutual respect. Brown v. Babbitt Ford, Inc., 117 Ariz. 192, 571 P.2d. 689, 695. See also
35		Full faith and credit clause."
36		[Black's Law Dictionary, Sixth Edition, p. 267]
37	8.	Make the person paying the so-called "gift" into an Indian Giver, a HYPOCRITE, and a THIEF who abuses law to
	0.	steal from people.
38		steal from people.
20	In	addition, the whole notion of a "contract" or franchises that are also contracts, is MUTUAL and RECIPROCAL
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40	OB	BLIGATION.
41		Contract. An agreement between two or more [sovereign] persons which creates an obligation to do or not to
42		do a particular thing. As defined in Restatement, Second, Contracts §3: "A contract is a promise or a set of
43		promises for the breach of which the law gives a remedy, or the performance of which the law in some way
44		recognizes as a duty." A legal relationships consisting of the rights and duties of the contracting parties; a
45		promise or set of promises constituting an agreement between the parties that gives each a legal duty to the
46		other and also the right to seek a remedy for the breach of those duties. Its essentials are competent parties,
47		subject matter, a legal consideration, mutuality of agreement, and mutuality of consideration. Lamoureaux v.

Under U.C.C., term refers to total legal obligation which results from parties' agreement as affected by the Code. Section 1-201(11). As to sales, "contract" and "agreement" are limited to those relating to present or future

49 50 Burrillville Racing Ass'n, 91 R.I. 94, 161 A.2d. 213, 215.

1 2	sales of goods, and "contract for sale" includes both a present sale of goods and a contract to sell goods at a future time. U.C.C. §2-106(a).
3	The writing which contains the agreement of parties with the terms and conditions, and which serves as a proof
4	of the obligation
5	[Black's Law Dictionary, Sixth Edition, p. 322]
_	Contracts are not enforceable unless BOTH parties have some kind of express duty to each other that each regards as valuable
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7	consideration. We, for one, define EVERYTHING the present government does not as a "benefit", but an INJURY, and WI
8	have to define it as a benefit before it can, in fact, legally constitute "consideration".
9 0	In fact, the U.S. Supreme Court admits that the national government has NO LEGAL OBLIGATION to pay you anything under any federal benefit program.
1	"We must conclude that a person covered by the Act has not such a right in benefit payments This is not to
2	say, however, that Congress may exercise its power to modify the statutory scheme free of all constitutional
3 4	restraint."
4	[Flemming v. Nestor, <u>363 U.S. 603</u> (1960)]
5	Hence:
6	1. To call it a "benefit" at all is deliberately deceptive at best and FRAUD at worst.
7	2. The government cannot, as a matter of equity, justly acquire ANY reciprocal right to any of your earnings to pay for
	the so-called "benefit".
8	the so-caned benefit.
9	If the government is not obligated to ANYTHING by giving you the gift, then you similarly cannot be obligated to PAY
0	anyone anything for the gift in return and any statute administering such a program can NOT therefore acquire the "force o
1	law" against you as a matter of equity. This same concept also applies to the federal income tax itself within I.R.C. Subtitle
2	A through C. 31 U.S.C. §321(d) identifies ALL income taxes paid to the U.S. government as a "gift".
3	31 U.S.C. §321(d)
4	(1) The Secretary of the Treasury may accept, hold, administer, and use gifts and bequests of property, both real
5	and personal, for the purpose of aiding or facilitating the work of the Department of the Treasury. Gifts and
6	bequests of money and the proceeds from sales of other property received as gifts or bequests shall be deposited
7	in the Treasury in a separate fund and shall be disbursed on order of the Secretary of the Treasury. Property
8	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.
9	the terms of the gift of bequest.
0	(2): "For the purposes of the Federal income, estate, and gift taxes, property accepted under paragraph (1)
1	shall be considered as a gift or bequest to or for the use of the United States."
2	Now let's look at the surprising definition of the word "gift" in Black's Law Dictionary, Sixth Edition, p. 688:
3	Gift: A voluntary transfer of property to another made gratuitously and without consideration. Bradley v.
4	Bradley, Tex.Civ.App., 540 S.W.2d. 504, 511. Essential requisites of "gift" are capacity of donor, intention of
5	donor to make gift, completed delivery to or for donee, and acceptance of gift by donee.
6	In tax law, a payment is a gift if it is made without conditions, from detached and disinterested generosity, out
7	of affection, respect, charity or like impulses, and not from the constraining force of
8	any moral or legal duty or from the incentive of anticipated benefits of an economic nature.
9	And finally, let's look up the word "voluntary" from Black's Law Dictionary, Sixth Edition, p. 1575:
0	"Unconstrained by interference; unimpelled by another's influence; spontaneous; acting of oneself. Coker v.
1	State, 199 Ga. 20, 33 S.E.2d 171, 174. Done by design or intention. Proceeding from the free and unrestrained
2	will of the person. Produced in or by an act of choice. Resulting from free choice, Without
3	compulsion or solicitation. The word, especially in statutes, often implies knowledge of
4	essential facts. Without valuable consideration; gratuitous, as a voluntary conveyance. Also, having a merely
5	nominal consideration; as, a voluntary deed."

You might then ask yourself WHY the government continues to prosecute famous personalities for alleged tax fraud or 1 misconduct when in fact, they are prosecuting people for refusing to pay "gifts" to the U.S. government. The answer is that 2 they have NO LEGAL AUTHORITY to do so in the case of I.R.C. Subtitles A through C. The statutes invoked to prosecute, in fact, only pertain to OTHER taxes under the I.R.C. They know this, and the unsuspecting sheep who fall prey to their ruse are gagged by their very own attorneys from raising this issue in court to keep the Ponzi scheme and "confidence game" going. Some immoral judges even collude with government prosecutors to obstruct justice by making such cases or the evidence unpublished to cover up their own criminal conspiracy against your rights. Some victims of this corruption allege that there is more organized crime in the courts daily than all the rest of the country combined. They may be right. The "organizers" of this secretive criminal cabal and syndicate are the people who, instead of protecting you, only protect their own "protection racket" under the "color" but without the actual authority of positive law. Secretive in camera meetings 10 between judges and government prosecutors and "selective enforcement" by the IRS against judges that both represent a 11 conflict of interest and a criminal conspiracy against your rights, are the method of perpetuating a massive fraud upon the 12 unsuspecting American public. For details, see: 13

1. <u>Federal Jurisdiction</u>, Form #05.018 http://sedm.org/Forms/FormIndex.htm

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- 2. <u>Federal Enforcement Authority Within States of the Union, Form #05.032</u> <u>http://sedm.org/Forms/FormIndex.htm</u>
- 3. <u>Legal Requirement to File Federal Income Tax Returns</u>, Form #05.009 http://sedm.org/Forms/FormIndex.htm

If you would like to know more about how prosecutors and judges conspire against your rights to convert a "gift" into a quasicontractual obligation to pay "protection money" to a "protection racket" and how to respond to it, please read:

<u>The Government "Benefits" Scam</u>, Form #05.040 http://sedm.org/Forms/FormIndex.htm

8.16 Constitutional "people" and statutory "persons" are equivalent

False Argument: Constitutional "people" and statutory "persons" are equivalent.

<u>Corrected Alternative Argument</u>: Constitutional "persons" and "citizens" are humans ONLY. Statutory "persons" and "citizens" are fictions of law and consist of only offices, creations, and franchises of Congress. Statutory statuses may only be invoked in a franchise court under the terms granted by the franchise itself. Corporations and franchisees have ONLY the PUBLIC rights attributed to them by Congress. Otherwise, they have no legal existence at all. The acceptance or invocation of a franchise status by a HUMAN constitutes a waiver of sovereign immunity under the franchise and removes the protections of equity and the common law from the party.

Further information:

- 1. Why You are a "national", "state national", and Constitutional but not Statutory Citizen, Form #05.006, Section 3 http://sedm.org/Forms/FormIndex.htm
- Government Instituted Slavery Using Franchises, Form #05.030, Section 3.11 http://sedm.org/Forms/FormIndex.htm
- 3. <u>Corporatization and Privatization of the Government</u>, Form #05.024, Section 11: Legal standing and status of corporations in federal court http://sedm.org/Forms/FormIndex.htm</u>
- A popular argument or assumption made by judges and prosecutors is that a human being and a corporation are BOTH "persons" under the Internal Revenue Code or any other federal statute. They are NOT. In fact:
 - 1. The ONLY "person" mentioned in the Constitution are HUMAN BEINGS and NOT corporations.
- 26 2. "person" is defined in 26 U.S.C. §6671(b) and 26 U.S.C. §7343 as an officer or employee of a corporation or partnership.
 - 2.1. The corporation has to be a federal and not state corporation.

- 2.2. The only partnership described in that section is a partnership between a PRIVATE entity and the national but not state government. Otherwise, it is repugnant, according to the U.S. Supreme Court, to regulate or legislate against PRIVATE rights.
- 3. Only human beings can sue OTHER human beings in an Article III federal court.
 - 4. If one of the parties in federal court is a corporation and the other is a human being, then the only type of court that can hear the dispute is an Article I or Article IV franchise court in the Executive rather than Legislative branch if the defendant is the corporation rather than individual people in the corporation.
- 5. Since the United States is a corporation, then it is NOT a "citizen" or "person" within the meaning of the Constitution.
- 6. The only "citizens" under statutory law are offices in the government and the status of "citizen" is a congressionally created privileged franchise status that has NOTHING to do with constitutional "persons" or "citizens".
- Let us now proceed to prove the above in the rest of this section.

Provisions of the United States Constitution dealing with the capacity to sue or be sued in federal court dictate that ONLY CONSTITUTIONAL "citizens" or "residents" may entertain suits in Article III federal court.

U.S. Constitution, Article III, Section 2

The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;--to all Cases affecting Ambassadors, other public ministers and Consuls;--to all Cases of admiralty and maritime Jurisdiction;--to Controversies to which the United States shall be a Party;--to Controversies between two or more States;--between a State and Citizens of another State;--between Citizens of different States;--between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

The U.S. Supreme Court has repeatedly held that the "citizen" or "resident" they are talking about in the above provision is CONSTITUTIONAL and not STATUTORY in nature.

It is important that the style and character of this party litigant, as well as the source and manner of its existence, be borne in mind, as both are deemed material in considering the question of the jurisdiction of this court, and of the Circuit Court. It is important, too, to be remembered, that the question here raised stands wholly unaffected by any legislation, competent or incompetent, which may have been attempted in the organization of the courts of the United States; but depends exclusively upon the construction of the 2d section of the 3d article of the Constitution, which defines the judicial power of the United States; first, with respect to the subjects embraced within that power; and, secondly, with respect to those whose character may give them access, as parties, to the courts of the United States. In the second branch of this definition, we find the following enumeration, as descriptive of those whose position, as parties, will authorize their pleading or being impleaded in those courts; and this position is limited to "controversies to which the United States are a party; controversies 97*97 between two or more States, — between citizens of different States, — between citizens of the same State, claiming lands under grants of different States, — and between the citizens of a State and foreign citizens or subjects."

Now, it has not been, and will not be, pretended, that this corporation can, in any sense, be identified with the United States, or is endowed with the privileges of the latter; or if it could be, it would clearly be exempted from all liability to be sued in the Federal courts. Nor is it pretended, that this corporation is a State of this Union; nor, being created by, and situated within, the State of New Jersey, can it be held to be the citizen or subject of a foreign State. It must be, then, under that part of the enumeration in the article quoted, which gives to the courts of the United States jurisdiction in controversies between citizens of different States, that either the Circuit Court or this court can take cognizance of the corporation as a party; and this is, in truth, the sole foundation on which that cognizance has been assumed, or is attempted to be maintained. The proposition, then, on which the authority of the Circuit Court and of this tribunal is based, is this: The Delaware and Raritan Canal Company is either a citizen of the United States, or it is a citizen of the State of New Jersey. This proposition, startling as its terms may appear, either to the legal or political apprehension, is undeniably the basis of the jurisdiction asserted in this case, and in all others of a similar character, and must be established, or that jurisdiction wholly fails. Let this proposition be examined a little more closely.

The term citizen will be found rarely occurring in the writers upon English law; those writers almost universally adopting, as descriptive of those possessing rights or sustaining obligations, political or social, the term subject, as more suited to their peculiar local institutions. But, in the writers of other nations, and under systems of polity deemed less liberal than that of England, we find the term citizen familiarly reviving, and the character and the rights and duties that term implies, particularly defined. Thus, Vattel, in his 4th book, has a chapter, (cap. 6th,) the title of which is: "The concern a nation may have in the actions of her citizens." A few words from the text of that chapter will show the apprehension of this author in relation to this term. "Private persons," says he, "who are members of one nation, may offend and ill-treat the citizens of another; it remains for us to examine what share a state may have in the actions of her citizens, and what are the rights and obligations of sovereigns in that

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respect." And again: "Whoever uses a citizen ill, indirectly offends the state, which is bound to protect this citizen." The meaning of the term citizen 98*98 or subject, in the apprehension of English jurists, as indicating persons in their natural character, in contradistinction to artificial or fictitious persons created by law, is further elucidated by those jurists, in their treatises upon the origin and capacities and objects of those artificial persons designated by the name of corporations. Thus, Mr. Justice Blackstone, in the 18th chapter of his 1st volume, holds this language: "We have hitherto considered persons in their natural capacities, and have treated of their rights and duties. But, as all personal rights die with the person; and, as the necessary forms of investing a series of individuals, one after another, with the same identical rights, would be inconvenient, if not impracticable; it has been found necessary, when it is for the advantage of the public to have any particular rights kept on foot and continued, to constitute artificial persons, who maintain a perpetual succession, and enjoy a kind of legal immortality. These artificial persons are called corporations."

This same distinguished writer, in the first book of his Commentaries, p. 123, says, "The rights of persons are such as concern and are annexed to the persons of men, and when the person to whom they are due is regarded, are called simply rights; but when we consider the person from whom they are due, they are then denominated, duties," And again, cap. 10th of the same book, treating of the PEOPLE, he says, "The people are either aliens, that is, born out of the dominions or allegiance of the crown; or natives, that is, such as are born within it." Under our own systems of polity, the term, citizen, implying the same or similar relations to the government and to society which appertain to the term, subject, in England, is familiar to all. Under either system, the term used is designed to apply to man in his individual character, and to his natural capacities; to a being, or agent, possessing social and political rights, and sustaining, social, political, and moral obligations. It is in this acceptation only, therefore, that the term, citizen, in the article of the Constitution, can be received and understood. When distributing the judicial power, that article extends it to controversies between citizens of different States. This must mean the natural physical beings composing those separate communities, and can, by no violence of interpretation, be made to signify artificial, incorporeal, theoretical, and invisible creations. A corporation, therefore, being not a natural person, but a mere creature of the mind, invisible and intangible, cannot be a citizen of a State, or of the United States, and cannot fall within the terms or the power of the above-mentioned article, and can therefore neither plead nor be impleaded in the courts of the United States. Against this position it may be urged, that the 99*99 converse thereof has been ruled by this court, and that this matter is no longer open for question. In answer to such an argument, I would reply, that this is a matter involving a construction of the Constitution, and that wherever the construction or the integrity of that sacred instrument is involved, I can hold myself trammelled by no precedent or number of precedents. That instrument is above all precedents; and its integrity every one is bound to vindicate against any number of precedents, if believed to trench upon its supremacy. Let us examine into what this court has propounded in reference to its jurisdiction in cases in which corporations have been parties; and endeavor to ascertain the influence that may be claimed for what they have heretofore ruled in support of such jurisdiction. The first instance in which this question was brought directly before this court, was that of the Bank of the United States v. Deveaux, 5 Cranch, 61. An examination of this case will present a striking instance of the error into which the strongest minds may be led, whenever they shall depart from the plain, common acceptation of terms, or from well ascertained truths, for the attainment of conclusions, which the subtlest ingenuity is incompetent to sustain. This criticism upon the decision in the case of the Bank v. Deveaux, may perhaps be shielded from the charge of presumptuousness, by a subsequent decision of this court, hereafter to be mentioned. In the former case, the Bank of the United States, a corporation created by Congress, was the party plaintiff, and upon the question of the capacity of such a party to sue in the courts of the United States, this court said, in reference to that question, "The jurisdiction of this court being limited, so far as respects the character of the parties in this particular case, to controversies between citizens of different States, both parties must be citizens, to come within the description. That invisible, intangible, and artificial being, that mere legal entity, a corporation aggregate, is certainly not a citizen, and consequently cannot sue or be sued in the courts of the United States, unless the rights of the members in this respect can be exercised in their corporate name. If the corporation be considered as a mere faculty, and not as a company of individuals, who, in transacting their business, may use a legal name, they must be excluded from the courts of the Union." The court having shown the necessity for citizenship in both parties, in order to give jurisdiction; having shown farther, from the nature of corporations, their absolute incompatibility with citizenship, attempts some qualification of these indisputable and clearly stated positions, which, if intelligible at all, must be taken as wholly subversive of the positions so laid down. After stating the requisite of citizenship, and showing that a corporation 100*100 cannot be a citizen, "and consequently that it cannot sue or be sued in the courts of the United States," the court goes on to add, "unless the rights of the members can be exercised in their corporate name." Now, it is submitted that it is in this mode only, viz. in their corporate name, that the rights of the members can be exercised; that it is this which constitutes the character, and being, and functions of a corporation. If it is meant beyond this, that each member, or the separate members, or a portion of them, can take to themselves the character and functions of the aggregate and merely legal being, then the corporation would be dissolved; its unity and perpetuity, the essential features of its nature, and the great objects of its existence, would be at an end. It would present the anomaly of a being existing and not existing at the same time. This strange and obscure qualification, attempted by the court, of the clear, legal principles previously announced by them, forms the introduction to, and apology for, the proceeding, adopted by them, by which they undertook to adjudicate upon the rights of the corporation, through the supposed citizenship of the individuals interested in that corporation. They assert the power to look beyond the corporation, to presume or to ascertain the residence of the individuals composing it, and to model their decision upon that foundation. In other words, they affirm that in an action at law, the purely legal rights, asserted by one of the parties upon the record, may be maintained by showing or presuming that these rights are vested in some other person who is no party to the controversy before

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Thus stood the decision of the Bank of the <u>United States v. Deveaux</u>, wholly irreconcilable with correct definition, and a puzzle to professional apprehension, until it was encountered by this court, in the decision of the Louisville and Cincinnati Railroad Company v. Letson, reported in 2 Howard, 497. In the latter decision, the court, unable to untie the judicial entanglement of the Bank and Deveaux, seem to have applied to it the sword of the conqueror; but, unfortunately, in the blow they have dealt at the ligature which perplexed them, they have severed a portion of the temple itself. They have not only contravened all the known definitions and adjudications with respect to the nature of corporations, but they have repudiated the doctrines of the civilians as to what is imported by the term subject or citizen, and repealed, at the same time, that restriction in the Constitution which limited the jurisdiction of the courts of the United States to controversies between "citizens of different States." They have asserted that, "a corporation created by, and transacting business in a State, is to be deemed an inhabitant of the State, capable of being treated 101*101 as a citizen, for all the purposes of suing and being sued, and that an averment of the facts of its creation, and the place of transacting its business, is sufficient to give the circuit courts invisidiction.

The first thing which strikes attention, in the position thus affirmed, is the want of precision and perspicuity in its terms. The court affirm that a corporation created by, and transacting business within a State, is to be deemed an inhabitant of that State. But the article of the Constitution does not make inhabitancy a requisite of the condition of suing or being sued; that requisite is citizenship. Moreover, although citizenship implies the right of residence, the latter by no means implies citizenship. Again, it is said that these corporations may be treated as citizens, for the purpose of suing or being sued. Even if the distinction here attempted were comprehensible, it would be a sufficient reply to it, that the Constitution does not provide that those who may be treated as citizens, may sue or be sued, but that the jurisdiction shall be limited to citizens only; citizens in right and in fact. The distinction attempted seems to be without meaning, for the Constitution or the laws nowhere define such a being as a quasi citizen, to be called into existence for particular purposes; a being without any of the attributes of citizenship, but the one for which he may be temporarily and arbitrarily created, and to be dismissed from existence the moment the particular purposes of his creation shall have been answered. In a political, or legal sense, none can be treated or dealt with by the government as citizens, but those who are citizens in reality. It would follow, then, by necessary induction, from the argument of the court, that as a corporation must be treated as a citizen, it must be so treated to all intents and purposes, because it is a citizen. Each citizen (if not under old governments) certainly does, under our system of polity, possess the same rights and faculties, and sustain the same obligations, political, social, and moral, which appertain to each of his fellow-citizens. As a citizen, then, of a State, or of the United States, a corporation would be eligible to the State or Federal legislatures; and if created by either the State or Federal governments, might, as a native-born citizen, aspire to the office of President of the United States — or to the command of armies, or fleets, in which last example, so far as the character of the commander would form a part of it, we should have the poetical romance of the spectre ship realized in our Republic. And should this incorporeal and invisible commander not acquit himself in color or in conduct, we might see him, provided his arrest were practicable, sent to answer his delinquencies before a courtmartial, and subjected to the penalties 102*102 of the articles of war. Sir Edward Coke has declared, that a corporation cannot commit treason, felony, or other crime; neither is it capable of suffering a traitor's or felon's punishment; for it is not liable to corporeal penalties — that it can perform no personal duties, for it cannot take an oath for the due execution of an office; neither can it be arrested or committed to prison, for its existence being ideal, no man can arrest it: neither can it be excommunicated, for it has no soul. But these doctrines of Lord Coke were founded upon an apprehension of the law now treated as antiquated and obsolete. His lordship did not anticipate an improvement by which a corporation could be transformed into a citizen, and by that transformation be given a physical existence, and endowed with soul and body too. The incongruities here attempted to be shown as necessarily deducible from the decisions of the cases of the Bank of the United States v. Deveaux, and of the Cincinnati and Louisville Railroad Company v. Letson, afford some illustration of the effects which must ever follow a departure from the settled principles of the law. These principles are always traceable to a wise and deeply founded experience; they are, therefore, ever consentaneous, and in harmony with themselves and with reason; and whenever abandoned as guides to the judicial course, the aberration must lead to bewildering uncertainty and confusion. Conducted by these principles, consecrated both by time and the obedience of sages, I am brought to the following conclusions: 1st. That by no sound or reasonable interpretation, can a corporation — a mere faculty in law, be transformed into a citizen, or treated as a citizen. 2d. That the second section of the third article of the Constitution, investing the courts of the United States with jurisdiction in controversies between citizens of different States, cannot be made to embrace controversies to which corporations and not citizens are parties; and that the assumption, by those courts, of jurisdiction in such cases, must involve a palpable infraction of the article and section just referred to. 3d. That in the cause before us, the party defendant in the Circuit Court having been a corporation aggregate, created by the State of New Jersey, the Circuit Court could not properly take cognizance thereof; and, therefore, this cause should be remanded to the Circuit Court, with directions that it be dismissed for the want of jurisdiction.

[Rundle Et Al v. Delaware and Raritan Canal Company, 55 U.S. 80 (1852)]

2	incorporated and of that place ONLY:
3	"A corporation is a citizen, resident, or inhabitant of the state or country by or under the laws of which it was
4	created, and of that state or country only."
5	[19 Corpus Juris Secundum (C.J.S.), Corporations, §886 (2003)]
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7	"It is very true that a corporation can have no legal existence [STATUS such as STATUTORY "citizen" or
8	"resident"] out of the boundaries of the sovereignty by which it is created. It exists only in contemplation of
9	law, and by force of the law; and where the law ceases to operate, and is no longer obligatory, the corporation
10	can have no existence. It must dwell in the place of its creation, and cannot migrate to another sovereignty."
11	[Bank of Augusta v. Earle, 38 U.S. (13 Pet.) 519, 10 L.Ed. 274 (1839)]
12	Statutory citizenship, however, does not derive from citizenship under the constitution of a state of the Union. The types of
13	"citizens" spoken of in the United States Constitution are ONLY biological people and not artificial creations such as
	corporations. Here is what the Annotated Fourteenth Amendment published by the Congressional Research Service has to
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15	say about this subject:
16	"Citizens of the United States within the meaning of this Amendment must be natural and not artificial
17	persons; a corporate body is not a citizen of the United States.14
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19	14 Insurance Co. v. New Orleans, 13 Fed.Cas. 67 (C.C.D.La. 1870). Not being citizens of the United States,
20	corporations accordingly have been declared unable "to claim the protection of that clause of the Fourteenth
21	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, <u>172 U.S. 557</u> , 561 (1869). This conclusion was in
22	harmony with the earlier holding in Paul v. Virginia, 75 U.S. (8 Wall.) 168 (1869), to the effect that corporations
23 24	were not within the scope of the privileges and immunities clause of state citizenship set out in Article IV, Sec. 2.
25	See also Selover, Bates & Co. v. Walsh, <u>226 U.S. 112</u> , 126 (1912); Berea College v. Kentucky, <u>211 U.S. 45</u> (1908)
26	; Liberty Warehouse Co. v. Tobacco Growers, 276 U.S. 71, 89 (1928); Grosjean v. American Press Co., 297 U.S.
27	233, 244 (1936) .
28 29	[Annotated Fourteenth Amendment, Congressional Research Service. SOURCE: http://www.law.cornell.edu/anncon/html/amdt14a_user.html#amdt14a_hd1]
30 31	We also prove that statutory "citizen" and "resident" status is a franchise status that has nothing to do with the domicile of the parties, both earlier in section 8.1 and also in the following:
	Why You are a "national", "state national", and Constitutional but not Statutory Citizen, Form #05.006, Section 3 http://sedm.org/Forms/FormIndex.htm
32	Those who wish to retain their constitutional and natural rights and approach everyone in equity and without the legal
33	disabilities of the franchise contract or agreement may NOT accept or invoke the "benefits", statuses, privileges, or
34	protections of any government civil franchise or civil statutory law. Civil statutory law, or just civile, can only apply to
35	CONSENTING statutory citizens. Nonresidents are not subject. The rest of this section explains why.
36	American Jurisprudence is implemented with two types of civil law:
37	1. <u>Civil statutory law</u> . The civil statutory law, or what the ancients called "jus civile" is a civil protection franchise
	applicable only to parties who consent to become statutory "citizens" or "residents". It is a protection franchise in
38	
39	which the government is the "grantor" or "parens patriae" and has a superior and unequal relationship to the parties
40	because it can penalize them but they cannot penalize the government.
41	2. <u>Common law</u> . Available to all physically present on the land, regardless of their civil "status". All disputes are in

Consonant with the above, we prove in the following document that the civil statutory law only applies to public officers

within the government, and that a statutory "citizen", "resident", "person", or "individual" is really just a public officer within

In law, all corporations are considered to be statutory but not constitutional "citizens" or "residents" of the place they were

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the government and not a man or woman.

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equity and are intended to protect ONLY PRIVATE rights.

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44 45 <u>Why Statutory Civil Law is Law for Government and Not Private Persons</u>, Form #05.037 http://sedm.org/Forms/FormIndex.htm

- To be subject to the "jus civile", one therefore has to volunteer for a public office in the government called "citizen" or "resident" by identifying oneself as such a government forms.
- The common law was first implemented in Rome centuries ago. A classical book on the common law recognizes WHY the common law was invented, which was to right the INJUSTICE caused by the INEQUALITY present under the jus civile, or civil statutory law.

Chapter II: The Civil and the Common Law

29. In the original civil law, jus civile, was exclusively for Roman citizens; it was not applied in controversies between foreigners. But as the number of foreigners increased in Rome it became necessary to find some law for deciding disputes among them. For this the Roman courts hit upon a very singular expedient. Observing that all the surrounding peoples with whom they were acquainted had certain principles of law in common, they took those common principles as rules of decision for such cases, and to the body of law thus obtained they gave the name of Jus gentium. The point on which the jus gentium differed most noticeably from the Jus civile was its simplicity and disregard of forms. All archaic law is full of forms, ceremonies and what to a modern mind seem useless and absurd technicalities. This was true of the [civil] law of old Rome. In many cases a sale, for instance, could be made only by the observance of a certain elaborate set of forms known as mancipation; if any one of these was omitted the transaction was void. And doubtless the laws of the surrounding peoples had each its own peculiar requirements. But in all of them the consent of the parties to transfer the ownership for a price was required. The Roman courts therefore in constructing their system of Jus gentium fixed upon this common characteristic and disregarded the local forms, so that a sale became the simplest affair possible.

30. After the conquest of Greece, the Greek philosophy made its way to Rome, and stoicism in particular obtained a great vogue among the lawyers. With it came the conception of natural law (Jus naturale) or the law of nature (jus naturae); to live according to nature was the main tenet of the stoic morality. The idea was of some simple principle or principles from which, if they could be discovered, a complete, systematic and equitable set of rules of conduct could be deduced, and the unfortunate departure from which by mankind generally was the source of the confusion and injustice that prevailed in human affairs. To bring their own law into conformity with the law of nature became the aim of the Roman jurists, and the praetor's edict and the responses were the instruments which they used to accomplish this. Simplicity and universality they regarded as marks of natural law, and since these were exactly the qualities which belonged to the jus gentium, it was no more than natural that the two should to a considerable extent be identified. The result was that under the name of natural law principles largely the same as those which the Roman courts had for a long time been administering between foreigners permeated and transformed the whole Roman law.

The way in which this was at first done was by recognizing two kinds of rights, rights by the civil law and rights by natural law, and practically subordinating the former to the latter. Thus if Caius was the owner of a thing by the civil law and Titius by natural law, the courts would not indeed deny up and down the right of Caius. They admitted that he was owner; but they would not permit him to exercise his legal right to the prejudice of Titius, to whom on the other hand they accorded the practical benefits of ownership; and so by taking away the legal owner's remedies they practically nullified his right. Afterwards the two kinds of laws were more completely consolidated, the older civil law giving way to the law of nature when the two conflicted. This double system of rights in the Roman law is of importance to the student of the English law, because a very similar dualism arose and still exists in the latter, whose origin is no doubt traceable in part to the influence of Roman ideas.

[An Elementary Treatise on the Common Law for the Use of Students, Henry T. Terry, The Maruzen-Kabushiki-Kaisha, 1906, pp. 18-20]

Note the key reference above to "systematic and <u>equitable set of rules</u>" and a characterization of the jus civile as being a source of INJUSTICE. Equitable means EQUAL. To wit:

"The idea was of some simple principle or principles from which, if they could be discovered, a complete, systematic and equitable set of rules of conduct could be deduced, and the unfortunate departure from which by mankind generally was the source of the confusion and injustice that prevailed in human affairs."

Roman law, characterized above as "the source of confusion and injustice that prevailed in human affairs", recognized only TWO classes of civil persons: statutory "citizens" and "foreigners". Only those who consented to become statutory "citizens" or "residents" could become the lawful subject of the jus civile or civil, which was the statutory civil law. Those who were **not** statutory "citizens" or "residents" under the Roman civil law, which today means those with a civil domicile within the territory of the author and grantor of the civil law, were regarded as:

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1. "Foreigners".

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- 2. Not subject to the jus civile or statutory Roman Law.
- 3. Subject only to the common law, which was called jus gentium.
- Note also that the above treatise characterizes TWO classes of rights: Civil rights and Natural rights. Today, these rights are
- 5 called PUBLIC rights and PRIVATE rights respectively by the courts in order to distinguish them. Public rights, in turn, are
- granted only to statutory "citizens" or "residents" who consented to become citizens or residents under the civil statutory law.
- The civil statutory law, or jus civile, therefore functions in essence as a franchise contract or compact that creates and grants
- ONLY public rights. Those who do not join the social compact by consenting to become statutory "citizens" therefore are
- 9 relegated to being protected by natural law and common law, which is much more just and equitable.
- Note the emphasis in the above upon the concept that everything exchanged must be paid for:

"And doubtless the laws of the surrounding peoples had each its own peculiar requirements. But in all of them the consent of the parties to transfer the ownership for a price was required."

The concept we emphasize in the above cite is that the PUBLIC rights attached to the status of "citizen" under the Roman just civile or statutory law constituted property that could not be STOLEN from those who did not consent to become "citizens" or to accept the "benefits" or "privileges" of statutory citizenship. Such a THEFT by government of otherwise PRIVATE or NATURAL rights would amount to an unconstitutional eminent domain by the government by converting PRIVATE rights into PUBLIC rights without the consent of the owner and without compensation. It is THIS theft that the above book on the common law characterizes as "the source of the confusion and injustice that prevailed in human affairs." The only thing they could be referring to when describing the "injustice that prevailed" was the system of law BEFORE the common law came along, which was the jus civile or civil statutory law. The common law was therefore the REMEDY for injustice and INEQUALITY produced by the civil statutory law.

- Hence, the only way that justice is possible in the courtroom is when:
- 1. The common law ONLY is invoked.
 - 2. No statutory civil law is cited or enforced by or against any of the parties. Indirectly, this means that none of the parties have any civil status under the civil statutory law, including but not limited to "person", "citizen", "resident", "taxpayer", etc.
- 3. All parties are EQUAL in every respect.
 - 4. Whatever rights the judge or government claims all parties also have. This is a byproduct of the fact that our government is one of delegated powers, and The Sovereign People cannot delegate ANY authority to any government or government actor, including judges, that they themselves don't ALSO possess personally and individually. This was covered in the previous section.
 - 5. The government cannot penalize you unless you ALSO can penalize them.
 - 6. The judge is a referee or coach, but does not have a superior position to anyone else in the room or supervise anyone else in the room through, for instance, attorney licensing or penalties.
 - 7. Every party asserting a civil obligation on the part of another party has the burden of proving that the party against whom the right is enforced EXPRESSLY consented to give up the specific property at issue through informed, written, voluntary consent. Otherwise, all rights are presumed to be EXCLUSIVELY PRIVATE and therefore beyond the civil control of government.

Those who invoke any franchise or franchise status will INSTANTLY forfeit access to any and all of the above remedies, as acknowledged by the U.S. Supreme Court:

The words "privileges" and "immunities," like the greater part of the legal phraseology of this country, have been carried over from the law of Great Britain, and recur constantly either as such or in equivalent expressions from the time of Magna Charta. For all practical purposes they are synonymous in meaning, and originally signified a peculiar right or private law conceded to particular persons or places whereby a certain individual or class of individuals was exempted from the rigor of the common law. Privilege or immunity is conferred upon any person when he is invested with a legal claim to the exercise of special or peculiar rights, authorizing him to enjoy some particular advantage or exemption. See Magill v. Browne, Fed.Cas. No. 8952, 16 Fed.Cas. 408; 6 Words and Phrases, 5583, 5584; A J. Lien, "Privileges and Immunities of Citizens of the United States," in Columbia University Studies in History, Economics, and Public Law, vol. 54, p. 31. [Paul v. Virginia, 8 Wall. 168, 19 L.Ed. 357]

- It therefore ought to be obvious that any and all in the government who "benefit" from the lucrative proceeds produced by
- their civil statutory law franchise has a vested financial interest to interfere with the invocation or enforcement of the common
- law by those who do not want to participate in the civil statutory law as "citizens" or "residents". That financial interest is,
- in fact, a CRIME under 18 U.S.C. §208 if they receive the proceeds of the franchise and are hearing a case involving a non-
- franchisee. Governments are established exclusively to protect PRIVATE rights and PRIVATE property. Any attempt to
- undermine such rights without the express written consent of the owner in each case is not only NOT a classical "government"
- function, but is an ANTI-government function that amounts to a MAFIA "protection racket". They will attempt to do this by
- any of the following UNCONSTITUTIONAL, CRIMINAL, INJURIOUS, and MALICIOUS means:
- Refusing to recognize or protect PRIVATE property or PRIVATE rights, the essence of which is the RIGHT TO EXCLUDE anyone and everyone from using or benefitting from the use of the property.
 - 2. PRESUMING that "a government OF THE PEOPLE, BY THE PEOPLE, and FOR THE PEOPLE" is a government in which everyone is a <u>public officer</u>.
 - 3. Refusing to recognize or allow constitutional remedies and instead substituting STATUTORY remedies available only to <u>public officers</u>.
 - 4. Interfering with introduction of evidence that the court or forum is ONLY allowed to hear disputes involving <u>public</u> officers in the government.
 - 5. PRESUMING or ASSUMING that the ownership of the property subject to dispute is QUALIFIED rather than ABSOLUTE and that the party the ownership is shared with is the government.
 - 6. Allowing government "benefit" recipients to be decision makers in cases involving PRIVATE rights. This is a denial of a republican form of government, which is founded on impartial decision makers. See <u>Sinking Fund Cases</u>, 99 U.S. 700 (1878).
 - 7. Interfering with or sanctioning litigants who insist on discussing the laws that have been violated in the courtroom or prohibiting jurists from reading the laws in question or accessing the law library in the courthouse while serving as jurists. This transforms a society of law into a society of men and allows the judge to substitute HIS will in place of what the law expressly requires.
 - 8. Illegally and unconstitutionally invoking the Declaratory Judgments Act or the Anti-Injunction Act as an excuse to NOT protect PRIVATE rights from government interference in the case of EXCLUSIVELY PRIVATE people who are NOT statutory "taxpayers". See Flawed Tax Arguments to Avoid, Form #08.004, Sections 8.11 and 8.12.
 - 9. Interfering with ways to change or correct your citizenship or statutory status in government records. That "status" is the "res" to which all franchise rights attach, usually ILLEGALLY.

8.17 "individual" in the Internal Revenue Code means a HUMAN, not a corporation

<u>False Argument</u>: "Individual" in the Internal Revenue Code means a human being, not a corporation or public office. It's ridiculous to assert otherwise.

<u>Corrected Alternative Argument</u>: "Individual" means ONLY either corporation franchises, who are the only CIVIL STATUTORY "persons" or officers of such franchises. It doesn't mean a PRIVATE human not acting as a franchisee and public officer.

Further information:

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- 1. <u>Why Your Government is Either a Thief or You are a "Public Officer" for Income Tax Purposes</u>, Form #05.008 http://sedm.org/Forms/FormIndex.htm
- 2. <u>Why Statutory Civil Law is Law for Government and Not Private Persons</u>, Form #05.037 http://sedm.org/Forms/FormIndex.htm
- 3. <u>The "Trade or Business" Scam</u>, Form #05.001 http://sedm.org/Forms/FormIndex.htm

Legally ignorant government employees love to quote statutes and regulations out of context, and to write these statutes and regulations to falsely appear overly broad to the neophyte. This is an abuse of the following maxim of the common law to deceive people:

"Dolosus versatur generalibus. A deceiver deals in generals. 2 Co. 34."

"Fraus latet in generalibus. Fraud lies hid in general expressions."

Flawed Tax Arguments to Avoid, Version 1.27
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Last Revised: 1/23/2018

EXHIBIT:

1	Generale nihil certum implicat. A general expression implies nothing certain. 2 Co. 34.
2	Ubi quid generaliter conceditur, in est haec exceptio, si non aliquid sit contra jus fasque. Where a thing is
3	concealed generally, this exception arises, that there shall be nothing contrary to law and right, 10 Co. 78.
4	[Bouvier's Maxims of Law, 1856]
5	All "general expressions" are presumed to be fraudulent. By "general expression" above, we mean:
6	1. The speaker is either not accountable or REFUSES to be accountable for the accuracy or truthfulness or definition of
7	the word or expression.
8	 Fails to recognize that there are multiple contexts in which the word could be used. CONSTITUTIONAL
9	2.1. CONSTITUTIONAL 2.2. STATUTORY
10	3. PRESUMES that all contexts are equivalent, meaning that CONSTITUTIONAL and STATUTORY are equivalent.
11 12	4. Fails to identify the specific context implied on the form.
13	5. Fails to provide an actionable definition for the term that is useful as evidence in court.
14	6. Interferes with or even penalizes efforts by the applicant to define the terms on the forms to protect their right to
15	change the context AFTER accepting the form.
	For instance and an arrange and an algorithms 20 CFR \$1.1411.174\/5\40 and b.d. 4644\\
16	For instance, some presumptuous government employees will use 26 C.F.R. §1.1411-1(d)(5) to conclude that "individual" is
17	not limited to public offices or agents. They will wrongfully assert that this regulation defines "individual" as a "natural
18	person" and unconstitutionally PRESUME that "natural person" and "human beings" are equivalent. Here's the regulation:
19	Title 26: Internal Revenue
20	PART 1—INCOME TAXES (CONTINUED)
	21 1411 1 Company of the
21	§1.1411-1 General rules.
22	(d) Definitions. The following definitions apply for purposes of calculating net investment income under section
23	1411 and the regulations thereunder—
24	(5) The term individual means any natural person.
	The state of the s
25	They will also try to misapply the above definition to tax WITHHOLDING, in violation of the following SUPERCEDING
26	definition of "individual" that we frequently reference:
27	26 C.F.R. §1.1441-1 Requirement for the deduction and withholding of tax on payments to foreign persons.
21	20 O.I. M. 31.1771 The quirement for the deduction and runnothing of the on payments to foreign persons.
28	(c) Definitions
29	(3) Individual.
2)	(J) Internation
30	(i) Alien individual.
21	The term alien individual means an individual who is not a sitizen on a national of the United States. See See
31 32	The term alien individual means an individual who is not a citizen or a national of the United States. See Sec. $1.1-1(c)$.
32	112 1(0).
33	
24	26 C.F.R. §1.1441-1T Requirement for the deduction and withholding of tax on payments to foreign persons.
34	20 C.F.K. §1.1441-11 Requirement for the aeduction and withholding of tax on payments to foreign persons.
35	(c) Definitions
26	(2) In dividual
36	(3) Individual.
37	(ii) Nonresident alien individual.
38	The term nonresident alien individual means persons described in section 7701(b)(1)(B), alien individuals who
39	are treated as <u>nonresident aliens</u> pursuant to § 301.7701(b)-7 of this chapter for <u>purposes</u> of computing their U.S.
40	tax liability, or an alien individual who is a resident of Puerto Rico, Guam, the Commonwealth of Northern
41	Mariana Islands, the U.S. Virgin Islands, or American Samoa as determined under § 301.7701(b)-1(d) of this
42	chapter. An alien individual who has made an election under section $6013(g)$ or (h) to be treated as a resident of

Below is our response to such presumptuous and legally ignorant behavior:

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The U.S. Supreme Court has held that the ability to regulate PRIVATE rights and PRIVATE conduct is repugnant to the constitution. Therefore, the ONLY regulating and taxing that Congress can do is PUBLIC entities. HUMAN BEINGS, by definition, are "PRIVATE" and only become PUBLIC when they CONSENT to a civil status created by Congress rather than the Constitution. Any government civil enforcement authority NOT originating from the CONSENT of the PRIVATE HUMAN is "unjust" as defined by the Declaration of Independence:

> "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. Florez, Archbishop of San Antonio, 521 U.S. 507 (1997)]

The following memorandum of law proves that all civil statutory "persons" are public offices in the government, and not private humans. Certainly, the CIVIL STATUTORY "individual" you reference must be included, because "individuals" are a subsect of "persons" per 26 U.S.C. §7701(c).

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

You refer to 26 C.F.R. §1.1411-1 as your authority. The purpose of that section is ONLY to determine an "individuals" net income.

> (d) Definitions. The following definitions apply for purposes of calculating net investment income under section 1411 and the regulations thereunder-

The term "individual" is defined in your reference as a "natural person". "natural persons" are a SUBSET of "persons". The definition of "person" found in 26 U.S.C. §§6671(b) and 7343 is consistent with the above, because it defines the "person" as an officer or employee of a corporation or partnership, which corporation is a federal and not state corporation, and which partnership is a partnership BETWEEN the "individual" they are talking about and that federal corporation. Everything else is PRIVATE and beyond their jurisdiction.

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<u>TITLE 26</u> > <u>Subtitle F</u> > <u>CHAPTER 68</u> > <u>Subchapter B</u> > <u>PART I</u> > § 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 > Sec. 7343.
Sec. 7343. - Definition of term "person"
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The term "person" as used in this chapter [Chapter 75] includes an officer or employee of a corporation [U.S. Inc.], 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

26 U.S.C. §6041(a) limits reportable earnings to earnings connected to a "trade or business". You can't have income until it is "REPORTABLE". "trade or business" is earnings from a public office as defined in 26 U.S.C. §7701(a)(26). Anything that is not reportable is PRIVATE rather than PUBLIC. And NO, you can't interpret "trade or business" in its ordinary meaning because that violates the rules of statutory construction.

> "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

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1 2 3 4 5		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.
6		943] (THOMAS, J., dissenting), leads the reader to a definition. That definition does not include the Attorney
7		General's restriction "the child up to the head." Its words, "substantial portion," indicate the contrary."
8		[Stenberg v. Carhart, 530 U.S. 914 (2000)]
9	6.	The U.S. Supreme Court held that Congress cannot establish a franchise tax upon a "trade or businesses" in states of
9	0.	
10		the Union.
11		"Congress cannot authorize a trade or business within a State in order to tax it."
12		[License Tax Cases, 72 U.S. 462, 18 L.Ed. 497, 5 Wall. 462, 2 A.F.T.R. 2224 (1866)]
12		[License Tax Cases, 72 O.S. 402, 16 L.Ed. 497, 3 wait. 402, 2 A.F. F. R. 2224 (1000)]
13	7.	26 U.S.C. §7701(a)(31) says earnings NOT connected to a "trade or business" are not "gross income" and are
1.4		"foreign", meaning anything that is NOT public is not taxable.
14		foreign, meaning anything that is 1001 public is not taxable.
15		26 U.S.C. §7701 - Definitions
16		(a) When used in this title where not otherwise distinctly expressed or manifestly incompatible with the intent
16		(a)When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent
17		thereof—
18		(31) Foreign estate or trust
		• • • • • • • • • • • • • • • • • • • •
		AND THE STATE OF T
19		(A) <u>Foreign estate</u>
20		The term "foreign estate" means an estate the income of which, from sources without the United States [U.S.
21		Inc. the government] which is not effectively connected with the conduct of a trade or business [public office,
22		per 26 U.S.C. §7701(a)(26)] within the United States[U.S. Inc. the government corporation, not the
23		geographical "United States"], is not includible in gross income under subtitle A.
23		geographical Omica Smics 1, is not includate in gross income under submic A.
24	8.	The definition of "foreign" and "domestic" in the Internal Revenue Code hinges on whether the "person" is in fact a
25		corporation. Hence, anything NOT a corporation and STATUTORY creation of Congress is legislatively "foreign"
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26		and therefore beyond the jurisdiction of Congress:
27		26 U.S. Code § 7701 – Definitions
21		20 C.S. Code 3 7 701 Definitions
28		(a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent
29		thereof—
30		(4) Domestic
30		(4) Domesia
31		The term "domestic" when applied to a corporation or partnership means created or organized in the United
32		States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary
33		provides otherwise by regulations.
		
2.4		(5) Fauring
34		(5) Foreign
35		The term "foreign" when applied to a corporation or partnership means a corporation or partnership which is
36		not domestic.
37		[26 U.S.C. \$7701(a)(4)-(5)]
51		120 0.0.0. 37701(0)(7)
38		Note that based on the above definitions, those who are NOT corporate statutory "persons" would be "foreign" rather
39		than "domestic", and a STATUTORY "non-resident non-person". This STATUTORY "non-resident non-person" is
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40		described in 26 U.S.C. §7701(a)(31) as not engaged in a public office and whose property is a "foreign estate". The
41		"partnership" they are talking about in the above definition is the same partnership invoked in the definition of "person"
42		at 26 U.S.C. §§6671(b) and 7343, which is a partnership between the United States Federal Corporation and an otherwise
74		at 20 0.5.0. 3,300, 1(0) and 75 15, which is a paraleight between the Office states I educate Corporation and all other wise

PRIVATE human or entity. That partnership gives rise to agency on behalf of said corporation, and the agency itself is

the only proper subject of tax. Remember: Contracts create agency:

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9. The U.S. Supreme Court, even to this day, has held that "income" means profit of corporations and not private humans.

"... `income' as used in the statute should be given a meaning so as not to include everything that comes in, the true function of the words `gains' and `profits' is to limit the meaning of the word `income'" [So. Pacific v. Lowe, 238 F. 847, 247 U.S. 30 (1918)(U.S. Dist. Ct. S.D. N.Y. 1917)]

"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 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)]

The above rulings have NEVER been contradicted and SILENCE and evasion are the only result when this glaring fact is asserted. Watch the interview below with a former IRS commissioner presented with the above definitions of "income". He can't explain why the above rulings DON'T apply even though they have never been overruled. He quickly dismissed it as "irrelevant", which betrays him as a lawless, anarchistic, CRIMINAL FINANCIAL TERRORIST.

Interview of Former IRS Commissioner Shelton Cohen by Aaron Russo, SEDM Exhibit #11.004 http://sedm.org/Exhibits/ExhibitIndex.htm

34 Therefore:

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1. The "individual" they are talking about is ACTING as an officer of a NATIONAL/FEDERAL and not STATE corporation. That corporation, in turn, is an instrumentality of U.S. Inc. the grantor of the franchise.

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 I 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"); 1J. 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").

The definition of "Individual" you provide is a ruse that is limited to a very specific context ONLY. It is presented as overly broad to make you think that all human beings ("natural persons") are included, when it has to limit itself to PUBLIC OFFICER humans acting as agents of the government.

"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.""

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

- The tax is on AGENCY on behalf of the government, and not upon the PRIVATE human contractually exercising such agency, per the above.
- 4. One should always consider the CONTEXT in which ambiguous definitions are provided. Lack of knowledge of the above contextual information can lead to false conclusions.
- We prove all the above facts and conclusions with evidence at:

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

8.18 This document and your writings generally are just your opinion and mean nothing

<u>False Argument</u>: This document and your writings generally are just your opinion and mean nothing. They are certainly not admissible as evidence in a court of law.

<u>Corrected Alternative Argument</u>: The MASSIVE database of court admissible evidence that you rely upon and provide in each of your publications is court admissible evidence. Your INTERPRETATION of this evidence could be perceived as inadmissible as evidence, but only where it contradicts what the court admissible authorities you provide actually SAY. I have been searching for years for such a contradiction and have not yet found a single one, and I'm too lazy to find one, so I'll just resort to name calling and hope you are ignorant enough to not know how to rebut.

Further information:

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- Reasonable Belief About Income Tax Liability, Form #05.007 http://sedm.org/Forms/FormIndex.htm
- 2. <u>Sovereignty Education and Defense Ministry Disclaimer</u> http://sedm.org/disclaimer.htm
- 3. Family Guardian Disclaimer
 - http://famguardian.org/disclaimer.htm

A frequent false argument in courtrooms across America and in administrative correspondence with the government in which our written materials are used is that our materials in their entirety are just opinions rather than court admissible evidence and fact. This false inference could easily be derived from our Disclaimer by those who haven't read the *whole thing* and therefore are quoting out of context to deceive you:

"We take our job of educating and informing the public very seriously. Every possible human effort has therefore been made to ensure that the information available through this website is truthful, accurate, and consistent with prevailing law. However, all information contained on this website originating from OTHER than government sources and which the courts themselves recognize as admissible evidence under the rules of evidence, along with any communications with, to, or about the author(s), website administrator, and owner(s) constitute religious speech and beliefs, and not facts. As such, nothing on this website originating from our own speech, writing, or testimony is susceptible to being false, misleading, or legally "actionable" in any manner. Since materials on this site spoken by us and all communications associated with, to, or about it are religious speech and beliefs, none of it is admissible in any court of law pursuant to F.R.E. 610 unless accompanied by an affidavit from a specific person attesting to its truthfulness and accuracy, and such materials are only actionable to THAT SPECIFIC PERSON and no others in such a circumstance. Nothing here other than the governments OWN speech or publications can truthfully be classified as fact without violating the First Amendment rights of the publishers and author(s). It is provided for worship, law enforcement, education, enlightenment, and entertainment and for no other purpose. Any other use is an unauthorized use for which the author(s), website administrator(s), and owner(s) assume no responsibility or liability. Users assume full, exclusive and complete responsibility for any use beyond reading, education, and entertainment. There is only one exception to the above paragraph, which is that this Disclaimer is both FACT and IS admissible as evidence in its entirety in any court of law because it must be admissible as evidence in order to protect Ministry Officers and Fellowship Members from unlawful acts of persecution by a corrupted government.

[Family Guardian Disclaimer, Section 1: Introduction; SOURCE: http://famguardian.org/disclaimer.htm]

So in other words, we use the SAME sources of evidence as the U.S. Supreme Court itself uses. They quote statutes, regulations, law books, legal dictionaries, and government publications as authorities in their rulings and so do we. Since all are equal under the law, we have the same right to do this as the government. Anyone who attacks OUR evidentiary sources of belief indirectly is attacking both the government directly, which is the source of almost all of our evidence, as well as the U.S. Supreme Court indirectly, because we rely on the SAME credible sources of evidence to prove our opinions as they do.

The Member Agreement, Form #01.001 of the SEDM sister site that uses our materials contains the following warning to prevent anyone from relying either our opinions or ANYONE ELSE'S opinions either:

SEDM Member Agreement, Form #01.001 Section 1.3: Obligations of Membership

The only thing I will use the materials, education, or information for that are provided by the ministry is to worship, serve, and glorify my Creator above every man, ruler, law, or government and to Petition the Government for a Redress of Grievances of wrongs against my life, liberty, property, and family that violate either the Creator's Sovereign Laws or man's laws. This is an exercise of my religious faith and my right to Petition the Government that is protected by the First Amendment to the Constitution of the United States of America. This is a lawful purpose so that it can never be said that either I nor the ministry are engaging in unlawful activity subject to any penalty or other unconstitutional "Bill of Attainder".

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4. I agree to regularly study, learn, and obey man's law and to use that knowledge to ensure that our public servants remain accountable to us, who are the true sovereigns and "governing authorities" within our system of Republican government. I will do this by reading or viewing the free sources of enacted law found on the ministry website and especially the Liberty University. The purpose of reading or viewing these materials is so that I can learn how to love and protect my neighbor out of obedience to the last six commandments of the Ten Commandments.

> "And thou shalt teach them ordinances and laws [of both God and man], and shalt shew them the way wherein they must walk, and the work [of obedience to God] that they must do.

[Exodus 18:20, Bible, NKJV]

"The words 'people of the United States' and 'citizens,' are synonymous terms, and mean the same thing. They both describe the political body who, according to our republican institutions, form the sovereignty, and who hold the power and conduct the government through their representatives. They are what we familiarly call the 'sovereign people,' and every citizen is one of this people, and a constituent member of this sovereignty. ... [Boyd v. State of Nebraska, 143 U.S. 135 (1892)]

5. I agree to help educate all the consenting people I know and come in contact with about everything that I learn by reading and studying God's laws and man's laws and participating in the ministry.

1	6. I agree and commit to defend the credibility and integrity of the fellowship and ministry and every member by
2	promptly contacting the ministry in writing via the Contact Us page if or when I find anything that is either
3	erroneous or inconsistent with the law when or if I find it so that it may be promptly corrected. If I don't, and if I
4	am a government employee, officer, or agent, then I become a Member in Bad Standing.
5	7. I accept my share of the obligation to financially support this religious ministry through free will offerings so
6	that we as a fellowship may continue to glorify and serve the Lord by setting the captives everywhere free from
7	slavery to sin using the Truth by giving them education and tools to defend the sovereignty that comes only from
8	God.
9	8. I will speak and act in a manner consistent with all the policy documents published by the ministry in section
10	1.8 of the Forms/Pubs page (http://sedm.org/Forms/FormIndex.htm).
11	9. I will stop making any and all presumptions about what the law requires and will stop believing or saying
12	anything that I haven't proven for myself by reading the law. I will stop believing what others tell me about what
13	the law requires and rely ONLY on legally admissible evidence in reaching my own conclusions. I recognize that
14	this is the most important way that I can:
15	9.1 Protect the credibility and success of the freedom movement.
16	9.2 Protect the credibility and success of this ministry.
17	9.3 Protect my own credibility and prevent me from being called "frivolous".
18	9.4 Prevent the legal profession and/or the government from becoming a state-sponsored civil religion in violation
19	of the First Amendment. See <u>Socialism: The New American Civil Religion, Form #05.016</u> .
20	For the reasons why, see: Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction, Form
21	#05.017.
22	SEDM Member Agreement, Form #01.001, Section 1.3;
23	SOURCE: http://sedm.org/participate/member-agreement/]

Furthermore, even the U.S. Supreme Court identifies their rulings not as "orders" but "opinions". By the above admonition from the SEDM Member Agreement, not even the U.S. Supreme Court is suitable as a basis for belief. See for yourself:

U.S. Supreme Court "Opinions" Page http://www.supremecourt.gov/opinions/opinions.aspx

Based on our Disclaimer earlier, "opinions" are not admissible as legal evidence, and hence, even the U.S. Supreme Court's own rulings are not admissible as evidence under Federal Rules of Evidence 610! And guess what, the U.S. Supreme Court even wrote Federal Rule of Evidence 610. They wrote all the federal civil, criminal, and evidentiary rules. They ought to know better because they wrote the rules that they are violating.

If the U.S. Supreme Court wanted their rulings to be LEGAL speech instead of POLITICAL speech, they should have called them "orders" rather than "opinions". Courts are NOT allowed to engaged in POLITICAL speech, of which "opinions" are a subset. Only the Executive and Legislative Branches, which are political branches, can lawfully engage in political speech, by the admission of no less than guess what, the U.S. Supreme Court!

"But, fortunately for our freedom from political excitements in judicial duties, this court [the U.S. Supreme Court] can never with propriety be called on officially to be the umpire in questions merely political. The adjustment of these questions belongs to the people and their political representatives, either in the State or general government. These questions relate to matters not to be settled on strict legal principles. They are adjusted rather by inclination, or prejudice or compromise, often.

[...]

Another evil, alarming and little foreseen, involved in regarding these as questions for the final arbitrament of judges would be that, in such an event, all political privileges and rights would, in a dispute among the people, depend on our decision finally. We would possess the power to decide against, as well as for, them, and, under a prejudiced or arbitrary judiciary, the public liberties and popular privileges might thus be much perverted, if not entirely prostrated. But, allowing the people to make constitutions and unmake them, allowing their representatives to make laws and unmake them, and without our interference as to their principles or policy in doing it, yet, when constitutions and laws are made and put in force by others, then the courts, as empowered by the State or the Union, commence their functions and may decide on the rights which conflicting parties can legally set up under them, rather than about their formation itself. Our power begins after theirs [the Sovereign People] ends. Constitutions and laws precede the judiciary, and we act only under and after them, and as to disputed rights beneath them, rather than disputed points in making them. We speak what is the law, jus dicere, we speak or construe what is the constitution, after both are made, but we make, or revise, or control neither. The disputed rights beneath constitutions already made are to be governed by precedents, by sound legal

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per se questions of law, and are well suited to the education and habits of the bench. But the other disputed points in making constitutions, depending often, as before shown, on policy, inclination, popular resolves and popular will and arising not in respect to private rights, not what is meum and tuum, but in relation to politics, they belong to politics, and they are settled by political tribunals, and are too dear to a people bred in the school of Sydney and Russel for them ever to intrust their final decision, when disputed, to a class of men who are so far removed from them as the judiciary, a class also who might decide them erroneously, as well as right, and if in the former way, the consequences might not be able to be averted except by a revolution, while a wrong decision by a political forum can often be peacefully corrected by new elections or instructions in a single month; and if the people, in the distribution of powers under the constitution, should ever think of making judges supreme arbiters in political controversies when not selected by nor, frequently, amenable to them nor at liberty to follow such various considerations in their judgments as [48 U.S. 53] belong to mere political questions, they will dethrone themselves and lose one of their own invaluable birthrights; building up in this way -- slowly, but surely -- a new sovereign power in the republic, in most respects irresponsible and unchangeable for life, and one more dangerous, in theory at least, than the worst elective oligarchy in the worst of times. Again, instead of controlling the people in political affairs, the judiciary in our system was designed rather to control individuals, on the one hand, when encroaching, or to defend them, on the other, under the Constitution and the laws, when they are encroached upon. And if the judiciary at times seems to fill the important station of a check in the government, it is rather a check on the legislature, who may attempt to pass laws contrary to the Constitution, or on the executive, who may violate both the laws and Constitution, than on the people themselves in their primary capacity as makers and amenders of constitutions." [Luther v. Borden, 48 U.S. 1 (1849)]

principles, by positive legislation [e.g. "positive law"], clear contracts, moral duties, and fixed rules; they are

Now let's apply the same accusation to the Internal Revenue Service, which also operates almost entirely by opinion rather than POSITIVE law or legally admissible evidence:

1. Even the U.S. Supreme Court says that tax issues are "political matters", and we know that REAL Constitutional Article III courts CANNOT lawfully entertain "political questions" or "political matters":

"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)]

The act of choosing a domicile in itself is a political matter arising out of one's act of political association with a specific municipal jurisdiction. It is a violation of the First Amendment prohibition against compelled association for a judge to FORCE you to become a "taxpayer" or to accept the obligations of a statutory "taxpayer" because he in effect is FORCING you to politically associate.

- 2. The entire Internal Revenue Code, according to 1 U.S.C. §204, is not legal evidence of ANYTHING and therefore cannot form a basis for belief.
 - 2.1. Instead, it is identified as "prima facie evidence", which means merely that it is a PRESUMPTION.
 - 2.2. All presumptions which prejudice constitutional rights are a violation of due process of law.
- 3. The IRS and the courts both say that you CANNOT rely on ANYTHING the IRS says or publishes as a basis for belief.

"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. Tax preparers and attorneys may be relied upon, but only for destroying mens rea needed to criminally convict people under the PENAL rather than CRIMINAL provisions of the Internal Revenue Code. Civilly, you are STILL liable for all the mistakes they make.
- 5. The courts issue OPINIONS rather than ORDERS, so what they say is not admissible as evidence under Federal Rule of Evidence 610.
- 6. Even when alleged Article III courts are hearing tax matters, they are operating in the SAME Article I capacity as the Tax court, and hence, are operating in a POLITICAL capacity within the Executive Branch.
 - 6.1. Hence, all tax hearings are political in nature.
 - 6.2. Judges in federal district courts are wearing TWO hats: 1. An Article 1 hat for tax and franchise matters, as documented in 26 U.S.C. §7441; 2. An Article III hat for other matters. See Freytag v. Commissioner, 501 U.S. 868 (1991).

- 6.3. Judges who preside over tax disputes, and especially if they themselves are "taxpayers" or are paid by "taxpayers", have a criminal financial conflict of interest in violation of 18 U.S.C. §208, 28 U.S.C. §144, and 28 U.S.C. §455.
 - 6.4. Now what do you think that a judge is going to do if offered a choice between treating you as a PRIVATE man or woman not subject to his jurisdiction and a "taxpayer" who is in effect, his personal "employee" for free? Duuuh. That's the problem with allowing Article III judges to preside as executive branch arbitrators over franchise issues.
- 7. The IRS says they are not required to rely upon court opinions below the U.S. Supreme Court so neither do we, probably because they are rulings of a legislative franchise court rather than a true Article III constitutional court.

"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)]

So what we have in essence is a tax code that behaves in every particular as a state-sponsored religion in violation of the First Amendment. That religion is exhaustively described in:

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

15 If you don't believe the above, see what the U.S. Supreme Court would call "facts" and "evidence" on the matter:

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

Anyone who accuses US essentially of establishing a cult of personality or religion around our own beliefs is clearly contradicting our Disclaimer and if they are in the government talking about tax matters, is a HYPOCRITE of the highest order. Below is what one FORMER tax collector and Apostle of Jesus said on this subject, who quit his profession in disgust after he realized just how hypocritical it was:

Do Not Judge

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"Judge not, that you be not judged. For with what judgment you judge, you will be judged; and with the measure you use, it will be measured back to you. And why do you look at the speck in your brother's eye, but do not consider the plank in your own eye? Or how can you say to your brother, 'Let me remove the speck from your eye'; and look, a plank is in your own eye? Hypocrite! First remove the plank from your own eye, and then you will see clearly to remove the speck from your brother's eye.

"Do not give what is holy to the dogs; nor cast your pearls before swine, lest they trample them under their feet, and turn and tear you in pieces.
[Matt. 7:1-6, Bible, NKJV]

By the way, here is what the Bible also says about Matthew while he was a tax collector, which might explain WHY he quit his profession:

"For God gives wisdom and knowledge and joy to a man who is good in His sight; but to the sinner He gives the work of gathering and collecting, that he may give to him who is good before God. This also is vanity and grasping for the wind."

[Eccl. 2:26, Bible, NKJV]

8.19 Burden of Proof is on you, not the government, to prove you are a "nontaxpayer" and "not liable"

<u>False Argument</u>: Those wishing to challenge illegal tax enforcement actions against "nontaxpayers" have the burden of proving that they are "nontaxpayers" and "not liable". The government doesn't have to prove anything.

<u>Corrected Alternative Argument</u>: The innocent until proven guilty maxim of American Jurisprudence requires that you are innocent until proven guilty. The legal equivalent of "innocent" is that of a "nontaxpayer" who is NOT subject rather than statutorily "exempt". The government therefore has the burden of proving in court that you CONSENTED to BECOME a statutory "taxpayer" and had the legal capacity to consent before it may TREAT you as a statutory

Flawed Tax Arguments to Avoid, Version 1.27 Copyright Family Guardian Fellowship, http://famguardian.org Last Revised: 1/23/2018 "taxpayer". Otherwise, INJUSTICE, identity theft, involuntary servitude, and THEFT results from illegal enforcements against those who are not subject.

Further information:

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

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

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

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

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]

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

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

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

"We hold these truths to be self-evident, that <u>all men are created equal, that they are endowed by their Creator with certain unalienable Rights</u>, 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]

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

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[Prov. 3:30, Bible, NKJV]

Imagine for a moment any private business that:

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

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

11. Required you to satisfy the entire employment agreement called the "civil code", which is a franchise privilege, BEFORE you could abandon the contractual obligations of being a "customer" and therefore "employee" or "officer". This is called "exhausting administrative remedies before pursuing a civil statutory judicial remedy".

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

- 1. Identity theft. See Form #05.046.
- 36 2. Grand theft.
- 3. Involuntary servitude in violation of the Thirteenth Amendment.
 - 4. Violation of the Fair Debt Collection Practices Act (F.D.C.P.A.).
- 5. Criminal stalking. They would be ordered with a restraining order to stay away.

Why doesn't the GOVERNMENT prosecute itself for the above offenses in the context of the way it does tax and civil enforcement? If Titles of Nobility are forbidden and we are ALL equal according to the Constitution and the Supreme Court, then what gives any government the right to do the above without YOU being able to do it to them?

In all civil or legal actions, the moving party always has the burden of proof. This is reflected in the Administrative procedures

Act:

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

(d) Except as otherwise provided by statute, the proponent of a rule or order has the burden of proof. Any oral or documentary evidence may be received, but the agency as a matter of policy shall provide for the exclusion of

or documentary evidence may be received, but the agency as a matter of policy shall provide for the excl.

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irrelevant, immaterial, or unduly repetitious evidence. A sanction may not be imposed or rule or order issued 2 except on consideration of the whole record or those parts thereof cited by a party and supported by and in accordance with the reliable, probative, and substantial evidence. The agency may, to the extent consistent with the interests of justice and the policy of the underlying statutes administered by the agency, consider a violation of section 557 (d) of this title sufficient grounds for a decision adverse to a party who has knowingly committed such violation or knowingly caused such violation to occur. A party is entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. In rule making or determining claims for money or benefits or applications for initial licenses an agency may, when a party will not be prejudiced thereby, adopt procedures for the submission of all or part of the evidence in written form. 10 [SOURCE: https://www.law.cornell.edu/uscode/text/5/556] 11 12 In any and all tax or civil enforcement action instituted against you by the government, the GOVERNMENT is the moving party asserting you have an obligation and usually, that you failed to fulfill that civil obligation. That obligation, in turn, 13 derives usually from a civil franchise of some kind that attaches to a civil prerequisite status such as "citizen", "resident", 14 "taxpayer", "spouse", etc. If you never consented to the specific civil status that is the target of the civil enforcement, then 15 in effect you are the victim of INJUSTICE. The purpose of the courts is to PREVENT injustice, not to protect the government 16 mafia from the consequences of the INJUSTICE it imposes upon others. That's why judges are called "justices". 17 Below is what some courts have said about the impossibility of proving a negative, meaning proving that you are NOT a 18 "taxpayer", "citizen", "resident", etc. They mention "taxpayers", but the requirement obviously also pertains to those who 19 are NOT "taxpayers" and who therefore are the target of illegal enforcement. 20 "The taxpayers were entitled to know the basis of law and fact on which the Commissioner sought to sustain the 21 deficiencies.' 22 [Helvering v. Tex-Penn Oil Co., 300 U.S. 481, 498 (1937)] 23 "... Tax liability is a condition precedent to the demand. Merely demanding payment, even repeatedly, does not 24 25 [Bothke v. Terry, 713 F.2d. 1405, 1414 (1983)] 26 27 "In Janis, supra, the Supreme Court decided that the exclusionary rule did not prevent the Internal Revenue 28 Service (IRS) from using illegally-seized evidence as the basis from which to extrapolate a taxpayer's unreported 29 income from wagering activities. Prior to addressing the exclusionary question, the Court stated that if the 30 illegally-seized evidence could not be used, then the result would be: 31 "a 'naked' assessment without Any foundation whatsoever The determination of tax due then may be one 32 'without rational foundation and excessive,' and not properly subject to the usual rule with respect to the burden 33 of proof in tax cases." (citations and footnotes omitted) 34 35 428 U.S. at 441, 96 S.Ct. at 3026. The Court noted that there was apparently some conflict between the Federal 36 Courts of Appeals as to the burden of proof in tax cases, and then went on to make these observations: "However that may be, the debate does not extend to the situation where the assessment is shown to be naked and 37 without Any foundation. 38 "Certainly, proof that an assessment is utterly without foundation is proof that it is arbitrary and erroneous." 39 428 U.S. at 442, 96 S.Ct. at 3026. While the quoted language may not have been dispositive of the issue decided 40 in Janis, supra, it certainly is a strong indication that the Commissioner must offer some foundational support 41 for the deficiency determination before the presumption of correctness attaches to it. After all, as the Court 42 observed in Elkins v. United States, 364 U.S. 206, 80 S.Ct. 1437, 4 L.Ed.2d 1669 (1960), "... as a practical matter 43 it is never easy to prove a negative " 364 U.S. at 218, 80 S.Ct. at 1444. See also Flores v. United States, 551 44 F.2d. 1169, 1175 (9th Cir. 1977). 45 46 A Tax Court decision finding unreported income from gambling activities was reversed in Gerardo, supra,

because of the lack of any evidence to support the Commissioner's presumption of correctness. 57 The court

EXHIBIT:____

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reasoned as follows:

⁵⁷ The Commissioner's deficiency determination covering a later period of gambling activities was upheld. However, there was sufficient substantive evidence to support the Commissioner's determination for the subsequent period. Gerardo, supra, 552 F.2d. at 553.

1	" in order to give effect to the presumption on which the Commissioner relies, some evidence must appear
2	which would support an inference of the taxpayer's involvement in gambling activity during the period covered by the assessment. Without that widentiany foundation, minimal though if (ii) may be an assessment may not
3 4	by the assessment. Without that evidentiary foundation, minimal though if (sic) may be, an assessment may not be supported even where the taxpayer is silent. (citations omitted)
5	"While we realize the difficulties which the Commissioner encounters in assessing deficiencies in circumstances
6	such as are presented here, we nevertheless must insist that the Commissioner provide some predicate evidence
7	connecting the taxpayer to the charged activity if effect is to be given his presumption of correctness. Here, the
8	record is barren of that underlying evidence "
9	552 F.2d. at 554-555. Even though Weimerskirch did not testify in the present case, following the teachings of
10	Gerardo, supra, the Commissioner still cannot rely on the presumption in the absence of a minimal evidentiary
11	foundation.
12	In another case involving failure to report income from wagering activities, the Fifth Circuit was faced with a
13	factual situation analogous to that presented here. Carson, supra. The court rejected the government's attempt to
14	rely solely upon the presumption of correctness ⁵ and said:
15	"Such a position, which would support the most arbitrary of assessments so long as the taxpayer found himself
16	unable to prove a negative, frequently difficult in quite innocent circumstances, does not become the
17	government's agents, and we readily reject it."
18	560 F.2d. at 698. Even the most innocent of persons would have difficulty in disproving such a serious charge
19	as selling heroin, when the party making the charge was not required to present Any evidence. 58"
20	[Weimerskirch v. C. I. R., 596 F.2d. 358 (C.A.9, 1979)]
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22	"By holding that the Internal Revenue Service has the burden of persuasion on this issue, we are determining
23	that in the absence of proof, the plaintiff will prevail. See 9 Wigmore on Evidence § 2485 (3d ed. 1940). Were this
24	not the case, the taxes of a California resident could be collected from a totally unrelated person in New York,
25	and the New Yorker would be forced to prove a negative fact about which he has absolutely no information, i. e.,
26	that the Californian has no interest in his property. 7 Principles"
27	[Flores v. U.S., 551 F.2d. 1169 (C.A.9 (Cal.), 1977)]
28	"as a practical matter it is never easy to prove a negative".
29	[Elkins v. United States, 364 U.S. 206, 218, 80 S.Ct. 1437 1444, 4 L.Ed.2d 1669 (1960)]

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

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

- 1. You CONSENTED to become a customer.
- 2. You were domiciled and physically present in a place where you could lawfully ALIENATE private rights, which means federal territory not within any state of the Union.
- 3. The consent was provided in WRITING.

Carson, supra, 560 F.2d. at 696.

Carson, supra, 500 F.2u. a

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⁵⁸ The court described the effect of the requirement that the Commissioner must provide some substantive evidence to support the deficiency determination as follows:

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

- 4. No duress was involved.
- 5. You did NOT notice them previously that you surrendered your civil status as a "customer" of the "trade or business" franchise agreement called a statutory "taxpayer". They can't use the "dog ate my homework" excuse.
- THIS is the burden imposed upon the Internal Revenue Service BEFORE it may engage in any kind of enforcement action.
- Any other approach represents INJUSTICE on a massive scale. You don't have to prove that you are NOT a "customer" or
- 6 "taxpayer", they have to prove that you ARE.
- The courts and the IRS try to side-step these requirements with the following illegal tactics:
- 1. The Full Payment Rule. This requires "taxpayers" to pay the full amount due BEFORE litigating. It does not pertain to those who are NOT "taxpayers", which is most Americans. See Laing v. U.S., 423 U.S. 161, 96 S.Ct. 473 (1976).
- 2. Structuring "tax court" in such a way that you cannot enter it without being a Plaintiff rather than a defendant. This shifts the burden of proof to YOU to prove that you ARE NOT a "customer".
- We bypass all the above methods of essentially hunting and trapping men like animals and prey by the following techniques:
 - 1. Insisting that we are equal.

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

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

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

<u>Injury Defense Franchise and Agreement</u>, Form #06.027 http://sedm.org/Forms/FormIndex.htm

- Ensuring that THEY have to live by their own rules. We have OUR OWN "Full Payment Rule" whereby THEY have to pay TWICE what they assessed against us before they can argue that they are NOT OUR customer.
- 5. Noticing them with the Resignation of compelled Social Security Trustee, Form #06.002, which quits you from the Social Security system and makes it impossible to act as a public officer or be eligible for government benefits.
 - 6. The Legal Notice of Change in Domicile/Citizenship Records and Divorce from the United States, Form #10.001, which causes them to agree that we are "customer" even BEFORE they begin any enforcement action.
 - 7. Reminding them that they ALREADY AGREED that everything on this site is truthful and legal evidence of their crimes. They tried to go after us, made themselves subject to our member agreement by going through the store checkout process, and thereby are required by the SEDM Member Agreement, Form #01.001 to agree that EVERYTHING on this website is truthful and accurate and that they consent and stipulate to admit it ALL into evidence in the context of ANY and EVERY member.
 - 8. Telling them that the following criminal complaint applies if they DO NOT leave you alone or force you to criminally impersonate a public officer called a "taxpayer":

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

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

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

For further details on the subject of government burden of proof, see:

Government Burden of Proof, Form #05.025 http://sedm.org/Forms/FormIndex.htm

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The phrase "wherever resident" in 26 C.F.R. §1.1-1 means WHEREVER LOCATED, not WHEREVER DOMIICLED OR LOCATED ABROAD⁵⁹

False Argument: The phrase "wherever resident" in 26 C.F.R. §1.1-1 means WHEREVER LOCATED, not WHEREVER DOMICILED OR LOCATED ABROAD.

Corrected Alternative Argument: The phrase "wherever resident" in 26 C.F.R. §1.1-1 means wherever they have the CIVIL STATUS of a "bona fide resident" in respect to the foreign country they are in under 26 U.S.C. §911(d)(1)(A). It has nothing to do with a state of the Union, because:

- You can't simultaneously be a CITIZEN and a RESIDENT at the same time within a constitutional state.
- State citizens protected by the Constitution aren't allowed to ALIENATE rights that the Declaration of Independence says are UNALIENABLE, and thus, they cannot become a privileged "RESIDENT" in relation to the government of any Constitutional State or the national government.

Further information:

- 1. Non-Resident Non-Person Position, Form #05.020, Section 5.1-memorandum of law upon which this section is based.
 - http://sedm.org/Forms/FormIndex.htm
- Why Domicile and Becoming a "Taxpayer" Require Your Consent, Form #05.002. http://sedm.org/Forms/FormIndex.htm
- 3. *Unalienable Rights Course*, Form #12.038 http://sedm.org/Forms/FormIndex.htm
- Enumeration of Inalienable Rights, Form #10.002 http://sedm.org/Forms/FormIndex.htm
- In order to illegally enforce the national income tax extraterritorially within the borders of Constitutional State, the national
- government must use legal trickery and words of art to make it FALSELY APPEAR as if the income tax applies to a
- STATUTORY "U.S. citizen" (per 8 U.S.C. §1401) ANYWHERE IN THE WORLD, including a CONSTITUTIONAL state
- of the Union. This section explains how the deception is accomplished and why any and all claims that it applies
- EVERYWHERE are simply FALSE.
- The I.R.C. Subtitle A income tax is imposed upon "citizens" only when they ALSO "RESIDENT" (alien) in the place they earn the statutory "income".
 - 26 C.F.R. §1.1-1 Income tax on individuals.
 - (a) General rule.

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- (1) Section 1 of the Code imposes an income tax on the income of every individual who is a citizen or resident of the United States and, to the extent provided by section 871(b) or 877(b), on the income of a nonresident alien <u>individual.</u>
- [...]
 - (b) Citizens or residents of the United States liable to tax.

In general, all citizens of the United States, wherever resident, and all resident alien individuals are liable to the income taxes imposed by the Code whether the income is received from sources within or without the United States. Pursuant to section 876, a nonresident alien individual who is a bona fide resident of a section 931 possession (as defined in § 1.931-1(c)(1) of this chapter) or Puerto Rico during the entire taxable year is, except as provided in section 931 or 933 with respect to income from sources within such possessions, subject to taxation in the same manner as a resident alien individual. As to tax on nonresident alien individuals, see sections 871 and 877.

[26 C.F.R. §1.1-1(a)(1)]

⁵⁹ Adapted from Non-Resident Non-Person Position, Form #05.020, Section 5.1; http://sedm.org/Forms/FormIndex.htm.

1 2	The statutory term "individual" includes ONLY "aliens" but not statutory "citizens". Therefore, a statutory "citizen" only becomes an "individual" when they are ALSO an "alien" in relation to a foreign country they are visiting:
3	26 C.F.R. §1.1441-1 Requirement for the deduction and withholding of tax on payments to foreign persons.
4	(c) Definitions
5	(3) Individual.
6	(i) Alien individual.
7	The term alien individual means an individual who is not a citizen or a national of the United States. See Sec.
8	I.I-I(c).
9	
10	26 C.F.R. §1.1441-1T Requirement for the deduction and withholding of tax on payments to foreign persons.
11	(c) Definitions
12	(3) Individual.
13	(ii) Nonresident alien individual.
14 15 16	The term nonresident alien individual means <u>persons</u> described in section 7701(b)(1)(B), alien <u>individuals</u> who are treated as <u>nonresident aliens</u> pursuant to § 301.7701(b)-7 of this chapter for <u>purposes</u> of computing their U.S. <u>tax liability</u> , or an alien individual who is a resident of Puerto <u>Rico</u> , Guam, the Commonwealth of Northern
17	Mariana Islands, the U.S. Virgin Islands, or American Samoa as determined under § 301.7701(b)-1(d) of this
18 19	<u>chapter</u> . An alien individual who has made an <u>election</u> under section 6013(g) or <u>(h)</u> to be treated as a resident of the <u>United States</u> is nevertheless treated as a <u>nonresident alien</u> individual for <u>purposes</u> of <u>withholding</u> under
20	chapter 3 of the Code and the regulations thereunder.
21	We must then ask ourselves WHEN can a statutory "citizen" (under 8 U.S.C. §1401 and identified in 26 C.F.R. §1.1-1(c))
22 23	ALSO be statutory "resident" in the same place at the same time, keeping in mind that a "resident" is an ALIEN domiciled in a place under the law of nations:
24	"Residents, as distinguished from citizens, are aliens who are permitted to take up a permanent abode in the
25	country. Being bound to the society by reason of their [intention of] dwelling in it, they are subject to its laws so
26	long as they remain there, and, being protected by it, they must defend it, although they do not enjoy all the rights
27	of citizenship. They have only certain privileges which the law, or custom, gives them. Permanent residents are
28 29	those who have been given the right of perpetual residence. They are a sort of citizen of a less privileged character, and are subject to the society without enjoying all its advantages. Their children succeed to their
30	status; for the right of perpetual residence given them by the State passes to their children."
31	[The Law of Nations, p. 87, E. De Vattel, Volume Three, 1758, Carnegie Institution of Washington; emphasis
32	added.]
33	26 C.F.R. §1.1-1(b) disproves the assertion that everything a person domiciled in any of the 50 states makes is statutory
34	"income" subject to tax, when it states that "All citizens of the United States, wherever resident," are liable to tax. This is
35	because:
36	1. One cannot be a statutory "resident" without ALSO being a statutory "alien". See 26 U.S.C. §7701(b)(1)(A).
37	2. "residence" is ONLY defined in the I.R.C. to include statutory "aliens" and NOT "citizens". Nowhere is it defined to
38	include "citizens". Therefore, a "citizen" cannot have a "residence" or be "resident" in a place without being a
39	statutory alien in relation to that place.
40	Title 26: Internal Revenue
41	PART 1—INCOME TAXES
42	nonresident alien individuals 8 1 871 2 Decembris in a social management described in the lands
43	§ 1.871-2 Determining residence of alien individuals.
44	(b) Residence defined.

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- 3. One cannot simultaneously be a statutory "citizen" and a statutory "alien" in relation to the same political entity at the same time. Therefore:
 - 3.1. More than one political entity must be involved AND
 - 3.2. Those who are simultaneously "citizens" and "aliens" must be outside the country and in a legislatively foreign country.
- 4. One can not have a civil status under the civil statutes of a place such as "citizen" or "resident" WITHOUT a DOMICILE in that place.
 - 4.1. This includes statutory "citizen" or statutory "resident".
 - 4.2. This is a requirement of Federal Rule of Civil Procedure 17 and the law of domicile itself.

§ 29. Status

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54 55 It may be laid down that the, status- or, as it is sometimes called, civil status, in contradistinction to political status - of a person depends largely, although not universally, upon domicil. The older jurists, whose opinions are fully collected by Story I and Burge, maintained, with few exceptions, the principle of the ubiquity of status, conferred by the lex domicilii with little qualification. Lord Westbury, in Udny v. Udny, thus states the doctrine broadly: "The civil status is governed by one single principle, namely, that of domicil, which is the criterion established by law for the purpose of determining civil status. For it is on this basis that the personal rights of the party - that is to say, the law which determines his majority and minority, his marriage, succession, testacy, or intestacy-must depend." Gray, C. J., in the late Massachusetts case of Ross v. Ross, speaking with special reference to capacity to inherit, says: "It is a general principle that the status or condition of a person, the relation in which he stands to another person, and by which he is qualified or made capable to take certain inghts in that other's property, is fixed by the law of the domicil; and that this status and capacity are to be recognized and upheld in every other State, so far as they are not inconsistent with its own laws and policy."

[A Treatise on the Law of Domicil, National, Quasi-National, and Municipal, M.W. Jacobs, Little, Brown, and Company, 1887, p. 89]

5. Even JESUS said that the only "taxpayers" are citizens abroad and aliens at home! Are you going to disagree with GOD Himself?:

When they [Jesus and Apostle Peter] had come to Capernaum, those [collectors] who received the temple tax [the government has become the modern day socialist pagan god and Washington, D.C. is our civic "temple"] came to Peter and said, "Does your Teacher [Jesus] not pay the temple tax?

He [Apostle Peter] said, "Yes." [Jesus, our fearless leader as Christians, was a nontaxpayer]

And when he had come into the house, Jesus anticipated him, saying, "What do you think, Simon? From whom do the kings [governments] of the earth [lawfully] take customs or taxes, from their sons [citizens and subjects] or from strangers ["aliens", which are synonymous with "residents" in the tax code, and exclude "citizens"]?"

Peter said to Him, "From strangers ["aliens"/"residents" ONLY. See 26 C.F.R. §§1.1-1(a)(2)(ii) and 26 C.F.R. §1.1441-1(c)(3)]."

Jesus said to him, "Then the sons ['citizens' of the Republic, who are all sovereign "non-resident non-persons", Form #05.020, or "nationals", Form #05.006] are free [sovereign over their own person and labor. e.g. SOVEREIGN IMMUNITY]. "
[Matt. 17:24-27, Bible, NKJV]

- 6. 26 C.F.R. §1.1-1(a) refers to "every individual who is a citizen", meaning every ALIEN in a foreign country who is ALSO a STATUTORY "national and citizen of the United States" under 8 U.S.C. §1401.
- 7. 26 U.S.C. §911(d)(1)(A) describes such an individual as a "qualified individual" AND a "bona fide resident". That person is a STATUTORY "national and citizen of the United States**" temporarily abroad but domiciled in the federal zone.

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EXHIBIT:_____

1 2		U.S. Code > <u>Title 26</u> > <u>Subtitle A</u> > <u>Chapter 1</u> > <u>Subchapter N</u> > <u>Part III</u> > <u>Subpart B</u> > § 911 26 U.S. Code § 911 - Citizens or residents of the United States living abroad
3		(d) DEFINITIONS AND SPECIAL RULES
4		For purposes of this section—
5		(1) QUALIFIED INDIVIDUAL
6		The term "qualified individual" means an individual whose tax home is in a foreign country and who is—
7		(A) a citizen of the United States and establishes to the satisfaction of the Secretary that he has been a bona fide
8		resident of a foreign country or countries for an uninterrupted period which includes an entire taxable year,
9		or
10	8.	Rev.Rul. 75-489 at p. 511 agrees that citizens abroad are "aliens" coming under a tax treaty to which the foreign
11	٥.	country they are in is a party. Thus, they are receiving a "benefit" or "privilege". These "citizens" are those born on
		and domiciled within the federal zone and not any constitutional state. Those born within and domiciled within a
12 13		constitutional state are "nationals" under 8 U.S.C. §1101(a)(21) per Form #05.006.
		3 ()()1
14		Rev.Rul. 75-489 at p. 511.
15		Sections 1.1-1 and 1.871-1 of the Income Tax Regulations provide that all citizens of the United States, wherever
16		resident, and all resident alien individuals are liable to the income taxes imposed by the Internal Revenue Code
17		whether the income is received from sources within or without the United States. See, however, section 911 of the
18		Code. (Emphasis added.)
		Note the phrase "wherever resident" meaning wherever they ARE STATUTORY "residents". All "residents" are
19		
20		defined as ALIENS AND are all "individuals". All "individuals" are STATUTORY aliens per 26 C.F.R. §1.1441-
21		1(c)(3)(i) as we showed earlier. The only exception is STATUTORY citizens of the United States**" under 8 U.S.C.
22		§1401 domiciled on federal territory and temporarily abroad per 26 U.S.C. §911(d).
23		26 U.S. Code § 7701 - Definitions
24		(b) <u>Definition of resident alien</u> and nonresident alien
25		(1) In general
26		For purposes of this title (other than subtitle B)—
27		(A) Resident alien
28		An alien individual shall be treated as a resident of the United States with respect to any calendar year if (and
29		only if) such individual meets the requirements of clause (i), (ii), or (iii):
30		(i) Lawfully admitted for permanent residence
31		Such individual is a lawful permanent resident of the United States at any time during such calendar year.
32		(ii) Substantial presence test
33		Such individual meets the substantial presence test of paragraph (3).
34		(iii) First year election
35		Such individual makes the election provided in paragraph (4).
36	9.	Of Revenue Rulings, the courts have held:
37		We need not decide whether the Revenue Rulings themselves are entitled to deference. In this case, the Rulings
38		simply reflect the agency's longstanding interpretation of its own regulations. Because that interpretation is
39		reasonable, it attracts substantial judicial deference. Thomas Jefferson Univ. v. Shalala, 512 U.S. 504, 512

1	(1994). We do not resist according such deference in reviewing an agency's steady interpretation of its own
2	61-year-old regulation implementing a 62year-old statute. "Treasury regulations and interpretations long
3	continued without substantial change, applying to unamended or substantially reenacted statutes, are deemed
4	to have received congressional approval and have the effect of law." Cottage Savings Assn. v. Commissioner, 499 U.S. 554, 561 (1991) (citing Correll, 389 U.S., at 305-306).
5 6	[United States v. Cleveland Indians Baseball Co., 532 U.S. 200, 220 (2001) (internal citations and quotation
7	marks omitted)]
8	"The IRS's long-standing interpretation of Treasury Regulation § 1.104-1 through Revenue Rulings is
9	reasonable, and thus entitled to substantial deference."
10	[Sewards v. Commissioner of Internal Revenue, 12-72985, *9 (9th Cir. 5-12-2015)."]
11	Therefore, the only practical way that a statutory "citizen" can ALSO be statutory "resident" under the civil laws of a place
12	is when they are abroad as identified in 26 U.S.C. §911: Citizens or residents of the United States living abroad. That section
13	of code, in fact, groups STATUTORY "citizens" and "residents" together because they are both "resident" when in a foreign
14	country outside the United States* the country:
15	1. They are a statutory "citizen" under 8 U.S.C. §1401 if they were born on federal territory or abroad and NOT a
16	constitutional state. See Rogers v. Bellei, 401 U.S. 815 (1971).
17	2. If they avail themselves of a "benefit" under a tax treaty with a foreign country, then they are also "resident" in the
18	foreign country they are within under the tax treaty. At that point, they ALSO interface to the United States
19	government as a "resident" under that tax treaty.
20	Moreover, there are two fairly instructive Revenue Rules that clarify the phrase "wherever resident" found in 26 C.F.R. §1.1-
21	1(b) above. See Rev.Rul. 489 and Rev.Rul. 357 as follows:
22	"No provision of the Internal Revenue Code or the regulations thereunder holds that a citizen of the United
23	States is a resident of the United States for purposes of its tax. Several sections of the Code provide Federal
24	income tax relief or benefits to citizens of the United States who are residents without the United States for some
25 26	specified period. See sections 911, 934, and 981. <u>These sections give recognition to the fact that not all the</u> citizens of the United States are residents of the United States."
27	[Rev.Rul. 75-489. p. 511]
28	As regards additional support, see Rev.Rul. 75-357 at p. 5, as follows:
29	"Sections 1.1-1(b) and 1.871-1 of the Income Tax Regulations provide that all citizens of the United States,
30	wherever resident, and all resident alien individuals are liable to the income taxes imposed by the Internal
31	Revenue Code whether the income is received from sources within or without the United States. See, however,
32 33	section 911 of the Code. (Emphasis added.)" [Rev.Rul. 75-357, p. 5]
33	
34	Being that Rev.Rul. 75-357 quotes 26 C.F.R. § 1.1-1(b) directly, and duly informs every reader to see 26 U.S.C. §911, we
35	believe an examination of 26 U.S.C. §911 and its regulations is in order to locate the appropriate application of the "wherever
36	<i>resident</i> " phrase in 26 C.F.R. §1.1-1(b). See 26 U.S.C. §911(d)(1)(A) as follows:
37	(d) Definitions and special rules — For purposes of this section —
38	(1) Qualified individual — The term "qualified individual" means an individual whose tax home is in a foreign
39	country and who is —
40	(A) a citizen of the United States and establishes to the satisfaction of the Secretary that he has been a bona
41	fide resident of a foreign country or countries for an uninterrupted period which includes an entire taxable year.
42	$[26 \ U.S.C. \ \S 911(d)(1)(A)]$
43	There you have it. The "citizen of the United states" must be a bona-fide "resident of a foreign country" to be a qualified
44	individual subject to tax.

"All citizens of the United States, <u>wherever resident</u>, are liable to the income taxes imposed by the Internal Revenue Code whether the <u>income is received</u> from sources within or without the United States."

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46 47 Additionally, as we know, 26 C.F.R. §1.1-1(b) states:

(a) Definition of foreign earned income.

For purposes of section 911 and the regulations thereunder, the term "foreign earned income" means earned income (as defined in paragraph (b) of this section) from sources within a foreign country (as defined in §1.911-2(h)) that is earned during a period for which the individual qualifies under §1.911-2(a) to make an election. Earned income is from sources within a foreign country if it is attributable to services performed by an individual in a foreign country or countries. The place of receipt of earned income is immaterial in determining whether earned income is attributable to services performed in a foreign country or countries.

Note the phrase "foreign country" above. That phrase obviously does not include states of the Union. We are therefore inescapably lead to the following conclusions based on the above analysis:

- 1. One cannot earn "income" as a statutory "citizen" under 26 C.F.R. §1.1-1(c), 26 U.S.C. §911, and 8 U.S.C. §1401 unless they are abroad in a foreign country.
- 2. No statute EXPRESSLY imposes a tax upon statutory "citizens" when they are NOT "abroad", meaning in a foreign country. Therefore, under the rules of statutory construction, tax is not owed under ANY other circumstance:

"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]

- 3. Those statutory citizens and residents who are in the statutory geographical "United States" under 26 U.S.C. §7701(a)(9) and (a)(10) and 4 U.S.C. §110(d), also called the federal zone, are called statutory "U.S. persons" and they are exempt from withholding and reporting.
- 4. A state citizen under the Fourteenth Amendment is NOT a statutory "citizen" under the Internal Revenue Code at 26 C.F.R. §1.1-1(c), even when they are abroad. Rather, they are statutory "non-resident non-persons" when abroad. See and rebut *Non-Resident Non-Person Position*, Form #05.020, Section 8 and the following and answer the questions at the end of the following if you disagree:

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

- 5. Even when one is "abroad" as a statutory "citizen", they can cease to be a statutory "citizen" at any time by:
 - 5.1. Changing their domicile to the foreign country. This is because the civil status of "citizen" is a product of domicile on federal territory, not their birth...AND
 - 5.2. Surrendering any and all tax "benefits" of the income tax treaty. The receipt of the "benefit" makes them subject to Internal Revenue Code Subtitle A "trade or business" franchise and a public officer in receipt, custody, and control of government property, which itself IS the "benefit".
- 6. It is a CRIME for a state citizen to claim the civil status of STATUTORY "citizen" under 8 U.S.C. §1401. That crime is documented in 18 U.S.C. §911.
- 7. The claim that all state citizens domiciled in states of the Union are "citizens of the United States" under the Internal Revenue Code and that they owe a tax on ANY of their earnings is categorically false and fraudulent.

Below is a table that succinctly summarizes everything we have learned in this section in tabular form. The left column shows what you are now and the two right columns show what you can "elect" or "volunteer" to become under the authority of the Internal Revenue Code based on that status:

Table 8: Convertibility of citizenship or residency status under the Internal Revenue Code

What you are starting as	What you would	like to convert to
		iduals" §1.1441-1(c)(3))
	"Alien" (see 26 C.F.R. §1.1441-1(c)(3)(i))	"Nonresident alien" (see 26 U.S.C. §7701(b)(1)(B))
"citizen of the United States" (see 8 U.S.C. §1401)	"citizen" may unknowingly elect to be treated as an "alien" by filing 1040, 1040A, or 1040EZ form. This election, however, is <i>not</i> authorized by any statute or regulation, and consequently, the IRS is <i>not</i> authorized to process such a return! It amounts to constructive fraud for a "citizen" to file as an "alien", which is what submitting a 1040 or 1040A form does.	be a "nonresident alien", nor is he authorized under the I.R.C. to "elect" to become one. Likewise, no "nonresident alien" is authorized by the I.R.C. to elect to become a "citizen
"resident"	All "residents" are "aliens".	A "nonresident alien" may elect to be
(not defined anywhere in the Internal	"Resident", "resident alien", and	treated as an "alien" and a "resident"
Revenue Code)	"alien" are equivalent terms.	under the provisions of 26 U.S.C. §6013(g) or (h).

8.21 IRS can lawfully assess a tax liability against a "nontaxpayer" or "non-resident non-person" who does not FIRST assess themselves on a signed return

<u>False Argument</u>: IRS can lawfully assess a tax liability against a "nontaxpayer" or "non-resident non-person" who does not FIRST assess themselves on a signed return

<u>Corrected Alternative Argument</u>: IRS has no authority to assess "nontaxpayers" or those who are "non-resident non-persons" not subject to civil Acts of Congress. A "non-resident non-person" is not domiciled on federal territory and therefore is not subject to the civil acts of Congress per Federal Rule of Civil Procedure 17.

Further information:

- 1. Why the Government Can't Lawfully Assess Human Beings with an Income Tax Liability Without Their Consent, Form #05.011
 - $\underline{http://sedm.org/Forms/FormIndex.htm}$
- 2. <u>Legal Requirement to File Federal Income Tax Returns</u>, Form #05.009 http://sedm.org/Forms/FormIndex.htm
- 3. <u>Tax Deposition Questions</u>, Form #03.016, Section 13: 26 U.S.C. §6020(b) Substitute For Returns http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Deposition.htm
- A frequent false claim you will hear from both the IRS administratively and ignorant Department of Justice attorneys during
- tax litigation is that the IRS has the lawful authority to assess nontaxpayers or "non-resident non-persons" who don't assess
- themselves with a tax liability on a tax "return". This is simply false and is proven false with exhaustive evidence in the
- 7 following memorandum of law:

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

 $\underline{http://sedm.org/Forms/FormIndex.htm}$

- For the purposes of this section, we define "nontaxpayers" as those who are NOT privileged "taxpayers" as defined in 26
- 9 U.S.C. §7701(a)(14). We also define a "non-resident non-person" as someone who has no domicile on federal territory and
- therefore, who is therefore not subject to the civil acts of Congress per Federal Rule of Civil Procedure 17.

Federal Rules of Civil Procedure

1	Rule 17. Parties Plaintiff and Defendant; Capacity
2	(b) Capacity to Sue or be Sued.
3	Capacity to sue or be sued is determined as follows:
4	(1) for an individual who is not acting in a representative capacity, by the law of the individual's domicile;
5	(2) for a corporation, by the law under which it was organized; and
6	(3) for all other parties, by the law of the state where the court is located, except that:
7	(A) a partnership or other unincorporated association with no such capacity under that state's law may sue or
8	be sued in its common name to enforce a substantive right existing under the United States Constitution or
9	laws; and
10 11	(B) 28 U.S.C. §§754 and 959(a) govern the capacity of a receiver appointed by a United States court to sue or be sued in a United States court.
12 13 14	A valid "return" prepared ONLY by the "taxpayer" and not others is the ONLY method of lawfully creating a tax liability under Internal Revenue Code Subtitle A. <u>26 U.S.C. §6201(a)(1)</u> describes the assessment authority of the IRS under I.R.C. Subtitle A as shown below:
15	TITLE 26 > Subtitle F > CHAPTER 63 > Subchapter A > § 6201
16	§6201. Assessment authority
17	(a) Authority of Secretary
18	The Secretary is authorized and required to make the inquiries, determinations, and assessments of all taxes
19	(including interest, additional amounts, additions to the tax, and assessable penalties) imposed by this title, or
20	accruing under any former internal revenue law, which have not been duly paid by stamp at the time and in the
21	manner provided by law. Such authority shall extend to and include the following:
22	(1) <u>Taxes shown on return</u>
23	The Secretary shall assess all taxes determined by the taxpayer or by the Secretary [per 26 U.S.C. §6020(b)] as
24	to which returns or lists are made under this title.
25	Note that both the Secretary's assessment and the taxpayer's assessment must be made on a "return" per the above. The only
26	three lawful methods of assessment then are the following:
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- 1. "taxpayer" assesses himself or herself by filing an accurate return
 - 2. "taxpayer" signs a blank return form and sends it to the Secretary to complete, pursuant to 26 U.S.C. §§6014 and 6020(b).
 - 3. "taxpayer" files an INACCURATE return assessing him or her self and is REASSESSED by the IRS to correct the inaccurate assessment.
- Note based on the foregoing that:

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- 1. The Secretary may not unilaterally perform an assessment without a return signed by the "taxpayer" pursuant to 26 U.S.C. §6201(a).
- 2. Only taxes shown on a lawfully executed "return" can be owed or assessed by either the Secretary or the "taxpayer".
- 3. Both of the two methods for conducting a lawful assessment mentioned in <u>26 U.S.C. §6201(a)</u> require the <u>consent and</u> signature of the "taxpayer".
- 4. No lawful method is provided to "propose" an assessment for those who are not ALREADY STATUTORY "taxpayers". This would include "non-resident non-persons", for instance. Such "proposed" assessments are called "dummy returns". The Government Accounting Office in its audit of the IRS has said these "dummy returns" are ILLEGAL, in fact. See:

<u>General Accounting Office Report #GAO/GGD-00-60R IRS' Substitute for Returns (SFR)</u>, SEDM Exhibit #05.023 https://sedm.org/Exhibits/ExhibitIndex.htm

It is quite common for IRS agents to "estimate" the liability of a "taxpayer", especially as an intimidation mechanism during an exam or audit. However, unless the "taxpayer" *voluntarily* signs the return forms presented by the agent authorizing the assessment or settlement, the assessment is *not valid. Without a valid assessment, collection activity cannot be commenced!*

Furthermore, under 26 C.F.R. §301.6211-1(a), either making no return or a return showing no tax amounts to a "zero return" IN THE CASE OF A STATUTORY "taxpayer" ONLY.

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Note that: 40

[Code of Federal Regulations] [Title 26, Volume 18] [Revised as of April 1, 2005] From the U.S. Government Printing Office via GPO Access [CITE: 26CFR301.6211-1]

TITLE 26--INTERNAL REVENUE CHAPTER I--INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY PART 301_PROCEDURE AND ADMINISTRATION--Table of Contents Assessment

Sec. 301.6211-1 Deficiency defined.

[Page 160-162]

- (a) In the case of the income tax imposed by subtitle A of the Code, the estate tax imposed by chapter 11, subtitle B, of the Code, the gift tax imposed by chapter 12, subtitle B, of the Code, and any excise tax imposed by chapter 41, 42, 43, or 44 of the Code, the term "deficiency" means the excess of the tax, (income, estate, gift, or excise tax as the case may be) over the sum of the amount shown as such tax by the taxpayer upon his return and the amounts previously assessed (or collected without assessment) as a deficiency; but such sum shall first be reduced by the amount of rebates made. If no return is made, or if the return (except a return of income tax pursuant to sec. 6014) does not show any tax, for the purpose of the definition "the amount shown as the tax by the taxpayer upon his return" shall be considered as zero. Accordingly, in any such case, if no deficiencies with respect to the tax have been assessed, or collected without assessment, and no rebates with respect to the tax have been made, the deficiency is the amount of the income tax imposed by subtitle A, the estate tax imposed by chapter 11, the gift tax imposed by chapter 12, or any excise tax imposed by chapter 41, 42, 43, or 44. Any amount shown as additional tax on an "amended return," so-called (other than amounts of additional tax which such return clearly indicates the taxpayer is protesting rather than admitting) filed after the due date of the return, shall be treated as an amount shown by the taxpayer "upon his return" for purposes of computing the amount of a deficiency.
- (b) For purposes of the definition, the income tax imposed by subtitle A and the income tax shown on the return shall both be determined without regard to the credit provided in section 31 for income tax withheld at the source and without regard to so much of the credit provided in section 32 for income taxes withheld at the source as exceeds 2 percent of the interest on tax-free covenant bonds described in section 1451. Payments on account of estimated income tax, like other payments of tax by the taxpayer, shall likewise be disregarded in the determination of a deficiency. Any credit resulting from the collection of amounts assessed under section 6851 or 6852 as the result of a termination assessment shall not be taken into account in determining a deficiency.
- (c) The computation by the Internal Revenue Service, pursuant to section 6014, of the income tax imposed by subtitle A shall be considered as having been made by the taxpayer and the tax so computed shall be considered as the tax shown by the taxpayer upon his return.
- NONTAXPAYERS or "non-resident non-persons" are INCAPABLE of a "zero return" per the above regulation, because they are NOT statutory "taxpayers" mentioned and are NOT subject to the civil acts of Congress. They are PRIVATE and their property is absolutely owned, which means they have the Constitutional RIGHT to deprive others of the use or benefit of that property by NOT converting it to PUBLIC property that can be assessed or taxed.
- The filing of FALSE information returns against a PRIVATE "non-resident non-person" does NOT automatically make them into a statutory "taxpayer" engaged in the "public office" or "trade or business" excise taxable franchise. Instead, these false information returns, if not corrected, are the product of CRIMINAL IDENTITY THEFT that must be prosecuted. As such, they are "fruit of a poisonous tree" that cannot lawfully be used as evidence in any court of law when a proper criminal complaint is filed in the legal proceeding that is attempting to use them as legal evidence.
- Those who are NOT statutory "taxpayers" cannot lawfully "elect" themselves into public office by filling out any government form. It is a CRIME to impersonate a public officer per 18 U.S.C. §912. All STATUTORY "taxpayers" are, in fact, public officers in the national government under the Internal Revenue Code. The lawful creation of a public office requires an application, an oath, and an appointment, none of which are satisfied by merely filling out a tax form or using a government issued number. 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

Internal Revenue Manual also describes what constitutes a valid tax return:

Section 6020(b)(1) authorizes the Secretary to make a return upon either a taxpayer's failure to file a return or upon a taxpayer's filing of a fraudulent return. In two cases decided in 2003, the Tax Court clarified what

Flawed Tax Arguments to Avoid, Version 1.27 Copyright Family Guardian Fellowship, http://famguardian.org Last Revised: 1/23/2018

constitutes a return under section 6020(b) for purposes of the addition to tax under section 6651(a)(2). See Cabirac v. Commissioner, 120 T.C. 163 (2003), and Spurlock v. Commissioner, T.C. Memo. 2003-124. In Spurlock, the Tax Court held that a return for section 6020(b) purposes must be "subscribed, it must contain sufficient information from which to compute the taxpayer's tax liability, and the return form and any attachments must purport to be a 'return'. "Spurlock, slip. op. at 27. In Cabirac, the documents the Service proffered as constituting a section 6020(b) return were (a) dummy Forms 1040 that identified the taxpayer, but which were not signed and did not show any tax due, (b) a subsequently prepared 30-day letter, and (c) a revenue agent's report attached to the 30-day letter explaining how the Service computed the taxpayer's liability. Applying the analysis later explained in Spurlock, the Tax Court held that these documents did not constitute a section 6020(b) return. Critical to the Tax Court's analysis was that the Service never treated the documents, which the Service created at various times, as one group purporting to be a return. See Millsap v. Commissioner, 11 91 T.C. 926 (1988), acq. in result in part, 1991–2 C.B. I, describing a valid section 6020(b) return at issue therein. [Internal Revenue Manual (I.R.M.), Section 35.2.2.11 (08-11-2004)] 13

The following authorities further describe the authority of the IRS to prepare a "Substitute For Return (SFR) when a "taxpayer" does not prepare a return. The authorities prove that the IRS has not authority to prepare Substitute For Returns (SFRs) even in the case of "taxpayers". Note that a PRIVATE non-resident non-person would not be such a statutory "taxpayer" or anything else under any government civil statute and therefore would not be the proper subject of ANY IRS enforcement authority:

- Tax Deposition Questions, Form #03.016, Section 13: 26 U.S.C. §6020(b) Substitute For Returns http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Deposition.htm
- Legal Requirement to File Federal Income Tax Returns, Form #05.009 http://sedm.org/Forms/FormIndex.htm

8.22 IRS Form 4549 is valid legal evidence of the existence of a lawfully assessed tax liability

False Argument: IRS Form 4549 is valid legal evidence of the existence of a lawfully assessed tax liability.

Corrected Alternative Argument: IRS Form 4549 does NOT constitute legal evidence that a valid tax return has been filed. The VOLUNTARY filing of a tax return is the ONLY method provided for in the Internal Revenue Code Subtitle A to create a tax obligation. By "voluntary", we mean that the failure to file by a "nontaxpayer" who does not MAKE themselves a "taxpayer" by assessing him or her self cannot be penalized or criminally prosecuted. The act of selfassessment by a PRIVATE human who is NOT a public officer engaged in a statutory "trade or business" excise taxable franchise is what CREATES the statutory civil status of "taxpayer" that is the only proper object of criminal tax enforcement. That status is a public office in the national government.

Further information:

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- 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
- 2. Tax Deposition Questions, Form #03.016, Section 13: 26 U.S.C. §6020(b) Substitute For Returns https://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Deposition.htm Sovereignty Forms and Instructions Online, Form #10.004, Cites by Topic: "Substitute For Return" https://famguardian.org/TaxFreedom/CitesByTopic/SubsForReturn.htm
- Those who do not file tax returns are sometimes ILLEGALLY criminally prosecuted for failure to do so under 26 U.S.C. 24 §7203: Willful failure to file. In order to successfully prosecute such a crime, the Department of Justice (DOJ) attorney must 25 satisfy the burden of proving that: 26
- There was a legal liability and tax owing. 27
 - The party owing it knew or should have known that they were liable for the tax and file a tax return documenting the liability and paying the tax owing.
 - The "taxpayer" willfully refused to file the return documenting what was owed. This is called "willfulness" and it is a prerequisite of every tax crime. In general criminal law, this is called "mens rea". A crime is impossible without "mens rea".
- The above process STARTS with the duty of the prosecuting DOJ attorney to prove a tax was due and that the "taxpayer" 33 owed the tax. This is done using an IRS assessment. To satisfy the evidentiary rules, this assessment must constitute legally 34

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1 2 3	admissible evidence of a tax liability. That means it must be signed under penalty of perjury per 26 U.S.C. §6065, must be identified as a lawful assessment in the statutes, and must be executed by someone who has delegated authority on their delegation order to perform such an assessment.
4	In the previous section, we proved that the IRS has no legal authority to assess a tax liability against those who do NOT file
5	a STATUTORY "return" themselves. IRS can ADJUST a self-assessment to a new amount, but they cannot CREATE a
6	NEW assessment for those who have not voluntarily assessed themselves. In fact, the Government Accounting Office has
7	done audits on the IRS and shown that this requirement is frequently violated.
/	done address on the TKS and shown that this requirement is frequently violated.
8	In its response to this letter, IRS officials indicated that they do not generally prepare actual tax returns. Instead,
9	IRS prepares substitute documents that propose [not MAKE] assessments. Although IRS and legislation refer
0	to this as the substitute for return program, these officials said the document does not look like an actual tax
1	return." [Government Accountability Office Report GAO/GGD-00-60R, p. 1, Footnote 1;
3	SOURCE: http://www.gao.gov/docsearch/repandtest.html]
4 5 6	"[IRS] Customer Service Division official commented on the phrase 'Substitute for Return.' They asked us to emphasize that even though the program is commonly referred to as the SFR program, no actual tax return is prepared."
7 8	[Government Accountability Office Report GAO/GGD-00-60R, p. 2; SOURCE: http://www.gao.gov/docsearch/repandtest.html]
9	IRS Form 4549 is frequently MISUSED as legal evidence of the existence of a validly assessed tax liability giving rise to a duty to file a return. This is made clear in Revenue Ruling 2005-59:
1	Revenue Ruling 2005-59
2	September 12, 2005 Valid Return; Election to File Joint Return
3	vana Kemin, Election to File Joint Kemin
4	Valid return; election to file joint return. This ruling clarifies when documents prepared or executed by the
.5	Secretary under section 6020 of the Code, or waivers on assessment constitute valid returns under Beard v.
6	Commissioner, 82 T.C. 766 (1984), aff'd, 793 F.2d. 139 (6th Cir. 1986), for purposes of the election to file a joint
7	return under section 6013. Rev.Rul. 74-203 revoked.
8	$I\cdots I$
9	HOLDINGS
0	ISSUE 3. A Form 870, which includes a waiver signed by the taxpayers, is not a return filed by the taxpayers for
1	purposes of section 6013 and does not constitute a valid election to file a joint return. This holding also applies
2	to Form 1902, Report of Individual Income Tax Audit Changes (obsoleted 1988), and Form 4549, Income Tax
3	Examination Changes, and any successor forms to these forms.
4	In Cabirac v. Commissioner, supra the Tax Court stated,
5	"The manually completed Forms 5344 are dated May 31, 2001. The Form 4549-CG contains income tax
6	examination changes for 1995, 1996, and 1997. Page 1 of that form contains no date. Page 2 of that form is
7	dated October 18, 1999. The pages attached to that form, which contain computations relating to the income
8	tax examination changes, are also dated October 18, 1999. The 30-day letter is dated October 18, 1999. We
9	cannot agree that this conglomeration of documents, which appears to be respondent's administrative file,
0	would satisfy the requirements of section 6020(b) even if it were in evidence." [Cabirac v. CIR, 120 T.C. 163 (2003)]
1	[Caunac v. Cir., 120 1.C. 103 (2003)]
2	INSTEAD, the misuse of IRS Form 4549 as legal evidence of a lawful assessment is merely evidence of a CRIME by the
3	IRS. It documents fictitious obligation that does not in fact exist. It represents proof of CRIMINAL IDENTITY THEFT as
4	documented in:
	Government Identity Theft, Form #05.046
	http://sedm.org/Forms/FormIndex.htm

Because the IRS Form 4549 is proof of criminal identity theft, it cannot be used as legal evidence of an obligation. Anything that is the product of a crime cannot be used as legal evidence of anything other than CRIME against the perpetrator of the crime. This is called the "fruit of the poisonous tree" doctrine. If the court violates the fruit of a poisonous tree doctrine,

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- they become GUILTY PARTIES and co-conspirators to the crime and are guilty of "misprision of felony" under 18 U.S.C.
- 2 §3 and 4.
- 3 If you would like to know how to totally discredit any government witness called by the Department of Justice to testify of a
- tax liability using IRS Form 4549, please read:

Why the Government Can't Lawfully Assess Human Beings with an Income Tax Liability Without Their Consent, Form #05.011, Section 8.5: IRS Form 4549 Used in Criminal Tax Prosecutions is NOT a "return" or "Substitute For Return" http://sedm.org/Forms/FormIndex.htm

8.23 <u>Information returns filed against private humans not working for the government and receiving interest are</u>

valid legal evidence of the receipt of "gross income" within the meaning of the Internal Revenue Code, Subtitle A

<u>False Argument</u>: Information returns filed against private humans not working for the government and receiving interest are valid legal evidence of the receipt of "income" within the meaning of the Internal Revenue Code, Subtitle A.

<u>Corrected Alternative Argument</u>: Only interest received by governmental units qualifies as reportable "income" to which information return reporting is subject.

Further information:

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- Correcting Erroneous Information Returns, Form #04.001 http://sedm.org/Forms/FormIndex.htm
- 2. <u>26 C.F.R. §1.6019-4(f): Return of information as to interest paid and original issue discount includible in gross income after December 31, 1982</u>. https://www.law.cornell.edu/cfr/text/26/1.6049-4
- IRS cannot assess a tax unless "gross income" is received. The receipt of "gross income", in turn, is documented by the filing of information returns in connection with payments received by a STATUTORY "taxpayer". By "taxpayer", we mean a public office engaged in the STATUTORY "trade or business" excise taxable franchise.
- The requirement to file Information Returns originates from <u>Internal Revenue Code</u>, Section 6041, which says under paragraph (a) that all payments of over \$600 that are made in connection with a "<u>trade or business</u>" must have Information Returns filed on them. To wit:
 - <u>TITLE 26 > Subtitle F > CHAPTER 61 > Subchapter A > PART III > Subpart B > § 6041</u> § 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.

The term "trade or business" is then defined as follows:

27 <u>TITLE 26 > Subtitle F</u> > <u>CHAPTER 79</u> > § 7701 28 <u>§ 7701. Definitions</u>

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

(26) Trade or business

- Therefore, "information returns" documenting reportable STATUTORY "gross income" include ONLY payments received by public officers in the national but not state government. Examples of information returns include, but are not limited to
- the following IRS Forms:
- 5 1. Form W-2: Wage and Tax Statement
- 6 2. IRS Form 1042-S: Foreign Persons U.S. Source Income Subject to Withholding
- 3. IRS Form 1098: Mortgage Interest
- 4. IRS Form 1099: Miscellaneous Income
- 5. IRS Form 8300: Currency Transaction Report
- 10 6. IRS Form K-1

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STATUTORY "gross income" can include many types of earnings, but ALL such "earnings" must be connected to the "trade or business" and "public office" excise taxable franchise. A very common and specific type of payment that would be classified as "gross income" received by most Americans would be payments of interest and original issue discounts found in 26 U.S.C. §6049. Below is the requirement to report:

15 16	26 C.F.R. §1.6049-4 - Return of information as to interest paid and original issue discount includible in gross income after December 31, 1982.
17	(a)Requirement of reporting -
18	(1)In general.
19 20 21	Except as provided in <u>paragraph (c)</u> of this section, an information return shall be made by a <u>payor</u> , as <u>defined</u> in <u>paragraph (a)(2)</u> of this section, of <u>amounts</u> of <u>interest</u> and <u>original issue discount</u> paid after December 31, 1982. Such return shall contain the information described in <u>paragraph (b)</u> of this section.
22 23	(2) Payor. For payments made after December 31, 2002, a payor is a person described in paragraph (a)(2)(i) or (ii) of this section.
24 25	(i) Every person who makes a payment of the type and of the amount subject to reporting under this section (or under an applicable section under this chapter) to any other person during a calendar year.
26 27 28	(ii) Every person who collects on behalf of another person payments of the type and of the amount subject to reporting under this section (or under an applicable section under this chapter), or who otherwise acts as a middleman (as defined in paragraph (f)(4) of this section) with respect to such payment.

The above regulation establishes who the "person" is against whom such payment must be reported:

26 C.F.R. §1.6049-4 - Return of information as to interest paid and original issue discount includible in gross income after December 31, 1982.

(f) Definitions. For purposes of section 6049, this section, and §§ 1.6049-5 and 1.6049-6:

(1)Person.

The term person includes any governmental unit, international organization, and any agency or instrumentality thereof. Therefore, interest paid by one of these entities must be reported unless one of the exceptions under section 6049 applies.

"International organization" is defined in 26 U.S.C. §7701(a)(18):

26 U.S. Code § 7701 - Definitions

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

(18) International organization

been considered as vested in the sovereign authority of the state. The creation of a corporation, whether public or private, is an act of sovereignty, whereby a portion of the sovereign powers is conferred upon the

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corporators. In this country corporate rights and franchises can only be conferred by legislative enactment. Field, Priv. Corp. §§ 11, 15; Bank v. Earle, 13 Pet. 595, 587. Corporations are created, and their rights, powers, and privileges are granted, for the public good. Dartmouth College v. Woodward, 4 Wheat, 637, In the case of private incorporations, which are grants of exclusive franchises and special privileges to particular individuals, the theory that such corporations are created for some supposed public good has furnished the legitimate ground in this country for such an exercise of legislative power. Cooley, Const. Lim. p. 394. In Field on Private Corporations (section 17) it is said: "The legislatures of the several states have, by their respective constitutions, the power to make laws and legislate upon all subjects pertaining to the public benefit, and this, In the absence of express provisions on the subject, carries with it, by implication, the right to use all the means requisite to the accomplishment of the objects of legislation consistent with the purposes for which the 10 government is instituted and with the state and national constitutions. The public benefit to be derived is the 11 consideration on the part of the state for the creation of private corporations. The motive of the sovereign 12 creating it is supposed to be some good the public will derive from it. This advantage has been considered 13 sufficient to bring their creation by the legislatures within the scope of the general powers to legislate for the 14 public benefit, and it seems now to be universally recognized." In consideration, therefore, of the grant of 15 special privileges and franchises, the corporation accepting it enters into an implied obligation to the sovereign 16 grantor to exercise all the functions and perform all the duties necessary to fulfill the ends of its creation and 17 promote the supposed public good; and this implied contract made with the sovereign power inures to the benefit of every individual interested in its performance. Dartmouth College v. Woodward, 4 Wheat. 637, 658; 19 20 Cooley, Const. Lim. p. 248." [Swift v. State, 7 Houst. 338, 32 A. 143 (Del. Super., 1886)] 21 So in other words, the STATUTORY term "person" includes ONLY governmental units, which means that only interest 22 payments BOTH FROM the government and TO the government are classified as being reportable and therefore "gross 23 income". 24 26 C.F.R. §1.6049-4 - Return of information as to interest paid and original issue discount includible in gross 25 income after December 31, 1982. 26 (a)Requirement of reporting -27 (2) Payor. For payments made after December 31, 2002, a payor is a person described in paragraph (a)(2)(i) or 28 (ii) of this section. (i) Every person who makes a payment of the type and of the amount subject to reporting under this 30 section (or under an applicable section under this chapter) to any other person during a calendar year. 31 32 33

The only lame excuse that the government can come back with to defend against this one is to point to the word "includes" and then claim that the word allows them to add the COMMON MEANING to the term person IN ADDITION to the statutory meaning. This violates the rules of statutory construction:

> "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)]

"The United States Supreme Court cannot supply what Congress has studiously omitted in a statute." [Federal Trade Com. v. Simplicity Pattern Co., 360 U.S. 55, p. 55, 475042/56451 (1959)]

Anyone in government who uses this false and deceptive excuse therefore has the burden of proving that the rules of statutory construction DO NOT apply OR that there is a SPECIFIC provision of code that SUPERSEDES the above definitions for this section of code. We haven't found one.

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More information about the abuse of "includes" can be found in:

<u>Legal Deception, Propaganda, and Fraud</u>, Form #05.014, Section 15.2 http://sedm.org/Forms/FormIndex.htm

8.24 <u>Statutory "U.S.** citizens" and "U.S.** residents(aliens)" born on federal territory, domiciled there, and</u> working there owe Subtitle A income tax on their earnings while there

<u>False Argument</u>: Statutory "U.S.** citizens" and "U.S.* residents" born on federal territory, domiciled there, and working there owe Subtitle A income tax on their earnings while there.

Corrected Alternative Argument: Statutory "U.S.** citizens" (8 U.S.C. §1401) and "U.S.** residents (aliens)" (26 U.S.C. §7701(b)(1)(A)) only owe tax on earnings earned abroad under 26 U.S.C. §911. They are not subject to either withholding or reporting when working in the "United States**" pursuant to 26 C.F.R. §1.1441(d). By "United States**", we mean that defined in 26 U.S.C. §7701(a)(9) and (a)(10) and 4 U.S.C. §110(d).

Further information:

- 1. 26 U.S.C. §911.
- 2. <u>Citizenship Status v. Tax Status</u>, Form #10.011 -summary of citizenship status v. tax status, including how presence abroad affects it
 - https://sedm.org/Forms/10-Emancipation/CitizenshipStatusVTaxStatus/CitizenshipVTaxStatus.htm
- 3. <u>Flawed Tax Arguments to Avoid</u>, Form #08.004, Section 8.20: The phrase "wherever resident" in 26 C.F.R. §1.1-1 means WHEREVER LOCATED, not WHEREVER DOMICILED OR LOCATED ABROAD. http://sedm.org/Forms/FormIndex.htm
- 4 It is a very common false belief especially by the IRS and the Department of Justice to claim that:
- 5 "Statutory "U.S.** citizens" and "U.S.* residents" born on federal territory, domiciled there, and working there 6 owe Subtitle A income tax on their earnings while there".
- In many cases, they probably know it is false but earn such a windfall in collections that aren't actually owed that they pretend they don't know it. There is an overwhelming amount of evidence proving that this belief is wrong. Below is a summary of
- 9 some of it:

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1. Jesus (God) identified who the real "taxpayers" are:

When they [Jesus and Apostle Peter] had come to Capernaum, those [collectors] who received the temple tax [the government has become the modern day socialist pagan god and Washington, D.C. is our civic "temple"] came to Peter and said, "Does your Teacher [Jesus] not pay the temple tax?

He [Apostle Peter] said, "Yes." [Jesus, our fearless leader as Christians, was a nontaxpayer]

And when he had come into the house, Jesus anticipated him, saying, "What do you think, Simon? From whom do the kings [governments] of the earth [lawfully] take customs or taxes, from their sons [citizens and subjects] or from strangers ["aliens", which are synonymous with "residents" in the tax code, and exclude "citizens"]?"

Peter said to Him, "From strangers ["aliens"/"residents" ONLY. See 26 C.F.R. §§1.1-1(a)(2)(ii) and 26 C.F.R. §1.1441-1(c)(3)]."

Jesus said to him, "Then the sons ["citizens" of the Republic, who are all sovereign "non-resident non-persons", Form #05.020, or "nationals", Form #05.006] are free [sovereign over their own person and labor. e.g. SOVEREIGN IMMUNITY]. "
[Matt. 17:24-27, Bible, NKJV]

2. The ONLY section of the Internal Revenue Code dealing with withholding on human beings is 26 U.S.C. §1441, and it imposes withholding ONLY upon "nonresident aliens". Statutory "U.S.** citizens" and "U.S.** residents" are NOWHERE mentioned as being liable to withholding.

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- The ONLY place in the entire Internal Revenue Code which imposes ANY liability is upon withholding agents making 1 payments to "nonresident aliens". 26 U.S.C. §1461. There is no liability statute dealing with "U.S.** citizens" or 2 "U.S.** residents". 3
- The only place where the earnings of citizens and residents is expressly taxes is in 26 U.S.C. §911. 4
 - 5. Human beings who are citizens and residents present in the statutory "United States**" are collectively identified as statutory "U.S. persons" in 26 U.S.C. §7701(a)(30).
- Statutory "U.S. persons" are not expressly identified as "persons" under 26 U.S.C. §7701(a)(1), 26 U.S.C. §6671(b) (penalties), and 26 U.S.C. §7343 (criminal enforcement). Therefore, statutory "U.S.** Persons", "U.S.** citizens", and 8 "U.S.** residents" are not subject to penalties or criminal enforcement or the Internal Revenue Code Subtitles A or C while they are situated in the statutory geographical "United States**" (federal zone).
 - 26 C.F.R. §1.1441-1(d) expressly exempts statutory "U.S.** persons" from withholding under 26 U.S.C. Chapter 3 and reporting under 26 U.S.C. Chapter 61. This exemption USED to appear on the Form W-9 but was cleverly hidden by the IRS from the form starting in 2012, so that people would overlook invoking it and end up paying money to the government that the law says they DO NOT owe. It can still be invoked by checking "Other" and invoking 26 C.F.R. §1.1441-1(d). See:

Great IRS Hoax, Form #11.302, Section 6.9.20 https://sedm.org/Forms/FormIndex.htm

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26 C.F.R. §1.1-1(b) says income is taxable "whether the income is received from sources within or without the United States" but 26 C.F.R. §1.911-3 says the place of receipt is immaterial because it is attributable to the place the services are performed, which in the case of statutory "U.S. persons" is the statutory "United States**" (federal zone). ONLY if the income is earned from services performed abroad does it become "earned income" under I.R.C. Subtitle A.

> "Earned income is from sources within a foreign country if it is attributable to services performed by an individual in a foreign country or countries. The place of receipt of earned income is immaterial in determining whether earned income is attributable to services performed in a foreign country or countries.' [26 C.F.R. §1.911-3(a); SOURCE: https://law.justia.com/cfr/title26/26-10.0.1.1.1.0.1.4.html]

- 26 C.F.R. §1.1441-1(c)(3) defines the term "individual" as ONLY an "alien". Hence:
 - 9.1. You can't be a statutory "U.S. person" and a statutory "individual" at the same time. Aliens are not within the definition of statutory "U.S. person".
 - 9.2. Citizens and residents are not taxable by default because they are not "aliens", no matter WHERE they are physically located.
 - 9.3. The only time statutory "U.S. persons" can become statutory "individuals" and therefore "persons" under the I.R.C. is when they are abroad, and they are identified as "qualified individuals" in 26 U.S.C. §911(d)(1) when in that condition.
- 10. The upper left corner of the IRS Form 1040 identifies the filer as a 'U.S. Individual", which can ONLY mean "alien" per 26 C.F.R. §1.1441-1(c)(3). If a statutory "U.S.** citizen" or "U.S.** resident" abroad is filing the form, they must indicate that they are "qualified individuals" by attaching an IRS Form 2555 to the Form 1040.
- 11. The cases cited at the end of the famous Brushaber v. Union Pacific Railroad Co., 240 U.S. 1 all deal with nonresident aliens rather than state citizens. This case is a favorite authority of the IRS. Those cases are: Field v. Clark, 143 U.S. 649; Buttfield v. Stranahan, 192 U.S. 470, 496; Oceanic Steam Navigation Co. v. Stranahan, 214 U.S. 320. Excise taxes, which include the income tax, are always laid at the national level on nonresident aliens importing goods into the COUNTRY. It is collected upon activities within the plenary jurisdiction of the national government, being the seaways, and not within a state of the Union.
- 12. The Law of Nations, which is the document that the Founding Fathers based the constitution on, says that "citizens" are agents of the state when abroad. The decision to BE a statutory "citizen" is of course voluntary and cannot be compelled, but if you invoke the protection of the state while abroad, you owe it a tax to pay for the protection VOLUNTARILY demanded:

The Law of Nations, Book II: Of a Nation Considered in Her Relation to Other States § 81. The property of the citizens is the property of the nation, with respect to foreign nations.

Even the property of the individuals is, in the aggregate, to be considered as the property of the nation, with respect to other states. It, in some sort, really belongs to her, from the right she has over the property of her citizens, because it constitutes a part of the sum total of her riches, and augments her power. She is interested in that property by her obligation to protect all her members. In short, it cannot be otherwise, since nations act and treat together as bodies in their quality of political societies, and are considered as so many moral persons. All those who form a society, a nation being considered by foreign nations as constituting only one whole, one single person, — all their wealth together can only be considered as the wealth of that same person. And this is to true, that each political society may, if it pleases, establish within itself a community of goods, as Campanella

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did in his republic of the sun. Others will not inquire what it does in this respect: its domestic regulations make no change in its rights with respect to foreigners nor in the manner in which they ought to consider the aggregate of its property, in what way soever it is possessed.

[The Law of Nations, Book II, Section 81, Vattel;

SOURCE: http://famguardian.org/Publications/LawOfNations/vattel_02.htm#§ 81. The property of the citizens is the property of the nation, with respect to foreign nations.]

Some people try to apply the above facts as a state national to claim "U.S. person" status under 26 U.S.C. §7701(a)(30). We prove earlier in section 8.8 that doing so is a bad idea. Those state nationals who are FORCED to submit withholding paperwork in the form of either a Form W-8 or Form W-9 AND NOTHING ELSE should consult the following document on how to deal with such CRIMINAL EXTORTION to get you to commit perjury about your status:

<u>Federal and State Tax Withholding Options for Private Employers</u>, Form #09.001 https://sedm.org/Forms/FormIndex.htm

The Law of Nations mentioned above is the document upon which the Founding Fathers wrote the Constitution. It is even mentioned in Article I of the Constitution. The implications of the above document are that calling yourself a "citizen" makes you a presumed officer of the government holding temporary title to government property, which is ALL of your property while you are abroad and being protected by the nation you are a "member" or STATUTORY "citizen" of. The implication is that:

1. If you want to own property at all while abroad and have it protected by the national government, you must consent to become an officer of the government called a statutory "citizen" and effectively convert or transmute all your property to PUBLIC property. The U.S. Supreme Court, in fact, has defined such a "citizen" as an officer of the government:

"Under our own systems of polity, the term 'citizen', implying the same or similar relations to the government and to society which appertain to the term, 'subject' in England, is familiar to all. Under either system, the term used is designed to apply to man in his individual character and to his natural capacities -- to a being or agent [of government, also called a PUBLIC OFFICER!] possessing social and political rights and sustaining social, political, and moral obligations. It is in this acceptation only, therefore, that the term 'citizen', in the article of the Constitution, can be received and understood. When distributing the judicial power, that article extends it to controversies between 'citizens' of different states. This must mean the natural physical beings composing those separate communities, and can by no violence of interpretation be made to signify artificial, incorporeal, theoretical, and invisible creations. A corporation, therefore, being not a natural person, but a mere creature of the mind, invisible and intangible, cannot be a citizen of a state, or of the United States, and cannot fall within the terms or the power of the above mentioned article, and can therefore neither plead nor be impleaded in the courts of the United States."

[Rundle v. Delaware & Raritan Canal Company, 55 U.S. 80, 99 (1852) from dissenting opinion by Justice Daniel]

- 2. You must share ownership with the government if you want to be a STATUTORY "citizen" and receive the "benefit"/franchise of the government's CIVIL STATUTORY protection WHILE ABROAD.
- 3. You aren't allowed by law to ABSOLUTELY own ANY private property while abroad as a statutory "citizen" under 8 U.S.C. §1401. The essence of ownership is "the right to exclude", according to the U.S. Supreme Court. See Nollan v. California Coastal Comm'n, 483 U.S. 825 (1987) and Kaiser Aetna v. United States, 444 U.S. 164 (1979). That means you aren't allowed to exclude the government from using or benefitting from the use of the property and the government is the REAL owner. Would you hire a security guard called "government" if the cost of the protection was to transfer ownership TO the security guard? NOT! Hence, this is what we call a "supernatural power" that makes the government literally a pagan deity over all property.

EXHIBIT:_____

⁶⁰ "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)]

[&]quot;In this case, we hold that the "right to exclude," so universally held to be a fundamental element of the property right,[11] 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).

- The GOVERNMENT gets to determine how much of the property you want protected that THEY own or control, and how much is left over for you. That is because they write the laws that regulate the use of all PUBLIC property. You are a mere equitable rather than absolute owner of the property.
- The sharing of ownership in legal terms is called a "moiety". With these factors in mind, why the HELL would anyone want to call themselves a STATUTORY "citizen"?
 - 1. Isn't the purpose of forming government to protect absolutely and exclusively owned PRIVATE property and PRIVATE rights?
 - 2. Isn't the ability to own property the essence of "happiness" itself according to the Declaration of Independence?
 - 3. How can you be "happy" if you have to share ownership of EVERYTHING with the government and turn EVERYTHING you own essentially into PUBLIC property to have any protection at all?
 - 4. Doesn't any government system where there is no absolutely and exclusively owned PRIVATE PROPERTY a socialist government in conflict with the founding document?
 - 5. Why do we need a Bill of Rights to protect absolutely owned Private Property if all property is PUBLIC property whose ownership has to be shared with the government and the government can deprive you of any part or all of the property by virtue of you sharing ownership with them while abroad?
 - For details on moities and the sharing ownership with the government, see:

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

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Obviously, the "price" of government protection is too high, and therefore a rational and informed person would have to conclude that having "allegiance" and requesting civil statutory "protection" from the government as a security guard over their property is something that they should NOT do under ANY circumstance, and ESPECIALLY when they are abroad.

"Protectio trahit subjectionem, subjectio projectionem.
Protection draws to it subjection, subjection, protection. Co. Litt. 65."
[Bouvier's Maxims of Law, 1856;
SOURCE: http://famguardian.org/Publications/BouvierMaximsOfLaw/BouviersMaxims.htm

The way to REJECT that protection is to simply NOT claim any of the "benefits" or protection of the privileged statutory "citizen" status, shift your domicile to a place outside the protection of that government, and identify yourself as a "non-resident non-person" (Form #05.020) or "stateless person" to all those you do business with, including the government. Anyone who interferes with that choice, whether a human being or a financial company as a withholding agent is interfering with your First Amendment right NOT to associate with the government under the social compact and FORCING you to contract with the government and therefore surrender private rights that the Bill of Rights were designed to protect. If such rights REALLY are "unalienable" as the Declaration of Independence declares, it is IMPOSSIBLE to lose them or consent to give them away, even if you want to and even if you consent to on a withholding document. The only people who CAN lawfully consent are therefore those NOT protected by the constitution because they are either present on federal territory or abroad at the time they consented, as we prove in:

<u>Unalienable Rights Course</u>, Form #12.038 https://sedm.org/Forms/FormIndex.htm

8.25 Our "beliefs" (presumptions) are the only authority we need to enforce against you. We don't need no STINKING evidence!

<u>False Argument</u>: Our "beliefs" (presumptions) are the only authority we need to enforce against you. We don't need no STINKING evidence and we don't have to show you the evidence we have before we begin to enforce!

<u>Corrected Alternative Argument</u>: Due process ALWAYS allows you to confront your accuser and demand legally admissible evidence of the alleged obligation before it can lawfully be enforced. In court, without such evidence, the case has to be dismissed for lack of standing. The accuser is called the moving party, and the moving party ALWAYS has the burden of proof.

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Further information:

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- Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction, Form #05.017 https://sedm.org/Forms/05-MemLaw/Presumption.pdf
- Requirement for Reasonable Notice, Form #05.022 http://sedm.org/Forms/FormIndex.htm
- Requirement for Due Process of Law, Form #05.045. http://sedm.org/Forms/FormIndex.htm
- Sovereignty Forms and Instructions Online, Form #10.004, Cites by topic: "Due Process" https://famguardian.org/TaxFreedom/CitesByTopic/DueProcess.htm
- Most tax collection notices begin with "We believe...". There is a HUGE problem with this approach to tax collection because:
- You have a constitutional right to receive reasonable notice of everything that is expected of you BEFORE enforcement can be attempted. Without such notice, the enforcement becomes a constitutional tort. That which is NOT legally 4 admissible evidence does NOT satisfy such a requirement of legal notice. Rather, it is a mere commercial solicitation if 5 not signed under penalty of perjury by the real legal birthname of those contacting you. See Form #05.022. 6
 - 2. Beliefs and opinions are NOT legally admissible evidence per Federal Rules of Evidence 610.
 - 3. WITHOUT legally admissible evidence of a legal obligation or liability, if you dispute the collection action later in court, the government will DEFINITELY lose. See Form #12.040 and Form #09.073.
- Similar attempts to enforce a mere "belief" have failed in the cases in which the compelled use of Social Security Numbers was objected to on First Amendment religious grounds: 11

"Never to our knowledge has the Court interpreted the First Amendment to require the Government itself to behave in ways that the individual believes will further his or her spiritual development or that of his or her family. The Free Exercise Clause simply cannot be understood to require the Government to conduct its own internal affairs in ways that comport with the religious beliefs of particular citizens. Just as the Government may not insist that appellees engage in [476 U.S. 693, 700] any set form of religious observance, so appellees may not demand that the Government join in their chosen religious practices by refraining from using a number to identify their daughter. "[T]he Free Exercise Clause is written in terms of what the government cannot do to the individual, not in terms of what the individual can extract from the government." Sherbert v. Verner, 374 U.S. 398, 412 (1963) (Douglas, J., concurring).

As a result, Roy may no more prevail on his religious objection to the Government's use of a Social Security number for his daughter than he could on a sincere religious objection to the size or color of the Government's filing cabinets. The Free Exercise Clause affords an individual protection from certain forms of governmental compulsion; it does not afford an individual a right to dictate the conduct of the Government's internal procedures." [Bowen v. Roy, 476 U.S. 693 (1986)]

The exact same limitation above applies to the GOVERNMENT when IT tries to enforce ITS mere "beliefs" upon others in 27 ANY context, INCLUDING tax collection. This must be so under the concept of equal protection and equal treatment that 28 is the foundation of the United States Constitution. We explain this requirement in: 29

Requirement for Equal Protection and Equal Treatment, Form #05.033 https://sedm.org/Forms/FormIndex.htm

Also, a belief is equivalent to a presumption, and all presumptions violate due process of law, as is exhaustively proven in: 30

Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction, Form #05.017 https://sedm.org/Forms/05-MemLaw/Presumption.pdf

It is also important to realize that the courts have held that you must "exhaust your administrative remedies" before challenging an enforcement action in court, and this limitation applies BOTH to the government and those they are enforcing against.

> The corporation contends that, since it denies that interstate or foreign commerce is involved and claims that a hearing would subject it to irreparable damage, rights guaranteed by the Federal Constitution will be denied

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unless it be held that the District Court has jurisdiction to enjoin the holding of a hearing by the Board. So to hold would, as the government insists, in effect substitute the District Court for the Board as the tribunal to hear and determine what Congress declared the Board exclusively should hear and determine in the first instance. The contention is at war with the long-settled rule of judicial administration that no one is entitled to judicial relief for a supposed or threatened injury until the pre-[303 U.S. 41, 51] scribed administrative remedy has been exhausted. That rule has been repeatedly acted on in cases where, as here, the contention is made that the administrative body lacked power over the subject matter.

Obviously, the rules requiring exhaustion of the administrative remedy cannot be circumvented by asserting that the charge on which the complaint rests is groundless and that the mere holding of the prescribed administrative hearing would result in irreparable damage. ⁶⁴ Lawsuits also often prove to have been ground- [303 U.S. 41, 52] less; but no way has been discovered of relieving a defendant from the necessity of a trial to establish the fact. [Myers v. Bethlehem Shipbuilding Corp., 303 U.S. 41 (1938)]

You must in good faith exhaust administrative remedies under the terms of any applicable franchise agreement within reasonable limits. 28 U.S.C. §2675(a) requires exhaustion of administrative remedies before federal agencies in all matters affecting the agency. HOWEVER those who are NOT agents or officers of the government and therefore not SUBJECT to the franchise statutes DO NOT have to comply with any aspect of the franchise agreement in satisfying the need for exhaustion. Instead, they are mere victims of criminal identity theft and have a right as a matter of "justice" to be left alone by the agency, as documented in the following. For them, following the franchise statutes to exhaust administrative remedies would merely add insult to injury!

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

Consequently, in order for the government to survive judicial scrutiny (called "judicial review") following an enforcement action resulting in a lawsuit filed by you, they MUST have evidence in their possession and they HAVE to provide it to you during the exhaustion of administrative remedies under the Privacy Act, 5 U.S.C. §552a and hopefully ALSO in their responsive correspondence as well. Unfortunately, Privacy Act requests may not ask legal admissions or interrogatories as part of real legal discovery, so that mechanism won't be useful in producing all of the evidence needed to prove the ILLEGALITY or unconstitutionality of their enforcement action.

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⁶¹ In support of that contention the following cases were cited: Ohio Valley Water Co. v. Ben Avon Borough, <u>253 U.S. 287, 289</u>, 40 S.Ct. 527, 528; Bluefield Water Works Co. v. Public Service Commission, <u>262 U.S. 679, 683</u>, 43 S.Ct. 675; Phillips v. Commissioner, <u>283 U.S. 589, 600</u>, 51 S.Ct. 608, 612; Crowell v. Benson, <u>285 U.S. 22, 60</u>, 64 S., 52 S.Ct. 285, 296, 297; State Corporation Commission v. Wichita Gas Co., <u>290 U.S. 561, 569</u>, 54 S.Ct. 321, 324; St. Joseph Stock Yards Co. v. United States, <u>298 U.S. 38, 51</u>, 52 S., 56 S.Ct. 720, 725, 726.

⁶² The rule has been most frequently applied in equity where relief by injunction was sought. Pittsburgh &c. Ry. v. Board of Public Works, 172 U.S. 32, 44 , 45 S., 19 S.Ct. 90; Prentis v. Atlantic Coast Line Co., 211 U.S. 210, 230 , 29 S.Ct. 67; Dalton adding Machine Co. v. State Corporation Commission, 236 U.S. 699, 701 , 35 S.Ct. 480; Gorham Mfg. Co. v. State Tax Commission, 266 U.S. 265, 269 , 270 S., 45 S.Ct. 80, 81; Federal Trade Commission v. Claire Furnace Co., 274 U.S. 160, 174 , 47 S.Ct. 553, 556; Lawrence v. St. Louis-San Francisco Ry. Co., 274 U.S. 588, 592 , 593 S., 47 S.Ct. 720, 722; Chicago, M., St. P. & P.R.R. Co. v. Risty, 276 U.S. 567, 575 , 48 S.Ct. 396, 399; St. Louis-San Francisco Ry. Co. v. Alabama Public Service Commission, 279 U.S. 560, 563 , 49 S.Ct. 383, 384; Porter v. Investors' Syndicate, 286 U.S. 461, 468 , 471 S., 52 S.Ct. 617, 619, 620; United States v. Illinois Central Ry. Co., 291 U.S. 457, 463 , 464 S., 54 S.Ct. 471, 473, 474; Hegeman Farms Corp. v. Baldwin, 293 U.S. 163, 172 , 55 S.Ct. 7, 10; compare Red 'C' Oil Mfg. Co. v. North Carolina, 222 U.S. 380, 394 , 32 S.Ct. 152; Farncomb v. Denver, 252 U.S. 7, 12 , 40 S.Ct. 271, 273; Milheim v. Moffat Tunnel District, 262 U.S. 710, 723 , 43 S.Ct. 694, 698; McGregor v. Hogan, 263 U.S. 234, 238 , 44 S.Ct. 50, 51; White v. Johnson, 282 U.S. 367, 374 , 51 S.Ct. 115, 118; Petersen Baking Co. v. Bryan, 290 U.S. 570, 575 , 54 S.Ct. 277, 278; Pacific Tel. & Tel. Co. v. Seattle, 291 U.S. 300, 304 , 54 S.Ct. 383, 384. But because the rule is one of judicial administration-not merely a rule governing the exercise of discretion-it is applicable to proceedings at law as well as suits in equity. Compare First National Bank of Fargo v. Board of County Commissioners, 264 U.S. 450, 455 , 44 S.Ct. 385, 387; Anniston Mfg. Co. v. Davis, 301 U.S. 337, 343 , 57 S.Ct. 816, 819.

⁶³ Dalton Adding Machine Co. v. State Corporation Commission, 236 U.S. 699, 35 S.Ct. 480; Federal Trade Commission v. Claire Furnace Co., 274 U.S. 160, 47 S.Ct. 553; Lawrence v. St. Louis-San Francisco Ry. Co., 274 U.S. 588, 47 S.Ct. 720; St. Louis-San Francisco Ry. Co. v. Alabama Public Service Commission, 279 U.S. 560, 49 S.Ct. 383. Compare Western & Atlantic R.R. v. Georgia Public Service Commission, 267 U.S. 493, 496, 45 S.Ct. 409, 410, and case sited in note 1, supra.

⁶⁴ Such contentions were specifically rejected in Bradley Lumber Co. v. National Labor Relations Board, 5 Cir., 84 F.2d. 97; Clark v. Lindemann & Hoverson Co., 7 Cir., 88 F.2d. 59; Chamber of Commerce v. Federal Trade Commission, 8 Cir., 280 F. 45; Heller Bros. Co. v. Lind, 66 App.D.C. 306, 86 F.2d. 862; and Pittsburgh & W. Va. Ry. Co. v. Interstate Commerce Commission, 52 App.D.C. 40, 280 F. 1014. Compare United States v. Los Angeles & S.L.R.R. Co., 273 U.S. 299, 314, 47 S.Ct. 413, 416; Lawrence v. St. Louis-San Francisco Ry. Co., 274 U.S. 588, 47 S.Ct. 720; Dalton Adding Machine Co. v. State Corporation Commission, 236 U.S. 699, 35 S.Ct. 480; McChord v. Louisville & Nashville Ry. Co., 183 U.S. 483, 22 S.Ct. 165; Richmond Hosiery Mills v. Camp, 5 Cir., 74 F.2d. 200, 201.

- At this point, we must also be careful to precisely define what legally admissible evidence is that would be court admissible.
- Below is the criteria we use when writing response letters:
 - 1. It must be signed under penalty of perjury.

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- 2. The name of the party signing must be the full legal birthname. IRS agents typically use pseudonames (false names). See Form #04.206.
- 3. A photocopy of the driver license or NON-agency ID must be provided. IRS agents IDs use pseudonames (false names).
- 4. The response must include a physical address where the person responding can be personally served with legal summons if they falsified the evidence provided.

We'll give you a hint: NO ONE in the government wants to do the above and a very small few even attempt to try. Hence, their response is not legal evidence of anything and is therefore what we typically call a "non-response" and criminal obstruction of justice in our own correspondence with them. It is in fact also a criminal offense to respond in any other way than to provide the evidence requested in the form above.

18 U.S. Code § 1589. Forced labor 13 (a) Whoever knowingly provides or obtains the labor or services of a person by any one of, or by any combination 14 15 (1) by means of force, threats of force, physical restraint, or threats of physical restraint to that person or another 16 17 person: 18 (2) by means of <u>serious harm</u> or threats of <u>serious harm</u> to that <u>person</u> or another <u>person</u>; (3) by means of the abuse or threatened abuse of law or legal process; or 19 (4) by means of any scheme, plan, or pattern intended to cause the <u>person</u> to believe that, if that <u>person</u> did not 20 perform such labor or services, that <u>person</u> or another <u>person</u> would suffer <u>serious harm</u> or physical restraint, 21 shall be punished as provided under subsection (d). 22 (b) Whoever knowingly benefits, financially or by receiving anything of value, from participation in a venture 23 which has engaged in the providing or obtaining of labor or services by any of the means described in subsection 24 (a), knowing or in reckless disregard of the fact that the venture has engaged in the providing or obtaining of 25 labor or services by any of such means, shall be punished as provided in subsection (d). 26 27 (c)In this section: (1) The term "abuse or threatened abuse of law or legal process" means the use or threatened use of a law or 28 29 legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was 30 not designed, in order to exert pressure on another <u>person</u> to cause that <u>person</u> to take some action or refrain 31 from taking some action. (2) The term "serious harm" means any harm, whether physical or nonphysical, including psychological, 32 33 financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing 34 35 labor or services in order to avoid incurring that harm. (d) Whoever violates this section shall be fined under this title, imprisoned not more than 20 years, or both. If 36 37 death results from a violation of this section, or if the violation includes kidnaping, an attempt to kidnap, aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title, imprisoned for any 38 term of years or life, or both. 39 The above criminal offense ALSO includes administrative enforcement, not just physical police activity: 40 18 U.S.C. §1589(c)(1) 41 abuse or threatened abuse of law or legal process 42 43 (1)The term "abuse or threatened abuse of law or legal process" means the use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law 44

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- Government enforcement, if it in fact is targeted at those who are NOT the proper subject, constitutes "force" as defined
- above. Note that the word "force" is part of the word "enFORCEment". It is also an injustice, because it disturbs your right
- to simply be left alone. Form #05.050.

- In most cases, administrative correspondence or communication aimed at enforcement has the main purpose of ILLEGALLY
- demanding the payment of money, which then becomes an illegal bribe by an innocent party to get them to simply leave you
- alone. That is criminal racketeering. See 18 U.S.C. §1951. Irwin Schiff (now deceased) called such racketeering the "federal
- 9 mafia" and he wrote an entire book about it available on our website.
- To avoid the charge that their contact with you is NOT "abuse or threatened abuse of law or legal process", they HAVE to provide the evidence PROVING that:
 - 1. You are the proper target, meaning a statutory "taxpayer" physically within their geographical jurisdiction. . . AND
- 2. The obligation they allege was lawfully created.
- In most cases, you are NOT within their territorial jurisdiction and not lawfully engaged in the "activity" that is the proper subject of the tax. See:

<u>Challenge to Income Tax Enforcement Authority within Constitutional States of the Union</u>, Form #05.052 https://sedm.org/Forms/05-Memlaw/ChallengeToIRSEnforcementAuth.pdf

- ALSO in most cases, that obligation they allege was NOT lawfully created, as we exhaustively explain in:
- 1. <u>Lawfully Avoiding Government Obligations</u>, Form #12.040 https://sedm.org/LibertyU/AvoidGovernmentObligations.pdf
- 2. <u>Proof of Claim: Your Main Defense Against Government Greed and Corruption</u>, Form #09.073 https://sedm.org/Forms/09-Procs/ProofOfClaim.pdf
- We'll also give you a hint: They have NEVER disproved the above methods of rebuttal and CAN'T. So their response will evade the issues raised in the above documents and thus, subject you to the criminal PEONAGE in their evasion of providing the evidence needed to rebut the above.
- So in conclusion, they HAVE to provide the evidence needed to disprove the above and if they don't, then they are guilty of criminal peonage and an unconstitutional Fifth Amendment taking without compensation. The thing they are TAKING is your labor and services without compensation. The U.S. Supreme Court has held that there is an implied waiver of official, judicial, and sovereign immunity in the case where they have taken property without due compensation in violation of the Fifth Amendment. You can therefore successfully sue the government for the return of at least the economic value of the property STOLEN, such as your labor and services. See Armstrong v. United States, 364 U.S. 40 (1960) and Bull v. United States, 295 U.S. 247, 261, 55 S.Ct. 695, 700, 79 L.Ed. 1421.
- The key issue your government opponent will have to prove in court to defend against your suit is that the property was PUBLIC property at the time it was taken. The following presentation will completely DESTROY that defense:

<u>Separation Between Public and Private Course</u>, Form #12.025 https://sedm.org/LibertyU/SeparatingPublicPrivate.pdf

8.26 The income tax couldn't possibly be a "franchise" or an excise because it is upon ALL "citizens or residents"

Flawed Tax Arguments to Avoid, Version 1.27 Copyright Family Guardian Fellowship, http://famguardian.org Last Revised: 1/23/2018 <u>False Argument</u>: The Internal Revenue Code, Subtitles A and C income tax couldn't possibly be a franchise or excise because it is upon ALL "citizens" or "residents" and nonresident aliens, and not a specific subset or class of them.

Corrected Alternative Argument: The Internal Revenue Code, Subtitles A and C income tax is imposed in the regulations under 26 U.S.C. §1 upon a specific class of "citizens", "residents", and nonresident aliens not all people generally. The "citizens" and "residents" must be STATUTORY/territorial and not state citizens and the "nonresident aliens" must be at home. Those citizens, residents ABROAD, and nonresident aliens at home are STATUTORY citizens and residents and "individuals" who are in receipt of the taxable privilege of a public office. If they were indeed absolutely private, nonresident to the federal zone, and not exercising the privilege of a public office, they do not fall within the class of parties subject. They would not be statutorily exempt, but NOT SUBJECT, which is different.

Further information:

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- 1. <u>Government Franchises Course</u>, Form #12.012 http://sedm.org/Forms/FormIndex.htm
- Government Instituted Slavery Using Franchises, Form #05.030 http://sedm.org/Forms/FormIndex.htm
- 3. Why You are a "national", "state national", and Constitutional but not Statutory Citizen, Form #05.006 http://sedm.org/Forms/FormIndex.htm
- Covetous public servants are famous for falsely denying that the Internal Revenue Code Subtitles A and C income tax is a franchise or an excise. This section will prove them wrong.
- The legal definition of "franchise" is as follows:

FRANCHISE. A special privilege conferred by government on individual or corporation, and which does not belong to citizens of country generally of common right. Elliott v. City of Eugene, 135 Or. 108, 294 P. 358, 360. In England it is defined to be a royal privilege in the hands of a subject.

A "franchise," as used by Blackstone in defining quo warranto, (3 Com. 262 [4th Am. Ed.] 322), had reference to a royal privilege or branch of the king's prerogative <u>subsisting in the hands of the subject, and must arise from the king's grant, or be held by prescription</u>, but today we understand a franchise to be some special privilege conferred by government on an individual, natural or artificial, which is not enjoyed by its citizens in general. State v. Fernandez, 106 Fla. 779, 143 So. 638, 639, 86 A.L.R. 240.

In this country a franchise is a privilege or immunity of a public nature, which cannot be legally exercised without legislative grant. To be a corporation is a franchise. The various powers conferred on corporations are franchises. The execution of a policy of insurance by an insurance company [e.g. Social Insurance/Socialist Security], and the issuing a bank note by an incorporated bank [such as a Federal Reserve NOTE], are franchises. People v. Utica Ins. Co., 15 Johns. (N.Y.) 387, 8 Am.Dec. 243. But it does not embrace the property acquired by the exercise of the franchise. Bridgeport v. New York & N.H. R. Co., 36 Conn. 255, 4 Am.Rep. 63. Nor involve interest in land acquired by grantee. Whitbeck v. Funk, 140 Or. 70, 12 P.2d. 1019, 1020. In a popular sense, the political rights of subjects and citizens are franchises, such as the right of suffrage, etc. Pierce v. Emery, 32 N.H. 484; State v. Black Diamond Co., 97 Ohio.St. 24, 119 N.E. 195, 199, L.R.A.1918E, 352.

Elective Franchise. The right of suffrage: the right or privilege of voting in public elections.

 $\label{thm:exclusive} \textit{Exclusive Privilege or Franchise}. \textit{See Exclusive Privilege or Franchise}.$

General and Special. The charter of a corporation is its "general" franchise, while <u>a</u> "special" franchise consists in any rights granted by the public to use property for a public use but-with private profit. Lord v. Equitable Life Assur. Soc., 194 N.Y. 212, 87 N.E. 443, 22 L.R.A. (N.S.) 420.

Personal Franchise. A franchise of corporate existence, or one which authorizes the formation and existence of a corporation, is sometimes called a "personal" franchise. as distinguished from a "property" franchise, which authorizes a corporation so formed to apply its property to some particular enterprise or exercise some special privilege in its employment, as, for example, to construct and operate a railroad. See Sandham v. Nye, 9 Misc.Rep. 541, 30 N.Y.S. 552.

Secondary Franchises. The franchise of corporate existence being sometimes called the "primary" franchise of a corporation, its "secondary" franchises are the special and peculiar rights, privileges, or grants which it may, receive under its charter or from a municipal corporation, such as the right to use the public streets, exact tolls, collect fares, etc. State v. Topeka Water Co., 61 Kan. 547, 60 P. 337; Virginia Canon Toll Road Co. v. People,

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1	22 Colo. 429, 45 P. 398 37 L.R.A. 711. The franchises of a corporation are divisible into (1) corporate or general
2	franchises; and (2) "special or secondary franchises. The former is the franchise to exist as a corporation, while
3	the latter are certain rights and privileges conferred upon existing corporations. Gulf Refining Co. v. Cleveland
4	Trust Co., 166 Miss. 759, 108 So. 158, 160.
5	Special Franchisee. See Secondary Franchises, supra.
6	[Black's Law Dictionary, Fourth Edition, pp. 786-787]

Note key phrase, which seems to support the idea that the income tax couldn't be a franchise because it at least superficially seems to be imposed on ALL citizens, rather than a subset of them:

"A special privilege conferred by government on individual or corporation, and which <u>does not belong to citizens of country generally of common right</u>. Elliott v. City of Eugene, 135 Or. 108, 294 P. 358, 360. In England it is defined to be a royal privilege in the hands of a subject."

The problems with invoking this simplistic, presumptuous, and legally ignorant approach are numerous and reveal how incorrect it is:

1. The first income tax was declared "class legislation", in that it only applied to a SUBSET of all people. This continues to be true today with the modern I.R.C. Subtitles A and C income tax:

"The income tax law under consideration is marked by discriminating features which affect the whole law. It discriminates between those who receive an income of four thousand dollars and those who do not. It thus vitiates, in my judgment, by this arbitrary discrimination, the whole legislation. Hamilton says in one of his papers, (the Continentalist,) "the genius of liberty reprobates everything arbitrary or discretionary in taxation. It exacts that every man, by a definite and general rule, should know what proportion of his property the State demands; whatever liberty we may boast of in theory, it cannot exist in fact while [arbitrary] assessments continue." 1 Hamilton's Works, ed. 1885, 270. The legislation, in the discrimination it makes, is class legislation. Whenever a distinction is made in the burdens a law imposes or in the benefits it confers on any citizens by reason of their birth, or wealth, or religion, it is class legislation, and leads inevitably to oppression and abuses, and to general unrest and disturbance in society [e.g. wars, political conflict, violence, anarchy]. It was hoped and believed that the great amendments to the Constitution which followed the late civil war had rendered such legislation impossible for all future time. But the objectionable legislation reappears in the act under consideration. It is the same in essential character as that of the English income statute of 1691, which taxed Protestants at a certain rate, Catholics, as a class, at double the rate of Protestants, and Jews at another and separate rate. Under wise and constitutional legislation every citizen should contribute his proportion, however small the sum, to the support of the government, and it is no kindness to urge any of our citizens to escape from that obligation. If he contributes the smallest mite of his earnings to that purpose he will have a greater regard for the government and more self-respect 597*597 for himself feeling that though he is poor in fact, he is not a pauper of his government. And it is to be hoped that, whatever woes and embarrassments may betide our people, they may never lose their manliness and self-respect. Those qualities preserved, they will ultimately triumph over all reverses of fortune."

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"Here I close my opinion. I could not say less in view of questions of such gravity that go down to the very foundation of the government. If the provisions of the Constitution can be set aside by an act of Congress, where is the course of usurpation to end? The present assault upon capital is but the beginning. It will be but the stepping-stone to others, larger and more sweeping, till our political contests will become a war of the poor against the rich; a war constantly growing in intensity and bitterness."

"If the court sanctions the power of discriminating taxation, and nullifies the uniformity mandate of the Constitution," as said by one who has been all his life a student of our institutions, "it will mark the hour when the sure decadence of our present government will commence." If the purely arbitrary limitation of \$4000 in the present law can be sustained, none having less than that amount of income being assessed or taxed for the support of the government, the limitation of future Congresses may be fixed at a much larger sum, at five or ten or twenty thousand dollars, parties possessing an income of that amount alone being bound to bear the burdens of government; or the limitation may be designated at such an amount as a board of "walking delegates" may deem necessary. There is no safety in allowing the limitation to be adjusted except in strict compliance with the mandates of the Constitution which require its taxation, if imposed by direct taxes, to be apportioned among the States according to their representation, and if imposed by indirect taxes, to be uniform in operation and, so far as practicable, in proportion to their property, equal upon all citizens. Unless the rule of the Constitution governs, a majority may fix the limitation at such rate as will not include any of their own number."

[Pollock v. Farmers' Loan & Trust Co., 157 U.S. 429 (Supreme Court 1895)]

2. The U.S. Supreme Court also declared the current income tax an excise or privilege tax:

"As repeatedly pointed out by this court, the Corporation Tax Law of 1909..imposed an excise or privilege tax, and not in 2 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, 3 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 5 instrument.' [U.S. v. Whiteridge, <u>231 U.S. 144</u>, 34 S.Sup.Ct. 24 (1913)] The regulations under 26 U.S.C. §1 impose the income tax as follows: 8 26 C.F.R. §1.1-1 Income tax on individuals. 9 (a) General rule. 10 (1) Section 1 of the Code imposes an income tax on the income of every individual who is a citizen or resident of 11 12 the United States and, to the extent provided by section 871(b) or 877(b), on the income of a nonresident alien individual. 13 [...] 14 (b) Citizens or residents of the United States liable to tax. 15 16 In general, all citizens of the United States, wherever resident, and all resident alien individuals are liable to the income taxes imposed by the Code whether the income is received from sources within or without the 17 United States. Pursuant to section 876, a nonresident alien individual who is a bona fide resident of a section 18 931 possession (as defined in § 1.931-1(c)(1) of this chapter) or Puerto Rico during the entire taxable year is, 19 except as provided in section 931 or 933 with respect to income from sources within such possessions, subject to 20 taxation in the same manner as a resident alien individual. As to tax on nonresident alien individuals, see sections 21 871 and 877. 22 [26 C.F.R. §1.1-1(a)(1)] 23 The big problem with the above is first that it uses "liable TO" rather than "liable FOR". So it doesn't impose a legal 24 liability. 25 The second problem with 26 C.F.R. §1.1-1(a)(1) above is that it is written by the Secretary of the Treasury and not the 26 Congress. Regulations may NOT exceed the scope of the statute and in this case they do. U.S. v. Calamaro, 354 U.S. 27 351, 359 (1956). Hence, the provision can only affect people WITHIN the Department of the Treasury. The Secretary 28 has no authority to LEGISLATE an obligation that doesn't appear in the Internal Revenue Code itself, except in the case 29 of people and entities serving WITHIN his department and not elsewhere in the government. 30 "Tax' is legal imposition, exclusively of statutory origin, and liability to taxation must be read in statute, or it 31 does not exist." 32 [Bente v. Bugbee, 137 A. 552, 103 N.J. Law. 608 (1927)] 33 "The taxpayer must be liable for the tax. Tax liability is a condition precedent to the demand. Merely demanding 34 35 payment, even repeatedly, does not cause liability." [Bothke v. Terry, 713 F.2d. 1405, 1414 (1983)] 36 "Liability for taxation must clearly appear from statute imposing tax." 37 [Higley v. Commissioner of Internal Revenue, 69 F.2d. 160 (1934)] 38 The above definition of "franchise" mentions a "common right". On federal territory where STATUTORY "citizens" 39 and "residents" MUST be domiciled, there are NO constitutional protections on federal territory within the exclusive 40 jurisdiction of Congress, and therefore the above language doesn't apply: 41 "Indeed, the practical interpretation put by Congress upon the Constitution has been long continued and uniform 42 43 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,

<u>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</u>, 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

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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, <u>182 U.S. 244</u> (1901)]

7. STATUTORY/territorial "citizens" under 8 U.S.C. §1401 are in fact privileged. This is the main reason, in fact, that they can be made taxable to begin with.

> "Finally, this Court is mindful of the years of past practice in which territorial citizenship has been treated as a statutory [PRIVILEGE!], and not a constitutional, right. In the unincorporated territories of Puerto Rico, Guam, the U.S. Virgin Islands, and the Northern Mariana Islands, birthright citizenship was conferred upon their inhabitants by various statutes many years after the United States acquired them, See Amicus Br. at 10-11. If the Citizenship Clause guaranteed birthright citizenship in unincorporated territories, these statutes would have been unnecessary. While longstanding practice is not sufficient to demonstrate constitutionality, such a practice requires special scrutiny before being set aside. See, e.g., Jackman v. Rosenbaum Co., 260 U.S. 22, 31 (1922) (Holmes, J.) ("If a thing has been practiced for two hundred years by common consent, it will need a strong case for the Fourteenth Amendment to affect it[.]"); Walz v. Tax Comm'n, 397 U.S. 664, 678 (1970) ("It is obviously correct that no one acquires a vested or protected right in violation of the Constitution by long use. ... Yet an unbroken practice . . . is not something to be lightly cast aside."). And while Congress cannot take away the citizenship of individuals covered by the Citizenship Clause, it can bestow citizenship upon those not within the Constitution's breadth. See U.S. Const, art. IV, § 3, cl. 2 ("Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory belonging to the United States[**]."); id. at art. I, § 8, cl. 4 (Congress may "establish an uniform Rule of Naturalization . . . "). To date, Congress has not seen fit to bestow birthright citizenship upon American Samoa, and in accordance with the law, this Court must and will respect that choice.16

[Tuaua v. U.S.A, 951 F.Supp.2d. 88 (2013)]

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"The Naturalization Clause [of the Fourteenth Amendment] has a geographic limitation: it applies "throughout the United States." The federal courts have repeatedly construed similar and even identical language in other clauses to include states and incorporated territories, but not unincorporated territories. In Downes v. Bidwell, 182 U.S. 244, 21 S.Ct. 770, 45 L.Ed. 1088 (1901), one of the Insular Cases, the Supreme Court held that the Revenue Clause's identical explicit geographic limitation, "throughout the United States," did not include the unincorporated territory of Puerto Rico, which for purposes of that Clause was "not part of the United States." Id. at 287, 21 S.Ct. 770. The Court reached this sensible result because unincorporated territories are not on a path to statehood. See Boumediene v. Bush, 553 U.S. 723, 757-58, 128 S.Ct. 2229, 171 L.Ed.2d. 41 (2008) (citing Downes, 182 U.S. at 293, 21 S.Ct. 770). In Rabang v. I.N.S., 35 F.3d. 1449 (9th Cir. 1994), this court held that the Fourteenth Amendment's limitation of birthright citizenship to those "born ... in the United States" did not extend citizenship to those born in the Philippines during the period when it was an unincorporated territory. U.S. Const., 14th Amend., cl. 1; see Rabang, 35 F.3d. at 1451. Every court to have construed that clause's geographic limitation has agreed. See Valmonte v. I.N.S., 136 F.3d, 914, 920-21 (2d Cir.1998); Lacap v. I.N.S., 138 F.3d. 518, 519 (3d Cir.1998); Licudine v. Winter, 603 F.Supp.2d. 129, 134 (D.D.C.2009).

Like the constitutional clauses at issue in Rabang and Downes, the Naturalization Clause is expressly limited to the "United States." This limitation "prevents its extension to every place over which the government exercises its sovereignty." Rabang, 35 F.3d. at 1453. Because the Naturalization Clause did not follow the flag to the CNMI when Congress approved the Covenant, the Clause does not require us to apply federal immigration law to the CNMI prior to the CNRA's transition date. [Eche v. Holder, 694 F.3d. 1026 (2012)]

Statutes ARE NOT necessary to describe state citizens or nationals (in a common law and not statutory sense), because the Fourteenth Amendment and the Constitution describes their eligibility for citizenship or naturalization. Thus, the authority for state citizenship of those born in constitutional states DOES NOT derive from U.S. Code Title 8, but the constitution and they are not found in Title 8 of the U.S. code:

> "If the Citizenship Clause guaranteed birthright citizenship in unincorporated territories, these statutes would have been unnecessary.

[Tuaua v. U.S.A, 951 F.Supp.2d. 88 (2013)]

9. State citizens domiciled outside of federal territory and domiciled within the exclusive jurisdiction of a Constitutional state cannot be STATUTORY "citizens" under 8 U.S.C. §1401 and therefore are not privileged, as are STATUTORY citizens. Hence, they cannot be subject to excise or privilege taxes by virtue of their CONSTITUTIONAL but not

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STATUTORY status as "citizens". The U.S. Supreme Court held, in fact, that Congress CANNOT establish a taxable privilege within a Constitutional state that they can tax, which INCLUDES the I.R.C. Subtitles A and C income tax:

"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)]

10. The income tax is, in fact, a tax upon EXACTLY the very thing that the U.S. Supreme Court held above could NOT be taxed within a Constitutional state. Namely a statutory "trade or business", which is defined as "the functions of a public office" in 26 U.S.C. §7701(a)(26). Earnings are not "reportable" under 26 U.S.C. §6041 and therefore "taxable" or

"gross income" UNLESS the earnings are connected with this public office. See:

The "Trade or Business" Scam, Form #05.001 https://sedm.org/Forms/FormIndex.htm

11. Anyone in receipt of a privilege is a public officer:

privilege \ priv-lij, | pri-və-\ noun

[Middle English, from Anglo-French, from Latin privilegium law for or against a private person, from privus private + leg-, lex law] 12th century: a right or immunity granted as a peculiar benefit, advantage, or favor: prerogative especially: such a <u>right or immunity attached specifically to a position or an office</u> [Mish, F. C. (2003). Preface. Merriam-Websters collegiate dictionary. (Eleventh ed.). Springfield, MA: Merriam-Webster, Inc.]

12. The income tax imposed in the regulations therefore is a tax upon the PRIVILEGE of territorial citizenship or residency WHEN abroad under 26 U.S.C. §911 or nonresident aliens when doing business in federal territory but who are not domiciled or physically present there. The only area within constitutional states where such parties can exist is within federal enclaves but nowhere else. In fact, the IRS Office of Chief Counsel Memorandum Number 200634001 establishes that such enclaves are the ONLY place where the income tax can apply within a constitutional state, under the Buck Act, 4 U.S.C. §110(d). That is the ONLY authority they cite to the City of Los Angeles for instituting an income tax upon their workers:

<u>IRS Office of Chief Counsel Memorandum Number 200634001</u>, SEDM Exhibit #09.042 https://sedm.org/Exhibits/ExhibitIndex.htm

Consequently, the claim that the Internal Revenue Code Subtitles A and C income taxes are NOT "franchise" or excise taxes is clearly FALSE.

All franchise taxes are taxes upon the loan of public property used for profit. In this case, the property being loaned are the PUBLIC rights attached to the STATUTORY civil status of "citizen" or "resident" domiciled on federal territory. All such parties are naturalized aliens who remain privileged AFTER they are STATUTORILY rather than CONSTITUTIONALLY naturalized:

"Constitutionally, only those born or naturalized in the United States and subject to the jurisdiction thereof, are citizens. Const.Amdt. XIV. The power to fix and determine the rules of naturalization is vested in the Congress. Const.Art. I, sec. 8, cl. 4. Since all persons born outside of the [CONSTITUTIONAL] United States, are "foreigners,"[1] and not subject to the jurisdiction of the United States, the statutes, such as § 1993 and 8 U.S.C.A. §601 [currently 8 U.S.C. §1401], derive their

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	validity from the naturalization power of the Congress. Elk v. Wilkins, 1884, 112 U.S. 94, 101, 2
2	S.Ct. 41, 28 L.Ed. 643; Wong Kim Ark v. U. S., 1898, 169 U.S. 649, 702, 18 S.Ct. 456, 42 L.Ed. 890. Persons
3	in whom citizenship is vested by such statutes are naturalized citizens and not native-
ļ.	born citizens. Zimmer v. Acheson, 10 Cir. 1951, 191 F.2d. 209, 211; Wong Kim Ark v. U. S., supra."
5	[Ly Shew v. Acheson, 110 F.Supp. 50 (N.D. Cal., 1953)]
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,	FOOTNOTES:
3	[1] See Boyd v. State of Nebraska ex rel. Thayer, 1892, 143 U.S. 135, 12 S.Ct. 375, 36 L.Ed. 103; U.S. v
)	<u>Harbanuk, 2 Cir. 1933, 62 F.2d. 759, 761</u> .

These STATUTORY statuses are legislative creations of Congress and privileges, and those who exercise them are among the few subject to legislative oversite and control by Congress because exercising said privilege.

> Although Crowell and Raddatz do not explicitly distinguish between rights created by Congress and other rights, such a distinction underlies in part Crowell's and Raddatz' recognition of a critical difference between rights created by federal statute and rights recognized by the Constitution. Moreover, such a distinction seems to us to be necessary in light of the delicate accommodations required by the principle of separation of powers reflected in Art. III. The constitutional system of checks and balances is designed to guard against "encroachment or aggrandizement" by Congress at the expense of the other branches of government. Buckley v. Valeo, 424 U.S., at 122, 96 S.Ct., at 683. But when Congress creates a statutory right [a "privilege" in this case, such as a "trade or business"], it clearly has the discretion, in defining that right, to create presumptions, or assign burdens of proof, or prescribe remedies; it may also provide that persons seeking to vindicate that right must do so before particularized tribunals created to perform the specialized adjudicative tasks related to that right.FN35 Such provisions do, in a sense, affect the exercise of judicial power, but they are also incidental to Congress' power to define the right that it has created. No comparable justification exists, however, when the right being adjudicated is not of congressional creation. In such a situation, substantial inroads into functions that have traditionally been performed by the Judiciary cannot be characterized merely as incidental extensions of Congress' power to define rights that it has created. Rather, such inroads suggest unwarranted encroachments upon the judicial power of the United States, which our Constitution reserves for Art. III courts. [Northern Pipeline Const. Co. v. Marathon Pipe Line Co., 458 U.S. at 83-84, 102 S.Ct. 2858 (1983)]

The same privileged status applies to "nonresident aliens" who re the only parties subject to withholding under the Internal Revenue Code. These parties are the subject of an "implied license" and therefore a FRANCHISE also:

> The reasons for not allowing to other aliens exemption 'from the jurisdiction of the country in which they are found' were stated as follows: 'When private individuals of one nation [states of the Unions are "nations" under the law of nations] spread themselves through another as business or caprice may direct, mingling indiscriminately with the inhabitants of that other, or when merchant vessels enter for the purposes of trade, it would be obviously inconvenient and dangerous to society, and would subject the laws to continual infraction, and the government to degradation, if such individuals or merchants did not owe temporary and local allegiance, and were not amenable to the jurisdiction of the country. Nor can the foreign sovereign have any motive for wishing such exemption. His subjects thus passing into foreign countries are not employed by him, nor are they engaged in national pursuits. Consequently, there are powerful motives for not exempting persons of this description from the jurisdiction of the country in which they are found, and no one motive for requiring it. The implied license, therefore, under which they enter, can never be construed to grant such exemption.' 7 Cranch, 144.

> In short, the judgment in the case of The Exchange declared, as incontrovertible principles, that the jurisdiction of every nation within its own territory is exclusive and absolute, and is susceptible of no limitation not imposed by the nation itself; that all exceptions to its full and absolute territorial jurisdiction must be traced up to its own consent, express or implied; that upon its consent to cede, or to waive the exercise of, a part of its territorial jurisdiction, rest the exemptions from that jurisdiction of foreign sovereigns or their armies entering its territory with its permission, and of their foreign ministers and public ships of war; and that the implied license, under which private individuals of another nation enter the territory and mingle indiscriminately with its inhabitants, for purposes of business or pleasure, can never be construed to grant to them an exemption from the jurisdiction of the country in which they are found. See, also, Carlisle v. U.S. (1872) 16 Wall. 147, 155; Radich v. Hutchins (1877) 95 U.S. 210; Wildenhus' Case (1887) 120 U.S. 1, 7 Sup.Ct. 385; Chae Chan Ping v. U.S. (1889) 130 U.S. 581, 603, 604, 9 Sup.Ct. 623. [United States v. Wong Kim Ark, 169 U.S. 649, 18 S.Ct. 456, 42 L.Ed. 890 (1898)]

The fact that Congress cannot unilaterally take away the CONSTITUTIONAL citizenship status of a CONSTITUTIONAL/state citizen is proof that it is a RIGHT and not a PRIVILEGE, and that the human possessing the status is the ABSOLUTE, UNQUALIFIED owner. Afroyim v. Rusk, 387 U.S. 253 (1967). In fact, they DO take away STATUTORY citizenship all the time, as pointed out in Rogers v. Bellei, 401 U.S. 815 (1971). The same is NOT true in the

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1 2	case of STATUTORY citizens. If they can take it away without your consent, then it's a privilege and its PUBLIC property under the control of Congress and not you.
3	"We have repeatedly held that, as to property reserved by its owner for private use, "the right to exclude fothers
4	is] `one of the most essential sticks in the bundle of rights that are commonly characterized as property."
5	Loretto v. Teleprompter Manhattan CATV Corp., 458 U.S. 419, 433 (1982), quoting Kaiser Aetna v. United
6	States, 444 U.S. 164, 176 (1979). "
7	[Nollan v. California Coastal Comm'n, 483 U.S. 825 (1987)]
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9	"In this case, we hold that the "right to exclude," so universally held to be a fundamental element of the
10	property right, ^[11] falls within this category of interests that the Government cannot take without
11	compensation."
12	[Kaiser Aetna v. United States, 444 U.S. 164 (1979)]
13	[11] See, e. g., United States v. Pueblo of San Ildefonso, 206 Ct.Cl. 649, 669-670, 513 F.2d. 1383, 1394 (1975);
14	United States v. Lutz, 295 F.2d. 736, 740 (CA5 1961). As stated by Mr. Justice Brandeis, "[a]n essential element
15 16	of individual property is the legal right to exclude others from enjoying it." <u>International News Service v.</u> Associated Press, 248 U.S. 215, 250 (1918) (dissenting opinion).
17 18 19	It is, however, criminal identity theft to confuse a CONSTITUTIONAL citizen with a STATUTORY citizen in order to extraterritorially and illegally enforce the Internal Revenue Code within the exclusive jurisdiction of a Constitutional state, and documented below:
	Government Identity Theft, Form #05.046
	https://sedm.org/Forms/FormIndex.htm
20	Given that the I.R.C. Subtitles A and C income tax are a franchise/excise tax, we would now like to further explain exactly
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21	WHAT property is being loaned and thereby taxed. In legal parlance, the loan of the STATUTORY CIVIL STATUS of
22	"citizen" or "resident" makes the recipient a temporary trustee, and if they violate their trust, the property can be taken back
23 24	through administrative action or physical seizure and without legal process so long as the conditions of the loan allowed for these methods of enforcement:
25	"How, then, are purely equitable obligations created? For the most part, either by the acts of third persons or by
26	equity alone. But how can one person impose an obligation upon another? By giving property to the latter on
27	the terms of his assuming an obligation in respect to it. At law there are only two means by which the object of
28	the donor could be at all accomplished, consistently with the entire ownership of the property passing to the
29	donee, namely: first, by imposing a real obligation upon the property; secondly, by subjecting the title of the donee to a condition subsequent. The first of these the law does not permit; the second is entirely inadequate.
30 31	Equity, however, can secure most of the objects of the doner, and yet avoid the mischiefs of real obligations by
32	imposing upon the donee (and upon all persons to whom the property shall afterwards come without value or
33	with notice) a personal obligation with respect to the property; and accordingly this is what equity does. It is in
34	this way that all trusts are created, and all equitable charges made (i.e., equitable hypothecations or liens created)
35	by testators in their wills. In this way, also, most trusts are created by acts inter vivos, except in those cases in
36	which the trustee incurs a legal as well as an equitable obligation. In short, as property is the subject of every
37	equitable obligation, so the owner of property is the only person whose act or acts can be the means of creating
38	an obligation in respect to that property. Moreover, the owner of property can create an obligation in respect
39	to it in only two ways: first, by incurring the obligation himself, in which case he commonly also incurs a legal
40	obligation; secondly, by imposing the obligation upon some third person; and this he does in the way just
41	explained."
42	[Readings on the History and System of the Common Law, Second Edition, Roscoe Pound, 1925, p. 543]
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14	"When Sir Matthew Hale, and the sages of the law in his day, spoke of property as affected by a public interest,
45	and ceasing from that cause to be juris privati solely, that is, ceasing to be held merely in private right, they
46	referred to
47	[1] property dedicated [DONATED] by the owner to public uses, or
48	[2] to property the use of which was granted by the government [e.g. Social Security Card], or
19	[3] in connection with which special privileges were conferred [licenses].

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Unless the property was thus dedicated [by one of the above three mechanisms], or some right bestowed by the 2 government was held with the property, either by specific grant or by prescription of so long a time as to imply a grant originally, the property was not affected by any public interest so as to be taken out of the category of 3 property held in private right." [Munn v. Illinois, 94 U.S. 113, 139-140 (1876)] 5 The above authorities imply that a mere act of accepting or using the property in question in effect represents "implied consent" to abide 6 by the conditions associated with the loan, as described in the California Civil Code below: CALIFORNIA CIVIL CODE 8 **DIVISION 3. OBLIGATIONS** PART 2. CONTRACTS 10 CHAPTER 3. CONSENT Section 1589 12 1589. A voluntary acceptance of the benefit of a transaction is equivalent to a consent to all the obligations 13 arising from it, so far as the facts are known, or ought to be known, to the person accepting. 14 The U.S. Supreme Court further acknowledged the above mechanisms of using loans of government property to create 15 equitable obligations against the recipient of the property as follows. Note that they ALSO imply that YOU can use exactly 16 the same mechanism against the government to impose obligations upon them, if they are trying to acquire your physical 17 property, your services, your labor, your time, or impose any kind of obligation (Form #12.040) against you without your 18 express written consent, because all such activities involve efforts to acquire what is usually PRIVATE, absolutely owned 19 property that you can use to control the GOVERNMENT as the lawful owner: 20 "The State in such cases exercises no greater right than an individual may exercise over the use of his own 21 property when leased or loaned to others. The conditions upon which the privilege shall be enjoyed being stated 22 or implied in the legislation authorizing its grant, no right is, of course, impaired by their enforcement. The 23 recipient of the privilege, in effect, stipulates to comply with the conditions. It matters not how limited the privilege conferred, its acceptance implies an assent to the regulation of its use and the compensation for it." 25 [Munn v. Illinois, 94 U.S. 113 (1876)] The injustice (Form #05.050), sophistry, and deception (Form #05.014) underlying their welfare state system is that: 27 Governments don't produce anything, but merely transfer wealth between otherwise private people (see Separation 28 Between Public and Private Course, Form #12.025). 29 The money they are paying you can never be more than what you paid them, and if it is, then they are abusing their 30 taxing powers! 31 To lay, with one hand, the power of the government on the property of the citizen, and with the other to bestow 32 it upon favored individuals to aid private enterprises and build up private fortunes, is none the less a robbery 33 because it is done under the forms of law and is called taxation. This is not legislation. It is a decree under 34 35 legislative forms. Nor is it taxation. 'A tax,' says Webster's Dictionary, 'is a rate or sum of money assessed on the person or 36 property of a citizen by government for the use of the nation or State.' 'Taxes are burdens or charges imposed 37 by the Legislature upon persons or property to raise money for public purposes.' Cooley, Const. Lim., 479. 38 Coulter, J., in Northern Liberties v. St. John's Church, 13 Pa.St. 104 says, very forcibly, 'I think the common 39 mind has everywhere taken in the understanding that taxes are a public imposition, levied by authority of the 40 government for the purposes of carrying on the government in all its machinery and operations—that they are 41 imposed for a public purpose,' See, also Pray v. Northern Liberties, 31 Pa.St. 69; Matter of Mayor of N.Y., 11 42 Johns., 77; Camden v. Allen, 2 Dutch., 398; Sharpless v. Mayor, supra; Hanson v. Vernon, 27 Ia., 47; Whiting v. 43 Fond du Lac, supra." 44 45 [Loan Association v. Topeka, 20 Wall. 655 (1874)]

3. If they try to pay you more than you paid them, they must make you into a public officer to do so to avoid the prohibition of the case above. In doing so, they in most cases must illegally establish a public office and in effect use "benefits" to criminally bribe you to illegally impersonate such an office. See The "Trade or Business" Scam, Form #05.001 for details.

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- 4. Paying you back what was originally your own money and NOTHING more is not a "benefit" or even a loan by them 1 to you. If anything, it is a temporary loan by you to them! And its an unjust loan because they don't have to pay 2 interest! 3
- 5. Since you are the real lender, then you are the only real party who can make rules against them and not vice versa. See 4 Article 4, Section 3, Clause 2 of the Constitution for where the ability to make those rules comes from. 5
 - 6. All franchises are contracts that require mutual consideration and mutual obligation to be enforceable. Since government isn't contractually obligated to provide the main consideration, which is "benefits" and isn't obligated to provide ANYTHING that is truly economically valuable beyond that, then the "contract" or "compact" is unenforceable against you and can impose no obligations on you based on mere equitable principals of contract law.

"We must conclude that a person covered by the Act has not such a right in benefit payments ... This is not to say, however, that Congress may exercise its power to modify the statutory scheme free of all constitutional restraint." [Flemming v. Nestor, 363 U.S. 603 (1960)]

Notice the phrase "free of all Constitutional restraint" above. The ONLY place where that can happen is federal territory or 14 abroad, because the Constitution attaches to LAND within the exclusive jurisdiction of a Constitutional state where rights are 15 UNALIENABLE and federal privileges cannot be either offered or taxed. 16

For further details on government franchises, see: 17

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- 1. Sovereignty Forms and Instructions Online, Form #10.014, Cites by Topic: "franchise" http://famguardian.org/TaxFreedom/CitesByTopic/franchise.htm
- 2. Government Franchises Course, Form #12.012 20 Slides: https://sedm.org/LibertyU/GovFranchises.pdf 21

Video: http://youtu.be/vnDcauqlbTQ

- Government Instituted Slavery Using Franchises, Form #05.030 23 https://sedm.org/Forms/05-MemLaw/Franchises.pdf 24
- For information on how to avoid franchise, quit them, or use your own PERSONAL franchises to DEFEND yourself against 25 illegal government franchise administration or enforcement, usually against ineligible parties, see: 26
- Avoiding Traps on Government Forms Course, Form #12.023 27 https://sedm.org/LibertyU/AvoidingTrapsGovForms.pdf 28
- 2. Path to Freedom, Form #09.015, Section 5 29
 - https://sedm.org/Forms/09-Procs/PathToFreedom.pdf
 - Injury Defense Franchise and Agreement, Form #06.027 https://sedm.org/Forms/06-AvoidingFranch/InjuryDefenseFranchise.pdf
 - SEDM Forms/Pubs page, Section 1.5: Avoiding Government Franchises https://sedm.org/Forms/FormIndex-Singlepg.htm#1.6.__AVOIDING_GOVERNMENT_FRANCHISES_AND_LICENSES
- 5. <u>The Government "Benefits" Scam</u>, Form #05.040 (Member Subscription form) 36 https://sedm.org/Forms/FormIndex.htm 37
- 6. Why the Government is the Only Real Beneficiary of All Government Franchises, Form #05.051 (Member Subscription 38 39 40
 - https://sedm.org/Forms/FormIndex.htm
 - Deliberately confusing STATUTORY "Nonresident Aliens" with "Aliens" in order to destroy the advantages of being a Nonresident Alien⁶⁵

65 Source:	Non-Resident Non-Pe	erson Position, Forn	n #05.020, Section	10.4.2:	http://sedm.org/	Forms/FormIndex.htm

EXHIBIT:___

False Argument: "Nonresident aliens" are a subset or type of "alien"

Corrected Alternative Argument: "Nonresident aliens" are NOT equivalent to "aliens" nor are they a subset of "aliens" generally. They are a distinct class of persons all their own.

Further information:

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- Non-Resident Non-Person Position, Form #05.020 http://sedm.org/Forms/FormIndex.htm
- Why You are a "national", "state national", and Constitutional but not Statutory Citizen, Form #05.006 http://sedm.org/Forms/FormIndex.htm
- Legal Basis for the Term "Nonresident Alien", Form #05.036 http://sedm.org/Forms/FormIndex.htm
- Great IRS Hoax, Form #11.302, Chapter 5: http://sedm.org/Forms/FormIndex.htm
- A popular technique promoted and encouraged by the IRS is to:
- 1. Deliberately confuse "nonresident aliens" with "aliens". "nonresident aliens" as defined in 26 U.S.C. §7701(b)(1)(B) and "aliens" as defined in 26 U.S.C. §7701(b)(1)(A) are not the same. Why have multiple definitions if they are the
- 2. Deliberately confuse CONSTITUTIONAL "non-resident aliens" with STATUTORY "nonresident aliens" under the I.R.C. They are NOT the same. One can be a CONSTITUTIONAL "non-resident alien" as the U.S. Supreme Court calls it while NOT being an "nonresident alien" under the I.R.C. because the two contexts rely on DIFFERENT definitions and contexts for the geographical terms. "United States" in the Constitution and "United States" in the Internal Revenue Code are mutually exclusive and non-overlapping.
- 3. Falsely tell you or imply that "nonresident aliens" include only those aliens that are not resident within a constitutional state. In fact, they are "aliens" who are not domiciled in the federal zone or the STATUTORY "United States" as defined in 26 U.S.C. §7701(a)(9) and (a)(10).
- 4. Deceive you into believing that "nonresident aliens" and "nonresident alien individuals" are equivalent. They are not. It is a maxim of law that things that are similar are NOT the same:

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Talis non est eadem, nam nullum simile est idem.
What is like is not the same, for nothing similar is the same. 4 Co. 18.
[Bouvier's Maxims of Law, 1856;
SOURCE: http://famguardian.org/Publications/BouvierMaximsOfLaw/BouviersMaxims.htm]
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For instance, the older version of IRS Form W-8BEN block 3 included many types of entities and "persons" that are NOT "individuals".

- Refuse to define what a "nonresident alien" is and what is included in the definition within 26 U.S.C. §7701(b)(1)(B). This makes it a NON-DEFINITION. It cannot be a "definition" in a legal context unless it expressly includes ALL things or classes of things that are included.
- 6. Define what it ISN'T, and absolutely refuse to define what it IS.
- Refuse to acknowledge that "nationals" as defined in 8 U.S.C. §1101(a)(21) and 8 U.S.C. §1101(a)(22):
 - 7.1. Are STATUTORY "nonresident aliens" if they are engaged in a public office in the national government and abroad as "resident aliens" in relation to the country they are in under 26 U.S.C. §911 and are receiving the benefits of a tax treaty with that country.
 - 7.2. Are "non-resident non-persons" if not engaged in a public office or not abroad or abroad but not accepting tax treaty benefits under 26 C.F.R. §301.7701(b)-7.

All of the confusion and deception surrounding "nonresident alien" status is introduced and perpetuated mainly in the IRS Publications and the Treasury Regulations. It is not found in the Internal Revenue Code. "Nonresident aliens" and "aliens" are not equivalent in law, and confusing them has the following direct injurious consequences against those who are state nationals:

Prejudicing their ability to claim "nonresident alien" status at financial institutions and employers. This occurs because without either a Treasury Regulation or IRS publication they can point to which proves that they are a "nonresident alien", they will not have anything they can show these institutions in order that their status will be recognized when

Flawed Tax Arguments to Avoid, Version 1.27 290 of 523 Copyright Family Guardian Fellowship, http://famguardian.org EXHIBIT:__

- they open accounts or pursue employment. This compels them in violation of the law because of the ignorance of bank 1 clerks and employers into declaring that they are privileged "U.S. persons" and enumerating themselves just in order to 2 obtain the services or employment that they seek. 3
- Unlawfully preventing state nationals from being able to change their domicile if they mistakenly claim to be "residents" 4 of the United States. 26 C.F.R. §1.871-5 says that an intention of an "alien" to change his domicile/residence is 5 insufficient to change it whereas a similar intention on the part of a "non-citizen national" is sufficient. 6

The above injuries to the rights of "nationals" such as those born in the possessions is very important, because we prove in the following document and elsewhere on our website that all humans born within and domiciled within the exclusive jurisdiction of either a possession or a state of the Union are "nationals" and that those born in states of the Union are state nationals pursuant to 8 U.S.C. §1101(a)(21). This injury is therefore widespread and vast in its consequences:

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

Let's show some of the IRS deception to disguise the availability of "nonresident alien" status to state nationals so that they don't use it. Below is the definition of "Nonresident alien"

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

```
\underline{TITLE\ 26} > \underline{Subtitle\ F} > \underline{CHAPTER\ 79} > \S\ 7701
13
                                 § 7701. Definitions
14
                                 (b) Definition of resident alien and nonresident alien
15
                                 (1) In general
16
                                       (B) Nonresident alien
17
                                       An individual is a nonresident alien if such individual is neither a citizen of the United States nor a
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                                       resident of the United States (within the meaning of subparagraph (A)).
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Below are two consistent definitions of "alien":

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(c) Definitions
22
                             (3) Individual.
23
                             (i) Alien individual.
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                             The term alien individual means an individual who is not a citizen or a national of the United States. See Sec.
                             1.1-1(c).
26
27
                             TITLE 8 > CHAPTER 12 > SUBCHAPTER 1 > § 1101
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28 § 1101. Definitions 29

- (a) As used in this chapter—
- (3) The term "alien" means any person not a citizen or national of the United States.

Notice based on the above definitions that:

- They define what "alien" and "nonresident alien" are **NOT**, but *not* what they **ARE**.
- The definition of "nonresident alien" is **NOT** equivalent to "alien". Otherwise, why have two definitions?
- There are three classes of entities that are "nonresident aliens", which include:
 - 3.1. "Aliens" with no domicile or residence within the STATUTORY "United States**", meaning federal territory.
 - 3.2. State nationals born within and domiciled within Constitutional states of the Union and defined in 8 U.S.C. §1101(a)(21) if engaged in a public office and abroad and receiving tax treaty benefits under 26 C.F.R. §301.7701(b)-7.
 - 3.3. "non-citizen nationals of the United States**" born in possessions and defined in 8 U.S.C. §1408. These areas include American Samoa and Swains Island. They are even listed on the 1040NR form as "nonresident aliens":

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https://famguardian.org/Subjects/Taxes/Citizenship/IRSForm1040nr-USNational.pdf

NOTE that Items 3.2 and 3.3 above are not "ALIENS" OF any kind IN RELATION TO THE UNITED STATES**. They are only "resident aliens" in relation to the foreign country they are in when abroad. Under Title 8, you cannot simultaneously be an "alien" in 8 U.S.C. §1101(a)(3) and a "national of the United States*" in 8 U.S.C. §1101(a)(22). Item 3.3 above is corroborated by:

1. The content of IRS Publication 519, Tax Guide for Aliens, which obtusely mentions what it calls "U.S. nationals", which it then defines as persons domiciled in American Samoa and Swains Island who do not elect to become statutory "U.S. citizens".

"A U.S. national is an <u>alien</u> 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 choose to become U.S. nationals instead of U.S. citizens"

[IRS Publication 519: Tax Guide for Aliens (2007), p. 43]

The above statement is partially <u>false</u>. A statutory "national of the United States**" as defined in 8 U.S.C. §1101(a)(22) is NOT an "alien", because aliens exclude "nationals of the United States*" based on the definition of "alien" found in 26 C.F.R. §1.1441-1(c)(3)(i) and 8 U.S.C. §1101(a)(3). The "U.S. national" to which they refer also very deliberately is neither mentioned nor defined anywhere in the Internal Revenue Code or the Treasury Regulations as being "nonresident alien", even though they in fact are and IRS Publication 519 admits that they are. The only statutory definition CLOSE to "U.S. national" is found in 8 U.S.C. §1101(a)(22)(B) and 8 U.S.C. §1408. However, the existence of this person is also found on IRS Form 1040NR itself for years 2002 to 2017, which mentions it as a status as being a "nonresident alien". ⁶⁶ By the way, don't let the government fool you by using the above as evidence in a legal proceeding because it ISN'T competent evidence and cannot form the basis for a reasonable belief or willfulness. The IRS itself says you cannot and should not rely on anything in any of their publications. The IRS, in fact, routinely deceives and lies in their publications and their forms and does so with the blessings and even protection of the federal district courts, even though they hypocritically sue the rest of us for "abusive tax shelters" if we offer the public equally misleading information. For details on this subject, see:

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

2. 26 U.S.C. §877(a), which describes a "nonresident alien" who lost citizenship to avoid taxes and therefore is subject to a special assessment as a punishment for that act of political dis-association. Notice the statute doesn't say a "citizen of the United States[**]" losing citizenship, but a "nonresident alien". The "citizenship" they are referring to is the "nationality" described in 8 U.S.C. §1101(a)(21) and NOT the statutory "U.S.[**] citizen" status found in 8 U.S.C. §1401 and 8 U.S.C. §1101(a)(22)(A).

<u>TITLE 26</u> > <u>Subtitle A</u> > <u>CHAPTER 1</u> > <u>Subchapter N</u> > <u>PART II</u> > <u>Subpart A</u> > § 877 § 877. Expatriation to avoid tax

(a) Treatment of expatriates

(1) In general

Every nonresident alien individual to whom this section applies and who, within the 10-year period immediately preceding the close of the taxable year, lost United States citizenship shall be taxable for such taxable year in the manner provided in subsection (b) if the tax imposed pursuant to such subsection (after any reduction in such tax under the last sentence of such subsection) exceeds the tax which, without regard to this section, is imposed pursuant to section 871.

So let's get this straight: 8 U.S.C. §1101(a)(3) and 26 C.F.R. §1.1441-1(c)(3)(i) both say that you cannot be an "alien" if you are a "national" and yet, the IRS Publications such as IRS Publication 519, Tax Guide for Aliens, Year 2007 and the Treasury Regulations frequently identify these same "nationals" as "aliens". Earth calling IRS. Hello? Anybody home? The least they could do is describe WHO they are "alien" in relation to, because it isn't the United States*. It is the foreign country

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For a historical record of older IRS 1040NR forms, see: 1. IRS: <a href="https://apps.irs.gov/app/picklist/list/priorFormPublication.html?sortColumn=currentYearRevDate&indexOfFirstRow=0&value=1040&criteria=formNumber&resultsPerPage=25&isDescending=false; 2. Tax Analysts: https://www.taxhistory.org/www/website.nsf/Web/1040TaxForms?OpenDocument.

they are temporarily in while domiciled in the federal zone and accepting tax treaty benefits under 26 U.S.C. §911(d) and 26 C.F.R. §301.7701(b)-1.

The IRS knows that the key to being sovereign as an American National born in a state of the Union and domiciled there is being a non-resident non-person not engaged in a "trade or business". So what do they do to prevent people from achieving this status? They surround the status with cognitive dissonance, lies, falsehoods, and mis-directions. Hence one of our favorite sayings:

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"The truth about the income tax is so precious to the government that it must be surrounded by a bodyguard of lies."
[Unknown]
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Nowhere within the Internal Revenue Code, the Treasury Regulations, or IRS Publication 519, Tax Guide for Aliens will you find a definition of the term "national" which is mentioned in 8 U.S.C. §1101(a)(21), and which describes a human being born within and domiciled within a state of the Union. You will also never see a definition of who is included in the definition of "a person who, though not a citizen of the United States, owes permanent allegiance to the United States" found in 8 U.S.C. §1101(a)(22)(B). We'll give you a hint, the definition of "a person who, though not a citizen of the United States, owes permanent allegiance to the United States" found in 8 U.S.C. §1101(a)(22)(B) includes only statutory "U.S.[**] nationals" found in 8 U.S.C. §1408. However, both state nationals in 8 U.S.C. §1101(a)(21) and "U.S.** nationals" under 8 U.S.C. §1101(a)(22)(B) are treated the same for tax purposes, which means they are "nonresident aliens" and not "aliens". Consequently, unlike aliens, those who are "nationals":

- 1. Are not bound by any of the regulations pertaining to "aliens", because they are NOT "aliens" as legally defined...
- 2. Do not have to file IRS Form 8840 in order to associate with the "foreign state" they are domiciled within in order to be automatically exempt from I.R.C. Subtitle A taxes.
- 3. Are forbidden to file a "Declaration of Intention" to become "U.S. residents" pursuant to 26 C.F.R. §1.871-4 and IRS Form 1078.
- 4. Are not privileged and cannot have the "presence test" applied to them like "aliens" from a foreign country would.

The reasons for not allowing to other aliens exemption 'from the jurisdiction of the country in which they are found' were stated as follows: 'When private individuals of one nation [states of the Unions are "nations" under the law of nations] spread themselves through another as business or caprice may direct, mingling indiscriminately with the inhabitants of that other, or when merchant vessels enter for the purposes of trade, it would be obviously inconvenient and dangerous to society, and would subject the laws to continual infraction, and the government to degradation, if such individuals or merchants did not owe temporary and local allegiance, and were not amenable to the jurisdiction of the country. Nor can the foreign sovereign have any motive for wishing such exemption. His subjects thus passing into foreign countries are not employed by him, nor are they engaged in national pursuits. Consequently, there are powerful motives for not exempting persons of this description from the jurisdiction of the country in which they are found, and no one motive for requiring it. The implied license, therefore, under which they enter, can never be construed to grant such exemption.' 7 Cranch, 144.

In short, the judgment in the case of The Exchange declared, as incontrovertible principles, that the jurisdiction of every nation within its own territory is exclusive and absolute, and is susceptible of no limitation not imposed by the nation itself; that all exceptions to its full and absolute territorial jurisdiction must be traced up to its own consent, express or implied; that upon its consent to cede, or to waive the exercise of, a part of its territorial jurisdiction, rest the exemptions from that jurisdiction of foreign sovereigns or their armies entering its territory with its permission, and of their foreign ministers and public ships of war; and that the implied license, under which private individuals of another nation enter the territory and mingle indiscriminately with its inhabitants, for purposes of business or pleasure, can never be construed to grant to them an exemption from the jurisdiction of the country in which they are found. See, also, Carlisle v. U.S. (1872) 16 Wall. 147, 155; Radich v. Hutchins (1877) 95 U.S. 210; Wildenhus' Case (1887) 120 U.S. 1, 7 Sup.Ct. 385; Chae Chan Ping v. U.S. (1889) 130 U.S. 581, 603, 604, 9 Sup.Ct. 623.

[United States v. Wong Kim Ark, 169 U.S. 649, 18 S.Ct. 456, 42 L.Ed. 890 (1898)]

If you are still confused at this point about state nationals and who they are, you may want to go back to examine the diagrams and tables at the end of section 8.1 until the relationships become clear in your mind.

Moving on, why does the IRS play this devious sleight of hand? Remember: everything happens for a reason, and here are the reasons:

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1. IRS has a vested interest to maximize the number of "taxpayers" contributing to their scam. Taxation is based on legal

"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)]

Therefore, IRS has an interest in compelling persons domiciled in states of the Union into falsely declaring their domicile within the "United States". The status that implies domicile is "U.S. persons" as defined in 26 U.S.C. §7701(a)(30). "U.S. persons" include either statutory "citizens of the United States" as defined in 26 C.F.R. §1.1-1(c) or "resident aliens" as defined in 26 U.S.C. §7701(b)(1)(A) and both have in common a legal domicile in the "United States".

- 2. IRS does not want people born within and domiciled within states of the Union, who are "nationals" pursuant to 8 U.S.C. §1101(a)(21) but not STATUTORY "citizens" per 8 U.S.C. §1401 to know that "nationals" are included in the definition of "nonresident alien". This would cause a mass exodus from the tax system and severely limit the number of "taxpayers" that they may collect from. That is why they listed "U.S. nationals" as "nonresident aliens" on the 1040NR form between 2002 and 2017 but stopped after that. They wanted to plug the leak in the dam.
- 3. IRS wants to prevent state nationals from using the nonresident alien status so as to force them, via presumption, into falsely declaring their status to be that of a privileged "U.S. person" as defined in 26 U.S.C. §7701(a)(30). This will create a false presumption that they maintain a domicile on federal territory and are therefore subject to federal jurisdiction and "taxpayers".
- 4. By refusing to define EXACTLY what is included in the definition of "nonresident alien" in both Treasury Regulations and IRS publications or acknowledging that "nationals" are included in the definition, those opening bank accounts at financial institutions and starting employment will be deprived of evidence which they can affirmatively use to establish their status with these entities, which in effect compels presumption by financial institutions and employers within states of the Union that they are statutory "U.S. persons" (26 U.S.C. §7701(a)(30)) who MUST have an identify number, such as a Social Security Number or a Taxpayer Identification Number. This forces them to participate in a tax system that they can't lawfully participate in without unknowingly making false statements about their legal status by mis-declaring themselves to be "U.S. persons".

Below are several examples of this deliberate, malicious IRS confusion between "aliens" and "nonresident aliens" found within the Treasury Regulations, where "nonresident alien <u>individuals</u>" are referred to as "aliens" that we have found so far. All of these examples are the result of a false presumption that "nonresident aliens" are a subset of all "aliens", which is NOT the case. We were able to find no such confusion within the I.R.C., but it is rampant within the Treasury Regulations.

- 1. <u>IRS Publication 515: Withholding of Tax on Nonresident Aliens and Foreign Corporations</u>. This confusion is found throughout this IRS publication.
- 2. <u>IRS Publication 519: Tax Guide for Aliens</u>. This publication should not even be discussion "nonresident aliens", because they aren't a subset of "aliens" unless the word "nonresident alien" is followed with the word "individual".
- 3. <u>26 C.F.R. §1.864-7(b)(2)</u>:

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[Revised as of April 1, 2006]
41
42
                            From the U.S. Government Printing Office via GPO Access
                            [Page 318-321]
43
                            TITLE 26--INTERNAL REVENUE
44
                            CHAPTER I--INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY
45
                             (CONTINUED)
46
                            PART 1_INCOME TAXES--Table of Contents
                            Sec. 1.864-7 Definition of office or other fixed place of business.
48
49
                            (b) Fixed facilities--
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                            (2) Use of another person's office or other fixed place of business.
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                            A nonresident alien individual or a foreign corporation shall not be considered to have an office or other fixed
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                            place of business merely because such alien individual or foreign corporation uses another person's office or
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other fixed place of business, whether or not the office or place of business of a related person, through which 2 to transact a trade or business, if the trade or business activities of the alien individual or foreign corporation in that office or other fixed place of business are relatively sporadic or infrequent, taking into account the overall 3 needs and conduct of that trade or business. 26 C.F.R. §1.864-7(d)(1)(i)(b): [Revised as of April 1, 2006] 6 From the U.S. Government Printing Office via GPO Access [Page 318-321] 8 TITLE 26--INTERNAL REVENUE 9 CHAPTER I--INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY 10 (CONTINUED) 11 PART 1 INCOME TAXES--Table of Contents 12 Sec. 1.864-7 Definition of office or other fixed place of business. 13 14 (d) Agent activity. 15 (1) Dependent agents. 16 (i) In general. 17 18 In determining whether a nonresident alien individual or a foreign corporation has an office or other fixed place of business, the office or other fixed place of business of an agent who is not an independent agent, as defined in 19 20 subparagraph (3) of this paragraph, shall be disregarded unless such agent (a) has the authority to negotiate and conclude contracts in the name of the nonresident alien individual or foreign 21 corporation, and regularly exercises that authority, or 22 (b) has a stock of merchandise belonging to the nonresident alien individual or foreign corporation from which 23 orders are regularly filed on behalf of such alien individual or foreign corporation. 24 A person who purchases goods from a nonresident alien individual or a foreign corporation shall not be 25 considered to be an agent for such alien individual or foreign corporation for purposes of this paragraph where 26 such person is carrying on such purchasing activities in the ordinary course of its own business, even though 27 such person is related in some manner to the nonresident alien individual or foreign corporation. For example, 28 a wholly owned domestic subsidiary corporation of a foreign corporation shall not be treated as an agent of the 29 foreign parent corporation merely because the subsidiary corporation purchases goods from the foreign parent 30 corporation and resells them in its own name. However, if the domestic subsidiary corporation regularly 31 negotiates and concludes contracts in the name of its foreign parent corporation or maintains a stock of 32 merchandise from which it regularly fills orders on behalf of the foreign parent corporation, the office or other 33 fixed place of business of the domestic subsidiary corporation shall be treated as the office or other fixed place 34 of business of the foreign parent corporation unless the domestic subsidiary corporation is an independent agent 35 within the meaning of subparagraph (3) of this paragraph. 36 26 C.F.R. §1.872-2(b)(1): 37 [Code of Federal Regulations] 38 [Title 26, Volume 9] 39 [Revised as of April 1, 2006] 40 From the U.S. Government Printing Office via GPO Access 41 [Page 367-369] 42 43 TITLE 26--INTERNAL REVENUE 44 CHAPTER I--INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY 45 (CONTINUED) 46 PART 1_INCOME TAXES--Table of Contents 47 Sec. 1.872-2 Exclusions from gross income of nonresident alien 48 individuals 49 (b) Compensation paid by foreign employer to participants in certain exchange or training programs. 50

Compensation paid to a nonresident alien individual for the period that the nonresident alien individual is

temporarily present in the United States as a nonimmigrant under subparagraph (F) (relating to the admission

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(1) Exclusion from income.

of students into the United States) or subparagraph (J) (relating to the admission of teachers, trainees, specialists, etc., into the United States) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15) (F) or (J)) shall be excluded from gross income if the compensation is paid to such alien by his foreign employer. Compensation paid to a nonresident alien individual by the U.S. office of a domestic bank which is acting as paymaster on behalf of a foreign employer constitutes compensation paid by a foreign employer for purposes of this paragraph if the domestic bank is reimbursed by the foreign employer for such payment. A nonresident alien individual who is temporarily present in the United States as a nonimmigrant under such subparagraph (J) includes a nonresident alien individual admitted to the United States as an "exchange visitor" under section 201 of the U.S. Information and Educational Exchange Act of 1948 (22 U.S.C. 1446), which section was repealed by section 111 of the Mutual Education and Cultural Exchange Act of 1961 (75 Stat. 538).

- 6. <u>26 C.F.R.</u> §1.6012-3(b)(2)(i).
 - 7. <u>26 C.F.R.</u> §31.3401(a)(6)-1A(c).
 - 8. <u>26 C.F.R.</u> §509.103(b)(3).

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9. <u>26 C.F.R. §509.108(a)(1)</u>

"Nonresident aliens" are defined in 26 U.S.C. §7701(b)(1)(B). Aliens are defined in 8 U.S.C. §1101(a)(3). "Resident aliens" are defined in 26 U.S.C. §7701(b)(1)(B). The relationship between these three entities are as follows, in the context of income taxes:

- 1. <u>"non-resident non-person"</u>: Those with no domicile on federal territory and who are born either in a foreign country, a state of the Union, or within the federal zone. Also called a "nonresident", "stateless person", or "transient foreigner". They are exclusively PRIVATE and beyond the reach of the civil statutory law because:
 - 1.1. They are not a "person" or "individual" because not engaged in an elected or appointed office.
 - 1.2. They have not waived sovereign immunity under the Foreign Sovereign Immunities Act, 28 U.S.C. Chapter 97.
 - 1.3. They have not "purposefully" or "consensually" availed themselves of commerce within the exclusive or general jurisdiction of the national government within federal territory.
 - 1.4. They waived the "benefit" of any and all licenses or permits in the context of a specific transaction or agreement.
 - 1.5. In the context of a specific business dealing, they have not invoked any statutory status under federal civil law that might connect them with a government franchise, such as "U.S. citizen", "U.S. resident", "person", "individual", "taxpayer", etc.
 - 1.6. If they are demanded to produce an identifying number, they say they don't consent and attach the following form to every application or withholding document:

Why It is Illegal for Me to Request or Use a "Taxpayer Identification Number", Form #04.205 http://sedm.org/Forms/FormIndex.htm

- 2. <u>"Aliens" or "alien individuals"</u>: Those born in a foreign country and not within any state of the Union or within any federal territory.
 - 2.1. "Alien" is defined in 8 U.S.C. §1101(a)(3) as a person who is neither a citizen nor a national.
 - 2.2. "Alien individual" is defined in 26 C.F.R. §1.1441-1(c)(3)(i).
 - 2.3. An alien is defined in 8 U.S.C. §1101(a)(3) as a person who is neither a statutory "U.S. citizen" per 8 U.S.C. §1401 nor a "national of the United States*" per 8 U.S.C. §1101(a)(22)...
 - 2.4. An alien with no domicile in the "United States" is presumed to be a "nonresident alien" pursuant to 26 C.F.R. §1.871-4(b).
 - 3. "Residents" or "resident aliens": An "alien" or "alien individual" with a legal domicile on federal territory.
 - 3.1. "Resident aliens" are defined in 26 U.S.C. §7701(b)(1)(A).
 - 3.2. A "resident alien" is an alien as defined in 8 U.S.C. §1101(a)(3) who has a legal domicile on federal territory that is no part of the exclusive jurisdiction of any state of the Union.
 - 3.3. An "alien" becomes a "resident alien" by filing IRS Form 1078 pursuant to 26 C.F.R. §1.871-4(c)(ii) and thereby electing to have a domicile on federal territory.
 - 4. <u>"Nonresident aliens"</u>: Those with no domicile on federal territory and who are born either in a foreign country, a state of the Union, or within the federal zone.
 - 4.1. Defined in 26 U.S.C. §7701(b)(1)(B).
 - 4.2. Also called a "nonresident", "stateless person", or "transient foreigner".
 - 4.3. A "nonresident alien" is defined as a person who is neither a statutory "citizen" pursuant to 26 C.F.R. §1.1-1(c) nor a statutory "resident" pursuant to 26 U.S.C. §7701(b)(1)(A).
 - 4.4. A person who is a "non-citizen national" pursuant to 8 U.S.C. §1452 or 8 U.S.C. §1101(a)(21) is a "nonresident alien"
 - 5. "Nonresident alien **individuals**": Those who are aliens and who do not have a domicile on federal territory.
 - 5.1. Status is indicated in block 3 of the IRS Form W-8BEN under the term "Individual".

- 5.2. Excludes those born within the exclusive jurisdiction of states of the Union who are therefore "non-residents" under federal law.
- 6. Convertibility between "aliens", "resident aliens", and "nonresident aliens", and "nonresident aliens", and "nonresident aliens".
 - 6.1. A "nonresident alien" is not the legal equivalent of an "alien" in law.
 - 6.2. IRS Form W-8BEN, Block 3 has no block to check for those who are "non-resident non-persons" but not "nonresident aliens" or "nonresident alien individuals". Thus, the submitter of this form who is a statutory "nonresident non-person" but not a "nonresident alien" or "nonresident alien individual" is effectively compelled to make an illegal and fraudulent election to become an alien and an "individual" if they do not add a block for "transient foreigner" or "Union State Citizen" to the form. See section 5.3 of the following:

About IRS Form W-8BEN, Form #04.202 http://sedm.org/Forms/FormIndex.htm

- 6.3. 26 U.S.C. §6013(g) and (h) and 26 U.S.C. §7701(b)(4)(B) authorize a "nonresident alien" who is married to a statutory "U.S. citizen" as defined in 26 C.F.R. §1.1-1(c) to make an "election" to become a "resident alien".
- 6.4. It is unlawful for an unmarried "state national" pursuant to either 8 U.S.C. §1101(a)(21) or 8 U.S.C. §1101(a)(22)(B) to become a "resident alien". This can only happen by either fraud or mistake.
- 6.5. An alien may overcome the presumption that he is a "nonresident alien" and change his status to that of a "resident alien" by filing IRS Form 1078 pursuant to 26 C.F.R. §1.871-4(c)(ii) while he is in the "United States".
- 6.6. The term "residence" can only lawfully be used to describe the domicile of an "alien". Nowhere is this term used to describe the domicile of a "state national" or a "nonresident alien". See 26 C.F.R. §1.871-2.
- 6.7. The only way a statutory "alien" under 8 U.S.C. §1101(a)(3) can become both a "state national" and a "nonresident alien" at the same time is to be naturalized pursuant to 8 U.S.C. §1421 and to have a domicile in either a U.S. possession or a state of the Union.
- Sources of confusion on these issues:

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- 7.1. One can be a "non-resident non-person" without being an "individual" or a "nonresident alien individual" under the Internal Revenue Code. An example would be a human being born within the exclusive jurisdiction of a state of the Union who is therefore a "state national" pursuant to 8 U.S.C. §1101(a)(21) who does not participate in Social Security or use a Taxpayer Identification Number.
- 7.2. The term "United States" is defined in the Internal Revenue Code at 26 U.S.C. §7701(a)(9) and (a)(10).
- 7.3. The term "United States" for the purposes of citizenship is defined in 8 U.S.C. §1101(a)(38).
- 7.4. Any "U.S. Person" as defined in 26 U.S.C. §7701(a)(30) who is not found in the "United States" (federal territory pursuant to 26 U.S.C. §7701(a)(9) and (a)(10) and 4 U.S.C. §110(d)) shall be treated as having an effective domicile within the District of Columbia pursuant to 26 U.S.C. §7701(a)(39) and 26 U.S.C. §7408(d).
- 7.5. The term "United States" is equivalent for the purposes of statutory "citizens" pursuant to 26 C.F.R. §1.1-1(c) and "citizens" as used in the Internal Revenue Code. See 26 C.F.R. §1.1-1(c).
- 7.6. The term "United States" as used in the Constitution of the United States is NOT equivalent to the statutory definition of the term used in:

7.6.1. 26 U.S.C. §7701(a)(9) and (a)(10).

7.6.2. 8 U.S.C. §1101(a)(38).

The "United States" as used in the Constitution means the states of the Union and excludes federal territory, while the term "United States" as used in federal statutory law means federal territory and excludes states of the Union.

7.7. A constitutional "citizen of the United States" as mentioned in the Fourteenth Amendment is NOT equivalent to a statutory "citizen and national of the United States" as used in 8 U.S.C. §1401. See:

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

- 7.8. In the case of jurisdiction over aliens only, the term "United States" implies all 50 states and the federal zone, and is not restricted only to the federal zone. See:
 - 7.8.1. Non-Resident Non-Person Position, Form #05.020 http://sedm.org/Forms/FormIndex.htm
 - 7.8.2. <u>Kleindienst v. Mandel, 408 U.S. 753 (1972)</u>

In accord with ancient principles of the international law of nation-states, the Court in The Chinese Exclusion Case, 130 U.S. 581, 609 (1889), and in Fong Yue Ting v. United States, 149 U.S. 698 (1893), held broadly, as the Government describes it, Brief for Appellants 20, that the power to exclude aliens is "inherent in sovereignty, necessary for maintaining normal international relations and defending the country against foreign encroachments and dangers - a power to be exercised exclusively by the political branches of government" Since that time, the Court's general reaffirmations of this principle have [408 U.S. 753, 766] been legion. 6 The Court without exception has sustained Congress' "plenary power to make rules for the admission of aliens and to exclude those who possess those characteristics which Congress has forbidden." Boutilier v. Immigration and Naturalization Service, 387 U.S. 118, 123 (1967). "[O]ver no conceivable subject is the

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legislative power of Congress more complete than it is over" the admission of aliens. Oceanic Navigation Co. v. Stranahan, 214 U.S. 320, 339 (1909).
[Kleindienst v. Mandel, 408 U.S. 753 (1972)]

7.8.3. Chae Chan Ping v. U.S., 130 U.S. 581 (1889)

While under our constitution and form of government the great mass of local matters is controlled by local authorities, the United States, in their relation to foreign countries and their subjects or citizens, are one nation, invested with powers which belong to independent nations, the exercise of which can be invoked for the maintenance of its absolute independence and security throughout its entire territory. The powers to declare war, make treaties, suppress insurrection, repel invasion, regulate foreign commerce, secure republican governments to the states, and admit subjects of other nations to citizenship, are all sovereign powers, restricted in their exercise only by the constitution itself and considerations of public policy and justice which control, more or less, the conduct of all civilized nations. As said by this court in the case of Cohens v. Virginia, 6 Wheat. 264, 413, speaking by the same great chief justice: "That the United States form, for many, and for most important purposes, a single nation, has not yet been denied. In war, we are one people. In making peace, we are one people. In all commercial regulations, we are one and the same people. In many other respects, the American people are one; and the government which is alone capable of controlling and managing their interests in all these respects is the government of the Union. It is their government, and in that character they have no other. America has chosen to [130 U.S. 581, 605] be in many respects, and to many purposes, a nation; and for all these purposes her government is complete; to all these objects, it is competent. The people have declared that in the exercise of all powers given for these objects it is supreme. It can, then, in effecting these objects, legitimately control all individuals or governments within the American territory."

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"The power of exclusion of foreigners being an incident of sovereignty belonging to the government of the United States as a part of those sovereign powers delegated by the constitution, the right to its exercise at any time when, in the judgment of the government, the interests of the country require it, cannot be granted away or restrained on behalf of any one. The powers of government are delegated in trust to the United States, and are incapable of transfer to any other parties. They cannot be abandoned or surrendered. Nor can their exercise be hampered, when needed for the public good, by any considerations of private interest. The exercise of these public trusts is not the subject of barter or contract."

[Chae Chan Ping v. U.S., 130 U.S. 581 (1889)]

A picture is worth a thousand words. Below is a picture that graphically demonstrates the relationship between citizenship status in Title 8 of the U.S. Code with tax status in Title 26 of the U.S. Code:

Table 9: "Citizenship status" vs. "Income tax status"

#	Citizenship status	Place of	Domicile	Accepting	Defined in		utus under 26 U.S.C./In		
		birth		tax treaty benefits?		"Citizen" (defined in 26 C.F.R. §1.1-1)	"Resident alien" (defined in 26 U.S.C. \$7701(b)(1)(A), 26 C.F.R. \$1.1441- 1(c)(3)(i) and 26 C.F.R. \$1.1- 1(a)(2)(ii))	"Nonresident alien INDIVIDUAL" (defined in 26 U.S.C. §7701(b)(1)(B) and 26 C.F.R. §1.1441-1(c)(3))	"Non-resident NON-person" (NOT defined)
1	"national and citizen of the United States** at birth" or "U.S.** citizen" or Statutory "U.S.** citizen"	Statutory "United States" pursuant to 8 U.S.C. §1101(a)(38), (a)(36) and 8 C.F.R. §215.1(f) or in the "outlying possessions of the United States" pursuant to 8 U.S.C. §1101(a)(29)	District of Columbia, Puerto Rico, Guam, Virgin Islands	NA	8 U.S.C. §1401; 8 U.S.C. §1101(a)(22)(A)	Yes (only pay income tax abroad with IRS Forms 1040/2555. See Cook v. Tait, 265 U.S. 47 (1924))	No	No	No
2	"non-citizen national of the United States** at birth" or "U.S.** national"	Statutory "United States" pursuant to 8 U.S.C. §1101(a)(38), (a)(36) and 8 C.F.R. §215.1(f) or in the "outlying possessions of the United States" pursuant to 8 U.S.C. §1101(a)(29)	American Samoa; Swain's Island; or abroad to U.S. national parents under 8 U.S.C. §1408(2)	NA	8 U.S.C. §1408 8 U.S.C. §1101(a)(22)(B); 8 U.S.C. §1452	No (see 26 U.S.C. §7701(b)(1)(B))	No	Yes (see IRS Form 1040NR for proof)	No
3.1	"U.S.A.***"nationa l" or "state national" or "Constitutional but not statutory U.S.*** citizen"	Constitutional Union state	State of the Union	NA (ACTA agreement)	8 U.S.C. §1101(a)(21); 14 th Amend., Sect. 1	No	No	No	Yes
3.2	"U.S.A.***"nationa l" or "state national" or "Constitutional but not statutory U.S.*** citizen"	Constitutional Union state	Foreign country	Yes	8 U.S.C. §1101(a)(21); 14 th Amend., Sect. 1	No	No	Yes	No
3.3	"U.S.A.***"nationa l" or "state national" or "Constitutional but not statutory U.S.*** citizen"	Constitutional Union state	Foreign country	No	8 U.S.C. §1101(a)(21); 14 th Amend., Sect. 1	No	No	No	Yes

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#	Citizenship status	Place of	Domicile	Accepting	Defined in	Tax Sta	atus under 26 U.S.C./In	ternal Revenue Cod	le
		birth		tax treaty benefits?	·	"Citizen" (defined in 26 C.F.R. §1.1-1)	"Resident alien" (defined in 26 U.S.C. §7701(b)(1)(A), 26 C.F.R. §1.1441- 1(c)(3)(i) and 26 C.F.R. §1.1- 1(a)(2)(ii))	"Nonresident alien INDIVIDUAL" (defined in 26 U.S.C. §7701(b)(1)(B) and 26 C.F.R. §1.1441-1(c)(3))	"Non-resident NON-person" (NOT defined)
3.4	Statutory "citizen of the United States**" or Statutory "U.S.* citizen"	Constitutional Union state	Puerto Rico, Guam, Virgin Islands, Commonwealth of Northern Mariana Islands	NA (ACTA agreement)	8 U.S.C. §1101(a)(21); 14 th Amend., Sect. 1	Yes	No	No	No
4.1	"alien" or "Foreign national"	Foreign country	Puerto Rico, Guam, Virgin Islands, Commonwealth of Northern Mariana Islands	NA	8 U.S.C. §1101(a)(21); 8 U.S.C. §1101(a)(3)	No	Yes	No	No
4.2	"alien" or "Foreign national"	Foreign country	State of the Union	Yes	8 U.S.C. §1101(a)(21); 8 U.S.C. §1101(a)(3)	No	No	Yes	No
4.3	"alien" or "Foreign national"	Foreign country	State of the Union	No	8 U.S.C. §1101(a)(21); 8 U.S.C. §1101(a)(3)	No	No	No	Yes
4.4	"alien" or "Foreign national"	Foreign country	Foreign country	Yes	8 U.S.C. §1101(a)(21)	No	No	Yes	No
4.5	"alien" or "Foreign national"	Foreign country	Foreign country	No	8 U.S.C. §1101(a)(21)	No	No	No	Yes

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- 1. Domicile is a prerequisite to having any civil status per Federal Rule of Civil Procedure 17. One therefore cannot be a statutory "alien" under 8 U.S.C. §1101(a)(3) without a domicile on federal territory. Without such a domicile, you are a transient foreigner and neither an "alien" nor a "nonresident alien".
- 2. "United States" is described in 8 U.S.C. §1101(a)(38), (a)(36) and 8 C.F.R. §215.1(f) and includes only federal territory and possessions and excludes all Constitutional Union states. This is a product of the separation of powers doctrine that is the heart of the United States Constitution.
- 3. A "nonresident alien individual" who has made an election under 26 U.S.C. §6013(g) and (h) to be treated as a "resident alien" is treated as a "nonresident alien" for the purposes of withholding under I.R.C. Subtitle C but retains their status as a "resident alien" under I.R.C. Subtitle A. See 26 C.F.R. §1.1441-1(c)(3) for the definition of "individual", which means "alien".
- 4. A "non-person" is really just a transient foreigner who is not "purposefully availing themselves" of commerce within the legislative jurisdiction of the United States on federal territory under the Foreign Sovereign Immunities Act, 28 U.S.C. Chapter 97. The real transition from a "NON-person" to an "individual" occurs when one:
 - 4.1. "Purposefully avails themself" of commerce on federal territory and thus waives sovereign immunity. Examples of such purposeful availment are the next three items.
 - 4.2. Lawfully and consensually occupying a public office in the U.S. government and thereby being an "officer and individual" as identified in 5 U.S.C. §2105(a). Otherwise, you are PRIVATE and therefore beyond the civil legislative jurisdiction of the national government.
 - 4.3. Voluntarily files an IRS Form 1040 as a citizen or resident abroad and takes the foreign tax deduction under 26 U.S.C. §911. This too is essentially an act of "purposeful availment". Nonresidents are not mentioned in section 911. The upper left corner of the form identifies the filer as a "U.S. individual". You

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- cannot be an "U.S. individual" without ALSO being an "individual". All the "trade or business" deductions on the form presume the applicant is a public officer, and therefore the "individual" on the form is REALLY a public officer in the government and would be committing FRAUD if he or she was NOT.
- 4.4. VOLUNTARILY fills out an IRS Form W-7 ITIN Application (IRS identifies the applicant as an "individual") AND only uses the assigned number in connection with their compensation as an elected or appointed public officer. Using it in connection with PRIVATE earnings is FRAUD.
- 5. What turns a "non-resident NON-person" into a "nonresident alien <u>individual</u>" is meeting one or more of the following two criteria:
 - 5.1. Residence/domicile in a foreign country under the residence article of an income tax treaty and 26 C.F.R. §301.7701(b)-7(a)(1).
 - 5.2. Residence/domicile as an alien in Puerto Rico, Guam, the Commonwealth of Northern Mariana Islands, the U.S. Virgin Islands, or American Samoa as determined under 26 C.F.R. §301.7701(b)-1(d).
- 6. All "taxpayers" are STATUTORY "aliens" or "nonresident aliens". The definition of "individual" found in 26 C.F.R. §1.1441-1(c)(3) does NOT include "citizens". The only occasion where a "citizen" can also be an "individual" is when they are abroad under 26 U.S.C. §911 and interface to the I.R.C. under a tax treaty with a foreign country as an alien pursuant to 26 C.F.R. §301.7701(b)-7(a)(1)

And when he had come into the house, Jesus anticipated him, saying, "What do you think, Simon? From whom do the kings [governments] of the earth [lawfully] take customs or taxes, from their sons [citizens and subjects] or from strangers ["aliens", which are synonymous with "residents" in the tax code, and exclude "citizens"]?"

Peter said to Him, "From strangers ["aliens"/"residents" ONLY. See 26 C.F.R. §1.1-1(a)(2)(ii) and 26 C.F.R. §301.6109-1(d)(3)]."

Jesus said to him, "Then the sons ["citizens" of the Republic, who are all sovereign "nationals" and "nonresident aliens" under federal law] are free [sovereign over their own person and labor. e.g. SOVEREIGN IMMUNITY]. "

[Matt. 17:24-27, Bible, NKJV]

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It is a maxim of law that things with *similar* but not identical names are NOT the same in law: 1 Talis non est eadem, nam nullum simile est idem. What is like is not the same, for nothing similar is the same. 4 Co. 18. 3 [Bouvier's Maxims of Law, 1856; SOURCE: http://famguardian.org/Publications/BouvierMaximsOfLaw/BouviersMaxims.htm] 5 We prove extensively on this website that the only persons who are "taxpayers" within the Internal Revenue Code are 6 "resident aliens". Here is just one example: NORMAL TAXES AND SURTAXES 8 DETERMINATION OF TAX LIABILITY Tax on Individuals 10 Sec. 1.1-1 Income tax on individuals. 11 (a)(2)(ii) For taxable years beginning after December 31, 1970, the tax imposed by section 1(d), as amended by 12 the Tax Reform Act of 1969, shall apply to the income effectively connected with the conduct of a trade or business 13 in the United States by a married alien individual who is a nonresident of the United States for all or part of 14 the taxable year or by a foreign estate or trust. For such years the tax imposed by section 1(c), as amended by 15 such Act, shall apply to the income effectively connected with the conduct of a trade or business in the United 16 States by an unmarried alien individual (other than a surviving spouse) who is a nonresident of the United 17 States for all or part of the taxable year. See paragraph (b)(2) of section 1.871-8." [26 C.F.R. § 1.1-1 (a)(2)(ii)] 18 It is a self-serving, malicious attempt to STEAL from the average American for the IRS to confuse a state national who is a 19 non-resident non-person and a "nontaxpayer" with a "resident alien taxpayer". This sort of abuse MUST be stopped 20 IMMEDIATELY. These sort of underhanded and malicious tactics: 21 Are a violation of constitutional rights and due process of law because they cause an injury to rights based on false 22 presumption. See: 23 1.1. Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction, Form #05.017 24 http://sedm.org/Forms/FormIndex.htm 25 1.2. Federal Civil Trials and Evidence, Rutter Group, paragraph 8:4993, p. 8K-34: 26 (1) [8:4993] Conclusive presumptions affecting protected interests: A conclusive presumption may be defeated 27 where its application would impair a party's constitutionally-protected liberty or property interests. In such 28 29 cases, conclusive presumptions have been held to violate a party's due process and equal protection rights. /Vlandis v. Kline (1973) 412 U.S. 441, 449, 93 S.Ct. 2230, 2235; Cleveland Bed. of Ed. v. LaFleur (1974) 414 30 U.S. 632, 639-640, 94 S.Ct. 1208, 1215-presumption under Illinois law that unmarried fathers are unfit violates 31 32 process] [Federal Civil Trials and Evidence, Rutter Group, paragraph 8:4993, p. 8K-34] 33 1.3. Vlandis v. Kline, 412 U.S. 441 (1973): 34 Statutes creating permanent irrebuttable presumptions have long been disfavored under the Due Process 35 Clauses of the Fifth and Fourteenth Amendments. In Heiner v. Donnan, 285 U.S. 312, 52 S.Ct. 358, 76 L.Ed. 36 772 (1932), the Court was faced with a constitutional challenge to a federal statute that created a conclusive 37 presumption that gifts made within two years prior to the donor's death were made in contemplation of death, 38 thus requiring payment by his estate of a higher tax. In holding that this irrefutable assumption was so arbitrary 39 and unreasonable as to deprive the taxpayer of his property without due process of law, the Court stated that it 40 41 had 'held more than once that a statute creating a presumption which operates to deny a fair opportunity to rebut it violates the due process clause of the Fourteenth Amendment.' Id., at 329, 52 S.Ct., at 362. See, e.g., Schlesinger 42 v. Wisconsin, 270 U.S. 230, 46 S.Ct. 260, 70 L.Ed. 557 (1926); Hoeper v. Tax Comm'n, 284 U.S. 206, 52 S.Ct. 43 120, 76 L.Ed. 248 (1931) . See also Tot v. United States, 319 U.S. 463, 468-469, 63 S.Ct. 1241, 1245-1246, 87 44 L.Ed. 1519 (1943); Leary v. United States, 395 U.S. 6, 29-53, 89 S.Ct. 1532, 1544-1557, 23 L.Ed.2d. 57 (1969). 45 Cf. Turner v. United States, 396 U.S. 398, 418-419, 90 S.Ct. 642, 653-654, 24 L.Ed.2d. 610 (1970). 46

2. Destroy the separation of powers between the state and federal government. The states of the Union and the people domiciled therein are supposed to be foreign, sovereign, and separate from the Federal government in order to protect their constitutional 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

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[Vlandis v. Kline, 412 U.S. 441 (1973)]

1	government are few and defined. Those which are to remain in the State governments are numerous and
2	indefinite." The Federalist No. 45, pp. 292-293 (C. Rossiter ed. 1961). This constitutionally
3	mandated division of authority "was adopted by the Framers to
4	ensure protection of our fundamental liberties." Gregory v. Ashcroft, 501
5	U.S. 452, 458 (1991) (internal quotation marks omitted). "Just as the separation and independence of the
6	coordinate branches of the Federal Government serves to prevent the accumulation of excessive power in any
7	one branch, a healthy balance of power between the States and the Federal Government will reduce the risk
8	of tyranny and abuse from either front." Ibid. "
9	[U.S. v. Lopez, <u>514 U.S. 549</u> (1995)]

- 3. Destroy the sovereignty of people born and domiciled within states of the Union who would otherwise be "stateless persons" and "foreign sovereigns" in relation to the federal government.
- 4. Cause a surrender of sovereign immunity pursuant to 28 U.S.C. §1605(b)(3) by involuntarily connecting sovereign individuals with commerce with the federal government in the guise of illegally enforced taxation.
- 5. Cause Christians to have to serve TWO masters, being the state and federal government, by having to pay tribute to TWO sovereigns. This is a violation of the following scriptures.

"No servant can serve two masters; for either he will hate the one and love the other, or else he will be loyal to the one and despise the other. You cannot serve God and mammon."

[Luke 16:13, Bible, NKJV]

If you would like to learn more about the relationship between citizenship status and tax status and why a "nonresident alien" is not equivalent to an "alien", see:

- 21 *I.* Non-Resident Non-Person Position, Form #05.020 http://sedm.org/Forms/FormIndex.htm
 - 2. Why You are a "national", "state national", and Constitutional but not Statutory Citizen, Form #05.006 http://sedm.org/Forms/FormIndex.htm
 - 3. <u>Legal Basis for the Term "Nonresident Alien"</u>, Form #05.036 http://sedm.org/Forms/FormIndex.htm
 - 4. <u>Great IRS Hoax</u>, Form #11.302, Chapter 5: http://sedm.org/Forms/FormIndex.htm

8.28 <u>Deliberately confusing CONSTITUTIONAL "non-resident aliens" (foreign nationals) with STATUTORY</u> "nonresident aliens" (foreign nationals AND state nationals)⁶⁷

<u>False Argument</u>: CONSTITUTIONAL "Non-resident aliens" (foreign nationals) are the same as "STATUTORY "nonresident aliens" (foreign nationals AND state nationals)

<u>Corrected Alternative Argument</u>: CONSTITUTIONAL "non-resident aliens" are NOT equivalent to STATUTORY "nonresident aliens". CONSTITUTIONAL and STATUTORY contexts are not equivalent and it is equivocation and misrepresentation to make them the same. The result is THEFT for those engaged in such equivocation.

Further information:

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- 1. <u>Non-Resident Non-Person Position</u>, Form #05.020 http://sedm.org/Forms/FormIndex.htm
- 2. Why You are a "national", "state national", and Constitutional but not Statutory Citizen, Form #05.006 http://sedm.org/Forms/FormIndex.htm
- 3. <u>Legal Basis for the Term "Nonresident Alien"</u>, Form #05.036 http://sedm.org/Forms/FormIndex.htm
- 4. <u>Great IRS Hoax</u>, Form #11.302, Chapter 5: http://sedm.org/Forms/FormIndex.htm

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⁶⁷ Source: Non-Resident Non-Person Position, Form #05.020, Section 10.4.3; http://sedm.org/Forms/FormIndex.htm

- This section builds on the previous section to show how the confusion between "nonresident alien" and "alien" is exploited
- by financial institutions to illegally and FRAUDULENTLY make people into "taxpayers" and/or "U.S. persons" under 26
- 3 U.S.C. §7701(a)(30). A frequent tactic employed especially by the I.R.S. and financial institutions is to falsely presume the
- 4 following:

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- 1. That CONSTITUTIONAL "non-resident aliens" are the same as STATUTORY "nonresident aliens". They are NOT.
 - 1.1. By Constitutional we mean those born or naturalized in a foreign COUNTRY.
- 1.2. By STATUTORY "nonresident alien" we mean those defined in 26 U.S.C. §7701(b)(1)(B).
- That "nonresident aliens" under 26 U.S.C. §7701(b)(1)(B) are a SUBSET of ALL "aliens" under 26 U.S.C. §7701(b)(1)(A).
- That because "nonresident aliens" under 26 U.S.C. §7701(b)(1)(B) are a subset of "aliens" 26 U.S.C. §7701(b)(1)(A), then an state citizen not domiciled on federal territory CANNOT possibly be a "nonresident alien" as defined in 26 U.S.C. §7701(b)(1)(B).
- The above false presumptions are reinforced by the fact that both STATUTORY and CONSTITUTIONAL "aliens" (8 U.S.C. §1101(a)(3)) DO IN FACT imply the SAME thing, and that thing is a human being born or naturalized in a foreign country. People therefore try to mistakenly apply the same rules to the term "nonresident alien". These types of false presumptions are extremely damaging to your constitutional rights and the purpose of making them, in fact, is to DESTROY your rights. Most of the time, such presumptions go unnoticed by the average American, which is why they are so frequently employed by covetous and crafty lawyers in the government who want to STEAL from you by deceiving you.
- In the legal field CONTEXT is everything. There are two main contexts for legal "terms":
- 20 1. Statutory.

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- 2. Constitutional.
- These two contexts are completely different and oftentimes mutually exclusive and have a profound effect on the meaning of the citizenship terms used in federal law and more importantly, in the Internal Revenue Code itself. This is especially true with geographic terms such as "citizen", "national", "resident", and "alien", "United States", etc.
- Those opening financial accounts are frequently victimized by such DELIBERATELY false presumptions and must be especially sensitive to them. The best place to start in learning about this deception is to read the following memorandum on this website:

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

- The best way to deal with this sort of malicious presumptions by ignorant financial institutions is to:
- 29 1. Show them the definitions of "State" and "United States" found in 26 U.S.C. §7701(a)(9) and (a)(10) and that CONSTITUTIONAL states are NOT listed and therefore purposefully excluded.

"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. Ask them for a definition of "United States" in the Internal Revenue Code that EXPRESSLY includes the GEOGRAPHICAL states of the Union. This will reinforce that the CONSTITUTIONAL "United States**" (states of the Union) is NOT the same as the STATUTORY "United States**" (federal territory).
 - 3. Ask them for proof that there are any Internal Revenue Districts within the state you are in. Absent such proof, the IRS is limited to the only remaining Internal Revenue District in the District of Columbia per 26 U.S.C. §7601.

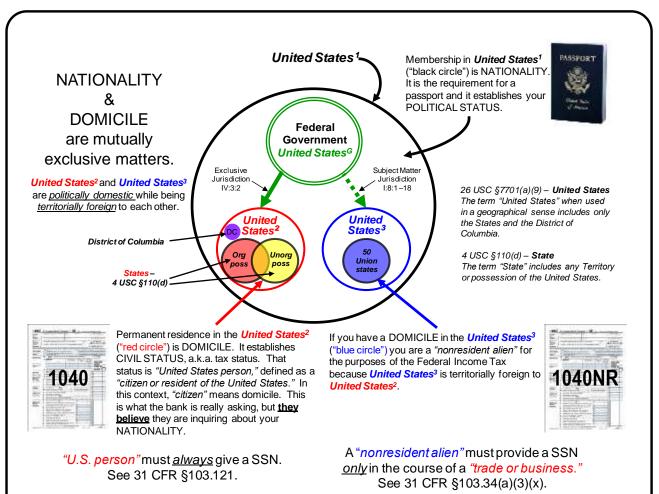
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- 4. Show them the IRS Form 1040NR for Years 2002 through 2017, which lists "U.S. nationals" as being "nonresident aliens". Then show that these people identified in 8 U.S.C. §1408 and 8 U.S.C. §1452 are NOT "aliens" as defined in either 8 U.S.C. §1101(a)(3) or 26 U.S.C. §7701(b)(a)(A). This will prove to them that "aliens" are NOT the ONLY thing included in the term "nonresident alien".
- 5. Show them the definition of the term "person" found in 26 U.S.C. §6671(b) and 26 U.S.C. §7343 and ask them to prove that you are included in the definition. And if you aren't included, than you are PURPOSEFULLY EXCLUDED and therefore neither an "individual" nor a "person". Explain to them that both of these things are PUBLIC OFFICERS in the government engaged in the "trade or business" franchise (26 U.S.C. §7701(a)(26)) as an instrumentality and agent of the national government.
 - 6. Explain that it is a CRIME to impersonate a public officer under 18 U.S.C. §912 and that all "persons" are public officers. Explain that for them to TREAT you as a "person" or "individual" and therefore a public officer is such a crime, and that the only people who can use government numbers (which are government PUBLIC property) are such officers. The reason is that the ability to regulate PRIVATE rights and PRIVATE property is repugnant to the constitution as held by the U.S. Supreme Court.

One of our members who has studied the citizenship issue carefully and was attempting to document how this deception is perpetrated by financial institutions against those opening financial account crafted a diagram to simply explaining it to bank personnel. This member also approached a retired justice of the none other than the United States Supreme Court and had it reviewed by this justice for accuracy. The result of the review was that the justice indicated that it was entirely correct, but that few people understand or can explain why. Below is the diagram for your edification. The member also asked that their identity be protected, so please don't ask us either who this member is or the name of the supreme court justice, because we are not allowed to tell you.

EXHIBIT:_____

Figure 2: Comparison of Nationality with Domicile



HOW FINANCIAL INSTITUTIONS DECEIVE AND ENSLAVE THEIR CUSTOMERS:

When you go to the bank and try to claim your true and correct tax status of "nonresident alien", the bank is going to demand a passport. They are confusing NATIONALITY/POLITICAL STATUS with DOMICILE/CIVIL STATUS. The problem is that the "U.S.A." is not an available "selection" in their "drop-down" list of countries. This errant construction of the bank Customer Identification Program (CIP) has the practical effect of forcing Americans into a "United States person" tax status-a status that is 100% subject to governmental mandates. You are not being controlled at the point of a gun- rather, you are being controlled financially through a scheme of legislation designed to introduce precisely this type of misunderstanding. Financial institutions are unknowingly doing the "dirty work" for the government – driving a tax status which mandates participation in Social Security, Medicare, and the new Affordable Health Care Act. These programs are 100% voluntary, thus they are constitutional. The "nonresident alien" tax status is your remedy and protection from certain governmental mandates, but some financial institutions are blocking it.

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- If you would like more help on dealing with ignorant and presumptuous financial institutions and employers on withholding form, see:
- 3 1. *About IRS Form W-8BEN*, Form #04.202
 - http://sedm.org/Forms/FormIndex.htm
- 5 2. *Income Tax Withholding and Reporting Course*, Form #12.004
 - http://sedm.org/Forms/FormIndex.htm
- 3. <u>Federal and State Tax Withholding Options for Private Employers</u>, Form #09.001
- http://sedm.org/Forms/FormIndex.htm

8.29 Saying that state nationals are not "U.S. nationals" 68

False Argument: State nationals are not "U.S. nationals"

<u>Corrected Alternative Argument</u>: State nationals are in fact "U.S. nationals" or "nationals of the United States*** OF AMERICA"

Further information:

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- 1. <u>Non-Resident Non-Person Position</u>, Form #05.020, Section 10.4.5 http://sedm.org/Forms/FormIndex.htm
- 2. Why You are a "national", "state national", and Constitutional but not Statutory Citizen, Form #05.006 http://sedm.org/Forms/FormIndex.htm
- There is much confusion in the executive branch over whether state nationals are "U.S. nationals". In a generic sense they are, but under Title 8 they are not. Some of that confusion is found in the following resource:

<u>Sovereignty Forms and Instructions Online</u>, Form #10.004, Cites by Topic: "U.S. national" https://famguardian.org/TaxFreedom/CitesByTopic/USNational.htm

- We searched the caselaw on the subject to try to resolve the confusion and found the following fascinating references to "U.S. nationals" or "nationals of the United States <u>OF AMERICA</u>":
- 1. Medillin v Texas 552. U.S. 491 (2008) (U.S. 2008)-The U.S. Supreme Court refers to state nationals or
 Americans generally as "Nationals of the United States of America"
 https://scholar.google.com/scholar_case?case=1334956265233479125
 - 2. Lower federal courts refer to Americans and state nationals as "U.S. nationals" in:
 - 2.1. USA v. Michael Little, No. 12-cr-647(PKC), U.S.D.C. 2017 1 (2017) Google Scholar: https://scholar.google.com/scholar_case?case=862310981064929702
 - 2.2. Coplin v. United States, 6 Cls.Ct. 115 (1985)
 Google Scholar: https://scholar.google.com/scholar_case?case=5422401643079916168&
 Other cite: http://famguardian.org/TaxFreedom/CitesByTopic/USNational-Paul H Coplin et ux Plaintiffs v
 The United States-6-ClsCt-115-1985-USNational.pdf
 - 2.3. Xerox v. United States, 14 Cls.Ct. 455 (1986)
 Other cite: http://famguardian.org/TaxFreedom/CitesByTopic/USNational-Xerox Corporation Plaintiff v
 The United States-14-Cls-455-1986-USNational.pdf
 - 2.4. Readings and Bates Corporation and Subsidiaries v. United States, 40 Fed.Cl. 737 (1998)

 Other cite: http://famguardian.org/TaxFreedom/CitesByTopic/USNational-Reading amp Bates Corporation
 and Subsidiaries Plaintiff v The United States-40-FedCl-737-1998-USNational.pdf
 - 2.5. Korn v. Commissioner, 32 T.C.M. 1220, 524 F.2d. 888 (1975)
 Google Scholar: https://scholar.google.com/scholar_case?case=7529641744710388861
 - 2.6. Korn. v C.I.R., 425 F.2d. 888 (1975)
 Google Scholar: https://scholar.google.com/scholar_case?case=13492524255712146582

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⁶⁸ Source: Non-Resident Non-Person Position, Form #05.020, Section 10.4.5; http://sedm.org/Forms/FormIndex.htm.

- There are dozens of other cases like the above. They all furnish abundant evidence that state nationals are called "U.S.
- nationals" just like those in possessions under 8 U.S.C. §1408 and 8 U.S.C. §1101(a)(22)(B). Because the 1040NR Form for
- Years 2002 to 2018 lists "U.S. nationals" as "nonresident aliens", then state nationals must also be "nonresident aliens" as
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9. Freedom Advocate Flawed Tax Arguments

9.1 "16th Amendment Was Never Ratified"

False Argument: Income tax is unconstitutional because the Sixteenth Amendment was never lawfully ratified

<u>Corrected Alternative Argument</u>: The Sixteenth Amendment is irrelevant because it conferred no new taxing powers to the federal or national government.

Further information:

- 4. <u>Great IRS Hoax</u>, Form #11.302, Sections 3.8.11 through 3.8.11.11. http://sedm.org/Forms/FormIndex.htm
- 5. <u>Sixteenth Amendment Authorities</u> http://famguardian.org/Subjects/Taxes/16Amend/16Amend.htm
- 6. <u>Sixteenth Amendment never properly ratified</u>
 http://famguardian.org/Subjects/Taxes/Education/16AmendNotRatified.htm
- 7. <u>Legislative Intent of the Sixteenth Amendment</u> http://famguardian.org/Subjects/Taxes/16Amend/LegIntent16thAmend.htm
- 8. <u>Sixteenth Amendment Congressional Debates</u>, Family Guardian Fellowship http://famguardian.org/TaxFreedom/History/Congress/1909-16thAmendCongrRecord.pdf
- Some Americans are being urged to "establish" a good-faith belief that they are not required to make income tax returns because the Sixteenth Amendment was not properly ratified. This position is taken by the following website:

<u>The Law That Never Was</u>, Bill Benson http://www.thelawthatneverwas.com

Those taking such a position are essentially implying that one <u>would</u> be required to make tax returns if the Sixteenth Amendment <u>had</u> been properly ratified. The problem with this approach is that the U.S. Supreme Court held that the Sixteenth Amendment to the United States Constitution confers no new taking powers upon the government and is essentially irrelevant:

"... [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)]

[544]

"The Sixteenth Amendment, although referred to in argument, has no real bearing and may be put out of view. As pointed out in recent decisions, it does not extend the taxing power to new or excepted subjects, but merely removes all occasion, which otherwise might exist, for an apportionment among the States of taxes laid on income, whether it be derived from one source or another. Brushaber v. Union Pacific Railroad Co., 240 U.S. 1, 17-19; Stanton v. Baltic Mining Co., 240 U.S. 103, 112-113."
[William E. Peck & Co. v. Lowe, 247 U.S. 165, 172 (1918)]

Such an argument also places the burden of proof on you to prove that the United States Supreme Court was wrong in ruling that "income taxation" is in the category of indirect taxation, and to prove that the Sixteenth Amendment was not properly ratified. More than one person who has used this approach has been incarcerated. (I might suggest that before you rely upon any attorney's opinion, you check out his or her win-loss record.). This is a very ignorant and bad idea, which may explain why The above website was enjoined from offering not their book on the fraudulent ratification of the Sixteenth Amendment, but what they call their "Reliance Package". This package provided proof of the fraudulent ratification of the Sixteenth Amendment and was used as evidence upon which to base a belief that there was no need to file tax returns or pay a tax.

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To be fair to the above website, we believe it is an important historical fact that the Sixteenth Amendment was not lawfully 1 ratified, because it shows the desperate depths that a lame duck President Taft would go in 1913 just before he left office in 2 order to ensure that the income tax enforcement fraud we suffer under today was implemented. You can read the entire history of the congressional deliberations on the Sixteenth Amendment from the Congressional Record at the following 4 address on our website. The history of those deliberations clearly show that the intent of the amendment was to implement 5 an excise tax upon unearned, passive income from within the United States government, and NOT earnings from one's own labor or earnings from within states of the Union:

Sixteenth Amendment Congressional Debates, Family Guardian Fellowship http://famguardian.org/TaxFreedom/History/Congress/1909-16thAmendCongrRecord.pdf

9.2 "Wages" are not taxable or are not "income"

False Argument: "Wages" are not taxable or are not "income"

Corrected Alternative Argument: You don't earn "wages" because you never submitted a W-4. For those not engaged in a "public office" within the United States government, it is impossible to earn "wages" unless one signs an agreement to call what they earn "wages" as legally defined pursuant to 26 C.F.R. §31.3401(a)-3(a) or 26 C.F.R. §31.3402(p)-1.

Further information:

- 1. Great IRS Hoax, Form #11.302, Section 5.6.7, "You Don't Earn 'wages' under Subtitle C Unless you Volunteer on a W-4"
 - http://sedm.org/Forms/FormIndex.htm
- 2. Federal Tax Withholding, Form #04.102, Section 3 http://sedm.org/Forms/FormIndex.htm
- "Wages" defined
 - http://famguardian.org/TaxFreedom/CitesByTopic/wages.htm
- "Income" defined

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We talk about the taxability of "wages" in section 5.6.7 of the *Great IRS Hoax* book. "Wages" as legally defined ARE taxable and are "income" and you should avoid this argument. However, the flip side is that you can't earn "wages" unless you volunteer on a W-4, as you will learn below. The government likes to attack and prosecute people who claim that "wages" are not taxable in their filings with the IRS. When the government responds to the claim that "wages" are not taxable, they assume that the person making such a claim is referring to the legal definition of "wages" found in 26 U.S.C. §3401(a). If you look closely at that definition, the term is defined as follows in pertinent part:

26 U.S.C. §3401(a) Definitions

(a) Wages

For purposes of this chapter, the term "wages" means all remuneration (other than fees paid to a public official) for services performed by an employee for his employer, including the cash value of all remuneration (including benefits) paid in any medium other than cash; except that such term shall not include remuneration paid -

(1) for active service performed in a month for which such employee is entitled to the benefits of section 112 (relating to certain combat zone compensation of members of the Armed Forces of the United States) to the extent remuneration for such service is excludable from gross income under such section; or

However, since the term, "employee" is defined in 26 U.S.C. §3401(c) and 26 C.F.R. §301.3401(c)-1 as a "public official", then NO ONE earns "wages" under the above definition. However, we find that "wages" are taxable by examining the regulations

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

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Therefore, the only people who earn "wages" are those who have a voluntary withholding agreement, commonly called a "W-4", on file with their employer, who can *only* be a federal employer and not a private employer, because:

- "employee" is defined in <u>26 U.S.C.</u> §3401(c) and 26 C.F.R. §31.3401(c)-1 as a person who works for the federal government.
 - "employer" is defined as someone for whom an "employee" works in 26 U.S.C. §3401(d)

In the above sense, "wages" are taxable under Subtitle C of the Internal Revenue Code, but the only "persons" who earn "wages" are those who work for the federal government and volunteer to have withholding taken out of their paycheck every month. If they do not file a W-4 or they do not consent or volunteer to have tax withholding taken out, then:

- 1. They don't earn "wages".
- 2. Their private employer should not report their earnings on an IRS Form W-2.
- 3. If a W-2 is mistakenly provided to the IRS by their private employer, then block 1 of the W-2, which is entitled "wages, tips, and other compensation" should read "zero".
- 4. They must file an Amended Form W-2 called a W-2C or an IRS Form 4852 (with IRS Form 1040, 1040X, or 1040EZ) to correct any erroneous reports of "wages" originally reported on IRS Form W-2. See: http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/FormW2/CorrectingIRSFormW2.htm

Therefore, DO NOT argue that "wages" are not "taxable" or are not "income": Bad idea! Instead, identify what you earn as something <u>other</u> than "wages" as legally defined. Pick something that doesn't have an alternate definition in the code, or which has a definition that is more compatible with what you really earn. Always specify which definition you are relying on. Then, you have to submit an amended W-2 form, called an IRS Form W-2C, which zeroes out block 1 of the false W-2 that your private employer sent to the IRS. This will avoid any possibility that the meaning of your statements could be misinterpreted or confused with the legal definition. Here are some alternatives to use as a substitute for the term "wages" in all your interactions with the IRS:

Table 10: Alternative words for "wages"

Word	Definition located at (if any)	Definition
"resources"	20 C.F.R. §416.1103	"what you receive from the sale or exchange of your own property [and the Supreme Court in Butcher's Union declared that labor is property] is <i>not</i> income; it remains a resource." 20 C.F.R. §416.1103.
"earnings"		A valuable thing received in exchange for your labor, which is "property".

Because the Pharisees/lawyers are literally stealing everyday words and hijacking them for use and abuse by the tax code, then we must invent new words to use which don't have a legal significance that gets us in trouble.

9.3 Only federal workers are subject to the Internal Revenue Code

False Argument: Only federal workers are subject to the income tax

<u>Corrected Alternative Argument</u>: Only "public offices" and those receiving federal payments are subject to the federal income tax

Further information:

- 1. <u>Why Your Government is Either a Thief or You are a "Public Officer" for Income Tax Purposes</u>, Form #05.008 http://sedm.org/Forms/FormIndex.htm
- 2. <u>Resignation of Compelled Social Security Trustee</u>, Form #06.002 http://sedm.org/Forms/FormIndex.htm

This statement is wrong because it is much too general and not specific enough. Many types of taxes are described under the Internal Revenue Code, many of which:

• Don't involve federal workers.

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- Have nothing whatsoever to do with "employment".
- Are legitimate and Constitutional
- Below are just a few examples of legitimate, Constitutional taxes that do <u>not</u> involve federal workers at all, and there are many more likes these:
 - Wagering, imposed in 26 U.S.C. §4401(a)
 - Distilled spirits, imposed in 26 U.S.C. §5001
 - Tobacco tax, imposed in 26 U.S.C. §5701

The problem with making such broad and general statements is that it is presumptuous and ignorant to do so, and you should avoid doing so. Avoiding these types of false presumptions is the most important reason, in fact, why you need to devote extensive effort to getting educated about the tax code by reading our <u>Great IRS Hoax</u> book. Throughout the <u>Great IRS Hoax</u>, Form #11.302, Chapter 5, for instance, we are <u>very specific</u> about <u>each</u> statement we make so that it could <u>not</u> be misconstrued. In many cases, the government, in prosecuting peddlers of snake oil relating to taxation, will use an accusation that a person made such a statement a means of claiming that a person is involved in "false commercial speech". Ironically, when they do this, if they have no evidence to support such an accusation, they are the ones who are REALLY engaged in false commercial speech, because their main motive is to increase revenues from illegally enforcing the Internal Revenue Code.

Some people also try to use the definition of the term "trade or business" as a means to conclude that federal income taxes under I.R.C. Subtitle A only apply to federal "employees", which is simply wrong. Subtitle A of the Internal Revenue Code, no doubt, imposes the income tax primarily upon a "trade or business", which is defined in 26 U.S.C. \section=7701(a)(26) as "the functions of a public office". This is exhaustively analyzed in the free article below

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<u>The "Trade or Business" Scam</u>, Form #05.001 http://sedm.org/Forms/FormIndex.htm
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However, a "public office" is not limited exclusively to elected or appointed officials of the United States government. Any legal "person", in fact, can be a "public office". For instance, the very first Bank of the United States, which was a federal corporation, was ruled by the U.S. Supreme Court to be a "public office" in Osborn v. Bank of U.S., 22 U.S. 738 (1824). This is exhaustively analyzed in the article below:

"Public" v. "Private" Employment: You Really Work for Uncle Sam If You Receive Federal Benefits, Family Guardian Fellowship
http://famguardian.org/Subjects/Taxes/Articles/PublicVPrivateEmployment.htm

Some people also look at 26 U.S.C. §6331(a) and conclude that because levies may only be instituted against federal "employees", then they are the only persons who are liable for the income tax:

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

Flawed Tax Arguments to Avoid, Version 1.27 Copyright Family Guardian Fellowship, http://famguardian.org Last Revised: 1/23/2018 Notice the above includes "any agency or instrumentality of the United States or the District of Columbia". Well, a federal corporation or any other legal "person" who nominates themselves into a "public office" fits the description of "agency or instrumentality of the United States or the District of Columbia". For instance, a person who fills out a W-4 becomes an "employee", because the form says he is in the upper left corner, which says "Employee Withholding Allowance Certificate". If you don't want your earnings levied, then quit calling yourself a federal "employee" and quit identifying your earnings as "wages" by signing and submitting a W-4. The regulations at 26 C.F.R. §31.3401(a)-3(a) say that all those who complete a W-4, which it calls a "voluntary withholding agreement", earn "wages".

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

(a) IN GENERAL.

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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 (Section 31.3401(a)-3).

Instead, fill out the W-8 to stop withholding, and thereby avoid calling yourself a federal "employee" or "public official" who earns "wages" as legally defined. Instructions for doing this are below:

About IRS Form W-8BEN, Form #04.202 http://sedm.org/Forms/FormIndex.htm

9.4 Workers need not submit accurate tax forms

False Argument: Workers need not submit accurate tax forms

Corrected Alternative Argument: Workers are not required to submit IRS Form W-4 because it is an "agreement", but when they submit it, it should be accurate. No one can compel you to contract with the government and become a public officer without your consent, and your Constitutional rights are unalienable per the Declaration of Independence, which is organic law. Thus, you aren't allowed to consent to contract them away and may only contract them away where the Constitution does NOT apply, which is on federal territory or abroad. Thus, those who want the "benefits" of being treated as a federal statutory "employee", such as Social Security MUST physically move to the District of Columbia and pursue an elected or appointed office in the government, as required by 4 U.S.C. §72.

Further information:

- 1. Federal and State Tax Withholding Options for Private Employers, Form #04.101. Describes the laws on tax withholding and reporting http://sedm.org/Forms/FormIndex.htm
- 18 U.S.C. §1621: Perjury generally
- 18 U.S.C. §1001: Statements and entries generally

One should NEVER, EVER commit perjury on any tax form. Willful fraud absent duress is NEVER a good idea and will definitely get you in trouble. The penalty for perjury on a tax form, including a W-4, is identified under 18 U.S.C. §1621 as follows:

TITLE 18 > PART I > CHAPTER 79 > § 1621 21 § 1621. Perjury generally 22 Whoever-23 (1) having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United 24 States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any 25 written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such 26 oath states or subscribes any material matter which he does not believe to be true; or 27 (2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 28 29 1746 of title 28, United States Code, willfully subscribes as true any material matter which he does not believe to

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be true;

EXHIBIT:_

is guilty of perjury and shall, except as otherwise expressly provided by law, be fined under this title or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States

Whether or not any IRS publication, a tax form, or the information one adds to the form is "accurate" should in turn be based

ONLY on sources of "reasonable belief" recognized by the courts as admissible evidence, and in accordance with the

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

The above reference emphasizes that the courts and the government both agree that <u>one CANNOT rely on ANY IRS</u>

publication or form or anything a government worker tells anyone to determine whether the content of the form or publication is "accurate" and that one may ONLY base your reasonable belief about its accuracy upon what enacted positive law actually says on the subject. Hence, the means that most people use to determine what is "accurate" in regards to taxes is fatally flawed and in fact results in perjury and crime on a massive scale. That criminal perjury is caused, aided, and abetted both by the courts and the IRS because:

- 1. Government refuses to take responsibility or liability for ANYTHING they publish or write.
- 2. No one in the IRS takes the personal responsibility to sign their forms and publications under penalty of perjury to attest to their accuracy as required by 26 U.S.C. §6065. Hence, no IRS publication is in compliance with the I.R.C. itself and ALL forms and publications are presumed FALSE and INACCURATE.
- 3. Even when the IRS tells you something is wrong with your correspondence:
 - 3.1. They refuse to sign the notice under penalty of perjury as required by 26 U.S.C. §6065. They can't apply different requirements to the public than they apply to themselves. Everything you send them has to be signed under penalty of perjury so THEY have to do so ALSO, under the concept of equal protection and equal treatment.
 - 3.2. They threaten you with a penalty unless you change your testimony, which amounts to criminal witness tampering in violation of 18 U.S.C. §1512 because all tax forms are signed under penalty of perjury.
- 4. IRS agents also refuse to even use their real legal birth name and instead use pseudonyms. Internal Revenue Manual (I.R.M.), Section 1.2.4 authorizes them to instead use "pseudonyms", which they commonly do. They are, in fact, more likely to use such pseudonyms if they know that you are aware that they are committing fraud or making false statements. Hence, this provision is abused to protect government criminal and illegal behavior and thereby obstruct justice.
- 5. IRS agents unjustly claim official immunity and no responsibility if what they say or write is wrong. Hence, they apply a different and unequal standard to themselves than they apply to the public at large, thus violating the requirement for equal protection and equal treatment that is the foundation of the United States Constitution.
- Another very important aspect of the problem of ensuring that tax forms are accurate is how exactly can one ensure that:
- 1. The submitter of the form is not victimized by presumptions of others about what the form or the things you add to the form mean. All presumptions, after all, are a violation of due process of law. See:

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

- 2. The terms on the forms are tied to a specific statute or regulation so as to be unambiguous.
- 3. The terms are not subjectively defined or redefined by the bureaucrat or judge reading them to add things that are not expressly described in the statutory definitions. This violates the rules of statutory construction.
- 4. The IRS is held equally responsible for the accuracy of the publication or form that you added information to BEFORE they attack you for adding something that might not be accurate.
- We suggest that the answer to the above paradox and cognitive dissonance is that when we are filling out government forms or FORCED to submit them, we should:
- 1. Define EVERY key "word of art" appearing on the form unambiguously either on the form itself or in an attachment.
- 2. Invoke the rules of statutory construction to confine their meaning. See:

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

Flawed Tax Arguments to Avoid, Version 1.27 Copyright Family Guardian Fellowship, http://famguardian.org Last Revised: 1/23/2018 3. When we make any attachments to a government form, we must write near our signature INSIDE the margins the following:

"Not valid, false, fraudulent, and perjurious if any information is redacted, any attachment is removed or altered, or if I am penalized for the content of any aspect of the accuracy of this submission. Penalties constitute criminal witness tampering per 18 U.S.C. §1512 because all tax forms are signed under penalty of perjury and are treated as the testimony of a witness."

- 4. Every correspondence should list the enclosures and the number of pages in the enclosures in a list at the beginning to ensure that they are not removed, redacted, or altered.
- 5. Under the concept of equal protection and equal treatment, you can lawfully invoke the same anonymity and irresponsibility as they invoke. Hence, if you want to imitate their behavior lawfully, you can use the following attachment:

<u>Notice of Pseudonym Use and Unreliable Tax Records</u>, Form #04.206 http://sedm.org/Forms/FormIndex.htm

A good way to ensure items 1 and 2 above are consistently implemented is to attach the following enclosures to every tax form, as mandated by the SEDM Member Agreement, Form #01.001. This will remove ALL discretion and authority from every bureaucrat and judge to interpret, change, or expand the meaning or definition of any word used on a government form, and prevent you from being victimized by the self-serving presumptions of ANYONE reading the form:

- 1. <u>Tax Form Attachment</u>, Form #04.201 http://sedm.org/Forms/FormIndex.htm
- 2. Affidavit of Citizenship, Domicile, and Tax Status, Form #02.001 http://sedm.org/Forms/FormIndex.htm

9.5 "United States Citizens" are not liable for federal income taxes

<u>False Argument</u>: United States citizens are not subject to the Internal Revenue Code

<u>Corrected Alternative Argument</u>: All those domiciled on federal territory and engaged in a "public office" are subject to the I.R.C. Subtitle A income tax when abroad

Further information:

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- 1. Why You are a "national", "state national", and Constitutional but not Statutory Citizen, Form #05.006 http://sedm.org/Forms/FormIndex.htm
- <u>Citizenship and Sovereignty Course</u>, Form #12.001 http://sedm.org/Forms/FormIndex.htm
- <u>Developing Evidence of Citizenship and Sovereignty Course</u>, Form #12.002 http://sedm.org/Forms/FormIndex.htm

Title 26 of the Code of Federal Regulations describes WHO is liable to file tax returns. Statutory but not constitutional "U.S. citizens" and "U.S. residents" (aliens) are the parties made liable, and these parties do not include "citizens" or "residents" within the meaning of either the Constitution or any de jure state law. Parties domiciled within states of the Union are constitutional but not statutory Citizens and may not lawfully be treated as statutory citizens, even WITH their consent, without engaging in identity theft and violating the separation of powers doctrine:

TITLE 26--INTERNAL REVENUE
CHAPTER 1--INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY
Returns and Records--Table of Contents
Sec. 1.6012-1 Individuals required to make returns of income.

(a) Individual citizen or resident—

(1) In general.

Except as provided in subparagraph (2) of this paragraph, an income tax return must be filed by every individual for each taxable year beginning before January 1, 1973, during which he receives \$600 or more of gross

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income, and for each taxable year beginning after December 31, 1972, during which he receives $750 or more of gross income, if such individual is:

(i) A citizen of the United States, whether residing at home or abroad.

(ii) A resident of the United States even though not a citizen thereof, or

(iii) An alien bona fide resident of Puerto Rico during the entire taxable year.

[SOURCE: SEDM Exhibit #05.041; http://sedm.org/Exhibits/ExhibitIndex.htm]
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The above statutory "U.S. citizens" are further defined in 26 U.S.C. §3121(e) and 26 C.F.R. §1.1-1(c) and therefore are in fact subject to the I.R.C. and "taxpayers", but only if they are domiciled in the statutory but not constitutional "United States" and temporarily overseas under the auspices of a tax treaty with a foreign country. By "United States", we mean that defined in 26 U.S.C. §7701(a)(9) and (a)(10) and 4 U.S.C. §110(d) as federal territory and no part of the exclusive jurisdiction of any constitutional state of the Union. The statutory but not constitutional "citizens" and "residents" made liable above are "public officers" within the United States government who have in common a domicile in this "United States" and are therefore "U.S. persons" as defined in 26 U.S.C. §7701(a)(30). This "United States" is a municipal corporation and NOT a "body politic" pursuant to 28 U.S.C. §3002(15)(A) and 16 Stat. 419 in 1871, which means that the "citizens and residents" described above are "officers of a corporation" and therefore "persons" within the meaning of 26 U.S.C. §7343 and 26 U.S.C. §6671(b). Note that the "citizens" and "residents" described in the I.R.C. are NOT the same types of "citizens" as those described in 8 U.S.C. §1401, because they are municipal citizens of the District of Columbia corporation rather than of federal territories and possessions. All corporations are "citizens" or "residents" under the laws of the place where they were incorporated, and therefore, those representing said corporations as public officers take on the character of the entity they represent under Federal Rule of Civil Procedure 17(b):

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"A corporation is a citizen, <u>resident</u>, 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)]
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26 U.S.C. §911 is the ONLY statute imposing a liability upon the "citizens and residents of the United States" mentioned in 26 C.F.R. §1.6012-1(a) above and it imposes a tax upon these <u>statutory</u> but NOT <u>constitutional</u> "U.S. citizens and residents" domiciled in the statutory "United States**" (federal territory) when they are temporarily "abroad" pursuant to the presence test found in 26 U.S.C. §7701(b)(3). They are "taxpayers" in that capacity if they have "trade or business" earnings as "public officers" in the U.S. government or receive payments from the federal government, which the code calls "U.S. sources". In that capacity, they are "aliens" who come under the jurisdiction of the Internal Revenue Code because of a tax treaty with a foreign country. When they are domiciled in the STATUTORY "United States[**]" (federal zone) or any state of the Union, they are "nontaxpayers". This is confirmed by 26 C.F.R. §1.1-1(a)(2)(ii), which defines "married individual" and "unmarried individuals" as aliens with earnings "effectively connected with a trade or business":

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Sec. 1.1-1 Income tax on individuals.

(a)(2)(ii) For taxable years beginning after December 31, 1970, the tax imposed by section 1(d), as amended by the Tax Reform Act of 1969, shall apply to the income effectively connected with the conduct of a trade or business in the United States by a married alien individual who is a nonresident of the United States for all or part of the taxable year or by a foreign estate or trust. For such years the tax imposed by section 1(c), as amended by such Act, shall apply to the income effectively connected with the conduct of a trade or business in the United States by an unmarried alien individual (other than a surviving spouse) who is a nonresident of the United States for all or part of the taxable year. See paragraph (b)(2) of section 1.871-8."

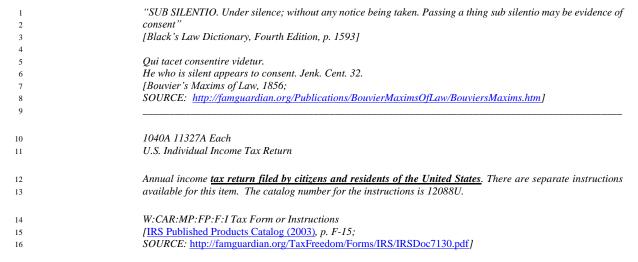
[26 C.F.R. §1.1-1(a)(2)(ii)]
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26 C.F.R. §1.6012-1(a) uses the phrase "whether residing at home or abroad", and by this they mean that such person owes a tax regardless of where they physically are, so long as they continue to have a legal domicile in the "United States". Liability for tax originates in one's choice of legal domicile as described on government forms. IRS Form 1040 functions as the main method by which a "taxpayer" elects to have a domicile in the statutory "United States**" (federal territory), because IRS Document 7130 says the form is only for use by statutory "U.S. citizens" and "U.S. residents". In that sense, the "election" is invisible and occurs "sub silentio" because nowhere on the 1040 Form itself or in the IRS 1040 Instruction Booklet is this selection of domicile made plain, even though it is indicated in IRS Document 7130. Your consent to choose a domicile in the statutory but not constitutional "United States", meaning federal territory, is therefore procured through constructive FRAUD through abuse of "words of art", for all practical purposes:

NORMAL TAXES AND SURTAXES

Tax on Individuals

DETERMINATION OF TAX LIABILITY



In the case of persons domiciled in the states of the Union, the election to become a domiciliary of the "United States" is also false and fraudulent because the person making the election does not satisfy the presence test found in 26 U.S.C. §7701(b)(3). They don't satisfy the presence test because they do not physically occupy the statutory but not constitutional "United States**" (federal territory) for at least 90 days per year. Many of these same people who make this ignorant, false and fraudulent election also do not realize that by claiming to be a statutory "U.S. citizen" on a government form or using a form that indirectly implies that status when they in fact do not have that status, they have committed the crime of impersonating a statutory "U.S. citizen" in 18 U.S.C. §911.

The above conclusions are also confirmed by the following:

- 1. 26 C.F.R. §1.1441-1(c)(3), which defines an "individual" as an "alien individual". Nowhere in the I.R.C. or treasury regulations that implement it is the term "individual" defined to also include statutory "U.S. citizens" as defined in 26 C.F.R. §1.1-1(c) except under 26 U.S.C. §911(d). Section 911 deals with STATUTORY "U.S.** citizens" abroad who are filing Form 1040 and Form 2555 together.
- 2. IRS Form 1040 is entitled "U.S. Individual Tax Return", and the word "Individual" is then defined as an "alien" in 26 C.F.R. §1.1441-1(c)(3). It is a resident tax return for "U.S. persons" with a domicile on federal territory that is no part of a state of the Union who are either ALIENS at home or CITIZENS abroad.

The IRS will not and deliberately does not tell you the whole truth on this argument in their publications or on their website. For instance, they will not define which of the three "United States" they mean in the term "United States citizen". If they did, they would destroy their ability to continue to unlawfully enforce the Internal Revenue Code. However, the quote below from the Department of State Website tells the truth plainly:

Frequently Asked Questions About Employment Eligibility

Do citizens and nationals of the U.S. need to prove, to their employers, they are eligible to work?

Yes. While citizens and nationals of the U.S. are automatically eligible for employment, they too must present proof of employment eligibility and identity and complete an Employment Eligibility Verification form (Form I-9). Citizens of the U.S. include persons born in Puerto Rico, Guam, the U.S. Virgin Islands, and the Northern Mariana Islands. Nationals of the U.S. include persons born in American Samoa, including Swains Island. [SOURCE: http://uscis.gov/graphics/howdoi/eev.htm]

Below is a summary of the things the IRS willfully refuses to tell you about this argument, either on their website and in their literature, in order to perpetuate false presumptions that advantage them financially:

- 1. The term "United States" as used in the phrase "United States citizen", depends on the statutory definition of "United States" found in 26 U.S.C. §7701(a)(9) and (a)(10). This person is born in the District of Columbia. See: http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Section%2014.htm
- 2. Persons born in states of the Union are not <u>statutory</u> "U.S. citizens" under <u>8 U.S.C. §1401</u> or 26 C.F.R. §1.1-1(c). They are <u>constitutional</u> (or Fourteenth Amendment) citizens, but not <u>statutory</u> citizens, because of the differences in meaning

- of the term "United States" as using in the Constitution v. Acts of Congress. Instead, they are "nationals" but not "citizens" under federal law. See the following for details:
 - 2.1. Why You are a "national", "state national", and Constitutional but not Statutory Citizen", Form #05.006 http://sedm.org/Forms/FormIndex.htm
 - 2.2. You're Not a STATUTORY "citizen" under the Internal Revenue Code, Family Guardian Fellowship http://famguardian.org/Subjects/Taxes/Citizenship/NotACitizenUnderIRC.htm
- The term "State" as used in the Internal Revenue Code excludes states of the Union and includes only federal territories and possessions. See:
 - 3.1. Great IRS Hoax, Form #11.302, Section 5.2.13.
 - 3.2. 4 U.S.C. §110(d)

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3.3. http://famguardian.org/TaxFreedom/CitesByTopic/State.htm

It is <u>not</u> one's nationality <u>only</u> that determines their tax liability under Subtitle A of the tax code. It is the coincidence of the 12 following factors that determine their tax liability: 13

- Their domicile. See Great IRS Hoax, Form #11.302, Section 5.4.8 entitled "Why all income taxes are based on domicile and are voluntary because domicile is voluntary."
- 2. The taxable activity they are engaging in. See *Great IRS Hoax*, Form #11.302, Sections 5.6.12 through 5.6.12.15.

Changing one's nationality status DOES NOT result in eliminating an existing liability for 1040 income taxes under Subtitle A of the Internal Revenue Code. We have never made any claim otherwise in any of our materials. The only affect that correcting government records describing one's citizenship can have is:

- 1. Restoring one's sovereignty. Under the Foreign Sovereign Immunities Act, 28 U.S.C. §1603(b) and under 28 U.S.C. §1332(c) and (d), a legal person *cannot* be classified as an agency or instrumentality of a foreign state if they are a citizen of a [federal] state of the United States, meaning a person born in a federal territory, possession, or the District of Columbia as defined in 4 U.S.C. §110(d). This conclusion is also confirmed on the Department of State website at: http://travel.state.gov/law/info/judicial/judicial 693.html
- Removing oneself from some aspect of federal legislative jurisdiction. A "citizen" under federal law, is defined as a person subject to federal jurisdiction. This is covered in *Great IRS Hoax*, Form #11.302, Section 4.12.3, for instance.
- Making sure that a person's domicile cannot be involuntarily moved to the District of Columbia. Both 26 U.S.C. §7701(a)(39) or 26 U.S.C. §7408(d) allow that a person who is a "citizen" or a "resident" under the Internal Revenue Code, should be treated as having a domicile in the District of Columbia for the purposes of federal jurisdiction. Since kidnapping is illegal under 18 U.S.C. §1201, then a person who is not a "citizen or resident" under federal law needs to take extraordinary efforts to ensure that their citizenship is not misunderstood or misconstrued by the federal government by going back and making sure that all federal forms which indicate one's citizenship status are truthful and unambiguous. The process of correcting government forms relating to citizenship is described in section 4.5.3.13 of the following:

Sovereignty Forms and Instructions Manual, Form #10.005 http://sedm.org/ItemInfo/Ebooks/SovFormsInstr/SovFormsInstr.htm

The reason why the last item above is very important is 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 the term is not enlarged elsewhere under Subtitle A of the Internal Revenue Code. If it ain't defined anywhere in the code to include states of the Union, then under the rule of statutory construction, "Expressio unius, exclusio alterius", what is not specifically included may be excluded by implication. Therefore, if a person is either a "citizen" or a "resident" under federal law, then they are treated as domiciliaries of the main place where Subtitle A of the Internal Revenue Code applies, which is federal territory in the statutory but not constitutional "United States**", and become the proper subjects of the code.

The U.S. Supreme Court, in Cook v. Tait, 265 U.S. 47 (1924), said that it's perfectly constitutional to tax "U.S. citizens" who are abroad. 26 U.S.C. §911, in fact, describes this perfectly Constitutional tax upon statutory but not constitutional "U.S. citizens" temporarily abroad. It is therefore simply wrong to claim that being a statutory "U.S. citizen" will allow people to escape federal tax liability and we have never claimed otherwise. Additional information on the subject of citizenship, taxability of "U.S. citizens", and your citizenship status is found below:

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

- 2. *Great IRS Hoax* book, in the following sections:
 - 2.1. 4.11.1: Sovereign Citizenship

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- 2.2. 4.11.7.6: Sovereign Immunity of American Nationals
- 3. <u>You're Not a STATUTORY "citizen" under the Internal Revenue Code</u>, Family Guardian Fellowship http://famguardian.org/Subjects/Taxes/Citizenship/NotACitizenUnderIRC.htm
- 4. <u>You're Not a STATUTORY "resident" under the Internal Revenue Code</u>, Family Guardian Fellowship http://famguardian.org/Subjects/Taxes/Citizenship/Resident.htm
- 5. Why Domicile and Becoming a "Taxpayer" Require Your Consent, Family Guardian Fellowship http://famguardian.org/Subjects/Taxes/Remedies/DomicileBasisForTaxation.htm

9.6 The Internal Revenue Code applies only within the "federal zone"

<u>False Argument</u>: The Internal Revenue Code only applies in the federal zone

<u>Corrected Alternative Argument</u>: I.R.C. Subtitle A applies only to federal territory and domiciliaries situated abroad pursuant to 26 U.S.C. §911 but not in states of the Union. There is no provision within the I.R.C. Subtitle A that makes either a "citizen" or a "resident" present within the "United States**" (federal territory per 26 U.S.C. §7701(a)(9) and (a)(10) and 4 U.S.C. §110(d)) and NOT abroad liable for an income tax or in receipt of "gross income" or "income".

Further Information:

- 1. <u>Federal Jurisdiction</u>, Form #05.018 http://sedm.org/Forms/FormIndex.htm
- 2. Why the Federal Income Tax is Limited to Federal Territory, Possessions, Enclaves, Offices, and Other Property, Form #04.404
 - http://sedm.org/Forms/FormIndex.htm
- 3. <u>The "Trade or Business" Scam</u>, Form #05.001 http://sedm.org/Forms/FormIndex.htm
- 4. <u>Why Domicile and Becoming a "Taxpayer" Require Your Consent</u>, Form #05.002. Proves that the U.S. enjoys extraterritorial jurisdiction and where their authority to impose an income tax originates from. http://sedm.org/Forms/FormIndex.htm
- 5. <u>Case Cites Denouncing the Claim that Subtitle A Federal Income Taxes Only Apply Inside the Federal Zone,</u> Family Guardian Fellowship http://famguardian.org/Subjects/Taxes/FalseRhetoric/CourtCasesDenouncingFedZone.htm

This general statement is very presumptuous, and we tell people throughout our <u>Great IRS Hoax</u> to avoid general statements or presumption and to be very specific when they make a statement in order to limit the scope of the statement to avoid misinterpretation.

"Fraus latet in generalibus. A deceiver deals in generals. 2 Co. 34."

"Fraus latet in generalibus. Fraud lies hid in general expressions."

[Bouvier's Maxims of Law, 1856; SOURCE:

http://famguardian.org/Publications/BouvierMaximsOfLaw/BouviersMaxims.htm]

As we said previously in section 9.2 earlier, the Internal Revenue Code describes several Constitutional taxes that apply to several subjects of taxation, many of which are not limited to the federal zone. For instance:

- 1. 26 U.S.C. §911 identifies a source of taxable income in the case of "citizens or residents abroad". By "abroad" is meant foreign countries and NOT states of the Union. By "citizens and residents", they actually mean someone with a legal domicile on federal territory per 26 U.S.C. §911(d)(3). Foreign countries are not part of the "federal zone" as defined in the *Great IRS Hoax*. Therefore, the Internal Revenue Code *does* address subjects of taxation such as "citizens" or "residents" who are outside of the federal zone and can apply outside of the federal zone. We also covered this subject also in the previous section.
- 2. <u>26 U.S.C. §4612(a)(4)</u> defines the "United States" as including the 50 states of the Union. This section applies to the tax imposed in 26 U.S.C. §4611 upon fuels imported into states of the Union. One of the few Constitutional subjects of federal taxation is that upon importation, which are referred to in Constitution Article 1, Section 8, Clause 1 as "duties,

- imposts, and excises". This also is a perfectly Constitutional tax which applies outside of the "federal zone". We point this out in Section 5.1.10 of the *Great IRS Hoax*.
- 3. Taxes on importation into states of the Union collected within the territorial waters under the exclusive control of the federal government. Such "imposts, duties, and excises" are collected under the authority of Article 1, Section 8, Clause 1 of the Constitution and can lawfully be enforced in the territorial waters of the surrounding states of the Union. In fact, the very reason for the existence of the Coast Guard is as a vehicle to enforce the collection of these lawful taxes on imports. The ships of the original Coast Guard, in fact, were called "Revenue Cutters".
- For the purposes of this section we define the term "federal zone" as follows:

"<u>Federal zone</u>: The District of Columbia, the territories and possessions of the United States, and federal areas or enclaves within states of the Union owned or ceded to the federal/general government by an act of the state legislature."

We also explain in the <u>Great IRS Hoax</u>, in the following sections that Federal income taxes under Subtitle A of the Internal Revenue Code can also apply to persons and property outside the federal zone, but ONLY in the case of persons either domiciled within the federal zone or who participate in federal contracts or franchises and thereby become officers and agents of the government in the process:

- 1. Section 5.2.6 entitled "The TWO Sources of Federal Jurisdiction: 'Domicile' and 'contract'".
- 2. Section 5.2.8 entitled "Social Security: The Legal Vehicle for extending Federal Jurisdiction into the states using Private/contract law.
 - 3. Sections 5.4.8: Why Domicile and Becoming a "Taxpayer" Require Your Consent

The main sources of lawful federal jurisdiction outside the federal zone are the following. These sources of jurisdiction are called "extraterritorial jurisdiction" within the legal profession:

1. 26 U.S.C. §911, which governs taxation of persons domiciled in the federal zone but who are temporarily abroad, meaning not in any state of the Union and in a foreign country. Domicile is the origin of all the government's authority to collect income tax, and a person can have a domicile in a place without actually LIVING there. See the following for details:

Why Domicile and Becoming a "Taxpayer" Require Your Consent, Form #05.002 http://sedm.org/Forms/FormIndex.htm

2. Article 4, Section 3, Clause 2 of the Federal Constitution:

U.S. 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 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 *510 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, 1856 WL 8721 (U.S.1856)]

The above authority empowers Congress to manage all of its territory, real property, employees, and franchises located within states of the Union, whether or not this property exists on federal territory subject to exclusive federal jurisdiction. In law, all rights are "property" and therefore anything which conveys rights is also property. Franchises such as the

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"trade or business" (public office) franchise convey rights and are therefore property subject to the Article IV territorial federal district courts. We allege, in fact, that ALL of the authority and jurisdiction of federal district and circuit courts originates from this source and ONLY this source and that they have absolutely no Constitution Article III constitutional jurisdiction. See the following for proof:

What Happened to Justice?, Litigation Tool #08.001

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

Federal Rule of Civil Procedure 17(b). This rule determines the law to be applied against a defendant appearing in federal court. This rule says in pertinent part:

> Federal Rules of Civil Procedure 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 rule establishes two justifications to apply federal law against a person not domiciled on federal territory and in a state of the Union, which are the following:

3.1. Acting in a representative capacity as an officer of a federal corporation owned or controlled by the United States.

3.2. Being a federal corporation.

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In every other case, the rule requires that that the law of the persons domicile, which is the foreign law" of the state of the Union that the person is domiciled in must be applied and federal law MAY NOT otherwise be enforced against a person not domiciled on federal territory. This is consistent with the Rules of Decision Act above.

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TITLE 28 > PART V > CHAPTER 111 > § 1652
§ 1652. State laws as rules of decision
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The laws of the several states, except where the Constitution or treaties of the United States or Acts of Congress otherwise require or provide, shall be regarded as rules of decision in civil actions in the courts of the United States, in cases where they apply.

The thing they deliberately don't tell you is specifically when federal law applies in extraterritorially in a state of the Union, which is ONLY in the case of federal contracts, franchises, and domiciliaries. Note the emphasized language in Federal Rule of Civil Procedure 17 above, which says that

> "Capacity to sue or be sued is determined as follows: ... (2) for a corporation, by the law under which it was organized; and'

A person who is engaged in a "public office" or federal "employment" regulated by Title 5 of the U.S. Code effectively becomes an officer of a corporation" called the "United States", which is defined in 28 U.S.C. §3002(15)(A) as a "federal corporation". While acting in the capacity of such a "public office", federal "employees" as defined in 5 U.S.C. §2105 are subject to the laws where the corporation was incorporated, which in the case of the "United States" government is the District of Columbia pursuant to Article 1, Section 8, Clause 17 of the United States Constitution. What they are essentially saying is that while you are acting on behalf of the corporation pursuant to the authority of law, you take on the legal character of that corporation. That corporation, incidentally, is a statutory "U.S. citizen" under 8 U.S.C. §1401 and 26 C.F.R. §1.1-1(c) and is treated as having a legal domicile in the statutory but not constitutional "United States**" (federal territory), and so are you while you are exercising the duties of "public office". It is the "domicile" which makes the legal person into a "taxpayer". Here are some authorities:

> "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."

[19 Corpus Juris Secundum (C.J.S.), Corporations, §886 (2003)]

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EXHIBIT:__

"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)]

The next item will show two code sections in the Internal Revenue Code which implement the concepts found in this rule, by directing federal courts to apply the laws of the District of Columbia to all those who enter federal court on an income tax matter under Subtitle A of the Internal Revenue Code.

- 4. The following sections of Internal Revenue Code, which essentially kidnap a person's identity and place it in the District of Columbia for the purposes of enforcing the Internal Revenue Code. These statutes are used to move the "virtual residence" of the person to the District of Columbia if a party domiciled in a state of the Union involves themselves in any federal tax matter. Since kidnapping is illegal under 18 U.S.C. §1201, then that movement of your effective domicile or "virtual residence" must have occurred with your consent. That consent was provided using the W-4, the 1040, and the SS-5 federal forms, which connected you to a "public office" and the federal government through the operation of private law and your individual, voluntary consent:
 - 4.1. 26 U.S.C. §7701(a)(39):

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<u>TITLE 26</u> > <u>Subtitle F</u> > <u>CHAPTER 79</u> > § 7701
§ 7701. Definitions
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- (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.
- 4.2. 26 U.S.C. §7408(d):

TITLE 26 > Subtitle F > CHAPTER 76 > Subchapter A > § 7408 § 7408. Action to enjoin promoters of abusive tax shelters, etc.

(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.

If you would like to learn more about exactly how this process of consenting to be bound by the Internal Revenue Code occurs that makes one into a "taxpayer", we refer you to the following free and fascinating memorandum of law:

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

To briefly summarize the several cogent and cohesive authorities above on federal jurisdiction: Yes, the federal government absolutely does have lawful and completely Constitutional extraterritorial jurisdiction outside the federal zone but NOT within states of the Union to levy and collect income taxes under Subtitle A of the Internal Revenue Code, which is primarily an indirect excise tax (also called "privilege tax") upon the taxable privileges and franchises associated with federal employment or a "public office" in most cases. That jurisdiction originates from private law rather than public law, and it requires your constructive consent to be explicitly provided in at least one of the following forms:

1. <u>Applying for or accepting a Social Security Number on an SS-5 form.</u> The regulations at 20 C.F.R. §422.104 say the number may only be issued incident to privileged federal employment:

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1	Title 20: Employees Benefits
2	PART 422—ORGANIZATION AND PROCEDURES
3	Subpart B—General Procedures
4	§ 422.104 Who can be assigned a social security number.
5	(a) Persons eligible for SSN assignment. We can assign you a social security number if you meet the evidence
6	requirements in §422.107 and you are:
7	(1) A United States citizen; or
8	(2) An alien lawfully admitted to the United States for permanent residence or under other authority of law
9	permitting you to work in the United States (§422.105 describes how we determine if a nonimmigrant alien is
10	permitted to work in the United States); or
11	(3) An alien who cannot provide evidence of alien status showing lawful admission to the U.S., or an alien with
12	evidence of lawful admission but without authority to work in the U.S., if the evidence described in §422.107(e)
13	does not exist, but only for a valid nonwork reason. We consider you to have a valid nonwork reason if:
14	(i) You need a social security number to satisfy a Federal statute or regulation that requires you to have a
15	social security number in order to receive a Federally-funded benefit to which you have otherwise established
16	entitlement and you reside either in or outside the U.S.; or
17	(ii) You need a social security number to satisfy a State or local law that requires you to have a social security
18	number in order to receive public assistance benefits to which you have otherwise established entitlement, and
19	you are legally in the United States.
20	You will note that 20 C.F.R. above is called "Employee's Benefits", and it implements Titles 5 and 42. Title 5 is
21	"Government Employees" and it does not govern the relationship of private employees not within the territorial
	jurisdiction of the federal government and who do not have any contracts or "public office" relationships with the federal
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23	government. The above is also confirmed by the Privacy Act, which governs the use and disclosure of the above number
24	and identifies all those eligible to receive any kind of federal retirement benefit, including Medicare and Social Security,
25	as "federal personnel", e.g. "public employees". To wit:
26	TITLE 5 > PART 1 > CHAPTER 5 > SUBCHAPTER 11 > § 552a
27	§ 552a. Records maintained on individuals
28	(a) Definitions.— For purposes of this section—
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29	(13) the term "Federal personnel" means officers and employees of the Government of the United States,
30	members of the uniformed services (including members of the Reserve Components), individuals entitled to
31	receive immediate or deferred retirement benefits under any retirement program of the Government of the
32	United States (including survivor benefits).
22	The "individual" they are talking about above is a federal "employee" or "public officer" because once again, it is under
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34	Title 5 of the U.S. Code, which is entitled "Government Organization and Employees". The term "individual" is nowhere
35	defined anywhere under Title 5 or most other titles of the U.S. Code to ALSO include private persons who are not
36	government "employees" and "public officers". To wit:
37	<u>TITLE 5 > PART I</u> > <u>CHAPTER 5 > SUBCHAPTER II</u> > § 552a
38	§ 552a. Records maintained on individuals
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39	(a) Definitions.— For purposes of this section—
37	(a) Definitions. To purposes of this section
40	(2) the town "individual" means a sitisan of the United States or an alian landally admitted for normanant
40	(2) the term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;
41	residence,
42	If you would like to learn more about how Social Security is the main source of lawful federal jurisdiction within states
43	of the Union, please read the free pamphlet below. This pamphlet also proves, using extensive legal research, that those
44	participating in the Social Security Program essentially become "public officers" and trustees for the federal government.
45	Their deferred employment compensation is the Social Security benefits they get when they get older. That fiduciary
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http://sedm.org/Forms/FormIndex.htm

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duty is what makes them into "taxpayers" subject to the Internal Revenue Code:

Resignation of Compelled Social Security Trustee, Form #06.002

- Becoming involved in a privileged, excise taxable activity called a "trade or business": 1 2.1. Internal Revenue Code, Subtitle A describes primarily an excise tax upon "trade or business" earnings, which are 2 defined in 26 U.S.C. §7701(a)(26) as "the functions of a public office". 3 2.2. A "public office" is essentially a business partnership with the federal government, which is defined as a federal 4 corporation in 28 U.S.C. §3002(15)(A). The U.S. Supreme Court also said that all governments are corporations 5 of one kind or another when it said: 6 "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 8 whether they are private, local or general, in their objects, for the enjoyment of property, or the exercise of 10 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 11 a fundamental principle of the common law of England, that the term freemen of the kingdom, includes 'all 12 13 persons,' ecclesiastical and temporal, incorporate, politique or natural; it is a part of their magna charta (2 Inst. 14 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 15 individuals. 2 Inst. 46-7. 'No man shall be taken,' 'no man shall be disseised,' without due process of law, is a 16 principle taken from magna charta, infused into all our state constitutions, and is made inviolable by the federal 17 government, by the amendments to the constitution." 18 [Proprietors of Charles River Bridge v. Proprietors of Warren Bridge, 36 U.S. 420 (1837)] 19 2.3. Being engaged in a "trade or business" also makes one into a "virtual resident" of the of the statutory but not 20 constitutional "United States**", which is defined in 26 U.S.C. §7701(a)(9) and (a)(10) and 4 U.S.C. §110(d) as 21 federal territory and not expressly expanded anywhere else in I.R.C. Subtitle A to include states of the Union. That 22 means that even if you do reside in a state of the union outside of exclusive or plenary federal jurisdiction, the 23 federal courts will treat you as a person with a legal domicile in the District of Columbia in the context of the 24 "public office" you are engaged in. Here is the proof: 25 2.3.1. 4 U.S.C. §72 requires that all "public offices" must exist ONLY in the District of Columbia, which also implies 26 those also connected with a "trade or business" have a legal "res" there as well: 27 <u>TITLE 4</u> > <u>CHAPTER 3</u> > § 72 28 § 72. Public offices; at seat of Government 29 30 All offices attached to the seat of government shall be exercised in the District of Columbia, and not elsewhere, 31 except as otherwise expressly provided by law. 2.3.2. 26 U.S.C. §7701(a)(39): 32 TITLE $26 > Subtitle\ F > CHAPTER\ 79 > \S\ 7701$ 33 34 § 7701. Definitions (a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent 35 thereof-36 (39) Persons residing outside United States 37 If any citizen or resident of the United States does not reside in (and is not found in) any United States judicial 38 district, such citizen or resident shall be treated as residing in the District of Columbia for purposes of any 39 provision of this title relating to-40 41 (A) jurisdiction of courts, or (B) enforcement of summons. 42
 - 2.3.3. 26 U.S.C. §7408(d):

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<u>TITLE 26</u> > <u>Subtitle F</u> > <u>CHAPTER 76</u> > <u>Subchapter A</u> > § 7408. <u>8 7408</u>. <u>Action to enjoin promoters of abusive tax shelters, etc.</u>

(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.

2.3.4. 26 C.F.R. §301.7701-5 (older version):

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 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 is referred to in the regulations in this chapter as a resident partnership, and 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]

- 2.4. Those engaged in a "trade or business"/"public office" become "officers of a corporation", by virtue of:
 - 2.4.1. Accepting custody and use of "public property", in the form of a Social Security Number and Social Security Card. The only person who can lawfully hold and use "public property" are "public officers" on official duty. It constitutes the criminal act of larceny and embezzlement to use "public property" for a "private use". The regulations say the Social Security Number is the property of the government and not YOUR property:

Title 20: Employees' Benefits

PART 422—ORGANIZATION AND PROCEDURES
Subpart B—General Procedures
§ 422.103 Social security numbers.

(d) Social security number cards.

A person who is assigned a social security number will receive a social security number card from SSA within a reasonable time after the number has been assigned. (See §422.104 regarding the assignment of social security number cards to aliens.) Social security number cards are the property of SSA and must be returned upon request.

Possession or use of a Social Security Number, which is "public property" in connection with anything, such as financial accounts, retirement accounts, real property, and transfers of currency, constitutes "prima facie evidence" that the person employing such "public property" is a "public officer" engaged in a privileged, excise taxable "trade or business". That formerly private property which is associated with the SSN becomes effectively "private property" donated to at least a temporary "public use".

<u>Public use</u>. 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]

Below is what the U.S. Supreme Court said about what happens when a person dedicates their "private property" to a "public use" or "public purpose":

"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)]

- 2.4.2. Availing themselves of the financial privileges associated with the "public office", in the form of any of the following, which may only be taken by those engaged in a "trade or business":
 - 2.4.2.1. Reduced/graduated rate of income tax under <u>26 U.S.C. §1</u> instead of the flat 30% rate applying to nonresident aliens under <u>26 U.S.C. §871(a)</u>.
 - 2.4.2.2. The ability to take earned income credits under 26 U.S.C. §32.
 - 2.4.2.3. The ability to take privileged deductions in their liability under 26 U.S.C. §162.
 - 2.4.2.4. Availing oneself of the benefits of a tax treaty with a foreign country in order to reduce or eliminate double taxation by both countries.

You will note that "nonresident aliens" not engaged in a "trade or business" may not avail themselves of any of the above forms of privileged "employment compensation", which may only be accepted by those engaged in a "public office", which is frequently referred to in the code as "effectively connected with a trade or business in the United States".

3. <u>Submitting a W-4 form to a private employer</u>. This creates a private contract to procure "social services" from Uncle Sam. The regulations confirm that the W-4 is an "agreement", which means a "contract":

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 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.

Everyone who signs an IRS Form W-4 essentially is signing a voluntary agreement which obligates them to declare EVERYTHING they earn in the context of the private employer they signed it with on an IRS Form 1040 and identify it as "gross income". Everything that goes on an IRS Form 1040 is "trade or business" income, and all "trade or business" income is "gross income" under 26 U.S.C. §61. The IRS doesn't want you to know that the W-4 is in fact a "voluntary agreement", because if you knew they needed your consent, then you wouldn't sign it and wouldn't procure "social services" from Uncle Sam. Therefore, they don't indicate that it is either voluntary or an "agreement", even though the regulations above tell the truth plainly. This is CONSTRUCTIVE FRAUD, because it hides the voluntary nature of the tax from the participant and thereby deceives them into believing that the participation is mandatory rather than voluntary.

- 4. <u>Signing and submitting an IRS Form 1040 and writing in a nonzero amount for "gross income"</u>. This creates a prima facie presumption that the person has "gross income". All "gross income" on an IRS Form 1040 (not IRS Form 1040NR, but IRS Form 1040) is connected to the "trade or business income" franchise.
- 5. Having any kind of Information Return filed against a "person", such as the W-2, 1098, and 1099, which connects them with a privileged "trade or business". Pursuant to 26 U.S.C. §6041(a), Information Returns may only be filed for amounts exchanged in excess of \$600 that are connected with a "trade or business", which is defined as a "public office" in 26 U.S.C. §7701(a)(26). If you are not engaged in a privileged, excise taxable "public office", then please refer to the following resources which describe how to correct false and fraudulent reports completed by private employers and financial institutions that connect you to it: are commonly filled out improperly by financial institutions and private employers:

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- 5.1. 26 U.S.C. §6041(a): Describes the requirement for information returns.
- 5.2. 26 U.S.C. §7434: Basis to sue those who fill out false information returns.
- 5.3. <u>Demand for Verified Evidence of "Trade or Business" Activity: Information Return (IR)</u>, Form #04.007: Submit this to private employers and financial institutions to prevent them from filing false reports of receipt of "public office" or "trade or business" earnings.

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

- 5.4. <u>Correcting Erroneous Information Returns</u>, Form #04.001: Condenses the following four links into one http://sedm.org/Forms/FormIndex.htm
- 5.5. <u>Correcting Erroneous IRS Form 1042's</u>, Form #04.003: http://sedm.org/Forms/FormIndex.htm
- 5.6. Correcting Erroneous IRS Form 1098's, Form #04.004: http://sedm.org/Forms/FormIndex.htm
- 5.7. Correcting Erroneous IRS Form 1099's, Form #04.005: http://sedm.org/Forms/FormIndex.htm
- 5.8. <u>Correcting Erroneous IRS Form W-2's</u>, Form #04.006: http://sedm.org/Forms/FormIndex.htm
- 6. Opening a Financial Account as a "U.S. Person" using a Social Security Number: The Social Security Number identifies you as a "U.S. person", which is defined in 26 U.S.C. §7701(a)(30) as a "citizen" or "resident" of the federal United States. This is what you become if you give the institution NOTHING but your name and ID when you open the account. You must submit an IRS Form W-8BEN to reflect your correct status as a "non-resident non-person" not engaged in the "trade or business" franchise and not provide any SSN or other identifying number on the form if you want to avoid being a U.S. person. If you don't do this, then according to 26 U.S.C. §7701(a)(39) or 26 U.S.C. §7408(d), you will be treated as having an effective domicile in the District of Columbia, which is a foreign jurisdiction. Below are the instructions to fill out IRS Form W-8BEN to avoid becoming a domiciliary of the District of Columbia that you can use to open financial accounts without SSN's and without being a "U.S. Person". http://sedm.org/compliant-member-only-forms/about-irs-form-w-8ben-form-04-002/
- 7. Having a Currency Transaction Report (CTR), IRS Form 8300 filed against a person who is withdrawing \$10,000 or more in currency from a financial institution. Pursuant to 31 U.S.C. §5331, these reports may only be filed for transactions connected with a "trade or business".

31 CFR § 1010.330 - Reports relating to currency in excess of \$10,000 received in a trade or business.

§ 1010.330 Reports relating to currency in excess of \$10,000 received in a trade or business.

(c) Meaning of terms. The following definitions apply for purposes of this section--

(11) <u>Trade or business</u>. The term trade or business has the same meaning as under <u>section 162 of title 26</u>, United States Code.

31 C.F.R. §1010.330(d)(2) General

(2) Receipt of currency not in the course of the recipient's trade or business.

The receipt of currency in excess of \$10,000 by a person other than in the course of the person's trade or business is not reportable under 31 U.S.C. 5331.

See the following form for details entitled "Demand for Verified Evidence of Trade or business Activity: CTR" if you are not engaged in a trade or business and wish to prevent the false or fraudulent filing of such a report on you: http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/DmdVerEvOfTradeOrBusiness-IR.pdf

In effect, the Internal Revenue Code operates upon individuals abroad but NOT in states of the Union as follows:

1. As "private law" or "special law"

"Private law. That portion of the law which defines, regulates, enforces, and administers relationships among individuals, associations, and corporations. As used in contradistinction to public law, the term means all that part of the law which is administered between citizen and citizen, o which is concerned with the definition, regulation, and enforcement of rights in cases where both the person in whom the right inheres and the person upon whom the obligation is incident are private individuals. See also Private bill; Special law. Compare Public Law."

[Black's Law Dictionary, Sixth Edition, p. 1196]

"special law. One relating to particular persons or things; one made for individual cases or for particular places or districts; one operating upon a selected class, rather than upon the public generally. A private law. A law is "special" when it is different from others of the same general kind or designed for a particular purpose, or limited in range or confined to a prescribed field of action or operation. A "special law" relates to either particular persons, places, or things or to persons, places, or things which, though not particularized, are separated by any method of selection from the whole class to which the law might, but not such legislation, be applied. Utah Farm Bureau Ins. Co. v. Utah Ins. Guaranty Ass'n, Utah, 564 P.2d. 751, 754. A special law applies only to an individual or a number of individuals out of a single class similarly situated and affected, or to a special locality. Board of County Com'rs of Lemhi County v. Swensen, Idaho, 80 Idaho 198, 327 P.2d. 361, 362. See also Private bill; Private law. Compare General law; Public law."

[Black's Law Dictionary, Sixth Edition, pp. 1397-1398]

"Private law" or "special law" apply exclusively to those who either consent individually in writing, or who demonstrate by their conduct that they consent, such as by availing themselves of the privileges associated with a "trade or business", such as tax deductions, "social insurance", etc. These are the compensation to induce "persons" to consent and become "trustees" and agents of the federal government executing the public office. See the following for exhaustive proof:

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

- 2. As the "employment contract" or private business contract between federal government business entities and the parent corporation. All such business entities are called "public offices" and their parent is a corporation, the "United States". Because they are wholly own subsidiaries of the parent corporation, then they act as "officers of a corporation", who:
 - 2.1. Are the main subject of the criminal provisions of the Internal Revenue Code, which define "person" in <u>26 U.S.C.</u> <u>\$7343</u> as "an officer of a corporation".
 - 2.2. Are the main subject of the penalty provisions of the Internal Revenue Code, which define "person" in <u>26 U.S.C.</u> <u>§6671(b)</u> as "an officer of a corporation".
- 3. A method to procure "social insurance" by essentially becoming a "Kelly Girl" for the federal government, who then assumes "in rem" control over all the earnings of its officers engaged in a "public office". The U.S. Supreme Court defined "income" for the purposes of the Constitution as "profit", but "gross income" includes ALL earnings of those engaged in a "trade or business", regardless of profitability. This is because the 1040 form operates essentially as a profit and loss statement for a federal business trust. That business trust is a Social Security Trust. See the following for exhaustive proof:

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

- 4. As a "federal contractor kickback program". Those who want Social Insurance agree to treat all of their earnings as "gross income" and to "return", using a "tax return", a portion of those earnings measured by the Internal Revenue Code, a franchise agreement, to the mother corporation they work for. This is thoroughly described in the *Great IRS Hoax*, Form #11.302, Section 5.6.10.
- 5. As a private contract which creates the equivalent of "binding arbitration" for resolving disputes between those private parties who consent, and Uncle Sam. All private contract disputes between the United States and any other party may only be litigated in federal, and not state court, regardless where the other party resides, including in a state of the Union. This is a requirement of the separation of powers doctrine, which mandates that the federal government cannot be tried in front of any state tribunal and may only go before its own officers. See Alden v. Maine, 527 U.S. 706 (1999). Below is how the legal encyclopedia explains litigation of federal contract issues, which confirms this conclusion:

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

The interest to be recovered as damages for the delayed payment of a contractual obligation to the United States is not controlled by state statute or local common law. In the absence of an applicable federal statute, the federal courts must determine according to their own criteria the appropriate measure of damages. State law may, however, be adopted as the federal law of decision in some instances.

[American Jurisprudence 2d, United States, §42: Interest on Claim (1999)]

If you would like to learn more about how Subtitle A of the Internal Revenue Code describes an indirect excise tax upon a "trade or business", we refer you to the following informative and exhaustive free memorandum of law on the subject:

The	"Trade	or Bus	siness'	'Scam,	Form	#05.001
http	://sedm.	org/Fo	rms/Fo	ormInd	ex.htm	1

EXHIBIT: _____

- If you would like to learn more about how federal jurisdiction operates so that you can validate the analysis in this section,
- please see the following free memorandum of law:

<u>Federal Jurisdiction</u>, Form #05.018 <u>http://sedm.org/Forms/FormIndex.htm</u>

9.7 <u>Federal income taxes, Form 1040, and the nation's tax laws only apply to federal officers, federal employees, and elected officials of the national government</u>

<u>False Argument</u>: Federal income taxes, IRS Form 1040, and the nation's tax laws only apply to federal officers, federal employees, and officials of the national government

<u>Corrected Alternative Argument</u>: I.R.C. Subtitle A only applies to the functions of public offices abroad or to the receipt of federal payments

Further information:

- 1. 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
- This statement is also overly general, presumptuous, and simply false. Once again, the Internal Revenue Code describes several lawful and Constitutional taxes that do *not* involve federal employees or elected officials of the national government.
- 7 Below are just a few examples:
 - Wagering, imposed in <u>26 U.S.C. §4401(a)</u>
 - Distilled spirits, imposed in 26 U.S.C. §5001
 - Tobacco tax, imposed in 26 U.S.C. §5701

The problem with making such broad and general statements is that it is presumptuous and ignorant to do so, and you should avoid doing so. Avoiding these types of false presumptions is the most important reason, in fact, why you need to devote extensive effort to getting educated about the tax code by reading our *Great IRS Hoax* book. Throughout the *Great IRS Hoax*, Form #11.302, Chapter 5, for instance, we are *very specific* about *each* statement we make so that it could *not* be misconstrued. In many cases, the government, in prosecuting peddlers of snake oil relating to taxation, will use an accusation that a person made such a statement a means of claiming that a person is involved in "false commercial speech". Ironically, when they do this, if they have no evidence to support such an accusation, they are the ones who are REALLY engaged in false commercial speech, because their main motive is to increase revenues from illegally enforcing the Internal Revenue Code.

Even if we assume that the above statement only meant Subtitle A of the Internal Revenue Code when it said "the nation's tax laws", it would still be false. Note they used the word "and" to connect all the qualifications, so that they must all be applied simultaneously. It would still be false because as we described in the previous section, the tax under Subtitle A is an indirect excise tax upon the "trade or business" franchise and activity, which is described as a "public office". One can be engaged in a "public office" without being a federal statutory "employee" per 5 U.S.C. §2105. An example would be a federal and not state statutory "corporation", which is a statutory creation and instrumentality of the federal government but not a federal statutory "employee". That statutory creation can earn "trade or business" income and "gross income" subject to tax. Below is how the U.S. Supreme Court describes the very first "public office" wholly owned by the U.S. Government, the first "Bank of the United States":

"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

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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 everywhere 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." U.S., U.S.SOURCE: [Osborn Rank of 22 (1824); http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=case&court=us&vol=22&page=738]

You will note that the above bank was not an "employee", federal "public office", but it was described as a "public office", which is a privileged franchise owned by the federal government that possesses the same kind of sovereign immunity as its parent, Uncle Sam. That parent, in fact, was referred to as the "parens patriae" of the corporation in the above case.

9.8 <u>Income from sources not connected with the conduct of a trade or business within the United States</u> government is not subject to income tax

<u>False Argument</u>: Income from sources not connected with a "trade or business" within the United States government is not subject to the income tax

<u>Corrected Alternative Argument</u>: I.R.C. Subtitle A applies to earnings of a "public office" or payments from the U.S. government described in 26 U.S.C. §871

Further information:

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1. <u>26 U.S.C. §871</u>(a).

- This is simply false as well. For instance:
- 1. 26 U.S.C. §871(a) identifies a "source" of taxable income that is NOT connected to a "trade or business" and which originates from within the statutory but not constitutional "United States**", which is defined as federal territory in 26 U.S.C. §7701(a)(9) and (a)(10) and 4 U.S.C. §110(d) and is not expanded anywhere else in Internal Revenue Code, Subtitle A to include any other place. This source of income is connected with "nonresident aliens".
 - 2. 26 U.S.C. §4401(a) imposes a tax on wagering, which is not connected to a "trade or business".
 - 3. <u>26 U.S.C. §5001</u> imposes tax on distilled spirits, which is not connected to a "trade or business".
- 4. 26 U.S.C. §5701 imposes a tax upon tobacco tax, which is not connected with a "trade or business".
- 5. <u>26 U.S.C. §4611</u> imposes a tax upon imported fuels, which is not connected with a "trade or business"

Therefore, there are many lawful and Constitutional sources of tax which are not connected with the conduct of the taxable activity called a "trade or business", which is defined in 26 U.S.C. §7701(a)(26) as "the functions of a public office" and whose definition is not expanded elsewhere to include any other thing.

We also showed in the previous section that a "public office" can include private entities and corporations that are not directly within the U.S. Government, such as a bank, but which are entirely subject to federal jurisdiction by virtue of the federal "privileges" they enjoy. As we showed in section 9.6 earlier, such an entity can exist in a state of the Union and be a wholly owned franchise of the Federal government, subject to federal jurisdiction under Article 4, Section 3, Clause 2 of the Constitution, and yet not situated on federal "territory" or subject to plenary federal jurisdiction. It would still be subject to federal jurisdiction through the operation of "private law" and private contract. The contract effectively becomes the corporate charter, because under Federal Rule of Civil Procedure 17(b), the laws that apply to all officers of such a corporation are the laws where it was incorporated, which for a "public office" wholly owned or controlled by Uncle Sam, would be the District of Columbia. Note that such a corporation would not be a federal "employee", but it would be an officer and agent of the federal government which must obey all the laws that apply to corporations incorporated in the District of Columbia.

9.9 There is no law that imposes an obligation to pay federal income taxes or file federal income tax returns

False Argument: There is no law that imposes an obligation to pay federal income taxes or file federal income tax returns

Corrected Alternative Argument: The I.R.C. is private law that only applies to "taxpayers", and the choice to become a "taxpayer" is voluntary

Further Information:

- 26 U.S.C. §1461: Makes withholding agents on nonresident aliens "liable".
- 2. Legal Requirement to File Federal Income Tax Returns, Form #05.009 http://sedm.org/Forms/FormIndex.htm
- 3. Great IRS Hoax, Form #11.302, Section 5.5: Why You Aren't Liable to File Tax Returns or Keep Records http://sedm.org/Forms/FormIndex.htm
- Great IRS Hoax, Form #11.302, Section 5.6: Why You Aren't Liable to Pay Income Tax http://sedm.org/Forms/FormIndex.htm
- This statement is much too general to be true or false. The criminals running the present de facto government just love to use 2 general statements in order to cause freedom lovers to trip over their own ignorance of the law and get them shooting at legal
- phantoms in the dark.
- "Fraus latet in generalibus. Fraud lies hid in general expressions."
- Dolosus versatur generalibus. A deceiver deals in generals. 2 Co. 34.
- Generale nihil certum implicat. A general expression implies nothing certain. 2 Co. 34."
- [Bouvier's Maxims of Law, 1856; SOURCE:
 - http://famguardian.org/Publications/BouvierMaximsOfLaw/BouviersMaxims.htm]
- There is in fact only one statute found in the I.R.C. Subtitle A that creates an explicit liability to pay a tax: 10
- <u>TITLE 26</u> > <u>Subtitle A</u> > <u>CHAPTER 3</u> > <u>Subchapter B</u> > § 1461 11 § 1461. Liability for withheld tax 12
 - Every person required to deduct and withhold any tax under this chapter is hereby made liable for such tax and is hereby indemnified against the claims and demands of any person for the amount of any payments made in accordance with the provisions of this chapter.
- The above liability is that pertaining to "withholding agents" on "nonresident aliens" as defined at 26 U.S.C. §7701(a)(16). 16
- The above statute deliberately doesn't specify exactly who are "withholding agents", but in fact, the only way you can be 17
 - such a "person" is to sign an agreement with the Secretary of the Treasury on IRS Form 2678, and this form can only be used
- by agencies within the federal government. See:
 - http://famguardian.org/TaxFreedom/Forms/IRS/IRSForm2678.pdf
- Aside from statutory "withholding agents", no others are specifically made liable for anything in Internal Revenue Code, 21 Subtitle A. Therefore, the only way such a liability could arise is if they were "public officers" within the government 22
- engaged in the "trade or business" franchise and therefore acting as "transferees", "fiduciaries", and "trustees" of the public 23
- trust: 24

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"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. 69 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

EXHIBIT:__

⁶⁹ 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.

from a discharge of their trusts. That is, a public officer occupies a fiduciary relationship to the political entity on whose behalf he or she serves. In and owes a fiduciary duty to the public. It has been said that the fiduciary responsibilities of a public officer cannot be less than those of a private individual. 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. American Jurisprudence 2d, Public Officers and Employees, §247 (1999)]

As far as the legal requirement to file a federal income tax return, there is no statute within the Internal Revenue Code creating such a liability. However, there doesn't need to be one in the case of "public officers" engaged in a the "trade or business" franchise. This is explained as follows in a book on public officers:

"I: DUTY TO ACCOUNT FOR PUBLIC FUNDS § 909. In general.-

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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 officers, \$909; Floyd Mechem, 1890, p. 609; SOURCE: http://books.google.com/books?id=g-I9AAAIAAJ&printsec=titlepage]

Internal Revenue Code subtitles other than Subtitle A, which is the "income tax" that most people know, also describe several lawful and constitutional income taxes relating to importation, which the Constitution in Article 1, Section 8, Clause 1 identifies as "imposts, excises, and duties". These lawful taxes have been imposed and collected from the very founding of this country in the very first Revenue Act passed in 1789, 1 Stat.. Anyone engaged in the importation of goods is both liable for, must pay, and must file a return for all taxes in connection with the importation of goods into states of the Union. Even without the Internal Revenue Code being enacted into positive law, as revealed in the legislative notes under 1 U.S.C. §204, taxes on imports are *still* collected by "law". The Supreme Court said that the Constitution itself is "law".

"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 stat- [298 U.S. 238, 297] ute 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)]

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⁷⁰ 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.

⁷¹ Chicago Park Dist. v. Kenroy, Inc., 78 III.2d. 555, 37 III.Dec. 291, 402 N.E.2d. 181, appeal after remand (1st Dist) 107 III.App.3d. 222, 63 III.Dec. 134, 437 N.E.2d. 783.

⁷² United States v. Holzer (CA7 III), 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 III) 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).

⁷³ 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.

⁷⁴ 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).

As far as the word "law", the Internal Revenue Code was repealed in 1939 at 1 Stat. 53, Section 4. That is why it is called a "code" rather than a "law". See the following evidence:

SEDM Exhibit #05.027

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

- Internal Revenue Code, Subtitle A, by the admission of the IRS itself, is "special law" and "private law". In that sense, it
- only pertains to those who consent explicitly or implicitly to become franchisees called "taxpayers". It isn't the "taxpayer"
 - who consents, but the human being who enters into a partnership with a public office and becomes surety for said office by
- 6 filling out and submitting government forms containing usually false information about themselves. See:

SEDM Exhibit #09.023

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

- Once human beings consent to the franchise agreement and become franchisees called "taxpayers", the Internal Revenue
- 8 Code graduates from a "code" to a "law", ceases to be voluntary, and may then be enforced. We remind our readers that it
- is a maxim of law that consent makes ALL law:
- 10 Consensus facit legem.
 - Consent makes the law. A contract is a law between the parties, which can acquire force only by consent.
- 12 [Bouvier's Maxims of Law, 1856;
 - SOURCE: http://famguardian.org/Publications/BouvierMaximsOfLaw/BouviersMaxims.htm]
 - Even a classical book on the common law acknowledges that anything which is based upon our consent is NOT "law" in a classical sense, but rather a "compact" which acquires "the force of law" ONLY upon our explicit consent:
 - Municipal law, thus understood, is properly defined to be "a rule of civil conduct prescribed by the supreme power in a state, commanding what is right and prohibiting what is wrong."

[...]

It is also called a rule to distinguish it from a compact or agreement; for a compact is a promise proceeding from us, law is a command directed to us. The language of a compact is, "I will, or will not, do this"; that of a law is, "thou shalt, or shalt not, do it." It is true there is an obligation which a compact carries with it, equal in point of conscience to that of a law; but then the original of the obligation is different. In compacts we ourselves determine and promise what shall be done, before we are obliged to do it; in laws, we are obliged to act without ourselves determining or promising anything at all. Upon these accounts law is defined to be "a rule."

[Readings on the History and System of the Common Law, Second Edition, Roscoe Pound, 1925, p. 4]

Hence, anyone who calls the I.R.C. "law" in a CLASSICAL SENSE, is LYING TO YOU. Strictly speaking, it is a "compact" and NOT "law" in a classical sense. The above explains why the Internal Revenue Code, Subtitles A through C are not "law" in a classical sense, for instance, but technically are a franchise. All franchises are compacts, contracts, or agreements of one sort or another.

"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." Conversely, a franchise granted without consideration is not a contract binding upon the state, franchisee, or pseudo-franchisee. "

[36 American Jurisprudence 2d, Franchises, §6: As a Contract (1999)]

⁷⁵ 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 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.

⁷⁶ Pennsylvania R. Co. v. Bowers, 124 Pa. 183, 16 A. 836.

We cover the subject of the Internal Revenue Code not being positive law in *Great IRS Hoax*, Form #11.302, Sections 5.4.1 through 5.4.3.7. In those sections, we also show that a code section which is not positive law can nevertheless be "law" if one consents individually to be bound by it. For such a case, the code behaves as a proposal and becomes a contract or agreement at the point that a person reveals their consent either explicitly in a perjury statement or by their conduct. We also show that I.R.C. Subtitle A attaches to most individuals essentially as a contract, or "quasi contract", as the Supreme Court calls it, and we show that all the necessary elements of a valid legal contract are embodied in it. Those who are parties to the contract to procure social services and protection they don't need become franchisees called "taxpayers" and are subject to the I.R.C. Those who are not party to the protection contract are called "nontaxpayers" who are not subject to the code.

If you would like to learn more about why all "taxpayers" are "public officers" engaged in the voluntary "trade or business" franchise and why they are the only ones with a legal duty to pay an income tax or file tax returns in the context of Internal Revenue Code, Subtitle A, see:

- 1. <u>Legal Requirement to File Federal Income Tax Returns</u>, Form #05.009 http://sedm.org/Forms/FormIndex.htm
- 2. <u>Why Your Government is Either a Thief or You are a "Public Officer" for Income Tax Purposes</u>, Form #05.008 http://sedm.org/Forms/FormIndex.htm

9.10 Only federal employees or federal officeholders need to complete Form W-4

False Argument: Only federal employees or federal officeholders need to complete IRS Form W-4

<u>Corrected Alternative Argument</u>: IRS Form W-4 is a voluntary agreement and since it is an agreement, anyone can sign it. However, you can't lawfully be forced to sign it and its STUPID to sign it

Further Information:

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- 1. 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
- 2. 26 U.S.C. §6331(a): Authorizes distraint and enforcement ONLY against federal agencies and instrumentalities.
- 17 <u>Anyone</u>, in fact, can complete a W-4, including those:
- 1. Who are not federal employees or federal officeholders.
 - 2. With a domicile outside of the plenary, exclusive, and general jurisdiction of the federal government under Article 1, Section 8, Clause 17 of the Constitution.

The reason this is the case is that the IRS Form W-4 is a private contract between the person completing the form and the government corporation called the "United States". There are <u>many</u> valid and lawful reasons for filling out an IRS Form W-4 and there is no reason to challenge the right of <u>anyone</u> to fill one out. We might challenge the wisdom of surrendering one's sovereignty in such a way, but we would never challenge the legality of doing so. The W-4 is identified in 26 U.S.C. §3402(p) and the regulations at 26 C.F.R. §31.3402(p)-1 as an "agreement":

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 "agreement" as follows:

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"Agreement. A meeting of two or more minds; a coming together in opinion or determination; the coming together in accord of two minds on a given proposition. In law, a concord of understanding and intention between two or more parties with respect to the effect upon their relative rights and duties, of certain past or future facts or performances. The consent of two or more persons concurring respecting the transmission of some property, right, or benefits, with the view of contracting an obligation, a mutual obligation.

A manifestation of mutual assent on the part of two or more persons as to the substance of a contract. Restatement, Second, Contracts §3.

The act of two or more persons, who united in expressing a mutual and common purpose, with the view of altering their rights and obligations. The union of two or more minds in a thing done or to be done; a mutual assent to do a thing. A compact between parties who are thereby subjected to the obligation or to whom the contemplated right is thereby secured.

Although often used as a synonym for "contract", agreement is a broader term; e.g. an agreement might lack an essential element of a contract. The bargain of the parties in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance. U.C.C. §1-201(c); Uniform Consumer Credit Code, §1.301(3).

The writing or instrument which is evidence of an agreement.

See also Binding agreement; Compact; Consent; Contract; Covenant; International agreements; Meeting of minds.

The most important reason to fill out an IRS Form W-4 is to quality for socialist benefits such as Socialist Security, Medicare, FICA, etc. In that sense, the W-4 becomes a "private contract" or "agreement" between the applicant and the United States government to procure "social insurance". Both the United States government and every individual have a Constitutionally protected right to privately contract. The Constitution of the United States of America, in Article 1, Section 10, explicitly *forbids* states of the Union from impairing the obligation of contracts but says nothing about the same requirement in the context of the general government. However, the U.S. Supreme Court has said that the same requirement applies to the federal government as well.

"Independent of these views, there are many considerations which lead to the conclusion that the power to impair contracts [either the Constitution or the Holy Bible], by direct action to that end, does not exist with the general [federal] government. In the first place, one of the objects of the Constitution, expressed in its preamble, was the establishment of justice, and what that meant in its relations to contracts is not left, as was justly said by the late Chief Justice, in Hepburn v. Griswold, to inference or conjecture. As he observes, at the time the Constitution was undergoing discussion in the convention, the Congress of the Confederation was engaged in framing the ordinance for the government of the Northwestern Territory, in which certain articles of compact were established between the people of the original States and the people of the Territory, for the purpose, as expressed in the instrument, of extending the fundamental principles of civil and religious liberty, upon which the States, their laws and constitutions, were erected. By that ordinance it was declared, that, in the just preservation of rights and property, 'no law ought ever to be made, or have force in the said Territory, that shall, in any manner, interfere with or affect private contracts or engagements bona fide and without fraud previously formed.' The same provision, adds the Chief Justice, found more condensed expression in the prohibition upon the States [in Article 1, Section 10 of the Constitution] against impairing the obligation of contracts, which has ever been recognized as an efficient safeguard against injustice; and though the prohibition is not applied in terms to the government of the United States, he expressed the opinion, speaking for himself and the majority of the court at the time, that it was clear 'that those who framed and those who adopted the Constitution intended that the spirit of this prohibition should pervade the entire body of legislation, and that the justice which the Constitution was ordained to establish was not thought by them to be compatible with legislation [or judicial precedent] of an opposite tendency.' 8 Wall. 623. [99 U.S. 700, 765] Similar views are found expressed in the opinions of other judges of this court.' [Sinking Fund Cases, 99 U.S. 700 (1878)]

"A state can no more impair the obligation of a contract by her organic law [constitution] than by legislative enactment; for her constitution is a law within the meaning of the contract clause of the national constitution. Railroad Co. v. [115 U.S. 650, 673] McClure, 10 Wall. 511; Ohio Life Ins. & T. Co. v. Debolt, 16 How. 429; Sedg. St. & Const. Law, 637 And the obligation of her contracts is as fully protected by that instrument against impairment by legislation as are contracts between individuals exclusively. State v. Wilson, 7 Cranch, 164; Providence Bank v. Billings, 4 Pet. 514; Green v. Biddle, 8 Wheat. 1; Woodruff v. Trapnall, 10 How. 190; Wolff v. New Orleans, 103 U.S. 358."

[New Orleans Gas Company v. Louisiana Light Company, 115 U.S. 650 (1885)]

- We know that the Constitution does not authorize the federal government to offer "social insurance" to people in the states.
- 2 Consequently, it does so by devious means:

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- 3 1. By only offering it to statutory federal "employees" (public officers) working in the District of Columbia pursuant to 5 U.S.C. §2105(a).
 - 2. By requiring those in states of the Union who want to participate to stipulate in submitting the SS-5 form that:
 - 2.1. They are "U.S. persons" as defined in 26 U.S.C. §7701(a)(30) and "domiciliaries" who are completely subject to federal jurisdiction and all acts of Congress. See the SSA Form SS-5 and the regulation below for proof.

26 C.F.R. §301.6109-1(g)

- (g) Special rules for taxpayer identifying numbers issued to foreign persons—
- (1) General rule—
- (i) Social security number.

A social security number is generally identified in the records and database of the Internal Revenue Service as a number belonging to a U.S. citizen or resident alien individual. A person may establish a different status for the number by providing proof of foreign status with the Internal Revenue Service under such procedures as the Internal Revenue Service shall prescribe, including the use of a form as the Internal Revenue Service may specify. Upon accepting an individual as a nonresident alien individual, the Internal Revenue Service will assign this status to the individual's social security number.

2.2. They are federal "employees" (public officers) as defined in 26 C.F.R. §31.3401(c)-1. Only a public employee on official duty can receive any kind of employment insurance from the federal government. Any other approach would make the government into a thief. The Supreme Court has said that a government that abuses its taxing powers to transfer wealth is a THIEF. But if the recipient of the redistributed wealth is a federal employee, then it is called "employment compensation".

"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 nonetheless 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." Coulter, J., in Northern Liberties v. St. John's Church, 7 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 purpose of carrying on the government in all its machinery and operations -- that they are imposed for a public purpose.

We have established, we think, beyond cavil that there can be no lawful tax which is not laid for a public purpose. It may not be easy to draw the line in all cases so as to decide what is a public purpose in this sense and what is not.

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

There is no reason whatsoever to challenge the fact that people in states of the Union can contract away their constitutional rights by entering into a *private* employment agreement between them and the federal or state government to procure "social insurance". However, if their consent was procured:

- 1. Without being fully informed about the rights they were giving up.
 - 2. Without full disclosure by and to both parties that consent is voluntary.
- 3. Without specifying that no negative repercussions for NOT providing consent are lawfully authorized.
- 4. Without the ability to quit the system at any time upon request.
- Then consent was procured through fraud or constructive fraud. This type of constructive fraud, in fact, is quite evident with the W-4 form. The form:

- Identifies itself as an "Employee Withholding Allowance Certificate". Nowhere on the form is the form identified as an "agreement". Only in the regulations that almost no Americans read at 26 C.F.R. §31.3402(p)-1 is this form truthfully identified as a "voluntary withholding agreement".
- The Internal Revenue Manual (I.R.M.), Section 4.10.7.2.9.8 tells people that they *cannot* rely on any IRS publication, and by implication form also, as a basis for belief:

"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)]

Therefore, one cannot rely upon the W-4, which is an IRS publication, to accurately describe the terms of the contract between the parties. Therefore, the person signing this form has no way to deduce the terms of the contract. The purpose of the form is to therefore encourage false presumption and UNINFORMED consent. Not even the Internal Revenue Code itself can be relied upon to accurately describe the terms of the contract. According to the legislative notes under 1 U.S.C. §204, the Internal Revenue Code is not "positive law". Consequently, it is simply "prima facie evidence of law". This means that it is "presumed" to be law but that they presumption is rebuttable. Anything involving "presumption" is a violation of due process of law as well as a religious sin under Numbers 15:30. Since the government cannot interfere with the free exercise of religion, then it cannot force you to presume anything as a natural person who is a believer. Therefore, there is not place one can go to get admissible, credible, non-presumptive evidence of the terms of this contract other than the Statutes at Large. The Statutes at Large:

- 2.1. Constitute a HUGE body of law that is hundreds of thousands of pages long.
- 2.2. Spans a period of over 200 years.

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- 2.3. Is not available to the average American in the law library.
- 2.4. Is not available in its entirely online from the government.

To make things worse, the average American has been rendered essentially illiterate and dysfunctional by the government-run public "fool" system because they graduate from high school knowing absolutely nothing about law, and have never been taught how to do legal research. This omission is deliberate and was intended to promote and foster an antitrust monopoly by the bar association in each state upon the practice of law or the providing of legal services.

- If you call up the IRS and ask them to confirm that the completing of the form is voluntary, in most cases they:
 - 3.1. Refuse to identify submission of the form as "voluntary", even though the regulations identify it as such as indicated ahove
 - 3.2. Refuse to provide their full legal name of the address where they can be served with legal papers. They do this because they know they are engaging in false commercial speech and are willfully trying to avoid being accountable for lying to the public. This is called "obstruction of justice" and it is a violation of 18 U.S.C. §1510, which is entitled "Obstructing Criminal Investigations".
 - 3.3. Refuse to read, discuss, or defend the requirements of the law or the limitations imposed by law upon their authority. This makes them into "communists" according the U.S. Congress in 50 U.S.C. §841.
 - 3.4. Will identify any alternative positions as "frivolous", and refuse to define the meaning of "frivolous" or the specific details of what is specifically wrong with the facts presented. This too makes them into a communist, according to the Congress under 50 U.S.C. §841.
 - 3.5. Will tell the private employer that he *must* withhold at single zero rate if the person refuses to complete a W-4. They will do this in spite of the fact that their own Internal Revenue Manual specifically says that private employers are NOT required to withhold:

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. [http://www.irs.gov/irm/part5/ch13s10.html]

- 3.6. Cannot submit a W-8 form if they were born in a state of the union, which is simply incorrect. See:
 - 3.6.1. Sovereignty Forms and Instructions Manual, Form #10.005, Section 4.5.3.14 http://sedm.org/Forms/FormIndex.htm
 - 3.6.2. Federal and State Tax Withholding Options for Private Employers, Form #04.101 http://sedm.org/Forms/FormIndex.htm
- Consequently, all the false IRS rhetoric constitutes "false commercial speech" intended deceive you into thinking that:

Flawed Tax Arguments to Avoid, Version 1.27

- 1. Participating in federal payroll withholding is NOT voluntary for private employers and private employees who are <u>outside</u> of exclusive federal jurisdiction under Article 1, Section 8, Clause 17, even though the statutes and regulations clearly show otherwise.
- 2. The W-4 is NOT a voluntary "agreement" or contract in your case, even though it is in most but not necessarily all cases.
- 3. That there are no alternative withholding forms you can submit as a person born in a state of the Union, even though this is not the case because the W-8 is an example of a form that CAN lawfully be used as an alternative.
- 4. That procuring "social insurance" from the government is mandatory, even though the Constitution does not directly authorize the federal government to involve itself in such matters and therefore the federal government cannot even offer such services to anyone within states of the Union without making them into the equivalent of "virtual residents" of the District of Columbia under 26 U.S.C. §7701(a)(39) and 26 U.S.C. §7408(d) through their voluntary consent procured through yet more constructive fraud.

An injunction against the above types of "false commercial speech" on the part of the IRS should have been instituted long ago in order to protect our right to contract, the requirement for informed consent, and the rights and sovereignty of Americans domiciled within states of the Union who are protected by the Constitution. The fact that such an injunction has not been issued by any federal court is simply evidence that our public servants love effectively stealing *your* money more than they love justice, truth, and obeying the Constitution and its legislative intent.

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"For the love of money is a root of all kinds of evil, for which some have strayed from the faith in their greediness, and pierced themselves through with many sorrows."
[1 Tim. 6:10, Bible, NKJV]
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Lastly, the statement "Only federal employees or federal officeholders need to complete IRS Form W-4" ambiguously uses the word "need". There is a <u>big</u> difference between "need" and "are liable to" under the law. We have <u>never</u> and will never imply that anyone is legally "liable" to complete the IRS Form W-4, <u>including</u> federal employees. There is also not statute or regulation that we have ever identified which makes a person <u>liable</u> to complete or submit an IRS Form W-4. If there is such a regulation, we would certainly like for the government to show it to us.

9.11 Foreign earned income exclusion theory

False Argument: Income outside the federal zone is nontaxable.

<u>Corrected Alternative Argument</u>: Only earnings of persons domiciled within the federal zone and temporarily abroad is taxable pursuant to 26 U.S.C. §911. There is no provision within the I.R.C. or Treasury Regulations that imposes a tax upon statutory "U.S. citizens" or "permanent residents" domiciled in the federal zone who are within a state of the Union and not abroad.

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. 26 U.S.C. §911: Citizens and residents abroad

The IRS describes this theory as follows:

"People claim that income earned outside the "federal zone" is nontaxable."

This argument originates from 26 U.S.C. §911(a)(1), which says:

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<u>TITLE 26</u> > <u>Subtitle A</u> > <u>CHAPTER 1</u> > <u>Subchapter N</u> > <u>PART III</u> > <u>Subpart B</u> > § 911
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                               § 911. Citizens or residents of the United States living abroad
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                               (a) Exclusion from gross income
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                               At the election of a qualified individual (made separately with respect to paragraphs (1) and (2)), there shall be
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                               excluded from the gross income of such individual, and exempt from taxation under this subtitle, for any
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                               taxable year-
                               (1) the foreign earned income of such individual, and
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                               (2) the housing cost amount of such individual.
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This subject is covered partially earlier in section 9.6, wherein we showed that there are indeed types of "taxable income" which <u>can</u> in fact be earned outside of the "federal zone". Internal Revenue Code describes several Constitutional taxes that apply to several subjects of taxation, many of which are not limited to the "federal zone". For instance:

- 1. <u>26 U.S.C. §911</u> identifies a source of taxable income in the case of "citizens or residents abroad". By "abroad" is meant foreign countries. Foreign countries are not part of the "federal zone" as defined in the <u>Great IRS Hoax</u>. Therefore, the Internal Revenue Code <u>does</u> address subjects of taxation such as "citizens" or "residents" who are outside of the federal zone and can apply outside of the federal zone. We also covered this subject also in the previous section.
- 2. <u>26 U.S.C.</u> §864(c)(4)(B) describes a type of "taxable income" which is "effectively connected with a trade or business" and which is earned outside the "United States", which we say means the "federal zone".
- 3. 26 U.S.C. §4612(a)(4) defines the "United States" as including the 50 states of the Union. This section applies to the tax imposed in 26 U.S.C. §4611 upon fuels imported into states of the Union. One of the few Constitutional subjects of federal taxation is that upon importation, which are referred to in Constitution Article 1, Section 8, Clause 1 as "duties, imposts, and excises". This also is a perfectly Constitutional tax which applies outside of the "federal zone". We point this out in the *Great IRS Hoax*, Form #11.302, section 5.1.10.
- 4. Taxes on importation into states of the Union collected within the territorial waters under the exclusive control of the federal government. Such "imposts, duties, and excises" are collected under the authority of Article 1, Section 8, Clause 1 of the Constitution and can lawfully be enforced in the territorial waters of the surrounding states of the Union. In fact, the very reason for the existence of the Coast Guard is as a vehicle to enforce the collection of these lawful taxes on imports. The ships of the original Coast Guard, in fact, were called "Revenue Cutters".

For the purposes of this section we define the term "federal zone" is defined as follows:

"Federal zone: The District of Columbia, the territories and possessions of the United States, and federal areas or enclaves within states of the Union owned or ceded to the federal/general government by an act of the state legislature."

If you would like to learn more about this subject, we refer you to our free <u>Great IRS Hoax</u>, Form #11.302, Section 5.3.7 entitled "What are the advantages and consequences of filing as a nonresident citizen?".

9.12 Claiming that Federal Courts Do Not Have Jurisdiction for Cases Involving Title 26

False Argument: Federal courts have no jurisdiction for cases involving Title 26

<u>Corrected Alternative Argument</u>: Federal courts DO have jurisdiction over all cases involving Title 26, but they don't have jurisdiction over "nontaxpayers"

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- 1. <u>Authorities on Jurisdiction of Federal Courts, Family Guardian Fellowship:</u>
 http://famguardian.org/Subjects/LawAndGovt/ChallJurisdiction/AuthoritiesArticle/AuthOnJurisdiction.htm
- 2. <u>What Happened to Justice?</u>, Litigation Tool #08.001: Book which proves the U.S. District and Circuit Courts are Article IV territorial courts that only have jurisdiction over federal property, territory, and franchises. http://sedm.org/ItemInfo/Ebooks/WhatHappJustice/WhatHappJustice.htm

The following is my response to just part of an article written by Irwin Schiff, as published in the AntiShyster News Magazine, Volume 7, No. 2, starting at page 44. Schiff has several issues very convoluted in this article. I will, however, address only three of the issues. I will address the federal court jurisdiction issue in this article, and two of the other issues in the next two following articles. Relating to the federal court jurisdiction, at page 45, Schiff states:

"As incredible as it seems, there are no laws making alleged income tax offenses crimes, and no court was ever given jurisdiction to prosecute anyone for committing any such offense."

Schiff, as well as some other promoters, would lead the patriots to believe that the federal district courts do not have jurisdiction to try criminal cases for violations of the Internal Revenue Code, which is Title 26 of the United States Code. The reason given by the promoters of this argument is that there is no section in Title 26 granting the federal district courts jurisdiction in criminal cases. The true fact is, however, that Congress did grant the federal district courts such criminal jurisdiction. Let me explain.

26 U.S.C. §7201 makes it a crime (felony) for any person to willfully attempt to evade or defeat a tax imposed by Title 26. 1 26 U.S.C. §7203 makes it a crime (misdemeanor) for any person required under Title 26 to make a return (report) to willfully 2 fail to make such return. These are just two of the many crimes listed in Title 26.

The Criminal Code, Title 18 of the United States Code, grants federal district courts jurisdiction concerning criminal 4 violations of Title 26, to wit: 5

> The district courts of the United States shall have original jurisdiction, exclusive of the courts of the States, of all offenses against the laws of the United States. [18 U.S.C. §3231. (In Part. Emphasis added.)]

This issue has been heard and ruled on by federal courts before. A rather thorough history and ruling regarding 18 U.S.C. §3231, as it applies to crimes listed in Title 26, is provided in the case of *United States v. Sasscer*, 558 F.Supp. 33 (D. Ct. Maryland 1982). The Sasscer Case shows that the ancestry of 18 U.S.C. §3231 can be traced to the First Judiciary Act of 1789 which also specified which courts would have original and exclusive jurisdiction of all crimes committed against the laws of the United States. Also, see *United States v. Spurgeon*, 671 F.2d. 1198 (8th Cir. 1982).

I would find it difficult to believe that any of the promoters of the "no criminal jurisdiction for Title 26 crimes" argument who also know John Sasscer personally would not also be fully aware of the facts documented by the court in the Sasscer Case. John Sasscer has worked closely with, and even has written article for, the Save-A-Patriot organization. Since Schiff also has worked closely with this organization, I would imagine that Schiff knows John Sasscer personally and should be well aware of the Sasscer Case. This is especially so, since Schiff promotes himself as "the nation's leading authority on the income tax". (See http://www.paynoincometax.com)

Over the years, people like Otto Skinner (now deceased) have strongly disagreed with Irwin Schiff on many issues. In Otto Skinners book, The Biggest "Tax Loophole" of All, he lists 18 flawed arguments in a chapter titled, Why Some People Go To Jail. Out of these 18 arguments which I consider to be legally flawed, I think you will find that Schiff has promoted about 22 15 of them as if they are legally valid. What is important is that you check everything out for yourself so that you will not use a legally flawed argument in your own case. Nevertheless, the fact remains that the "no criminal jurisdiction for Title 26 crimes" argument should not be an argument a patriot would want to waste his time and effort on in a court case.

Remember that the Internal Revenue Code, Subtitle A only applies inside the federal zone. Arguing that an Article I, II, or 26 IV (of the Constitution) federal court does not have jurisdiction to hear cases involving acts of Congress that are only crimes 27 inside the federal zone is irrational. A more effective approach is to argue that: 28

- You are not engaged in a "trade or business", which is defined in 26 U.S.C. §7701(a)(26) as "the functions of a public office" and not expanded elsewhere in Internal Revenue Code, Subtitle A to include any other thing. Rebut all information returns filed against you incorrectly, including W-2, 1098, and 1099 using the procedures below, and submit these rebuttals to both the IRS and the Court as evidence:
 - 1.1. Correcting Erroneous Information Returns, Form #04.001: Condenses the following four links into one http://sedm.org/Forms/FormIndex.htm
 - 1.2. Correcting Erroneous IRS Form 1042's, Form #04.003: http://sedm.org/Forms/FormIndex.htm
 - 1.3. Correcting Erroneous IRS Form 1098's, Form #04.004: http://sedm.org/Forms/FormIndex.htm
 - 1.4. Correcting Erroneous IRS Form 1099's, Form #04.005: http://sedm.org/Forms/FormIndex.htm
 - 1.5. Correcting Erroneous IRS Form W-2's, Form #04.006: http://sedm.org/Forms/FormIndex.htm

For further details on the above, see the free article below:

The "Trade or Business" Scam, Form #05.001

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

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- You did not commit the alleged crime within the federal zone. 44
 - **Note**: It's important if you are filing returns to NOT use the 1040 return if you are making this claim, because it establishes you as a resident of the federal zone. The IRS 1040NR Form is the correct form.
 - You are not a "U.S. citizen", and the 1040NR form and the W-8 form that you filed demonstrates this.

- There are no implementing regulations applying the criminal statute outside the federal zone as required by the Federal Register Act, 44 U.S.C. §1505(a).
- 5. The judge is not an article III judge authorized to try a person living outside the federal zone.
- 6. The District Court where the offense is tried is not an Article III court that can hear a matter relating to a resident of the state without his voluntary consent, which you do not give.
- 7. The jury is not a jury of your peers, since you are a "national" but not a "citizen" under federal law while they must be "U.S. citizens" in order to serve as federal jurors.
- Consequently, the court has no jurisdiction over you. Demand proof of jurisdiction appear on the record, and the moving party, who is the U.S. Attorney from the Department of Justice, has the burden of proving the jurisdiction, and they simply can't do this.

9.13 We don't earn "money" and therefore can't earn "income"

False Argument: You don't earn "money" so you can't earn taxable "income"

<u>Corrected Alternative Argument</u>: It is true that Black's Law Dictionary defines "money" to EXCLUDE "notes" and that Federal Reserve NOTES are "notes" within the meaning of that definition. However, the approach of the courts to date is to treat "corporate bonds" called "Federal Reserve Notes" as "income". This may not be lawful, but that is the path they have taken so far.

Further information:

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- <u>The Money Scam</u>, Form #05.041-exhaustive evidence that we don't have lawful money and that Federal Reserve Notes are not lawful money for PRIVATE http://sedm.org/Forms/FormIndex.htm
- 2. Article 1, Section 8, Clause 2: Authority to borrow
- 3. Article 1, Section 8, Clause 5: Authority to coin money
- 4. <u>12 U.S.C. §411</u>: Issuance to Reserve Banks, Nature of obligation; Redemption
- 5. 31 U.S.C. §3124: Exemption from taxation
- 6. *Great IRS Hoax*, Form #11.302, Section 5.6.2: Your Earnings Aren't Taxable because it is Notes and Obligations of the U.S. Government
 - http://sedm.org/Forms/FormIndex.htm
- Black's Law Dictionary defines "money" as follows:

"Money: In usual and ordinary acceptation it means coins and paper currency used as circulating medium of exchange, and does not embrace notes, bonds, evidences of debt, or other personal or real estate. Lane v. Railey, 280 Ky. 319, 133 S.W.2d. 74, 79, 81."
[Black's Law Dictionary, Sixth Edition, p. 1005]

If you look at the Federal Reserve Notes in your pocket, you will find out that they are "notes". Consequently, they are NOT money as legally defined. In fact:

- 1. The private corporation called the "United States" issues "bonds" called Federal Reserve Notes. Those in possession of said bonds are bondholders", "stockholders", and "investors" of the corporation.
 - 1.1. Interest on these bonds called "Federal Reserve Notes" are paid to the Federal Reserve, which is neither federal nor a "reserve". Instead, it is a consortium of *private*, for profit international banks. The Federal Reserve is no more "federal" than "Federal Express"!
 - 1.2. The courts have ruled that the formation of any corporation amounts to a contract with the officers and the stockholders of the corporation. Therefore, everyone in possession of said "bonds" and corporate "stocks" called Federal Reserve Notes are contractors of the United States!:

The court held that the first company's charter was a contract between it and the state, within the protection of the constitution of the United States, and that the charter to the last company was therefore null and void., Mr. Justice DAVIS, delivering the opinion of the court, said that, if anything was settled by an unbroken chain of decisions in the federal courts, it was that an act of incorporation was a contract between the state and the stockholders, 'a departure from which now would involve dangers to society that cannot be foreseen, whould

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- The Constitution forbids any branch of the government to delegate any of its powers to any other branch and especially not to a private corporation such as the Federal Reserve. That is why:
 - 2.1. The U.S. Congress did not and cannot lawfully delegate its power to coin money to the PRIVATE Federal Reserve under Article 1, Section 8, Clause 5 of the Constitution.

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)]

2.2. Federal Reserve Notes are issued NOT under the Constitutional power to *coin* money found in Article 1, Section 8, Clause 5, but under the power borrow money found in Article 1, Section 8, Clause 2. The Treasury prints Federal Reserve Notes, sells them to the Federal Reserve for three cents, and the United States Government then borrows them back AT INTEREST from the Federal Reserve.

Even some state congressmen agree with the above conclusions. Below is what one Nevada State assembly member said about the above scam:

> "According to a monograph written by Edwin Vieira, Jr., even those who purport to print our money don't really know what a dollar is.

> No statute defines - or ever has defined - the "one dollar" Federal Reserve Note "FRN" as the "dollar," or even as a species of "dollar." Moreover, the United States Code provides that FRNs "shall be redeemed in lawful money on demand at the Treasury Department of the United States. . . or at any Federal Reserve bank." Thus, FRNs are not themselves "lawful money" - otherwise, they would not be "redeemable in lawful money." And if FRNs are not even "lawful money," it is inconceivable that they are somehow "dollars," the very units in which all "United States money is expressed."

> People are confused on this point because of the insidious manner in which FRNs "evolved" - actually degenerated is a more appropriate verb - from the late 1920s until today. FRNs of Series 1928 through Series 1950E carried the obligation "The United States of America will pay to the bearer on demand [some number of] dollars." Prior to 1934, the notes carried the inscription "Redeemable in gold on demand at the United States Treasury, or in gold or lawful money at any Federal Reserve Bank." After 1934, the notes carried the inscription "this note. . .is redeemable in lawful money at the United States Treasury, or at any Federal Reserve Bank" (post-1934). Starting with Series 1963, the words "will pay to the bearer on demand" no longer appear, and each FRN simply states a particular denomination in "dollars."

> The replies you received to your query from both John Ensign's office and the Treasury Department reveal just how confused this situation is. Being a man who considers his word his bond, I would have to say that the FRN is and remains a contract; whether or not the government chooses to admit this...they printed the things. At the top of the contract they proudly proclaim it to be a Federal Reserve Note. At the bottom they declare the value, as in the dollar bill as One Dollar. The value of goods or services the note may purchase has changed, albeit not for the better. However, if you hold a 1900 \$20 gold piece, you can still purchase what the coin could buy when it was minted.

[...]

I would have to say that, based on the oath I took when I assumed this office, the U.S. Government has not upheld its part on a contract begun back when it first began printing monetary notes. We still trade the notes for goods and services, but the trust is no longer there."

[SEDM Exhibit #06.007; SOURCE: http://sedm.org/Exhibits/ExhibitIndex.htm]

- Some people have tried to exploit the above facts and underlying confusion to escape the requirement to pay income taxes.
- In the seventies and early eighties, advocates of the specie provisions in Art. 1, §10, cl. 1 of the U.S. Constitution made a
- concerted effort to educate people about this constitutional provision. The provision requires that all money issued by states
- 4 can only be gold or silver and that paper money is not "money" as legally defined. Subsequently, several people (mostly
- those who were desperate and ill prepared) acting pro se began litigating the issue. The courts have rendered the following
- 6 adverse decisions on this issue described in the following subsections.
- If you would like a very thorough investigation of the fact that we don't have lawful money, that Federal Reserve Notes are
- 8 NOT lawful money for *private* purposes, see:

The Money Scam, Form #05.041

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

9.13.1 Adverse Federal Decisions:

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- 1. Koll v. Wayzata State Bank, 397 F.2d. 124 (8th Cir. 1968)
- 2. *United States v. Daly*, 481 F.2d. 28 (8th Cir. 1973)
- 3. *Milam v. United States*, 524 F.2d. 629 (9th Cir. 1974)
- 4. United States v. Scott, 521 F.2d. 1188 (9th Cir. 1975)
- 5. *United States v. Gardiner*, 531 F.2d. 953 (9th Cir. 1976)
- 6. *United States v. Wangrud*, 533 F.2d. 495 (9th Cir. 1976)
- 7. *United States v. Kelley*, 539 F.2d. 1199 (9th Cir. 1976)
- 8. *United States v. Schmitz*, 542 F.2d. 782 (9th Cir. 1976)
- 9. *United States v. Whitesel*, 543 F.2d. 1176 (6th Cir. 1976)
 - 10. United States v. Hurd, 549 F.2d. 118 (9th Cir. 1977)
- 20 11. *Mathes v. Commissioner*, 576 F.2d. 70 (5th Cir. 1978)
- 12. United States v. Rifen, 577 F.2d. 1111 (8th Cir. 1978)
- 22 13. *United States v. Anderson*, 584 F.2d. 369 (10th Cir. 1978)
- 23 14. *United States v. Benson*, 592 F.2d. 257 (5th Cir. 1979)
- 24 15. Nyhus v. Commissioner, 594 F.2d. 1213 (8th Cir. 1979)
- 25 16. United States v. Hori, 470 F.Supp. 1209 (C.D.Cal. 1979)
- 26 17. *United States v. Tissi*, 601 F.2d. 372 (8th Cir. 1979)
- 27 18. *United States v. Ware*, 608 F.2d. 400 (10th Cir. 1979)
- 28 19. United States v. Moon, 616 F.2d. 1043 (8th Cir. 1980)
- 29. *United States v. Rickman*, 638 F.2d. 182 (10th Cir. 1980)
- 21. *Birkenstock v. Commissioner*, 646 F.2d. 1185 (7th Cir. 1981)
- 22. *Lary v. Commissioner*, 842 F.2d. 296 (11th Cir. 1988).

9.13.2 Adverse State Decisions:

- 1. Chermack v. Bjornson, 302 Minn. 213, 223 N.W.2d. 659 (1974)
- 2. *Leitch v. Oregon Dept. of Revenue*, 519 P.2d. 1045 (Or.App. 1974)
- 3. Radue v. Zanaty, 293 Ala. 585, 308 So.2d. 242 (1975)
- 4. Rush v. Casco Bank & Trust Co., 348 A.2d. 237 (Me. 1975)
- 5. Allen v. Craig, 1 Kan. App. 2d. 301, 564 P.2d. 552 (1977)
- 6. State v. Pina, 90 N.M. 181, 561 P.2d. 43 (N.M. 1977)
- ³⁹ 7. *Dorgan v. Kouba*, 274 N.W.2d. 167 (N.D. 1978)
- 40 8. Trohimovich v. Dir., Dept. of Labor & Industry, 21 Wash.App. 243, 584 P.2d. 467 (1978)
- 9. *Middlebrook v. Miss. State Tax Comm.*, 387 So.2d. 726 (Miss. 1980)
- 10. Daniels v. Arkansas Power & Light Co., 601 S.W.2d. 845 (Ark. 1980)
- 11. State v. Gasser, 306 N.W.2d. 205 (N.D. 1981)
 - 12. City of Colton v. Corbly, 323 N.W.2d. 138 (S.D. 1982)
- 45 13. Epperly v. Alaska, 648 P.2d. 609 (Ak.App. 1982)
 - 14. Solyom v. Maryland-National Capital Park & Planning Comm., 452 A.2d. 1283 (Md.App. 1982)
- 47 15. People v. Lawrence, 124 Mich.App. 230, 333 N.W.2d. 525 (Mich.App. 1983)
- 48 16. *Union State Bank v. Miller*, 335 N.W.2d. 807 (N.D. 1983)
- 49 17. Richardson v. Richardson, 332 N.W.2d. 524 (Mich.App. 1983)

- 18. Cohn v. Tucson Elec. Power Co., 138 Ariz. 136, 673 P.2d. 334 (1983) 1
- 19. First Nat. Bank of Black Hills v. Treadway, 339 N.W.2d. 119 (S.D. 1983) 2
- 20. Herald v. State, 107 Idaho 640, 691 P.2d. 1255 (1984)
- 21. Allnutt v. State, 59 Md.App. 694, 478 A.2d. 321 (1984)
- 22. Spurgeon v. F.T.B., 160 Cal.App.3d. 524, 206 Cal.Rptr. 636 (1984)
- 23. Rothaker v. Rockwall County Central Appraisal Dist., 703 S.W.2d. 235 (Tex.App. 1985)
- 24. De Jong v. County of Chester, 98 Pa.Cmwlth, 85, 510 A.2d, 902 (1986)
- 25. Baird v. County Assessors of Salt Lake & Utah Counties, 779 P.2d. 676 (Utah 1989)
 - 26. State v. Sanders, 923 S.W.2d. 540 (Tenn. 1996).

We can win this issue ultimately, but to do so will require experienced legal scholars who know what they are doing. The 10 only person in America who should be in charge of money issue litigation is Dr. Edwin Vieira; see one of his articles. One 11 of the goals of The Wallace Institute is to raise sufficient funds to turn Dr. Vieira loose to litigate this issue and win. 12

9.14 **Misapplication of the Non-Resident Alien Position**

False Argument: You don't want to be a nonresident alien. They are the main "taxpayers". The only liability statute in the I.R.C. at 26 U.S.C. §1461 relates to nonresident aliens.

Corrected Alternative Argument: The tax described in I.R.C. Subtitle A isn't on "nonresident aliens" or any other "person". Instead, it is an excise tax upon a "trade or business", which is defined as "the functions of a public office" in 26 U.S.C. §7701(a)(26) and also upon payments from the U.S. government. If you want to avoid the tax, simply avoid the activity and avoid federal franchises that might make you a recipient of federal payments.

Further information:

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- The "Trade or Business" Scam, Form #05.001 http://sedm.org/Forms/FormIndex.htm
- Sovereignty Forms and Instructions Online, Form #10.004, Cites by Topic: "nonresident alien" http://famguardian.org/TaxFreedom/CitesByTopic/NonresidentAlien.htm
- Legal Basis for the Term "Nonresident Alien", Form #05.036 http://sedm.org/Forms/FormIndex.htm
- Non-Resident Non-Person Position, Form #05.020 http://sedm.org/Forms/FormIndex.htm

Some people contend we are for tax purposes "non-resident aliens". We endorse this argument in this book and we believe 14 it has merit and will withstand litigation quite well. This position is the best documented, explained, and defended position 15 towards tax freedom that we have encountered so far. Some of the more popular advocates of this approach include: 16

- 1. Paul Mitchell ("Mitch Modeleski") in his book "The Federal Zone", found at http://www.supremelaw.org/
- 2. Dan Meador (now deceased) of the Law Research and Registry at http://lr-n-r.org/. 18
- 3. Lynne Meredith in her books <u>Vultures in Eagle's Clothing</u> and <u>How to Cook A Vulture</u>. Unfortunately, her website was 19 shut down in March 2002 and she stopped selling these two great books. Apparently, she was too close for comfort for 20 21 the feds.

The subject of the Non-Resident Non-Person Position is covered exhaustively in the following free resources: 22

- 1. *Non-Resident Non-Person Position*, Form #05.020: 23
 - http://sedm.org/Forms/FormIndex.htm
- 2. <u>Legal Basis for the Term "Nonresident Alien"</u>, Form #05.036: 25 26
 - http://sedm.org/Forms/FormIndex.htm

Last Revised: 1/23/2018

- 3. The Non-Resident Non-Person Position, Great IRS Hoax, Form #11.302, Sections 5.6.15 through 5.6.15.8: 27 http://sedm.org/Forms/FormIndex.htm 28
- 4. Citizenship and Sovereignty Course, Form #12.001 29 http://sedm.org/Forms/FormIndex.htm 30
- Those engaged in a "trade or business" are "public officers" with a fiduciary duty to the parent corporation they work for, 31 which is the United States Government. The United States government is defined in 28 U.S.C. §3002(15)(A) as "a federal 32

corporation". Therefore, those engaged in a "trade or business" are fiduciaries and agents of the federal government by the operation of private contract, which is formed by signing a Forms W-4, 1040, SS-4, or SS-5 in most cases. Those who are party to these contracts and "private law", by virtue of being party, are referred to as "effectively connected with a trade or business". The "effectively connected" part means they are party to the private contract. Even the U.S. Supreme Court agrees that taxes are "quasi contractual". The quasi contract is all the prima facie evidence that connects you to a "trade or business" excise taxable franchise and the duties attached to the office you occupy:

"Even if the judgment is deemed to be colored by the nature of the obligation whose validity it establishes, and we are free to re-examine it, and, if we find it to be based on an obligation penal in character, to refuse to enforce it outside the state where rendered, see Wisconsin v. Pelican Insurance Co., 127 U.S. 265, 292, et seq. 8 S.Ct.

1370, compare Fauntleroy v. Lum, 210 U.S. 230., 28 S.Ct. 641, Still the obligation to pay taxes is not penal. It is a statutory liability, quasi contractual in nature, enforceable, if there is no exclusive statutory remedy, in the civil courts by the common-law action of debt or indebitatus assumpsit. United States v. Chamberlin, 219 U.S. 250, 31 S.Ct. 155; Price v. United States, 269 U.S. 492, 46 S.Ct. 180; Dollar Savings Bank v. United States, 19 Wall. 227; and see Stockwell v. United States, 13 Wall. 531, 542; Meredith v. United States, 13 Pet. 486, 493. This was the rule established in the English courts before the Declaration of Independence. Attorney General v. Weeks, Bunbury's Exch. Rep. 223; Attorney General v. Jewers and Batty, Bunbury's Exch. Rep. 225; Attorney General v. Hatton, Bunbury's Exch. Rep. [296 U.S. 268, 272] 262; Attorney General v. ___, 2 Ans.Rep. 558; see Comyn's Digest (Title Dett, A, 9); 1 Chitry on Pleading, 123; cf. Attorney General v. Sewell, 4 M.&W. 77."
[Milwaukee v. White, 296 U.S. 268 (1935)]

Before they became party to the "social insurance" contract, they were non-resident non-persons. After they became party, they became "resident aliens". This is confirmed by the following regulation, which is very revealing:

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]

From the above, we can see that the act of engaging in a "trade or business" makes a "nonresident alien" into a "resident alien". In effect, this "election" of choosing to engage in a privileged activity changes one's status to a "resident" who then has a domicile in the District of Columbia. Those who are "resident" cannot truthfully claim to be "nonresident aliens". 26 U.S.C. §7701(a)(39) and 26 U.S.C. §7408(d) also both allow federal courts that are hearing federal income tax issues to move the effective domicile of a person to the District of Columbia if they are either a statutory "U.S. citizen" under 26 C.F.R. §1.1-1(c) or a "resident alien" under 26 U.S.C. §7701(b)(1)(A). The reason they can lawfully do this is that those who are engaged in a "public office":

- 1. Are required to maintain that public office in the District of Columbia under 4 U.S.C. §72.
- 2. Are acting as "officers of a corporation", and that corporation is the United States Government.

"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

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1	individuals. 2 Inst. 46-7. 'No man shall be taken,' 'no man shall be disseised,' without due process of law, is a
2	principle taken from magna charta, infused into all our state constitutions, and is made inviolable by the federa
3	government, by the amendments to the constitution."
4	[Proprietors of Charles River Bridge v. Proprietors of Warren Bridge, <u>36 U.S. 420</u> (1837)]

3. Because those engaged in a "trade or business" are acting as officers of a federal corporation, then under <u>Federal Rule of Civil Procedure 17</u>(b), the law to be applied is the laws where the corporation was formed, which is the District of Columbia.

Therefore, if you are going to use the Non-Resident Non-Person Position, you must ensure that you are not party to any private contracts or franchises with the Federal government and that your citizenship status is correctly reflected in all government records. If you don't do ALL of the following steps, then the government will unconstitutionally PRESUME you are a "resident" (statutory but not constitutional alien) rather than a non-resident non-person, regardless of what you say or "think" you are. If you want to <u>BE</u> one, you have to consistently <u>ACT</u> like one:

1. Correcting government records about you. Correcting all federal government records to correctly reflect your citizenship as a "national" but not a statutory U.S. citizen" under 26 C.F.R. §1.1-1(c). For instructions on how to do this, refer to:

| Sovereignty Forms and Instructions Manual, Form #10.005, Section 4.5.3.13 | http://sedm.org/Forms/FormIndex.htm

2. Politically and legally disassociating with the federal government using the following form, and providing this as evidence whenever you want to assert sovereignty in any court of law:

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

3. Quitting the Social Security Program. This makes you into a federal agent, "federal personnel" (see <u>5 U.S.C.</u> <u>§552a(a)(2))</u>, and the equivalent of a "public officer". See the following on how to leave Social Security and why you MUST leave if you want your freedom back:

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

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- 4. <u>Rebutting all erroneous Information Returns.</u> 26 U.S.C. §6041 establishes that the authority for filing all Information Returns, including IRS Forms W-2, 1098, and 1099, is earnings over \$600 that are connected with a "trade or business". The method for rebutting and correcting these erroneous reports is explained in the free resources:
 - 4.1. <u>26 U.S.C. §6041(a)</u>: Describes the requirement for information returns.
 - 4.2. 26 U.S.C. §7434: Basis to sue those who fill out false information returns.
 - 4.3. <u>Demand for Verified Evidence of "Trade or Business" Activity: Information Return (IR)</u>, Form #04.007: Submit this to private employers and financial institutions to prevent them from filing false reports of receipt of "public office" or "trade or business" earnings. http://sedm.org/Forms/FormIndex.htm
 - 4.4. <u>Correcting Erroneous Information Returns</u>, Form #04.001: Condenses the following four links into one http://sedm.org/Forms/FormIndex.htm
 - 4.5. <u>Correcting Erroneous IRS Form 1042's</u>, Form #04.003: http://sedm.org/Forms/FormIndex.htm
 - 4.6. Correcting Erroneous IRS Form 1098's, Form #04.004:
 - http://sedm.org/Forms/FormIndex.htm
 4.7. Correcting Erroneous IRS Form 1099's, Form #04.005:
 - http://sedm.org/Forms/FormIndex.htm4.8. Correcting Erroneous IRS Form W-2's, Form #04.006:
 - 4.8. Correcting Erroneous IRS Form W-2's, Form #04.006: http://sedm.org/Forms/FormIndex.htm
- 5. Civilly and criminally complaining against and prosecuting all parties who file false information returns against you, pursuant to:
 - 5.1. 26 U.S.C. §7434: Civil Damages for Fraudulent Filing of Information Returns
 - 5.2. 26 U.S.C. §7207: Fraudulent Returns, Statements, and Other Documents
 - 5.3. 18 U.S.C. §912: Falsely impersonating an officer [PUBLIC OFFICER] or employee of the United States
- 6. Opening a Financial Account without a Social Security Number and as a non-resident non-person rather than a "U.S. Person": The Social Security Number identifies you as a "U.S. person", which is defined in 26 U.S.C. §7701(a)(30) as a "citizen" or "resident" of the federal United States. This is what you become if you give the institution NOTHING but your name and ID when you open the account. You must submit an IRS Form W-8BEN to correct your correct status as a "nonresident alien" and not provide any SSN on the form if you want to avoid being a U.S. person. If you don't do this, then according to 26 U.S.C. §7701(a)(39) or 26 U.S.C. §7408(d), you will be treated as having an effective domicile

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in the District of Columbia, which is a foreign jurisdiction. Below is the instructions to fill out IRS Form W-8BEN to avoid becoming a domiciliary of the District of Columbia that you can use to open financial accounts without SSN's and without being a statutory "U.S. Person" under 26 U.S.C. §7701(a)(30).

http://sedm.org/compliant-member-only-forms/about-irs-form-w-8ben-form-04-002/

- 7. Filing the correct income tax return form, the 1040NR, if you file anything at all: You cannot file the IRS Form 1040. Everything that goes on this form is "trade or business" earnings from a "public office", as confirmed by 26 U.S.C. \$864(c)(3). IRS Document 7130 says that this form is ONLY for use by "citizens and permanent residents of the United States", which doesn't include a person domiciled in a state of the Union not engaged in a "trade or business".
 - 8. Not filing IRS Form W-4 to stop withholding: This form is ONLY for use by federal "employees" or personnel. You must use the IRS Form W-8BEN to stop withholding, as explained in the following free sources below:
 - 8.1. <u>About IRS Form W-8BEN</u>, Form #04.202:

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

- 8.2. <u>Federal and State Tax Withholding Options for Private Employers, Form #04.101</u>: http://sedm.org/Forms/FormIndex.htm
- 9. Rebutting or preventing the Filing of Currency Transaction Reports (CTR), IRS Form 8300 filed against a person who is withdrawing \$10,000 or more in currency from a financial institution. Pursuant to 31 U.S.C. §5331, these reports may only be filed for transactions connected with a "trade or business".

Title 31: Money and Finance: Treasury 18 PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN 19 20 Subpart B—Reports Required To Be Made 21 § 103.30 Reports relating to currency in excess of \$10,000 received in a trade or business. 23 (11) Trade or business. The term trade or business has the same meaning as under section 162 of title 26, United States Code. 24 25 31 C.F.R. §1010.330(d)(2) General 26 (2) Receipt of currency not in the course of the recipient's trade or business. 27 The receipt of currency in excess of \$10,000 by a person other than in the course of the person's trade or 28

See the following form for details if you are not engaged in a "public office" and wish to prevent the false or fraudulent filing of such a report on you:

<u>Demand for Verified Evidence of "Trade or Business" Activity: Currency Transaction Report,</u> Form #04.008 http://sedm.org/Forms/FormIndex.htm

However, some individuals, including constitutional attorney Larry BeCraft (see http://fly.hiwaay.net/~becraft/), contend that this argument lacks merit. He claims on his website that it has been rejected by the Federal courts in some cases, including the following:

- 1. United States v. Sloan, 939 F.2d. 499, 501 (7th Cir. 1991)
- 2. United States v. Jagim, 978 F.2d. 1032, 1036 (9th Cir. 1992)
- 3. United States v. Hilgeford, 7 F.3d. 1340, 1342 (7th Cir. 1993)
- ³⁸ 4. *United States v. Mundt*, 29 F.3d. 233 (6th Cir. 1994) ("federal zone" case)

business is not reportable under 31 U.S.C. 5331.

39 5. *Larue v. United States*, 959 F.Supp. 957 (C.D.Ill. 1997).

Other popular (but misguided) sources of information that oppose the nonresident alien approach advocated in our book is
the Save A Patriot Fellowship organization (http://www.save-a-patriot.org/). Comments of detractors of the Non-Resident
Non-Person Position, if you read them, clearly reflect a fundamental lack of understanding of the following "words of art"
within the context of Title 26 of the U.S.C. or the Regulations (26 CFR):

- "United States"
- "State"
- "Federal Zone"
- "within the U.S."

- "without the U.S."
- "foreign country"
 - "foreign"
- If you would like to learn more about the Non-Resident Non-Person Position and how to properly and truthfully describe
- 5 yourself as one as a person domiciled within a state of the Union, see the following informative pamphlet, which exhaustively
- 6 analyzes this subject:

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<u>Non-Resident Non-Person Position</u>, Form #05.020 http://sedm.org/Forms/FormIndex.htm

9.15 Not a "Person" or an "individual"

False Argument: I'm not a "person" and therefore not subject to the I.R.C.

Corrected Alternative Argument: All "individuals" in the I.R.C. Subtitle A are "public officers". I am <u>an</u> "individual" in a common sense, but I am not <u>THE</u> STATUTORY "individual" described in all federal legislation, because that individual is a "public officer" pursuant to 5 U.S.C. §2105(a) and an alien pursuant to 26 C.F.R. §1.1441-1(c)(3). The only "citizens" who are also "individuals" are those who are abroad under 26 U.S.C. §911(d)(1). Since state nationals in a constitutional state are not "abroad" and are not statutory "citizens" per 8 U.S.C. §1401 or 8 U.S.C. §1101(a)(22)(A), then they would NEVER be statutory "INDIVIDUALS" under the Internal Revenue Code Subtitle A. See Form #10.011, Section 12 for details: https://sedm.org/Forms/10-Emancipation/CitizenshipStatus/VTaxStatus/CitizenshipVTaxStatus.htm.

<u>Further information:</u>

- 1. <u>Policy Document: IRS Fraud and Deception About the Statutory Word "Person"</u>, Form #08.023 https://sedm.org/Forms/FormIndex.htm
- 2. <u>Proof That There Is a "Straw Man"</u>, Form #05.042-proves that statutory "persons" are public officers in the government and not PRIVATE humans.

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

- Sovereignty Forms and Instructions Online, Form #10.004, Cites by Topic: "person" http://famguardian.org/TaxFreedom/CitesByTopic/person.htm
- 4. <u>Sovereignty Forms and Instructions Online</u>, Form #10.004, Cites by Topic: "individual" http://famguardian.org/TaxFreedom/CitesByTopic/individual.htm</u>
- 5. 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
- Some have contended in the courts that they were not "persons" under the Internal Revenue Code, an argument which has been lost several times, mainly because the argument was stated too generally and did not define the status of the party making it.
 - 1. Lovell v. United States, 755 F.2d. 517, 519 (7th Cir. 1984) (all individuals, natural or unnatural, are subject to federal income tax on their wages)
 - 2. United States v. Karlin, 785 F.2d. 90, 91 (3d Cir. 1986)
 - 3. *United States v. Studley*, 783 F.2d. 934, 937 (9th Cir. 1986)(defendant who contended she was not a "taxpayer" because she was an "absolute, freeborn and natural individual" raised frivolous argument);
 - 4. United States v. Price, 798 F.2d. 111, 113 (5th Cir. 1986)
 - 5. *Itz v. United States Tax Court*, 1987 WL 15893, at 5, 87-2 USTC ¶ 9497 (W.D.Tex. May 6, 1987) (claim of plaintiff that he is a "de jure" citizen as opposed to a "de facto" citizen is without merit)
- 6. *Lonsdale v. United States*, 919 F.2d. 1440, 1447-48 (10th Cir. 1990)(plaintiff is a person subject to federal income tax, invalidating numerous other frivolous tax protester arguments)
 - 7. United States v. Silevan, 985 F.2d. 962, 970 (8th Cir. 1993)
 - 8. *United States v. Gerads*, 999 F.2d. 1255, 1256 (8th Cir. 1993)(these parties raised but had rejected the arguments that the U.S. has no "inland jurisdiction," that wages were not income, and that the federal income tax is voluntary. "And finally, we reject appellant's contention that they are not citizens of the United States, but rather 'Free Citizens of the Republic of Minnesota,' and consequently not subject to taxation").

First off, it is fundamental to civil jurisdiction that you cannot be subject to the statutes within a jurisdiction WITHOUT a

consensual domicile there. You must therefore have a domicile on federal territory to have ANY civil status under the laws

- of Congress. Since you can only have a domicile in one place at a time, you cannot simultaneously be domiciled within a
 - constitutional state AND federal territory. Therefore, you can only be a STATUTORY "citizen" or "resident" in one place
- at a time. This exhaustively proven in:

Why Domicile and Becoming a "Taxpayer" Require Your Consent, Form #05.002 https://sedm.org/Forms/FormIndex.htm

- To suggest that a human being can be a statutory "person" under the laws of congress and a statutory "person" under the civil
- statutes of their state is to engage in what George Orwell called doublespeak, to practice equivocation (Form #05.014), to
- perpetuate criminal identity theft (Form #05.046), and to violate the separation of powers that is the heart of the Constitution,
- 9 as documented in:

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

The only exception to the above is in federal enclaves within constitutional states, where federal and state jurisdiction overlap under the Assimilated Crimes Act and the Buck Act. That place, in fact, is the ONLY place where state income taxes can lawfully be enforce because the definitions in all states of the Union revenue codes incorporate the definitions within the Internal Revenue Code.

Within the Internal Revenue Code, the statutory term "person" is defined in 26 U.S.C. §7701(a)(1).

15 TITLE 26 > Subtitle F > CHAPTER 79 > Sec. 7701.

16 Sec. 7701. - Definitions

17 (a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof
19 (1) Person

20 The term "person" shall be construed to mean and include [throughout the Internal Revenue Code] an individual.
21 a trust, estate, partnership, association, company or corporation.

That definition includes the term "individual", but the term "individual" is never defined in the I.R.C. A definition of "individual" appears in the Treasury Regulations at 26 C.F.R. §1.441-1(c)(3), which implies that you can't be an "individual" unless you are an "alien":

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

(c) Definitions

(3) Individual.

 ${\it (i) Alien individual.}$

The term alien individual means an individual who is not a citizen or a national of the United States. See Sec. 1.1-1(c).

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

(c) Definitions

(3) Individual.

(ii) Nonresident alien individual.

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The term nonresident alien individual means persons described in section 7701(b)(1)(B), alien individuals who are treated as nonresident aliens pursuant to § 301.7701(b)-7 of this chapter for purposes of computing their U.S. tax liability, or an alien individual who is a resident of Puerto Rico, Guam, the Commonwealth of Northern Mariana Islands, the U.S. Virgin Islands, or American Samoa as determined under § 301.7701(b)-1(d) of this <u>chapter</u>. An alien individual who has made an <u>election</u> under section 6013(g) or (h) to be treated as a resident of the <u>United States</u> is nevertheless treated as a <u>nonresident alien</u> individual for <u>purposes</u> of <u>withholding</u> under chapter 3 of the Code and the regulations thereunder.

The Privacy Act, 5 U.S.C. §552a governs the handling of tax records. It contains a definition of "individual" that further 8 clarifies that an "individual" is a government employee. Note that the act falls within Title 5 of the U.S. Code, which is entitled "Government Organization and Employees". The Privacy Act does not apply to other than federal employees.

TITLE 5 - GOVERNMENT ORGANIZATION AND EMPLOYEES 11 PART I - THE AGENCIES GENERALLY 12 CHAPTER 5 - ADMINISTRATIVE PROCEDURE 13 SUBCHAPTER II - ADMINISTRATIVE PROCEDURE 14 15 Sec. 552a. Records maintained on individuals (a) Definitions 16

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

The U.S. Supreme Court has held that the ability to regulate private conduct is "repugnant to the Constitution". Hence, to become a statutory "person" under federal law, you must engage in public conduct and become a public officer. 26 U.S.C. §2105(a) describes how that transformation occurs, which is simply the act of describing yourself as an "employee" on a government form such as an IRS Form W-4, because THAT employee is a statutory employee and therefore a public officer:

24 § 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-26 (1) appointed in the civil service by one of the following acting in an official capacity— 27 28 (A) the President: (B) a Member or Members of Congress, or the Congress; 29 (C) a member of a uniformed service; 30 31 (D) an individual who is an employee under this section; (E) the head of a Government controlled corporation; or 32 (F) an adjutant general designated by the Secretary concerned under section 709 (c) of title 32; 33 34 (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 35 performance of the duties of his position.

<u>TITLE 5</u> > <u>PART III</u> > <u>Subpart A</u> > <u>CHAPTER 21</u> > § 2105

By being compelled to sign a contract or agreement or evidence of consent called a W-4, you were compelled to ILLEGALLY become a statutory "employee" and therefore public officer within the U.S. government. Notice the language "means an officer AND an individual". THIS is the public conduct and public officer franchise that grants federal courts the jurisdiction over what otherwise would be private conduct beyond their jurisdiction. Use of the Taxpayer Identification Number of Social Security Number does the same thing, because the regulations at 26 C.F.R. §301.6109-1 say that in the case of nonresident aliens, the number is ONLY required if you are engaged in the "trade or business" franchise and hence, are a public officer in the U.S. government just like 5 U.S.C. §2105(a) says.

Note also that both statutory "citizens" and statutory "residents" under the I.R.C. at 26 C.F.R. §1.1-1(c) and 26 U.S.C. §3121(e) are also public officers in the U.S. government and franchisees, which is why the "trade or business" requirement is not also associated with them as it is with nonresident aliens in 26 C.F.R. §301.6109-1. Statutory citizens and residents do not appear in the constitution and are franchises and creations of Congress which Congress can place any restrictions they want against. If they were simply human beings or were protected by the Constitution, then duties like that imposed within 31 U.S.C. §5314 (DUTY to report foreign bank accounts) would be unconstitutional and constitute involuntary servitude in violation of the Thirteenth Amendment and compelled self-incrimination in violation of the Fifth Amendment. This is one of the reasons why those who claim to be statutory "U.S. persons" when opening a bank account are required to supply a TIN or SSN: Because they are opening the account as a public officer on official business representing "U.S. Inc." corporation and therefore are subject to federal law that can and does regulate almost exclusively government employees, officers, and instrumentalities. See:

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

The conclusion that all "individuals" are "public officers", federal statutory "employees" (but NOT employees in an ordinary sense), contractors, and agents is also consistent with the nature of the income tax described in Internal Revenue Code, Subtitle A primarily as an excise tax upon a "trade or business", which is defined in 26 U.S.C. §7701(a)(26) as a public office in the United States Government. See the following for proof:

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

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Therefore, an "individual" within the I.R.C. is either a "public office" or a government statutory "employee" who is either a "resident alien" or a "nonresident alien". Under the I.R.C., you cannot be a statutory "U.S. citizen" pursuant to 26 C.F.R. §1.1-1(c) and also be an "individual" unless you are abroad and come under a tax treaty as an "alien" in respect to the foreign country you temporarily inhabit pursuant to 26 U.S.C. §911.

The above analysis and links lead to the following very important conclusions:

- 1. If you are born in a state of the Union, you start out as a "national but not citizen" and a nonresident alien pursuant to 8 U.S.C. §1101(a)(21), which means you are also an "individual" within the meaning of the I.R.C., but ONLY if you are engaged in a "trade or business" so as to connect you with federal contracts, employment, or franchises.
 - 2. If you are not connected with a "trade or business" (public office) as a nonresident alien, then you are not THE "individual" who can be the proper subject of the I.R.C. A "nonresident alien", by definition, is not "resident" and therefore not subject to any part of the Internal Revenue Code. I.R.C. Subtitle A does not have extraterritorial jurisdiction over anyone but those domiciled in the statutory but not constitutional "United States**" (federal territory) AND who are engaged in federal employment, agency, contracts, or franchises.
 - 3. Use of a Taxpayer Identification Number (TIN) creates a prima facie presumption that you are engaged in a "trade or business". See the instructions for IRS Form 1042-S for proof.
 - 4. If anyone files Information Returns, such as the IRS Forms W-2, 1042-s, 1098, 1099 on you, then pursuant to 26 U.S.C. §6041, they have created a prima facie presumption that you are engaged in a "trade or business", which means that you are now subject to federal law and an "individual" because connected with federal employment.
 - 5. If you have either used a TIN or had Information Returns filed against you and you did not rebut both of these, then you are presumed to consent to being engaged in a "trade or business" and therefore are an "individual". Most people fall in this category because they do not rebut the TIN and send in corrected information returns to negate their presumed status as "taxpayers". Consequently, they are "individuals" and the courts rightly label their arguments as frivolous when they argue that they are not "persons" or "individuals" within the meaning of the I.R.C.

Consequently, if you want to avoid being legally classified as a "person" or an "individual" within the meaning of the I.R.C., you must stop using TINs, stop filing IRS Form W-4, stop withholding, and rebut all Information Returns that are wrongfully filed against you so that there is no connection to federal employment or franchises that will transform you into an "individual" or a "person" subject to the I.R.C. or a "taxpayer". For information about how to correct false Information Returns, see:

<u>Income Tax Withholding and Reporting Course</u>, Form #12.004, Item #3.10 http://sedm.org/Forms/FormIndex.htm

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- We cover this subject of being a "person" or an "individual" more thoroughly in the following references:
- 2 1. Great IRS Hoax, Form #11.302, Section 3.12.1.10: "Individual (26 C.F.R. §1.1441-1(c)(3))"
- 2. Great IRS Hoax, Form #11.302, Section 5.5.3: "You're not a 'U.S. citizen' if you file IRS Form 1040, You're an Alien"
- 4 3. *Great IRS Hoax*, Form #11.302, Section 5.5.4: "You're not the 'individual' mentioned at the top of the 1040 form if you are a 'U.S. citizen' domiciled in the federal 'United States'"
- We believe it is far more fruitful to argue the excise taxable activities subject to tax and whether you are involved in them,
- than it is to pointlessly argue that you are not a "person" under the I.R.C.

9.16 Filing 1099s against IRS Agents

- At one time, some asserted that when an agent of the government inflicted damage upon somebody, the proper response should be filing a Form 1099 against the agent because the agent was "enriched" by the damage so inflicted. Parties doing this went to jail.
 - 1. *United States v. Yagow*, 953 F.2d. 423 (8th Cir. 1992)
 - 2. *United States v. Kuball*, 976 F.2d. 529 (9th Cir. 1992)
 - 3. *United States v. Dykstra*, 991 F.2d. 450 (8th Cir. 1993).
- Of course, today we have essentially the same thing in the format of filing common law liens. More than enough people have gone to jail with such lunacy. Recently Roger Elvick, who went to jail for doing this, has again incorporated into his "redemption process" this same scheme. We also remind our readers that 26 U.S.C. §7434 provides for civil remedies in the case of fraudulent Information Returns, which is what a 1099 containing false information would be classified as.

9.17 Notice of Levy not a "Levy"

False Argument: A "notice of levy" is not a "levy"

<u>Corrected Alternative Argument</u>: The I.R.C defines what a "levy" in <u>26 U.S.C. §7701(a)(21)</u>, but that "levy" is not a "levy" issued by a court within the meaning of the common law. Therefore, no legal obligation to levy in the sense of judicial process can accrue from receipt of an IRS Form 668(A)(c)(DO), "Notice of Levy".

Further information:

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- Sovereignty Forms and Instructions Online, Form #10.004, Cites by Topic: "levy" http://famguardian.org/TaxFreedom/CitesByTopic/levy.htm
- 2. <u>26 U.S.C. §6331</u>: Authority for levies. Notice that paragraph (a) only authorizes levies against federal agencies, instrumentalities, and employees and not private individuals.
- A popular argument currently circulating is that a mere notice of levy is not equal to a levy and thus may not be used for tax collection purposes. This argument originates from sources such as that below:

A "levy" requires that property be brought into legal custody through seizure, actual or constructive, levy being an absolute appropriation in law of property levied on, and mere notice of intent to levy is

insufficient. United States v. O'Dell, 6 Cir., 1947, 160 F.2d. 304, 307. Accord, In re Holdsworth, D.C.N.J. 1953, 113 F.Supp. 878, 888; United States v. Aetna Life Ins. Co. of Hartford, Conn., D.C.Conn. 1942, 146 F.Supp. 30, 37, in which Judge Hincks observed that he could "find no statute which says that a mere notice shall constitute a "levy." There are cases which hold that a warrant for distraint is necessary to constitute a levy. Givan v. Cripe, 7 Cir., 1951, 187 F.2d. 225; United States v. O'Dell, supra. The Court of Appeals for the Third Circuit state in its opinion, 221 F.2d. at page 642, "These sections [26 U.S.C. §83690-3697] require that levy by a deputy collector be accompanied by warrants of distraint [issued by a judge in a legal proceeding]." In re Brokol Manufacturing Co., supra. [Freeman v. Mayer, 152 F.Supp. 383 (1957)]

Nothing alleged to have been done amounts to a levy, which requires that the property be brought into legal custody through seizure, actual or constructive, levy being 'an absolute appropriation in law of the property levied upon.' Rio Grande R. Co. v. Gomila, 132 U.S. 478, 10 S.Ct. 155, 33 L.Ed. 400; In re Weinger, Bergman

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8 Co., D.C., 126 F. 875, 877; Smith v. Packard, 7 Cir., 98 F. 793. Levy is not effected by

mere notice. Hollister v. Goodale, 8 Conn. 332, 21 Am.Dec. 674; Meyer v. Missouri Glass Co., 65 Ark. 286, 45 S.W. 1062, 67 Am.St.Rep. 927; Jones v. Howard, 99 Ga. 451, 27 S.E. 765, 59 Am.St.Rep. 231.

Section 3692 does not prescribe any procedure for accomplishing a levy upon a bank account. The method followed in the cases is that of issuing warrants of distraint, making the bank a party, and serving with the notice of levy copy of the warrants of distraint and notice of lien. Cf. Commonwealth Bank v. United States, 6 Cir., 115 F.2d. 327; United States v. Bank of United States, D.C., 5 F.Supp. 942, 944. No warrants of distraint were issued here.

[United States v. O'Dell, 160 F.2d. 304 (1947)]

- Some courts have not accepted this idea and contradicted the above.
 - 1. *United States v. Eiland*, 223 F.2d. 118, 121 (4th Cir. 1955)
 - 2. Rosenblum v. United States, 300 F.2d. 843, 844-45 (1st Cir. 1962)
- 3. United States v. Pittman, 449 F.2d. 623, 627 (7th Cir. 1971)
- 4. In re Chicagoland Ideel Cleaners, Inc., 495 F.2d. 1283, 1285 (7th Cir. 1974)
- 5. Wolfe v. United States, 798 F.2d. 1241, 1245 (9th Cir. 1986)
- 6. Sims v. United States, 359 U.S. 108, 79 S.Ct. 641 (1959).
- Perhaps there are some remaining methods to prevail on this argument, but serious damage has already been done.
- Some tax organizations also claim to be able to remove liens or levies, which is impossible if you think about it logically.
- Since the IRS placed the lien or levy the IRS and only the IRS can reverse their action and remove it. This is analogous to
- the credit repair organization that claims to be able to "erase" negative credit for you, when in fact it is the employee working
- at TRW or one of the other major credit bureaus that might push the "delete" key and "erase" what they themselves have
- posted. All one can do is petition under Law for the erasure.
- All that any individual or tax organization can do is to argue the misapplication of the tax code by the IRS pertaining to liens
- and levies on behalf of their member, which is precisely what the Save-A-Patriot Fellowship does for those members who
- give the Fellowship their power-of-attorney.

9.18 <u>Title 26 is not positive law</u>

False Argument: Title 26 is not positive law

<u>Corrected Alternative Argument</u>: Title 26 is a "presumption" that may not be cited against persons protected by the Constitution, unless they make themselves subject by volunteering to become "taxpayers" engaged in the "trade or business" franchise, and written proof of informed consent to engage in the franchise must be proven on the record in order for them to become "taxpayers". Otherwise, the presumption of innocence until proven guilty is violated.

Further information:

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- 1. <u>1 U.S.C. §204</u>: Shows that Title 26 is not positive law
- Requirement for Consent, Form #05.003. See sections 9 through 9.6, and 14. http://sedm.org/Forms/FormIndex.htm
- The following web page:
 - http://fly.hiwaay.net/~becraft/titles.html
- contains a good memo explaining the titles of the code and why they were adopted. But against this explanation, people still run around asserting a contrary and groundless position; see:
 - 1. Ryan v. Bilby, 764 F.2d. 1325, 1328 (9th Cir. 1985)(stating that "Congress's failure to enact a title into positive law has only evidentiary significance and does not render the underlying enactment invalid or unenforceable");
 - 2. *United States v. Zuger*, 602 F. Supp. 889, 891-92 (D. Conn. 1984) (holding that "the failure of Congress to enact a title as such and in such form into positive law . . . in no way impugns the validity, effect, enforceability or constitutionality

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- of the laws as contained and set forth in the title"), aff'd without op., 755 F.2d. 915 (2d Cir.), cert. denied, 474 U.S. 805 (1985);
- 3. *Young v. IRS*, 596 F.Supp. 141, 149 (N.D. Ind. 1984) (asserting that "even if Title 26 was not itself enacted into positive law, that does not mean that the laws under that title are null and void");
- Berkshire Hathaway Inc. v. United States, 8 Cl.Ct. 780, 784 (1985) (averring that the I.R.C. "is truly 'positive law'"), aff'd, 802 F.2d. 429 (Fed. Cir. 1986).
- The subject of the requirement of positive law more much more thoroughly covered in the memorandum of law below, which may also prove helpful:

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

The above memorandum demonstrates that statutes which are not positive law only acquire "the force of law" extraterritorially with the consent of the franchisee and may only be enforced on federal territory and not elsewhere as required by 4 U.S.C. §72, which is the heart of the Separation of Powers Doctrine. This fact is established by 28 U.S.C. §1366.

We think it is a very bad idea to argue that the I.R.C. is not "law" for ANYONE, or is not enforceable, because it is both within the U.S. Government or on federal territory. Interestingly, I.R.C. Sections 7408(d) and 7701(a)(39) both place all "citizens and residents", which is a synonym for all federal corporate instrumentalities and "public offices", right back in the District of Columbia if they are not situated on federal territory, regardless of where they physically are. This transformation is accomplished pursuant to Federal Rule of Civil Procedure 17(b)(2), whereby corporations and instrumentalities wholly owned by corporations, are subject to the laws of the place of incorporation of the corporation, which in the case of the "United States" federal corporation is the District of Columbia pursuant to 28 U.S.C. §3002(15)(A). These "citizens and residents" mentioned in I.R.C. §7408(d) and 7701(a)(39) cannot be anything other than federal instrumentalities because it is a crime to kidnap a private person's legal identity and non-consensually move it to the District of Columbia in violation of 18 U.S.C. §1028(a)(7), and 18 U.S.C. §1028A.

9.19 "Federal income taxes" are contractual

<u>False Argument</u>: Federal income taxes are contractual

Corrected Alternative Argument: I.R.C. Subtitles A and C are private law that only apply to "taxpayers", and proof of informed consent to the private law/franchise must appear on the record in order to cite it against a person protected by the Constitution. The U.S. Supreme Court describes the I.R.C. as "quasi-contractual", not "contractual". *Milwaukee v. White*, 296 U.S. 268 (1935). Consent IS required in order to become a "taxpayer", but the method of procuring that consent cannot be described as a "contract" per se.

Further information:

- 1. <u>Requirement for Consent</u>, Form #05.003 http://sedm.org/Forms/FormIndex.htm
- 2. <u>Government Instituted Slavery Using Franchises</u>, Form #05.030 http://sedm.org/Forms/FormIndex.htm
- 3. <u>Resignation of Compelled Social Security Trustee</u>, Form #06.002. Proves that the Social Security Act is a trust which makes you into a "trustee" of the public trust http://sedm.org/Forms/FormIndex.htm

Some people argue that federal income taxes are contractual in nature and that they don't consent to the contract. Such rhetoric is rebutted by the following:

"A tax is not regarded as a debt in the ordinary sense of that term, for the reason that a tax does not depend upon the consent of the taxpayer and there is no express or implied contract to pay taxes. Taxes are not contracts between party and party, either express or implied; but they are the positive acts of the government, through its various agents, binding upon the inhabitants, and to the making and enforcing of which their personal consent individually is not required."

[Cooley, Law of Taxation, 4th Ed., pgs 88-89]

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- The above is a deception at best and a LIE at worst. A "taxpayer" is legally defined as a person liable, and it is true that for 1
- such a person, taxes are not consensual. HOWEVER, the choice about whether one wishes to BECOME a "taxpayer" as 2
- legally defined in 26 U.S.C. §7701(a)(14) is based on the following two voluntary choices of the human being:
- Choosing a domicile on federal territory and no part of a state of the Union. 1.

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- Choosing to engage in the "trade or business" excise taxable franchise, which in fact IS a voluntary action.
- By their careful choice of words, Cooley has misrepresented the truth so the government could get into your pocket and obtain
- property that it isn't entitled to. What else would you expect of greedy LIARS, I mean "lawyers"?
- In fact, the U.S. Supreme Court itself has identified income taxes as "quasi-contractual". To wit: 8

"Even if the judgment is deemed to be colored by the nature of the obligation whose validity it establishes, and we are free to re-examine it, and, if we find it to be based on an obligation penal in character, to refuse to enforce it outside the state where rendered, see Wisconsin v. Pelican Insurance Co., 127 U.S. 265, 292, et seq. 8 S.Ct.

1370, compare Fauntleroy v. Lum, 210 U.S. 230, 28 S.Ct. 641, still the obligation to pay taxes is not penal. It is a statutory liability, quasi contractual in nature, enforceable, if there is no exclusive statutory remedy, in the civil courts by the common-law action of debt or

indebitatus assumpsit. United States v. Chamberlin, 219 U.S. 250, 31 S.Ct. 155; Price v. United States, 269 U.S. 492, 46 S.Ct. 180; Dollar Savings Bank v. United States, 19 Wall. 227; and see Stockwell v. United States, 13 Wall, 531, 542; Meredith v. United States, 13 Pet. 486, 493. This was the rule established in the English courts before the Declaration of Independence. Attorney General v. Weeks, Bunbury's Exch. Rep. 223; Attorney General v. Jewers and Batty, Bunbury's Exch. Rep. 225; Attorney General v. Hatton, Bunbury's Exch. Rep. [296 U.S. 268, 272] 262; Attorney General v. _ _, 2 Ans.Rep. 558; see Comyn's Digest (Title 'Dett,' A, 9); 1 Chitty on Pleading, 123; cf. Attorney General v. Sewell, 4 M.&W. 77. " [Milwaukee v. White, 296 U.S. 268 (1935)]

In other words, income taxes amount to nothing more than an "ASSUMED OR PRESUMED debt". They are trying to hide this fact by using Latin. Scoundrels. There are HUGE problems with this approach to taxes by the Supreme Court:

1. All presumptions that impair constitutionally guaranteed rights are a violation of due process of law, including the presumption that a person has a "presumed debt" called a "tax" owing:

> Rutter Group Practice Guide Federal Civil Trials and Evidence

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

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

2. If they can "assume a debt", then the requirement for equal protection and equal treatment that is the foundation of the Constitution also allows me to assume that they owe me money also. If they won't enforce the same requirement upon themselves that they enforce upon me, they have granted themselves a "title of nobility" in violation of the Constitution:

> Constitution of the United States Article 1, Section 9, Clause 8

No Title of Nobility shall be granted by the United States [INCLUDING TO ITSELF]: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince or foreign State.

Below is the meaning of "quasi-contract" from the above ruling:

"Quasi contact. An obligation which law creates in absence of agreement; it is invoked by courts where there is unjust enrichment. Andrews v. O'Grady, 44 Misc.2d 28, 252 N.Y.S.2d. 814, 817. Sometimes referred to as

implied-in-law contracts (as a legal fiction) to distinguish them from implied-in-fact contracts (voluntary
agreements inferred from the parties' conduct). Function of "quasi-contract" is to raise obligation in law when
in fact the parties made no promise, and it is not based on apparent intention of the parties. Fink v. Goodson
Todman Enterprises, Limited, 9 C.A.3d. 996, 88 Cal.Rptr. 679, 690. See also Contract."
[Black's Law Dictionary, Sixth Edition, p. 1245]

The trouble with calling income taxes "quasi-contractual" is that equal protection requires the government to allow YOU to use the same vehicle of "implied contracts" against them when they unjustly enrich themselves with your labor or property. For instance, if they are illegally enforcing the I.R.C. against a "nontaxpayer" and they send you all these notices that you must respond to, that counts as involuntary servitude in violation of the Thirteenth Amendment prohibition against involuntary servitude, which incidentally ALSO applies on federal territory. By engaging in unlawful enforcement against a "nontaxpayer" not subject to the I.R.C. and not compensating you for all the burdens they create in that process, they are being "unjustly enriched" with your labor and possibly your property, for which there is an implied contract that they must repay:

"A claim against the United States is a right to demand money from the United States." Such claims are sometimes spoken of as gratuitous in that they cannot be enforced by suit without statutory consent. The general rule of non-liability of the United States does not mean that a citizen cannot be protected against the wrongful governmental acts that affect the citizen or his or her property. If, for example, money or property of an innocent person goes into the federal treasury by fraud to which a government agent was a party, the United States cannot [lawfully] hold the money or property against the claim of the injured party.

[American Jurisprudence 2d, United States, §45 (1999)]

"When the Government has illegally received money which is the property of an innocent citizen and when this money has gone into the Treasury of the United States, there arises an implied contract on the part of the Government to make restitution to the rightful owner under the Tucker Act and this court has jurisdiction to entertain the suit.

90 Ct.Cl. at 613, 31 F.Supp. at 769."

[Gordon v. U.S., 227 Ct.Cl. 328, 649 F.2d. 837 (Ct.Cl., 1981)]

"The United States, we have held, cannot, as against the claim of an innocent party, hold his money which has gone into its treasury by means of the fraud of its agent. While here the money was taken through mistake without element of fraud, the unjust retention is immoral and amounts in law to a fraud of the taxpayer's rights. What was said in the State Bank Case applies with equal force to this situation. 'An action will lie whenever the defendant has received money which is the property of the plaintiff, and which the defendant is obligated by natural justice and equity to refund. The form of the indebtedness or the mode in which it was incurred is immaterial."

[Bull v. United States, 295 U.S. 247, 261, 55 S.Ct. 695, 700, 79 L.Ed. 1421]

If they won't enforce the concept of quasi contracts BOTH WAYS, then they are hypocrites who have violated your right to equal protection and equal treatment that is the foundation of the Constitution and created a Title Of Nobility upon themselves by conferring rights on their part that you don't have. This completely turns the concept of "delegated and enumerated" powers on its head and destroys the foundation of the Constitution. The people cannot delegate ANY authority to the government that they themselves do not ALSO have. This is confirmed by the following maxims of law:

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Nemo dat qui non habet.
No one can give who does not possess. Jenk. Cent. 250.

Nemo plus juris ad alienum transfere potest, quam ispe habent.
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One cannot transfer to another a right which he has not. Dig. 50, 17, 54; 10 Pet. 161, 175.

EXHIBIT:____

⁷⁷ United States ex rel. Angarica v. Bayard, 127 U.S. 251, 32 L.Ed. 159, 8 S.Ct. 1156, 4 A.F.T.R. 4628 (holding that a claim against the Secretary of State for money awarded under a treaty is a claim against the United States); Hobbs v. McLean, 117 U.S. 567, 29 L.Ed. 940, 6 S.Ct. 870; Manning v. Leighton, 65 Vt. 84, 26 A. 258, motion dismd 66 Vt. 56, 28 A 630 and (disapproved on other grounds by Button's Estate v. Anderson, 112 Vt. 531, 28 A.2d. 404, 143 A.L.R. 195).

⁷⁸ Blagge v. Balch, 162 U.S. 439, 40 L.Ed. 1032, 16 S.Ct. 853.

⁷⁹ Wilson v. Shaw, 204 U.S. 24, 51 L.Ed. 351, 27 S.Ct. 233.

⁸⁰ Bull v. United States, 295 U.S. 247, 79 L.Ed. 1421, 55 S.Ct. 695, 35-1 U.S.T.C. ¶ 9346, 15 A.F.T.R. 1069; United States v. State Bank, 96 U.S. 30, 96 Otto 30, 24 L.Ed. 647.

1	Nemo potest facere per alium quod per se non potest.
2	No one can do that by another which he cannot do by himself.
3	Qui per alium facit per seipsum facere videtur.
4	He who does anything through another, is considered as doing it himself. Co. Litt. 258.
5	Quicpuid acquiritur servo, acquiritur domino.
6	Whatever is acquired by the servant, is acquired for the master. 15 Bin. Ab. 327.
7	Quod per me non possum, nec per alium.
8	What I cannot do in person, I cannot do by proxy. 4 Co. 24.
9	What a man cannot transfer, he cannot bind by articles.
0	[Bouvier's Maxims of Law, 1856;
1	SOURCE: http://famguardian.org/Publications/BouvierMaximsOfLaw/BouviersMaxims.htm]

If you would like to know how this "quasi-contract" works, see the following for an exhaustive analysis:

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

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Therefore, I.R.C. Subtitles A and C are excise taxes upon a franchise called a "trade or business" and that all government franchises constitute contracts between the government grantor and the franchisee, which in the case of the I.R.C. Subtitle A income tax is called a "taxpayer":

> "As a rule, franchises spring from contracts between the sovereign power and private citizens, made upon valuable considerations, for purposes of individual advantage as well as public benefit, 81 and thus a franchise partakes of a double nature and character. So far as it affects or concerns the public, it is publici juris and is subject to governmental control. The legislature may prescribe the manner of granting it, to whom it may be granted, the conditions and terms upon which it may be held, and the duty of the grantee to the public in exercising it, and may also provide for its forfeiture upon the failure of the grantee to perform that duty. But when granted, it becomes the property of the grantee, and is a private right, subject only to the governmental control growing out of its other nature as publici juris. 82 [American Jurisprudence 2d, Franchises, §4: Generally (1999)]

The above admits that all franchises are "property". The reason they are property of the government grantee is because in law, all rights are property and anything that conveys rights such as a contract is also property. It is this characteristic that is the sole source of all of the jurisdiction of federal courts over income taxes, in fact. All federal district and circuit courts are Article IV legislative courts whose jurisdiction derives exclusively from Article 4, Section 3, Clause 2 of the United States Constitution, which grants congress exclusive jurisdiction to "make all needful rules and regulations regarding the territory and other property of the government".

U.S. Constitution Article 4, Section 3, Clause 2

> The Congress shall have Power to dispose of and make all needful Rules and Regulations <u>respecting the Territory</u> or other Property [franchises, chattel property, contracts] 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.

I.R.C. Subtitle A is a franchise agreement for federal "public officers" in receipt, control, and custody of private property donated to a public use to procure the benefits of the "trade or business" franchise. It is unlawful for a private person or anyone other than a "public officer" to be in custody or control of public property. All such persons are fiduciaries and "transferees" pursuant to 26 U.S.C. §6091 and 6903. The federal courts are simply a corporate arbitration board for all those managing federal property. For these people, the I.R.C. Subtitle A is "law", "private law", "special law" and for NO

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⁸¹ Georgia R. & Power Co. v. Atlanta, 154 Ga. 731, 115 S.E. 263; Lippencott v. Allander, 27 Iowa 460; State ex rel. Hutton v. Baton Rouge, 217 La. 857, 47 So.2d. 665; Tower v. Tower & S. Street R. Co. 68 Minn 500, 71 N.W. 691.

⁸² Georgia R. & Power Co. v. Atlanta, 154 Ga. 731, 115 S.E. 263; Lippencott v. Allander, 27 Iowa 460; State ex rel. Hutton v. Baton Rouge, 217 La. 857, 47 So.2d. 665; Tower v. Tower & S. Street R. Co. 68 Minn 500, 71 N.W. 691.

- OTHERS. The ONLY way that federal courts could in fact have jurisdiction over the Internal Revenue Code, Subtitle A is if it was a contractual franchise. Without the existence of a contractually enforceable right and by implication, a franchise,
- there is no way they could even lawfully hear an income tax case because the management of federal property, territory,
- domiciliaries, and franchises would then NOT be at issue and therefore beyond the jurisdiction of the federal district and
- 5 circuit courts. This fact is exhaustively proven earlier in section 8.8.
- Those who wish to participate as franchisees in the benefits of the franchise ordinarily must do so through the application of a "license". The application itself serves as formal notice that the franchise is now enforceable against the applicant once approved. When the first federal income tax was introduced in 1862, the then Bureau of Internal Revenue (B.I.R.) in fact issued such licenses:

Figure 3: Internal Revenue License

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The U.S. Supreme Court declared such licenses above as illegal in the context of states of the Union in 1866 in the land mark License Tax Cases. Consequently, they can only lawfully be issued and enforced within the statutory but not constitutional "United States**" (federal territory):

"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.

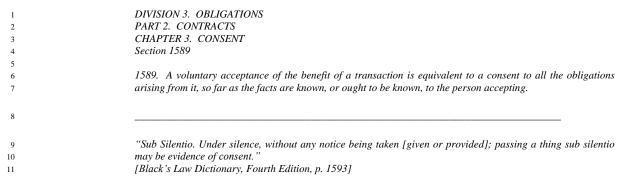
But very different considerations apply to the internal commerce or domestic trade of the States. Over this commerce and trade Congress has no power of regulation nor any direct control. This power belongs exclusively to the States. No interference by Congress with the business of citizens transacted 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 the above holding, the IRS has withdrawn the issuance of licenses and tried to hide the voluntary nature of participation in the "trade or business" franchise by treating the disclosure and use of a Social Security Number as a "de facto license number" pursuant to 26 U.S.C. §6109(a). The following may explain the legal authority for this dastardly deception:

CALIFORNIA CIVIL CODE

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The IRS appears to have done this in order to hide the requirement for consent and make such consent to the license "implied" or constructive, rather than explicit. In that sense, they are trying to deceive the average American into believing the that the income tax is mandatory, when in fact the decision to become a franchisee called a "taxpayer" is voluntary. Since 42 U.S.C. §408 makes the compelled use of Social Security Numbers illegal and the Privacy Act, 5 U.S.C. §552a protects their involuntary disclosure, the knowledge and disclosure of a Social Security Number by a third party constitutes "constructive" or "implied" or "prima facie evidence" of consent to the franchise.

"A franchise is acquired, ordinarily, only when the grant is actually accepted. ⁸³ Acceptance may be implied by the acts or conduct of the grantee, ⁸⁴ and this is especially true when the franchise makes no provision for a formal acceptance thereof. ⁸⁵"

[American Jurisprudence 2d, Franchises, §17: Acceptance or vesting of franchise (1999)]

American Jurisprudence 2d, Franchises, §17. Acceptance of vesting of franchise (1999)]

"The grant of a franchise, when accepted by the grantee, constitutes a binding contract between the parties thereto by which their rights and obligations are to be determined in accordance with its terms and conditions."

The character and extent of the rights granted in the use of a franchise depend upon the terms of the grant, the nature of the franchise, and the purpose designed to be accomplished.⁸⁷ Moreover, the jurisdiction of the granting authority is a limitation upon the extent of the franchise which is granted.⁸⁸" [American Jurisprudence 2d, Franchises, §27: Character and extent of powers under grant (1999)]

The only point of controversy is what constitutes legally admissible evidence of consent to the franchise during litigation, and the government simply won't reveal this "secret" criteria because if people knew what it was, they would withdraw their consent and remove themselves from the franchise. Since the government refuses to explicitly declare the criteria for acceptance of the "trade or business" franchise and refuses, as it originally did, to issue licenses to the participants and thereby give them notice that they are bound to the franchise agreement, it is difficult to know. This fact alone should constitute reason enough to declare the income tax "void for vagueness".

That the terms of a penal statute creating a new offense must be sufficiently explicit to inform those who are subject to it what conduct on their part will render them liable to its penalties is a well-recognized requirement, consonant alike with ordinary notions of fair play and the settled rules of law; and a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application violates the first essential of due process of law. International Harvester Co. v. Kentucky, 234 U.S. 216, 221, 34 S.Ct. 853; Collins v. Kentucky, 234 U.S. 634, 638, 34 S.Ct. 924

The rights of the parties are to be determined by the terms of a franchise contract which is included in the provisions of a valid franchise ordinance accepted by the grantee. Columbus R. Power & L. Co. v. Columbus, 249 U.S. 399, 63 L.Ed. 669, 39 S.Ct. 349, 6 A.L.R. 1648; Cleveland v. Cleveland City R. Co., 194 U.S. 517, 48 L.Ed. 1102, 24 S.Ct. 756; State ex rel. Weatherly v. Birmingham Waterworks Co., 185 Ala 388, 64 So 23; People ex rel. Jackson v. Suburban R. Co., 178 Ill. 594, 53 N.E. 349; Interurban R. & Terminal Co. v. Public Utilities Com., 98 Ohio.St. 287, 120 N.E. 831, 3 A.L.R. 696.

EXHIBIT:_____

⁸³ Stockton Gas & E. Co. v. San Joaquin County, 148 Cal 313, 83 P 54.

⁸⁴ City R. Co. v. Citizens' Street R. Co., 166 U.S. 557, 41 L.Ed. 1114, 17 S.Ct. 653.

⁸⁵ State ex rel. Martin v. Ohio Electric Power Co., 35 Ohio.App. 481, 172 N.E. 615, affd 121 Ohio.St. 235, 167 N.E. 877.

⁸⁶ Arkansas-Missouri Power Co. v. Brown, 176 Ark. 774, 4 S.W.2d. 15, 58 A.L.R. 534; Interurban R. & Terminal Co. v. Public Utilities Com. 98 Ohio.St. 287, 120 N.E. 831, 3 A.L.R. 696.

⁸⁷ Leonard v. Baylen Street Wharf Co., 59 Fla 547, 52 So 718.

⁸⁸ Citizens Tel. Co. v. Cincinnati, N. O. & T. P. R. Co, 192 Ky. 399, 233 S.W. 901, 18 A.L.R. 615.

[269 U.S. 385, 393] ... The dividing line between what is lawful and unlawful cannot be left to conjecture. The citizen cannot be held to answer charges based upon penal statutes whose mandates are so uncertain that they will reasonably admit of different constructions. A criminal statute cannot rest upon an uncertain foundation. The crime, and the elements constituting it, must be so clearly expressed that the ordinary person can intelligently choose, in advance, what course it is lawful for him to pursue. Penal statutes prohibiting the doing of certain things, and providing a punishment for their violation, should not admit of such a double meaning that the citizen may act upon the one conception of its requirements and the courts upon another.'

[Connally vs. General Construction Co., 269 U.S. 385 (1926)]

Therefore, we believe people who make the claim that income taxes are contractual are correct because income taxation is an excise and a franchise that MUST be based on contract. The reason they lose in court is that they acted like franchisees called "taxpayers" and thereby constructively consented to the terms of the franchise. For example:

"On appeal, McLaughlin posits three arguments: (1) that his liability for federal income tax is contractual in nature and he has rescinded that contract;" [McLaughlin v. CIR, 832 F.2d. 986, 987 (7th Cir. 1987)]

In the above case, this argument was held to be without merit as follows:

"The notion that the federal income tax is contractual or otherwise consensual in nature is not only utterly without foundation but, despite McLaughlin's protestations to the contrary, has been repeatedly rejected by the courts. See, e.g., Newman v. Schiff, 778 F.2d. 460, 467 (8th Cir. 1985); United States v. Drefke, 707 F.2d. 978, 981 (8th Cir. 1983), cert. denied, sub nom., Jameson v. United States, 464 U.S. 942, 78 L.Ed.2d. 321, 104 S.Ct. 359 (1983). Furthermore, case law in this circuit is well-settled that individuals must pay federal income tax on their wages regardless of whether they avail themselves of governmental benefits or privileges. See Coleman v. Commissioner, 791 F.2d. 68, 70 (7th Cir. 1986); Lovell v. United States, 755 F.2d. 517, 519 (7th Cir. 1984)."

In the above case, the main reason why it was held without merit is because McLaughlin didn't argue the fact that he received "wages", and instead agreed with all of the factual determinations of the Tax Court that he appealed from.

"The Tax Court's decision sustained the Commissioner's determination that for the years 1980, 1981 and 1982 McLaughlin received wage and interest income in the respective amounts of \$36,403, \$30,621, and \$24,510. For those same years, McLaughlin filed no federal income tax returns, reported no income tax as due and had no taxes withheld from his wages. McLaughlin has not and presently does not dispute the Commissioner's computation of deficiency of statutory penalties; rather, he argues that he is, for a number of reasons, exempt from the payment of income tax. Because McLaughlin's petition for review of the Commissioner's assessments alleged no factual errors, as required by Tax Court Rule 34(b)(4) and (5), the Tax Court granted the Commissioner's motion to dismiss, sustained the deficiencies and additions to tax and awarded the Commissioner the maximum damages permitted under 26 U.S.C. § 6673, to wit: \$5,000."

[McLaughlin v. CIR, 832 F.2d. 986, 987 (7th Cir. 1987)]

McGlaughlin was an ignorant fool because:

- 1. He litigated in Tax Court. Tax court is an Article II court reserved only for "transferees" and "fiduciaries" over federal property, under 26 U.S.C. §6902(a). The only people who can litigate there are "taxpayers" who are engaged in a "trade or business". These people ought to pay what they owe instead of arguing.
- 2. He didn't dispute the receipt of "wages". We show in *Great IRS Hoax*, Form #11.302, Section 5.6.7 that the only people who earn "wages" are those with a voluntary withholding agreement in place.
- 3. He apparently never rebutted the false W-2's that were filed on him by providing corrected information returns to zero out the false reports.
- 4. He never rebutted the penalties, which we prove in <u>Great IRS Hoax</u>, Form #11.302, Section 5.4.16 are not authorized against anyone but officers or employees of federal corporations (26 U.S.C. §6671(b)).
- 5. He used the term "federal income taxes". The taxes in Subtitle D of the I.R.C. are legitimate "federal income taxes" and are not contractual or voluntary, for instance. Using general terms and not specifying which definition applies in each case will almost always get people in trouble. McLaughlin should have used the much more specific term "Subtitle A of the Internal Revenue Code" instead of "federal income taxes". We also show in <u>Great IRS Hoax</u>, Form #11.302, Section 5.1.5 that the money you pay to the government under Internal Revenue Code, Subtitle A doesn't even qualify to be described as a "tax". McGlaughlin, on the other hand, called it a "tax" and he was wrong.

We believe that if you are going to either be ignorant of the law or act like a "taxpayer" or presumptuously use words without referring to which definition you mean as McGlaughlin did, then you ought to pay what the government says you owe. This

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- idiot deserved the sanctions he received from the appeals court. For similar cases, see also *United States v. Drefke*, 707 F.2d. 978, 981 (8th Cir. 1983).
- Others strenuously argue that social security imposes a contractual right to benefits. The problem with this contention,
- however, is that it is the Supreme Court has ruled that Social Security is conveys no enforceable rights to the recipients, and
- therefore does not satisfy the main requirement of a contract, which is *mutual* consideration and *mutual* obligation:
- "We must conclude that a person covered by the Act has not such a right in benefit payments... This is not to say, however, that Congress may exercise its power to modify the statutory scheme free of all constitutional restraint."

 [Flemming v. Nestor, 363 U.S. 603 (1960)]
 - The reason that Social Security, like the income tax, it is not a contract is because it doesn't obligate BOTH parties to it, but only ONE of the parties, which is you, the "franchisee". It is a "franchise", or what the courts call a "public right". All franchises require either your implicit (by conduct) or explicit (in writing) consent in some form but once you are party to the franchise agreement codified in I.R.C. Subtitles A and C and the Social Security Act, it operates as a contractual obligation against you but <u>not</u> against the government. The only "benefit" the government is obligated to provide is to abide by the agreement, which the courts hypocritically and prejudicially "presume" constitutes "sufficient consideration", even though in fact, there is no enforceable consideration. 89
- Contentions that driver licenses are contracts will also get you nowhere; see *Hershey v. Commonwealth Dep't. of Transportation*, 669 A.2d. 517, 520 (Pa.Cmwlth. 1996); and *State v. Gibson*, 697 P.2d. 1216 (Idaho 1985).
- The subject of the Internal Revenue Code requiring your consent in some form is more thoroughly in *Great IRS Hoax*, Form #11.302, Section 5.4. In these sections, we are much more specific and do not use the phrase "federal income taxes", but instead identify the specific revenue sources under I.R.C. Subtitles A and C that we are referring to.
- If you would like to study the basis for why I.R.C. Subtitles A and C is a franchise tax upon those engaged in a "trade or business" which requires your implicit or explicit consent, read the following very enlightening memorandums of law on the subject:
 - 1. <u>Government Instituted Slavery Using Franchises</u>, Form #05.030 http://sedm.org/Forms/FormIndex.htm
- 26 2. *The "Trade or Business" Scam*, Form #05.001 http://sedm.org/Forms/FormIndex.htm

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9.20 The IRS was Created in 1933 as a Delaware corporation

89 Central Transp. Co. v. Pullman's Palace Car Co. 139 U.S. 24, 35 L ed 55, 11 S.Ct. 478; Summerville v. Georgia Power Co. 205 Ga. 843, 55 S.E.2d. 540; Dufour v. Stacey, 90 Ky 288, 14 S.W. 48; State ex rel. Kansas City v. East Fifth Street R. Co. 140 Mo. 539, 41 S.W. 955; Victory Cab Co. v. Charlotte, 234 NC 572, 68 S.E.2d. 433.

Consideration for the grant of a charter need not be based upon benefit to the grantor; it is sufficient if it imports damage or loss, or forbearance of benefit, or any act done, or to be done, on the part of the grantee. Per Story, J., Dartmouth College v. Woodward, 4 Wheat (US) 518, 4 L ed 629.

EXHIBIT:____

False Argument: The IRS was created in 1933 as a Delaware Corporation

Corrected Alternative Argument: The IRS is a private corporation in which the U.S. government owns more than 51% of the stock. It is NOT an "agency" of the U.S. government, by the admission of the Department of Justice

Further information:

- 1. <u>U.S. Government Denies Under Oath that the IRS is an Agency of the Federal Government, Family Guardian</u> Fellowship
 - http://famguardian.org/Subjects/Taxes/Evidence/USGovDeniesIRS/USGovDeniesIRS.htm
- The Work and Jurisdiction of the Bureau of Internal Revenue, United States Government Printing Office, 1948 http://famguardian.org/PublishedAuthors/Govt/IRS/WorkAndJurisOfTheBIR1948s.pdf
- How Scoundrels Corrupted Our Republican Form of Government, Family Guardian Fellowship
- http://famguardian.org/Subjects/Taxes/Evidence/HowScCorruptOurRepubGovt.htm
- IRS Document 7233: 75 Years of Criminal Investigative History http://famguardian.org/PublishedAuthors/Govt/IRS/irs 75 years.pdf
- Back in 1982 or 1983, somebody started circulating the argument that the IRS was a private corporation which had been created in Delaware in 1933. There is ample evidence to back this up, and several other federal agencies have incorporated 2 since then, see the following for proof:
- 1. Corporate Takeover of the U.S. Government Well Under Way, Family Guardian Fellowship 4 http://famguardian.org/Subjects/Freedom/Articles/CorporatizationOfGovt.htm 5
- 2. SEDM Exhibit #08.006: Incorporation Document for the "Internal Revenue Tax and Audit Service" 6 http://sedm.org/Exhibits/ExhibitIndex.htm
- If the IRS was created only in 1933, then why do we have the following appropriations for this agency found in acts of Congress a decade before 1933:
- 1. 42 Stat. 375 (2-17-22); 10
 - 2. 42 Stat. 454 (3-20-22);
- 3. 42 Stat. 1096 (1-3-23); 12

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- 4. 43 Stat. 71 (4-4-24);
- 5. 43 Stat. 693 (12-5-24); 14
- 6. 43 Stat. 757 (1-20-25); 15
- 7. 43 Stat. 770 (1-22-25); 16
- 8. 44 Stat. 142 (3-2-26); 17
- 9. 44 Stat. 868 (7-3-26); 18
- 10. 44 Stat. 1033 (1-26-27); 19
- 11. 45 Stat. 168, 1034 (1928); 20
- 12. 68 Stat. 86, 145, 807 (1954). 21
- We therefore agree that it is ridiculous to argue that the IRS was created for the first time in 1933 as a corporation and this 22 23 argument has properly been rejected by the courts; see Young v. IRS, 596 F.Supp. 141, 147 (N.D. Ind. 1984). The legitimate issues that have never been addressed by the Courts that SHOULD be raised, however, are: 24
- Is the IRS an agency of the federal government? The Department of Justice, remarkably, says NO under penalty of 25 perjury. See; 26

U.S. Government Denies Under Oath that the IRS is an Agency of the Federal Government, Family Guardian Fellowship http://famguardian.org/Subjects/Taxes/Evidence/USGovDeniesIRS/USGovDeniesIRS.htm

- 2. By what Act of Congress in the Statutes At Large does the IRS exist? There is no statute throughout Title 31 of the U.S. 27 Code that gives it authority to exist within the Department of the Treasury. 28
- How can the IRS enforce an Internal Revenue Code that repealed all prior revenue acts AND ITSELF! In 1939. See 53 Stat. 1 at the link below: 30

Internal Revenue Code of 1939, 53 Stat. 1, Section 4, SEDM Exhibit #05.027 http://sedm.org/Exhibits/ExhibitIndex.htm

- What enactment of Congress give the IRS the authority to enforce the I.R.C. in a state of the Union?
 - 4.1. 26 U.S.C. §7601 empowers the IRS to enforce within internal revenue districts. Treasury Order 150-02 abolished all internal revenue districts except the District of Columbia.
 - 4.2. Internal Revenue Code, Subtitle A is an excise tax primarily upon a "trade or business", which is defined in 26 U.S.C. §7701(a)(26) as "the functions of a public office". 4 U.S.C. §72 mandates that all public offices shall be exercised ONLY in the District of Columbia and NOT elsewhere, except pursuant to an act of Congress. Where is the Act of Congress that creates the public offices that are the subject of the tax? Everything on an IRS Form 1040, for instance, constitutes "trade or business" earnings.
 - 4.3. Congress cannot through legislation create an internal revenue district or enforce where it has no legislative jurisdiction, which includes all states of the Union. This may explain why Congress nor the President ever created and CANNOT create internal revenue districts within any state of the Union.

"It is no longer open to question that the general government, unlike the states, Hammer v. Dagenhart, <u>247 U.S.</u> 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)]

- 5. How can the IRS, which is in the Executive Branch under the Department of the Treasury, have authority to enforce or collect within states of the Union without destroying the separation of powers? Article 1, Section 8, Clauses 1 and 3 of the Constitution empowers Congress, not the Executive branch, to BOTH LAY, and COLLECT taxes, and that function cannot lawfully be delegated to the Executive Branch of the government without violating the Separation of Powers Doctrine. See:
 - 5.1. Government Conspiracy to Destroy the Separation of Powers, Form #05.023 http://sedm.org/Forms/FormIndex.htm
 - 5.2. How Scoundrels Corrupted Our Republican Form of Government, Family Guardian Fellowship: http://famguardian.org/Subjects/Taxes/Evidence/HowScCorruptOurRepubGovt.htm

9.21 **Income Taxes are voluntary for "taxpayers"**

False Argument: Income taxes are voluntary for "taxpayers"

Corrected Alternative Argument: Income taxes are voluntary for "nontaxpayers" but not for "taxpayers". The decision to BECOME a "taxpayer" is voluntary.

Further information:

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- Who are "Taxpayers" and Who Needs a "Taxpayer Identification Number"?, Form #05.013 http://sedm.org/Forms/FormIndex.htm
- Your Rights as a "Nontaxpayer", Form #08.008 http://sedm.org/Forms/FormIndex.htm

Some people tell "taxpayers" that "income taxes are voluntary". Such a statement to such an audience is in conflict with the very definition of "taxes" to begin with. To wit:

> "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 ORDONATION. BUTCONTRIBUTION. **EXACTED** *PURSUANT* TO

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1	LEGISLATIVE AUTHORITY. Michigan Employment Sec. Commission v. Patt, 4
2	Mich.App. 228, 144 N.W.2d. 663, 665" [Black's Law Dictionary, Sixth Edition, p. 1457]
4 5	If "taxes" constitute an "enforced contribution" then they cannot simultaneously also be "voluntary" for "taxpayers" who are defined in 26 U.S.C. §7701(a)(14) as being subject to the very "code" which accomplishes the enforcement. Very bad idea.
6	The following statement, however, is truthful and accurate:
7 8	"Income taxes are voluntary for nontaxpayers, who we define as persons who are NOT 'taxpayers' as defined in 26 U.S.C. §7701(a)(14)."
9 10	As we use the phrase "nontaxpayer" here, we mean a person who is not a "taxpayer" and who is <u>not</u> subject to the provisions of the Internal Revenue Code. Since a "nontaxpayer" is not subject to the provisions of the I.R.C., then for HIM or HER,
11	"income taxes" are "voluntary" and avoidable.
12 13 14 15	"Revenue Laws relate to taxpayers [officers, employees, 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]. 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)]
17 18 19 20 21	"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)]
22 23	Before one can become subject to enforcement provisions of the Internal Revenue Code, they must first become a "person" within the meaning of that code. Such a "person" is defined as follows:
24	1. 26 U.S.C. §7701(a)(1): "person" generally.
25 26	<u>TITLE 26</u> > <u>Subtitle F</u> > <u>CHAPTER 79</u> > § 7701 <u>§ 7701. Definitions</u>
27 28	(a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof—
29	(1) Person
30 31	The term "person" shall be construed to mean and include an individual, a trust, estate, partnership, association, company or corporation.
32	2. 26 U.S.C. §6671(b): "Person" for the purposes of the penalty provisions of the I.R.C.
33 34 35	<u>TITLE 26 > Subtitle F > CHAPTER 68 > Subchapter B</u> > <u>PART I</u> > § 6671 § 6671. Rules for application of assessable penalties
36	(b) Person defined
37 38 39	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.
40	3. 26 U.S.C. §7343: "Person" for the purposes of the criminal provisions of the I.R.C.
41 42	<u>TITLE 26</u> > <u>Subtitle F</u> > <u>CHAPTER 75</u> > <u>Subchapter D</u> > § 7343 § 7343. <u>Definition of term "person"</u>

1	The term "person" as used in this chapter includes an officer or employee of a corporation, or a member or
2	employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect
3	of which the violation occurs.

- Note that items 2 and 3 above are where the government gets jurisdiction to ENFORCE the code through criminal
- enforcement (I.R.C. §7343) or penalties (I.R.C. §6671(b)). Income taxes cannot be voluntary for anyone who can become
- the lawful target of such enforcement. Therefore, items 2 and 3 above are the only REAL "taxpayers". Everyone else is a
- 7 "nontaxpayer". Therefore, all "taxpayers" are:
- 8 1. Officers or employees of a corporation...OR members or employees of partnerships...AND
 - 2. Who have a duty to perform an act in respect of which the violation occurs.
- The Thirteenth Amendment forbids involuntary servitude. Consequently, the government is without legislative authority to involuntarily impose a "duty" upon you. The U.S. Supreme Court confirmed in Pollock v. Farmers' Loan & Trust Co., 157 U.S. 429 (1895) that Congress had no legislative authority to impose a "duty" to pay an income tax upon persons domiciled in states of the Union. Therefore, that "duty" could only originate from your consent. Such consent manifests itself through the coincidence of the following two factors:
 - 1. Choosing a domicile within the jurisdiction of the federal government on federal territory.. .AND
 - 2. Engaging in federal franchises.

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In the case of income taxes, that franchise is called 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. Everyone and everything not engaged in this franchise is described in 26 U.S.C. §7701(a)(31) as a "foreign estate" outside the jurisdiction of the I.R.C. The operation of that franchise is exhaustively described below:

The "Trade or Business" Scam, Form #05.001 http://sedm.org/Forms/FormIndex.htm

The moment that a "nontaxpayer" selects a domicile on federal territory in the "United States" and then begins engaging in the "trade or business" excise taxable franchise, then he becomes a "taxpayer" and at that point, income taxes are no longer voluntary for him. He becomes an officer of a corporation, and that corporation is the "United States" identified in 28 U.S.C. §3002(15)(A). Therefore, he becomes the "person" described in 26 U.S.C. §\$6671(b) and 7343. All "public officers" are officers of a corporation. These "activities" include:

- 1. Receiving government payments, such as Social Security. See 26 U.S.C. §871(a).
- 27 2. Engaging in a "trade or business" pursuant to 26 U.S.C. §871(b), which is defined as "the functions of a public office" in 26 U.S.C. §7701(a)(26). See:

The distinctions between being a "taxpayer" and a "nontaxpayer" result from the fact that the Internal Revenue Code, Subtitle
A is "private law" that one only becomes subject to by their consent, expressed either in writing on a government form such
as an IRS Form W-4, or 1040, or SSA Form SS-5, or implicitly based on their decision to engage in privileged, regulated
activities. This is further documented in the informative memorandum of law below:

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

I.R.C. Subtitle A is primarily an indirect excise upon the privileges of "public office" in the U.S. Government. It is voluntary in the sense that one can avoid the tax by avoiding engaging in the privileged activity and the domicile (26 U.S.C. §911(d)(3)) that give rise to the prima facie tax liability. That liability manifests itself with the duty to file "returns of income" found in 26 C.F.R. §1.6012(a) and (b). One becomes connected with the excise taxable "trade or business" activity whenever any one of the following types of information returns are filed against them:

- 38 1. IRS Form W-2
- 39 2. IRS Form 1042-S
- 40 3. IRS Form 1098
- 4. IRS Form 1099

- 5. IRS Form 8300: Currency Transaction Report 1
- In most cases, the above reports filed with the IRS are FALSE and can and should be corrected using the options below: 2
- 1. Demand for Verified Evidence of "Trade or Business" Activity: Information Return (IR), Form #04.007: Submit this 3 to private employers and financial institutions to prevent them from filing false reports of receipt of "public office" or 4 "trade or business" earnings. 5
- http://sedm.org/Forms/FormIndex.htm 6
- 2. Correcting Erroneous Information Returns, Form #04.001: Condenses the following four links into one 7 http://sedm.org/Forms/FormIndex.htm 8
- 3. Correcting Erroneous IRS Form 1042's, Form #04.003: 9
- http://sedm.org/Forms/FormIndex.htm 10
- 4. Correcting Erroneous IRS Form 1098's, Form #04.004: 11
- http://sedm.org/Forms/FormIndex.htm 12

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- 5. Correcting Erroneous IRS Form 1099's, Form #04.005: 13
 - http://sedm.org/Forms/FormIndex.htm
- Correcting Erroneous IRS Form W-2's, Form #04.006: 15
 - http://sedm.org/Forms/FormIndex.htm
- For additional information on the important distinction between "taxpayers" and "nontaxpayers" see the following 17 enlightening articles: 18
- <u>"Taxpayer" v. "Nontaxpayer": Which One are You?</u>, Family Guardian Fellowship http://famguardian.org/Subjects/Taxes/Remedies/TaxpayerVNontaxpayer.htm 19
- 20
- 2. Your Rights as a "Nontaxpayer", Form #08.008 21
- http://sedm.org/Forms/FormIndex.htm 22
- 3. Sovereignty Forms and Instructions Online, Form #10.004, Cites by Topic: "taxpayer" 23 http://famguardian.org/TaxFreedom/CitesByTopic/taxpayer.htm 24

9.22 The Form 1040 is Really a Codicil to a Will

- This argument was rejected in *Richey v. Ind. Dept. of State Revenue*, 634 N.E.2d. 1375 (Ind. 1994), along with other popular 26 arguments of that date. However, David Gould still thinks it is a marvelous legal argument. 27
- Abuse of the C.F.R. Parallel Table of Authorities and Rules 9.23 28

False Argument: The Parallel Table of Authorities and Rules proves that the I.R.C. may not be enforced within states of the Union

Corrected Alternative Argument: You can't hold a person accountable for obeying any provision of the I.R.C. without proving either that implementing regulations are published in the Federal Register or that they are a member of the groups specifically exempted from the publication requirement found in 44 U.S.C. §1505(a) and 5 U.S.C. §553(a)(1)

Further information:

- 1. Federal Enforcement Authority Within States of the Union, Form #05.032 http://sedm.org/Forms/FormIndex.htm
- IRS Due Process Meeting Handout, Form #03.008
- http://sedm.org/Forms/FormIndex.htm
- Great IRS Hoax, Form #11.302, Sections 3.15 through 3.15.4: Background on the Code of Federal Regulations.
- Great IRS Hoax, Form #11.302, Sections 5.4.10 through 5.4.13: The IRS has no enforcement authority.
- The Code of Federal Regulations contains a separate volume which contains a cross reference called the "Parallel Table of 29 Authorities and Rules" which correlates statutes and the regulations which implement them. See:

	http://www.access.gpo.gov/	<u> nara/cfr/parallel</u>	<u>/parallel_t</u>	<u>able.html</u>
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2 3	1.	The Constitution, which requires "due notice" to all those who are or will be affected by a particular law, to be published in the Federal Register. See the pamphlet <u>How Our Laws Are Made</u> , United States Senate:
4 5 6 7		"One of the important steps in the enactment of a valid law is the requirement that it shall be made known to the people who are to be bound by it. There would be no justice if the state were to hold its people responsible for their conduct before it made known to them the unlawfulness of such behavior. In practice, our laws are published immediately upon their enactment so that the public will be aware of them."
8 9		[How Our Laws Are Made, Chapt. 19, Senate document 105-14, available at: http://famguardian.org/PublishedAuthors/Govt/USSenate/SenateDoc105-14HowLawsMade.pdf
10		See also:
		Requirement for Reasonable Notice, Form #05.022 http://sedm.org/Forms/FormIndex.htm
11 12	2.	The only approved method for providing "reasonable notice" required in the case of persons protected by the Constitution is publication in the Federal Register, pursuant to 44 U.S.C. §1508:
13 14		TITLE 44 > CHAPTER 15 > § 1508 § 1508. Publication in Federal Register as notice of hearing
15 16 17		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
18 19		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—
20 21		(1) not less than the time specifically prescribed for the publication of the notice by the appropriate Act of Congress; or
22 23		(2) not less than fifteen days when time for publication is not specifically prescribed by the Act, without prejudice, however, to the effectiveness of a notice of less than fifteen days where the shorter period is reasonable.
24 25	3.	The Federal Register Act, Section 44 U.S.C. §1505(a) requires that all law "having general applicability and legal effect" shall be published in the Federal Register. Then it says:
26 27 28		"For the purposes of this chapter every document or order <u>which prescribes a penalty</u> has general applicability and legal effect." [44 U.S.C. §1505(a)]
29	4.	The Administrative Procedures Act, section 5 U.S.C. §552(a) requires:
30 31		<u>TITLE 5</u> > <u>PART 1</u> > <u>CHAPTER 5</u> > <u>SUBCHAPTER II</u> > § 553 <u>§ 553. Rule making</u>
32		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
33 34 35		(2) a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts.
36 37 38 39		(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—
40 41 42		 (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.
43 44 45 46 47		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
47 48 49		(B) when the agency for good cause finas (and incorporates the finaing 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.

This requirement originates from the following positive law requirements:

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5. The U.S. Supreme Court, which held:

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"...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."

[...]

"The reporting act is not self-executing; it can impose no duties until implementing regulations have been promulgated".

[Calif. Bankers Assoc. v. Shultz, 416 U.S. 25, 44, 39 L.Ed.2d. 812, 94 S.Ct. 1494]

"An administrative regulation, of course, is not a "statute." While in practical effect regulations may be called "little laws," Ithey are at most but offspring of statutes. Congress alone may pass a statute, and the Criminal Appeals Act calls for direct appeals if the District Court's dismissal is based upon the invalidity or construction of a statute. See United States v. Jones, 345 U.S. 377 (1953). This Court has always construed the Criminal Appeals Act narrowly, limiting it strictly "to the instances specified." United States v. Borden Co., 308 U.S. 188, 192 (1939). See also United States v. Swift & Co., 318 U.S. 442 (1943). 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 only exceptions to the notice and publication requirement are listed below, and all the parties concerned are federal instrumentalities, agencies, officers, contractors, and benefit recipients:

- 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. <u>5 U.S.C.</u> §553(a)(2).
- 3. Federal agencies or persons in their capacity as officers, agents, or employees thereof. 44 U.S.C. §1505(a)(1).

Consequently, if a government agency or employee is attempting any kind of enforcement authority, they must be willing and able to produce at least one of the following two forms of evidence of their enforcement authority:

ENFORCEMENT AUTHORITY DEFENSE:

- 1. A statute authorizing the enforcement action AND an implementing enforcement regulation published in the Federal Register for the statute that applies the statute to the specific activity you are involved in. . . OR
- 2. Proof that you are a member of one of the following three groups specifically exempted from the notice and publication requirement:
 - 2.1. A military or 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. 44 U.S.C. §1505(a)(1).

Therefore, Implementing Regulations are positively required for every enforcement action by the I.R.S. affecting states of the Union and persons domiciled within them who are not members of the three specifically exempted groups and who are therefore protected by the Constitution. This is exhaustively proven in the following document:

Federal Enforce	cement Authorit	y Within	States	of the	Union,	Form	#05.0	032
http://sedm.org	g/Forms/FormIn	dex.htm		-				

- More particularly, in the case of tax enforcement actions, the following document shows exactly where these regulations
- must be found and that they do not exist:

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IRS Due Process Meeting Handout, Form #03.008 http://sedm.org/Forms/FormIndex.htm

- Some naïve freedom fighters, however, do not take the Enforcement Authority Defense above beyond step 1 above, are not
- aware of steps 2 through 2.3, and then ignorantly go straight to the Parallel Table of Authorities and Rules and use that list as proof that IRS has no enforcement authority against them. There are severe problems with this approach, however:
- 1. The Parallel Table of Authorities is not an OFFICIAL or admissible form of a lack of enforcement authority.
- The Parallel Table of Authorities identifies itself simply as a "Finding Aid", and does not constitute legally admissible evidence made by the government that there are no regulations for I.R.C., found in 26 U.S.C..
 - 3. Most people fall into the classification of 2.2 because they signed up for social security ILLEGALLY in most cases. As such, the government has reason to believe that they are "benefit recipients" and "federal personnel" (5 U.S.C. §552a(a)(13)) for whom implementing enforcement regulations are not required. Before they can use the Enforcement Authority Defense above, they must AT LEAST:
 - 3.1. Use legal discovery against the government to ask for any evidence that would place them into the category of items 2.1 through 2.3. If the government says they have no proof, then they then must produce the implementing enforcement regulations, which they can't do because they don't exist.
 - 3.2. Lawfully correct their status with the Social Security Administration by terminating participation to remove the presumption that they fall into group 2.2 above. This is done using the form below:

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

The naïve abuse of the Parallel Table of Authorities as evidence of no enforcement authority and the incomplete understanding that most freedom fighters have about the Enforcement Authority Defense above has gotten many into legal trouble because it does not take all the necessary factors into account and use them effectively. Below are a few examples of cases where relying exclusively on the Parallel Table of Authorities and Rules as an admission by the government that the IRS has no enforcement authority has caused people to lose in federal court:

- 23 1. United States v. Cochrane, 985 F.2d. 1027, 1031 (9th Cir. 1993)
- 2. Russell v. United States, 95 CCH Tax Cases ¶ 50029 (W.D. Mich. 1994)
- 25 3. Reese v. CIR, 69 T.C.M. 2814, T.C. Memo. 1995-244 (1995)(this and several other arguments described as "legalistic gibberish")
- 4. Morgan v. CIR, 78 A.F.T.R.2d. 96-6633 (M.D.Fla. 1996)
- 28 5. Stafford v. CIR, T.C.M. 1997-50.
- If you are going to use employ the argument that the IRS lacks enforcement authority under I.R.C. Subtitle A because it has no implementing regulations, then you will need to take a MUCH more sophisticated approach. A good example of how to take that approach is found below:

<u>Petition to Dismiss Civil or Criminal Tax Case</u>, Litigation Tool #03.002 http://sedm.org/Litigation/LitIndex.htm

9.24 Tax collection violates due process of law

False Argument: Tax collection violates due process of law.

Corrected Alternative Argument: All "taxpayers" are persons who made a decision to engage in a federal franchise. In the case of I.R.C. Subtitle A, that franchise is called a "trade or business" or consists of the receipt of payments from the government in connection with other franchises, such as Social Security. As such, they implicitly agreed to abide by all statutory law that regulates the exercise of the franchise and have NO basis to complain.

Further Information:

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- 1. Federal Jurisdiction, Form #05.018. Sections 3 through 3.6 describes what participating in federal franchises does to your standing and your rights in federal court. IMPORTANT! http://sedm.org/Forms/FormIndex.htm
- Sovereignty Forms and Instructions Online, Form #10.004, Cites by Topic: "franchise" http://famguardian.org/TaxFreedom/CitesByTopic/franchise.htm
- The "Trade or Business" Scam, Form #05.001: The main franchise that causes a surrender of constitutional rights http://sedm.org/Forms/FormIndex.htm
- Via the due process clauses of the 5th and 14th Amendments, both the state and federal governments must provide certain fundamental procedures before life, liberty or property are taken. For those interested in this subject, reading the cases of Sniadach v. Family Finance Corp., 395 U.S. 337, 89 S.Ct. 1820 (1969), Fuentes v. Shevin, 407 U.S. 67, 92 S.Ct. 1983 (1972), and North Georgia Finishing, Inc. v. Di-Chem, Inc., 419 U.S. 601, 95 S.Ct. 719 (1975), are important in understanding the views of the Supreme Court regarding the due process procedures to which the states are bound. However, one cannot ignore the fact that there are two different due process standards; one standards is applicable to us and the states, and quite another exists for Uncle Sam.
- There is a popular position of late that Goldberg v. Kelly, 397 U.S. 254, 90 S.Ct. 1011 (1970), is the "key" due process case 8 regarding the collection of taxes. This position is a very erroneous. If you wish to understand principles of due process in reference to tax matters, the cases of Phillips v. CIR, 283 U.S. 589, 51 S.Ct. 608 (1931), and CIR v. Shapiro, 424 U.S. 614, 10 96 S.Ct. 1062 (1976), are the ones to be read. 11
 - We should also note that in the context of taxes, the U.S. Supreme Court at least once has said that it has never defined the term "due process" in the context of tax collection.

"Exactly what due process of law requires in the assessment and collection of general taxes has never been decided by this court, although we have had frequent occasion to hold that, in proceedings for the condemnation of land under the laws of eminent domain, or for the imposition of special taxes for local improvements, notice to the owner at some stage of the proceedings, as well as an opportunity to defend, is essential. [Cites omitted.] But laws for the assessment and collection of general taxes stand upon a somewhat different footing, and are construed with the utmost liberality, sometimes even to the extent of holding that no notice whatever is necessary. Due process of law was well defined by Mr. Justice Field in Hagar v. Reclamation Dist., No. 108, 111 U.S. 701, 28 L.Ed. 569, 4 Sup.Ct.Rep. 663, in the following words: "It is sufficient to observe here, that by 'due process' is meant one which, following the forms of law, is appropriate to the case, and just to the parties to be affected. It must be pursuant in the ordinary mode prescribed by the law; it must be adapted to the end to be attained; and wherever it is necessary for the protection of the parties, it must give them an opportunity to be heard respecting the justice of the judgment sought. The clause in question means, therefore, that there can be no proceeding against life, liberty, or property which may result in deprivation of either, without the observance of those general rules established in our system of jurisprudence for the security of private rights."

"Under the Fourth Amendment, the legislature is bound to provide a method for the assessment and collection of taxes that shall not be inconsistent with natural justice; but it is not bound to provide that the particular steps of a procedure for the collection of such taxes shall be proved by written evidence; and it may properly impose upon the taxpayer the burden of showing that in a particular case the statutory method was not observed." [Turpin v. Lemon, 187 U.S. 51, 23 S.Ct. 20 (1902)]

The reason the court admitted that it has never defined "due process" is because all taxpayers under the Internal Revenue Code are volunteers who are consensually engaged in a privileged, indirect excise taxable franchise activity. If you want to have your due process rights, then don't get involved in the franchise or activity.

9.25 Expatriation to escape taxation or government jurisdiction

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False Argument: Expatriation is a valid method to escape income taxation

<u>Corrected Alternative Argument</u>: Since I.R.C. Subtitle A is a tax on "public offices", then the only way to avoid the tax is to avoid a "trade or business", which you can do without expatriating

Further information:

- 1. <u>Great IRS Hoax</u>, Form #11.302, Section 4.12.17 http://sedm.org/Forms/FormIndex.htm
- 2. Why You are a "national", "state national", and Constitutional but not Statutory Citizen, Form #05.006 http://sedm.org/Forms/FormIndex.htm
- 3. <u>Legal Notice of Change in Domicile/Citizenship Records and Divorce from the United States</u>, Form #10.001 http://sedm.org/Forms/FormIndex.htm
- As we said in section 8.1 earlier, it is not one's citizenship status that primarily determines tax liability, but their domicile and the taxable activities that they engage in. See:
 - 1. <u>Why Domicile and Becoming a "Taxpayer" Require Your Consent,</u> Family Guardian Fellowship http://famguardian.org/Subjects/Taxes/Remedies/DomicileBasisForTaxation.htm
 - 2. *Great IRS Hoax*, Form #11.302, Sections 5.4.5 and 5.6.13 through 5.6.13.11.
- 6 Here is what the U.S. Supreme Court has held on this subject:

"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)]

We also state in <u>Great IRS Hoax</u>, Form #11.302, Section 4.12.17 that expatriation is a BAD idea no matter what your reasons, whether you do it to escape taxation or to escape government jurisdiction or any other reason. Expatriation makes the subject into an alien and a stateless person in every country on earth, and this is not a good idea. Furthermore, <u>26 U.S.C. §877</u>, which is entitled "expatriation to avoid tax", places a tax upon ones earnings for a ten year period after they expatriate as a penalty for doing it to avoid taxation. This code section is not positive law, but those who are "taxpayers" are subject to it and should avoid violating it.

Another common approach found throughout the freedom community is to expatriate from the corporate United States in the District of Columbia but not to abandon one's nationality. This approach is used, for instance, by most common law courts. See the forms for the Common Law Venue Library below as an example of this flawed approach:

http://www.commonlawlibrary.com/

The Common Law Venue in Minnesota has a form called the "Notice of Expatriation", which says that the party abandons all connections with the corporate United States. It does not use the term "expatriation" within the body of the notice but it appears in the title. The writer of the notice doesn't appear to know what the term "expatriation" actually means. This word isn't defined in Title 8 of the United States Code in the context of citizenship. Therefore, one must look in the rulings of the U.S. Supreme Court and the law dictionary for a definition of the word. Below is the legal definition from <u>Great IRS Hoax</u>, Form #11.302, Section 4.12.17.1:

"Expatriation is the voluntary renunciation or abandonment of nationality and allegiance." Perkins v. Elg, 1939, 307 U.S. 325, 59 S.Ct. 884, 83 L.Ed. 1320. In order to be relieved of the duties of allegiance, consent of the sovereign is required. Mackenzie v. Hare, 1915, 239 U.S. 299, 36 S.Ct. 106, 60 L.Ed. 297. Congress has provided that the right of expatriation is a natural and inherent right of all people, and has further made a legislative declaration as to what acts shall amount to an exercise of such right."

[Tomoya Kawakita v. United States, 190 F.2d. 506 (1951)]

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"expatriation. The voluntary act of abandoning or renouncing one's country, and becoming the citizen or subject
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                             of another.
                            [Black's Law Dictionary, Sixth Edition, p. 576]
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- Now that we know what the word means, we also know that the Common Law Venue "Notice of Expatriation" document doesn't accomplish "expatriation" as legally defined. Yes, we definitely agree with the writer of that notice that:
 - The United States federal government has been "corporatized" in the organic act of 1871.
- 2. 28 U.S.C. §3002(15)(A) says the United States government is a federal corporation.
- 3. The Supreme Court said that all governments are corporations in Proprietors of Charles River Bridge v. Proprietors of Warren Bridge, 36 U.S. 420 (1837).

"Corporations are also of all grades, and made for varied objects; <mark>all governments are corporations, created by</mark> 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)]

The United States government is a foreign corporation with respect to a state and all those domiciled within the state. The Corpus Juris Secundum legal encyclopedia confirms this:

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"The <u>United States Government</u> is a <u>foreign corporation</u> with respect to a <u>state</u>." N.Y. v. re Merriam 36 N.E. 505,
141 N.Y. 479, affirmed 16 S.Ct. 1073, 41 L.Ed. 287
[19 Corpus Juris Secundum (C.J.S.), Corporations, §884 (2003)]
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We analyze the above conclusions in *Great IRS Hoax*, Form #11.302, Sections 4.3.15 and 5.2 through 5.2.16 and prove that they are correct, in fact. HOWEVER, think about how absolutely ridiculous it is to "expatriate" from a corporation or expatriate from a JOB as a public officer in that corporation. You can't do it! You can only expatriate from a de jure state, but not a de facto government and corporation. Our present state is <u>not</u> the de jure, Constitutional Republic bequeathed to us by our founding fathers, but a big for-profit PRIVATE corporation hundreds of times more evil in its operation than the Enron fraud. This is exhaustively proven in the following memorandum:

- Corporatization and Privatization of the Government, Form #05.024 http://sedm.org/Forms/FormIndex.htm
- De Facto Government Scam, Form #05.043 36 37 http://sedm.org/Forms/FormIndex.htm

The only way you can dis-associate from a corporation is by refusing to do business with it, but you can't expatriate from it, and attempting to do so will simply confuse anyone in government that you send such crazy paperwork to. Doing so may also:

Jeopardize your nationality. 1. 41

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- Make you an alien and a stateless person. 2.
 - Mark you as a traitor and possibly even a terrorist. 3.
- Remove from you the ability to vote and influence politics to improve the situation for the better.

To do business with a corporation is to conduct "commerce". By conducting commerce with the U.S. Inc., we surrender our 45 sovereign immunity within federal courts, in fact. This is confirmed by the Foreign Sovereign Immunities Act found in Title 28 of the U.S. Code, Part IV, Chapter 97 starting in section 1602. 28 U.S.C. §1605 lists the specific exceptions to sovereign immunity of foreign states, and among those is found in paragraph (a)(2): 48

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<u>TITLE 28</u> > <u>PART IV</u> > <u>CHAPTER 97</u> > § 1605
§ 1605. General exceptions to the jurisdictional immunity of a foreign state
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(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;

Every American is a self-governing foreign state or instrumentality of a foreign state by virtue of the fact that he was born outside and maintains a domicile outside of exclusive federal exclusive/general legislative jurisdiction. He or she is entitled to sovereign immunity as an emissary of a statutorily foreign state, which is a state of the Union in the case of our system of government. Even the legal encyclopedia recognizes that states of the Union are "foreign states" with respect to the federal government:

"Territories' or 'territory' as including 'state' or 'states." While the term 'territories of the' United States may, under certain circumstances, include the states of the Union, as used in the federal Constitution and in ordinary acts of congress "territory" does not include a foreign state." [86 Corpus Juris Secundum (C.J.S.), Territories, §1 (2003)]

A much more productive and practical approach is simply to understand the true nature of how we conduct "commerce" with the federal corporation called the United States government and to discontinue it in order to restore our sovereign immunity. Unfortunately, most freedom lovers simply do not understand how to think on this level, in our experience. How do we engage in such commerce? Here are the basic and primary methods:

- 1. You choose a domicile within the jurisdiction of the government or the "United States" (federal zone). This elects a government to be your protector and obligates you to pay taxes to sustain that protection. This election is done by:
 - 1.1. Identifying yourself as a "resident" on a voter registration form.
 - 1.2. Putting anything other than "heaven" on the "permanent address" block of a W-8BEN form.
 - 1.3. Filling out an IRS Form 1040 and sending it in, rather than the proper IRS Form 1040NR.
 - 1.4. Responding to a jury summons and indicating on the question about your citizenship that you are a statutory "U.S. citizen", which is simply wrong.
 - 1.5. Identifying yourself as a statutory "U.S. citizen" (pursuant to 8 U.S.C. §1401) on an SS-5 form.
 - 1.6. Registering to vote. You cannot register to vote without having a domicile within the jurisdiction of the government you are participating in.
 - 1.7. Responding to a jury summons by indicating that you are a "U.S. citizen", who is a person subject to federal law under 8 U.S.C. §1401. You should have responded by indicating that you are a "national but not citizen" under 8 U.S.C. §1101(a)(21) in order to preserve your sovereignty. All you need to have is "allegiance" or "nationality" to serve on a jury, and these are characteristics of those who are nationals.
- 2. You engage in a regulated, taxable activity called a "trade or business" in order to reduce your tax liability. This puts you in receipt of a financial benefit and makes you into a federal "employee" and it is done by:
 - 2.1. Taking earned income credit under 26 U.S.C. §32.
 - 2.2. Taking deductions under 26 U.S.C. §162.

- 2.3. Applying a graduated rate of tax under 26 U.S.C. §1 and 26 U.S.C. §871(b), instead of the flat 30% for income from the U.S. government found in 26 U.S.C. §871(a).
- 3. You have income from the United States government as either a federal "employee" (which is a "public officer" pursuant to <u>5 U.S.C. §2105</u>) or a person on some other government benefit.
- 4. You fill out a government application for some kind of benefit, such as Social Security, unemployment insurance, etc. and sign under penalty of perjury.
- 5. You fill out a 1040 tax return with a nonzero liability and sign under penalty of perjury and send it in. This creates a presumption that you maintain a domicile in the statutory but not constitutional "United States**" (federal territory). See IRS Document 7130 description of the 1040 form for proof, which says that the only people who can use the 1040 are "citizens" and "residents" of the "United States", which is defined as federal territory in 26 U.S.C. §7701(a)(9) and (a)(10) and 4 U.S.C. §110(d).
- 6. You fill out and sign under penalty of perjury an IRS Form W-4 as a way to procure "social insurance".

Note that the last five items above required your voluntary consent and signature on a government application for a license or benefit. Those who do business with the federal corporation called the United States government must be parties to a contract of some kind. In a country populated by sovereigns, the only way you can lose or forfeit rights is to contract them away. Every government form you sign is a contract. If you want your sovereignty back, you have to cancel the contracts

and quit acting like a federal employee. This is thoroughly explained in our *Great IRS Hoax*, Form #11.302, Sections 5.4 through 5.4.6. If you don't want any commercial relationship with the "Beast" because you want your sovereignty back, then simply:

1. Change your domicile to be outside of any state or the statutory but not constitutional "United States**" (federal territory). See:

Why Domicile and Becoming a "Taxpayer" Require Your Consent, Family Guardian Fellowship http://famguardian.org/Subjects/Taxes/Remedies/DomicileBasisForTaxation.htm

- Quit acting like a "taxpayer" by accepting a reduction in a tax liability that you don't even have! 26 U.S.C. §162 says you can only take deductions if you are engaged in a "trade or business". You don't need deductions if you don't have any "gross income", and you can't earn "gross income" unless you either receive government payments or are engaged in a "trade or business", which most Americans aren't. See:

 http://famguardian.org/Subjects/Taxes/Articles/TradeOrBusinessScam.htm
 - 3. Terminate all contractual business relationships with the government by quitting all government benefit programs. For instance, quit the social security system as follows:

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

- 4. Revoke all license applications. Many types of taxes are based on the privileged use of a license.
 - 5. Quit signing government forms, including driver's license applications, benefit applications, and tax forms.
 - 6. When you open financial accounts, use the correct paperwork. Financial institutions will assume that you are a "public official" and a "U.S. person" by default unless you give them evidence that you are a "foreign person". Therefore, when you open bank accounts, use one of the following two forms to declare that you are a "foreign person":
 - 6.1. <u>Affidavit of Citizenship, Domicile, and Tax Status</u>, Form #02.001 http://sedm.org/Forms/FormIndex.htm
 - 6.2. AMENDED version of IRS Form W-8BEN:

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<u>About IRS Form W-8BEN</u>, Form #04.202 http://sedm.org/Forms/FormIndex.htm

7. Change your passport application to reflect your proper status as a "national" but not a citizen under <u>8 U.S.C.</u> <u>§1101(a)(21)</u> and a non-resident non-person. See:

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

23 8. Change your voter registration to reflect your proper status as a "national" but not a citizen under <u>8 U.S.C. §1101(a)(21)</u>
24 and a non-resident non-person. See:

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

How much simpler does it get? Notice we didn't mention anything in the above about "expatriation", because you don't need to lose your nationality in order to cease to be a <u>statutory</u> "citizen" under 8 U.S.C. §1401. That status results from being born anywhere in the American Union and maintaining a domicile within exclusive federal jurisdiction. The IRS website, in fact, confirms that the only statutory "U.S. citizens" are from American Samoa or the Commonwealth of the Northern Mariana Islands!

IRS Website: Pay for Independent Personal Services (Income Code 16)

U.S. National

A U.S. national is an individual who owes his sole allegiance to the United States, but who is not a U.S. citizen (a citizen of American Samoa, or the Commonwealth of the Northern Mariana Islands).

[SOURCE: http://famguardian.org/TaxFreedom/CitesByTopic/USNational-IRSWebsite-050422.pdf]

9.26 We have a society that respects and obeys law rather than men

After people have read and learned about the tax codes and regulations and all of the truths contained in the <u>Great IRS Hoax</u> book for themselves, they are prone to jump to the following often naïve and unreasonable but truthful conclusions:

1. That we are a society of law and not men, as the U.S. Supreme Court admitted in *Marbury v. Madison*, <u>5 U.S. 137</u> (1803).

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That the government must and should enforce the MOST IMPORTANT aspect of equal protection against itself that it 1 enforces against you, which is that if they want to enforce a civil obligation, they have to produce evidence of your 2 consent IN WRITING to participate, and must protect your right NOT to participate. This is the same requirement they 3 place on you when you want to sue them. You have to produce WRITTEN evidence of a waiver of sovereign immunity 4 by the government and ITS consent, in the form of a statute, to be sued. THAT consent, in fact, is what makes any 5 contract and, by implication, any franchise such as I.R.C. Subtitles A law FOR YOU, the consenting party. Otherwise, 6 it's just a proposal that does not have the force of law: 7

> Consensus facit legem. Consent makes the law. A contract [or a FRANCHISE, which is also a contract] is a law between the parties, which can acquire force only by consent. [Bouvier's Maxims of Law, 1856; SOURCE: http://famguardian.org/Publications/BouvierMaximsOfLaw/BouviersMaxims.htm]

- 3. That the requirement that Americans are presumed innocent until proven guilty in our system of jurisprudence should translate into being presumed a "nontaxpayer" and NOT a "public officer" until the GOVERNMENT satisfies the burden of proof to demonstrate their CONSENT to occupy the public office before they enforce the obligations of the office
- 4. That the Internal Revenue Code allows you to lawfully avoid domicile within the statutory "United States" (federal territory) and avoid excise taxable activities such as a "trade or business", so that you can lawfully become a "nontaxpayer" and a "sovereign".
- That the IRS will recognize and respect your choice to become a "nontaxpayer". 20
 - That the IRS will publish forms and procedures on how to lawfully avoid participating in the tax system. They not only don't do this, but try to persecute those who do.
 - 7. That companies and financial institutions will obey the law and not file false information returns, such as IRS Forms W-2, 1042-s, 1098, 1099 against you that will misrepresent your status as a "nontaxpayer".
 - That judges will recognize the limits the law places upon their own conduct and that of the IRS and thereby protect you from unlawful collection and enforcement by the IRS.
 - That the IRS, when confronted with the truth, will agree with you and obey the law, and apologize for the systematic efforts to deceive you about what the law says and to mis-enforce and mis-interpret that law.

Based on practical experience, we have learned that the above conclusions and presumptions, although reasonable and 29 consistent with prevailing law, in fact will cause persecution and injury from the covetous and corrupt IRS, the courts, and 30 the legal profession. This is because: 31

They are more interested in taking your money that protecting your rights. The love of money is the root of all evil. See 1 Tim. 6:10.

> "For the love of money is a root of all kinds of evil, for which some have strayed from the faith in their greediness, and pierced themselves through with many sorrows." [<u>1 Tim. 1:10</u>, Bible, NKJV]

If they told the truth:

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- 2.1. Their license to practice law as an attorney or tax professional would be pulled by the government to harm them for exposing the fraud.
- 2.2. Their profession and their job would be largely irrelevant and unnecessary and they would have to find other more productive and HONEST work.
- 2.3. They would expose themselves to huge legal liability, because they would have to also admit that they have been violating the law for most of their lives and committing a MAJOR FRAUD upon the American public.
- 2.4. They might become a target of what we call "selective enforcement" by the IRS. In other words, the IRS would abuse its discretion and enforcement powers as a political tool to silence and persecute dissidents, not unlike the gulags in the former COMMUNIST Soviet Union.
- The government's revenues would go down and so it would not be able to pay its bills and might collapse. In other words, they have to do their part to perpetuate the Ponzi scheme.

The consequence of the above conflicts of interest is that you will have a hard time motivating your selfish, stubborn, and 49 covetous public "servants" to obey the law. Remember that we have TWO governments, not one: 50

Flawed Tax Arguments to Avoid, Version 1.27 376 of 523 EXHIBIT:___

- 1. The "de jure" government created by our Constitution. The existing government would be a de jure government if there was perfect compliance with the Constitution and all enacted law.
 - 2. The "de facto" government which is the way things actually run. This system of government is based on public policy rather than law. Courts which refuse to enforce all aspects of the Constitution and enacted law, through their sin of omission, cause the creation of a "de facto" government that is in conflict with enacted law.
- The differences between the "de jure" and "de facto" governments are explained in the <u>Great IRS Hoax</u>, Form #11.302,
- Section 6.1 and in the following article:

<u>How Scoundrels Corrupted Our Republican Form of Government, Family Guardian Fellowship http://famguardian.org/Subjects/Taxes/Evidence/HowScCorruptOurRepubGovt.htm</u>

The government's approach to law is explained in the <u>Great IRS Hoax</u>, Form #11.302, Section 5.16, where there is a quote

from the book <u>Atlas Shrugged:</u>

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10 Dr. Ferris smiled....."We've waited a long time to get something on you. You honest men are such a problem and such a headache. But we knew you'd slip sooner or later - and this is just what we wanted." 11 "You seem to be pleased about it." 12 "Don't I have good reason to be?" 13 "But, after all, I did break one of your laws." 14 "Well, what do you think they're for?" 15 Dr. Ferris did not notice the sudden look on Rearden's face, the look of a man hit by the first vision of that which 16 he had sought to see. Dr. Ferris was past the stage of seeing; he was intent upon delivering the last blows to an 17 animal caught in a trap. 18 "Did you really think that we want those laws to be observed?" said Dr. Ferris. "We want them broken. You'd 19 20 better get it straight that it's not a bunch of boy scouts you're up against - then you'll know that this is not the age for beautiful gestures. We're after power and we mean it. You fellows were pikers, but we know the real trick, 21 22 and you'd better get wise to it. There's no way to rule innocent men. The only power any government has is the power to crack down on criminals. Well, when there aren't enough criminals, one makes them. One declares 23 so many things to be a crime that it becomes impossible for men to live without breaking laws. Who wants a nation of law-abiding citizens? What's there in that for anyone? But just pass the kind of laws that can neither 25 be observed nor enforced nor objectively interpreted - and you create a nation of law-breakers - and then you 26 cash in on guilt. Now, that's the system, Mr. Rearden, that's the game, and once you understand it, you'll be 27 much easier to deal with." 28

We therefore strongly advise you to be cautious, because there are many in the government, legal profession, accounting, tax preparation businesses who profit from perpetuating the illegal enforcement of the Internal Revenue Code. This will require you to:

1. Know the law much better than even those in the legal profession.

[Atlas Shrugged, Ayn Rand]

- 2. Do everything you can to build a good administrative record that reflects your choice to become a non-resident non-person not engaged in a trade or business whose estate is a foreign estate as defined in 26 U.S.C. §7701(a)(31).
 - 3. Be forceful in demanding that the government protect your Constitutional rights.
 - 4. Educate companies and financial institutions to ensure that they obey the law.
 - 5. Litigate to protect your rights, and do so without the aid of an attorney because the attorney has a conflict of interest.

In closing, let us remind you of the following aspects about your "public servants" and the "de facto" government they work for:

1	"The more corrupt the state, the more numerous the laws."
12	[Tacitus, Roman historian 55-117 A.D.]

"Sometimes the law defends plunder and participates in it. Thus the beneficiaries are spared the shame and danger that their acts would otherwise involve... But how is this legal plunder to be identified? Quite simply. See

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if the law takes from some persons what belongs to them and gives it to the other persons to whom it doesn't belong. See if the law benefits one citizen at the expense of another by doing what the citizen himself cannot do without committing a crime. Then abolish that law without delay ... No legal plunder; this is the principle of justice, peace, order, stability, harmony and logic"

[The Law, Frederic Bastiat]

"It's a game. We [tax lawyers] teach the rich how to play it so they can stay rich-- and the IRS keeps changing the rules so we can keep getting rich teaching them."

[John Grisham]

9.27 861 Source Position

<u>False Argument</u>: The regulations at 26 C.F.R. §1.861-8(f) describe and include all sources of income subject to tax under the Internal Revenue Code, Subtitle A. If your earnings do not fall within the list provided in this regulation, then you do not owe a tax and cannot claim "taxable income".

Corrected Alternative Argument: The income tax described in Internal Revenue Code, Subtitle A describes a privilege or excise tax upon persons working for the U.S. government as "public officers" and those receiving payments from the U.S. government. In the I.R.C., a "public office" is referred to as a "trade or business". The function of all information returns such as IRS Forms W-2, 1042-s, 1098, and 1099 is to connect specific payments to this excise taxable franchise. If you are not engaged in either a public office or the "trade or business" franchise and someone files an information return against you, you must promptly rebut it or you will be presumed to be a "taxpayer" who is liable, regardless of what "source" your earnings came from.

Further information:

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- The 861 "Source" Position, Great IRS Hoax, Form #11.302, Section 5.7.6 and following: http://sedm.org/Forms/FormIndex.htm
- 2. <u>861 Evidence Video, Larken Rose</u> <u>http://famguardian.org/Disks/TaxDVD/Multimedia/Rose,Larken/861Evidence/861.htm</u>
- 3. <u>Legal Deception, Propaganda, and Fraud</u>, Form #05.014. Proves that the definitions within the I.R.C. are limiting, and that the I.R.C. itself establishes all that is included within the meaning of the term "United States", "State", and "income".
 - http://sedm.org/Forms/FormIndex.htm
- 4. <u>Requirement for Reasonable Notice</u>, Form #05.022. Proves that the main purpose of statutes is to give "reasonable notice" of all that is "included" in the definition of "income" or "taxable income". http://sedm.org/Forms/FormIndex.htm
- The 861 Source Position is summarized in the following:
- 1. All "income" subject to tax must appear somewhere within the Internal Revenue Code, Subtitle A. You can't hold a person responsible to pay a tax upon "income" if you won't give him "reasonable notice" of everything that is included in the definition. This is described below:

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

- 2. The only place within the I.R.C. Subtitle A that describes the procedure for computing "taxable income" from all lawful sources is found in 26 C.F.R. §1.861-8. Earnings subject to tax within 26 C.F.R. §1.861-8(f) include and are *limited to* the following:
 - 2.1. Overall limitation to the foreign tax credit. Under the overall limitation to the foreign tax credit, as provided in section 904(a)(2) (as in effect before enactment of the Tax Reform Act of 1976, or section 904(a) after such enactment) the amount of the foreign tax credit may not exceed the tentative U.S. tax (i.e., the U.S. tax before application of the foreign tax credit) multiplied by a fraction, the numerator of which is the taxable income from sources without the United States and the denominator of which is the entire taxable income. Accordingly, in this case, the statutory grouping is foreign source income (including, for example, interest received from a domestic corporation which meets the tests of section 861(a)(1)(B), dividends received from a domestic corporation which has an election in effect under section 936, and other types of income specified in section 862). Pursuant to sections 862(b) and 863(a) and Sec. Sec. 1.862-1 and 1.863-1, this section provides rules for identifying the deductions to be taken into account in determining taxable income from sources without the United States. See section 904(d) (as in effect after enactment of the Tax Reform Act of 1976) and the regulations thereunder which

- require separate treatment of certain types of income. See example 3 of paragraph (g) of this section for one example of the application of this section to the overall limitation.
- 2.2. <u>Domestic International Sales Corporations (DISC)</u> and Foreign Sales Corporation (FSC) taxable income. Sections 925 and 994 provide rules for determining the taxable income of an FSC and DISC, respectively, with respect to qualified sales and leases of export property and qualified services. The combined taxable income method available for determining a DISC's taxable income provides, without consideration of export promotion expenses, that the taxable income of the DISC shall be 50 percent of the combined taxable income of the DISC and the related supplier derived from sales and leases of export property and from services. In the FSC context, the taxable income of the FSC equals 23 percent of the combined taxable income of the FSC and the related supplier. Pursuant to regulations under section 925 and 994, this section provides rules for determining the deductions to be taken into account in determining combined taxable income, except to the extent modified by the marginal costing rules set forth in the regulations under sections 925(b)(2) and 994(b)(2) if used by the taxpayer. See Examples (22) and (23) of paragraph (g) of this section. In addition, the computation of combined taxable income is necessary to determine the applicability of the section 925(d) limitation and the ``no loss" rules of the regulations under sections 925 and 994.
- 2.3. Effectively connected taxable income. "Nonresident alien individuals" and foreign corporations engaged in trade or business within the United States, under sections 871(b)(1) and 882(a)(1), on taxable income which is effectively connected with the conduct of a trade or business within the United States. Such taxable income is determined in most instances by initially determining, under section 864(c), the amount of gross income which is effectively connected with the conduct of a trade or business within the United States. Pursuant to sections 873 and 882(c), this section is applicable for purposes of determining the deductions from such gross income (other than the deduction for interest expense allowed to foreign corporations (see Sec. 1.882-5)) which are to be taken into account in determining taxable income. See example 21 of paragraph (g) of this section.
- 2.4. <u>Foreign base company income</u>. Section 954 defines the term ``foreign base company income" with respect to controlled foreign corporations. Section 954(b)(5) provides that in determining foreign base company income the gross income shall be reduced by the deductions of the controlled foreign corporation ``properly allocable to such income". This section provides rules for identifying which deductions are properly allocable to foreign base company income.
- 2.5. Other operative sections. The rules provided in this section also apply in determining—
 - 2.5.1. The amount of foreign source items of tax preference under section 58(g) determined for purposes of the minimum tax;
 - 2.5.2. The amount of foreign mineral income under section 901(e);
 - 2.5.3. The amount of foreign oil and gas extraction income and the amount of foreign oil related income under section 907;
 - 2.5.4. The limitation under section 934 on the maximum reduction in income tax liability incurred to the Virgin Islands;
 - 2.5.5. The special deduction granted to China Trade Act corporations under section 941;
 - 2.5.6. The amount of certain U.S. source income excluded from the subpart F income of a controlled foreign corporation under section 952(b);
 - 2.5.7. The amount of income from the insurance of U.S. risks under section 953(b)(5);
 - 2.5.8. The international boycott factor and the specifically attributable taxes and income under section 999; and
 - 2.5.9. The taxable income attributable to the operation of an agreement vessel under section 607 of the Merchant Marine Act of 1936, as amended, and the Capital Construction Fund Regulations thereunder (26 CFR, part 3). See 26 C.F.R. §3.2(b)(3).
- 3. From a legal standpoint, and as interpreted by the federal courts, "taxable income" MUST meet all of the following criteria:
 - 3.1. Must be "income" as legally defined. 26 U.S.C. §643(b) provides the ONLY definition of "income" found anywhere within the Internal Revenue Code, and it is associated with either a trust or estate domiciled in the "United States" (federal zone).

2	<u> TITLE 26</u> >	Subtitle A >	CHAPTER 1	> <u>S</u>	<u>ubchapter J</u> >	> <u>PART</u>	' <i>I</i> >	Subpart A	>	§ 643
3	§ 643. Defin	nitions applic	able to subpar	ts A	A, B, C, and D)				

(b) Income

For purposes of this subpart and subparts B, C, and D, the term "income", when not preceded by the words "taxable", "distributable net", "undistributed net", or "gross", means the amount of income of the estate or trust for the taxable year determined under the terms of the governing instrument and applicable local law.

Flawed Tax Arguments to Avoid, Version 1.27 Copyright Family Guardian Fellowship, http://famguardian.org Last Revised: 1/23/2018 Items of gross income constituting extraordinary dividends or taxable stock dividends which the fiduciary, acting in good faith, determines to be allocable to corpus under the terms of the governing instrument and applicable local law shall not be considered income.

The "trust" they are talking about above is the "public trust", which is the GOVERNMENT:

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

(a) Public service is a public trust.

Sec. 2635.101 Basic obligation of public service.

Subpart A--General Provisions

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.

- 3.2. Must be a "class of gross income" found in 26 U.S.C. §61 and 26 C.F.R. §1.861-8(a)(3).
 - 3.3. Must be an "item of income" (identified in 26 U.S.C. §861) that is taxable (e.g. profit, sales tax, etc.), AND
 - 3.4. Must derive from a taxable source or activity identified in 26 C.F.R. §1.861-8(f)(1).

Income that meets ALL FOUR of these criteria is called "gross income". There are <u>many</u> taxable <u>types</u> or <u>items</u> of income but <u>very few</u> taxable <u>sources</u> as far as the federal government is concerned. All of these sources are identified only in 26 C.F.R. §1.861-8, and all other types are excluded by implication. A favorite IRS trick is to talk about every type of conceivable income as taxable and say <u>nothing</u> about taxable source.

- 4. A number of attempts have been made over the years to obfuscate the regulations and statutes used in computing one's "taxable income" and "gross income" in order to perpetuate more "nontaxpayers" to unwittingly volunteer to obey laws that do not pertain to them. These efforts are documented in the *Great IRS Hoax*, Form #11.302, Chapter 6.
- 27 The 861 Source Position has been advocated by a number of people over the years, such as:
 - 1. Larken Rose, who put out the <u>Theft By Deception Video</u> and the <u>861 Evidence Video</u>, <u>Larken Rose</u>. Larken was never enjoined from promoting his idea, but he was eventually convicted of failure to file income tax returns and was sentenced to 18 months in club fed.
 - 2. Thurston Bell of National Institute for Tax Education (NITE). Thurston worked for Save A Patriot Fellowship and developed this idea while employed there. Thurston was enjoined by a federal district court in January 10, 2003 from promoting this position. See:
 - http://famguardian.org/PublishedAuthors/Govt/TaxHonestyPersecution/NITE/CourtOrder-030301.pdf
 - 3. Dave Bossett, who appears in our <u>How to Keep 100% of Your Earnings</u> video below: http://famguardian.org/Media/movie.htm

The fatal flaw of the 861 Source Position is that the entire Internal Revenue Code, Subtitle A is a code or system for tax assessment and collection against "taxpayers". It is a franchise agreement that only pertains to "franchisees" called "taxpayers". The minute you start quoting from it is the minute you tacitly admit that you are subject to it, that it pertains to you, and that you are participating in the "trade or business" franchise!

"Revenue Laws relate to taxpayers [officers, employees, 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]. 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)]

To give you one example, see 26 C.F.R. §1.863-1(c):

"The taxpayer's taxable income from sources within or without the United States will be determined under the rules of Secs.1.861-8 through 1.861-14T for determining taxable income from sources within the United States."

DANGER!! DANGER!! WILL ROBINSON!! Notice how the regulation asserts

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- So, right up front they are saying if you use this section to determine taxable income, then ergo, you must be a "taxpayer" who HAS taxable income.
- 4 Look, an "alleged" taxpayer who uses 861 to demonstrate that they DO NOT have any taxable income, is arguing against
- themselves and running in place. Why? Because they do not meet the statutory definition of "taxpayer" as defined at 26
- 6 U.S.C. §7701(a)(14). If one is truly a not a "taxpayer" and instead is a "nontaxpayer", then it makes no sense to use regulations
- written only for "taxpayers", in order to try and prove that one is NOT a taxpayer!!!
- The tax regulations are for the benefit (chuckle) of "taxpayers" and apply only to them. ONLY "taxpayers" can have "taxable
- 9 income". The quoted section above is ONLY applicable to "taxpayers". And taxpayers are those who have taxable income.
- The section is craftily written and applies circular logic to keep one within the jurisdiction of the IRC and the IRS.
- What WE ARE saying is very careful, because the 861 regulations are a trap and a ruse. Especially inside a courtroom. The
 861 regulations are specifically designed to ensnare those poor souls who can't see the dangerous word-games that are being
 used to trap them in a house of mirrors. And rest assured, judges continually take silent judicial notice of the ensnaring nature
 of the 861 regulations, without ever recognizing evidence that refutes or disproves the 861 regs. 861 Regs apply a series of
 circular logic stratagems to en-snare folks and keep them arguing within the scope (and the jurisdiction) of the IRC.
- We believe that the 861 Source Position is therefore a waste of time because you must quote from the Internal Revenue Code to use it. The I.R.C. doesn't apply to "nontaxpayers" or persons other than "taxpayers". The Internal Revenue Code, Subtitle A franchise agreement itself defines exactly who this "nontaxpayer" is, so why go further than that?:
- TITLE $26 > Subtitle\ F > CHAPTER\ 79 > \S\ 7701$ 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 25 is not effectively connected with the conduct of a trade or business within the United States, is not includible 26
 - It's much simpler to simply focus on which "United States" they are talking about in the above, and to conclude that everything originating outside THIS "United States" is not connected with the "trade or business" and "public office" franchise.
- Sec. 7701. Definitions 32 (a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent 33 thereof-34 35 (9) United States The term "United States" when used in a geographical sense includes only the States and the District of Columbia. 36 (10) State 37 The term "State" shall be construed to include the District of Columbia, where such construction is necessary to 38 39 carry out provisions of this title. 40 Uniform Commercial Code (U.C.C.) 41

<u>TITLE 26</u> > <u>Subtitle F</u> > <u>CHAPTER 79</u> > Sec. 7701. [Internal Revenue Code]

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§ 9-307. LOCATION OF DEBTOR.

in gross income under subtitle A.

EXHIBIT:_____

1	(h) [Location of United States.]
2	The United States is located in the <u>District of Columbia</u> .
3	[SOURCE: http://www.law.cornell.edu/ucc/search/display.html?terms=district%20of%20columbia&url=/ucc/9/article9.htm
5	#s9-307 <i>]</i>
6	The definition of "United States" found in 26 U.S.C. §7701(a)(9) and (a)(10) above indicates that it implies only the
7	"geographical" United States. This is a ruse, because not all uses of this term in the Internal Revenue Code necessarily imply
8	the "geographical" context and no effort is ever made to distinguish whether the geographical context is implied in each place
9	where "United States" used. We allege that the REAL context they mean is the GOVERNMENT corporation called "United
10	States":
11	TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
12	PART VI - PARTICULAR PROCEEDINGS
13	CHAPTER 176 - FEDERAL DEBT COLLECTION PROCEDURE
14	SUBCHAPTER A - DEFINITIONS AND GENERAL PROVISIONS
15	Sec. 3002. Definitions
16	(15) "United States" means -
17 18	(A) <u>a Federal corporation;</u> (B) an agency, department, commission, board, or other entity of the United States; or
19	(C) an instrumentality of the United States.
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21	"A federal corporation operating within a state is considered a domestic corporation rather than a foreign
22	corporation. The United States government is a foreign corporation with respect to a state."
23	[19 Corpus Juris Secundum (C.J.S.), Corporations, §883 (2003)]
24	Obviously, the "United States" described in the phrase "sources within the United States" throughout the Internal Revenue
25	Code, Subtitle A does not include any portion of a state of the Union. Rather, it implies the GOVERNMENT corporation.
26	Those who work for this corporation as "public officers" in the District of Columbia, per 4 U.S.C. §72, are referred to as
27	"effectively connected with a trade or business" throughout the Internal Revenue Code, Treasury Regulations, and IRS
28	publications. This is confirmed by 26 U.S.C. §864(c)(3), which defines "sources within the United States" essentially as
29	earnings connected with a public office in the U.S. government. How could people like Larken Rose and Thurston Bell miss
30	such an IMPORTANT point:
31	TITLE 26 > Subtitle A > CHAPTER 1 > Subchapter N > PART I > § 864
32	§ 864. Definitions and special rules
33	(c) Effectively connected income, etc.
34	(3) Other income from sources within United States
35	All income, gain, or loss from sources within the United States (other than income, gain, or loss to which
36	paragraph (2) applies) shall be treated as effectively connected with the conduct of a trade or business ["public"
37	office" per 26 U.S.C. §7701(a)(26)] within the United States [GOVERNMENT, not geographical "United
38	States"].
39	The only defense the government has against any of the arguments in this section is to try to manufacture false statutory or
40	judicial presumptions about the meaning of terms defined in the Internal Revenue Code and thereby violate due process of
41	law and render a "void judgment" that need not be obeyed.
42	(1) [8:4993] Conclusive presumptions affecting protected interests: A conclusive presumption may be defeated
43	where its application would impair a party's constitutionally-protected liberty or property interests. In such
44	cases, conclusive presumptions have been held to violate a party's due process and equal protection rights.
45	[Vlandis v. Kline (1973) 412 U.S. 441, 449, 93 S.Ct. 2230, 2235; Cleveland Bed. of Ed. v. LaFleur (1974) 414
46	U.S. 632, 639-640, 94 S.Ct. 1208, 1215-presumption under Illinois law that unmarried fathers are unfit violates
47 48	process] [Federal Civil Trials and Evidence, Rutter Group, paragraph 8:4993, p. 8K-34]
49	[Learn Ciri Trans and Bracice, Ranci Group, paragraph 0.7775, p. 017-07]
50	Statutes creating permanent irrebuttable presumptions have long been disfavored under the Due Process
51	Clauses of the Fifth and Fourteenth Amendments. In Heiner v. Donnan, 285 U.S. 312, 52 S.Ct. 358, 76 L.Ed.

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772 (1932), the Court was faced with a constitutional challenge to a federal statute that created a conclusive 2 presumption that gifts made within two years prior to the donor's death were made in contemplation of death, thus requiring payment by his estate of a higher tax. In holding that this irrefutable assumption was so arbitrary and unreasonable as to deprive the taxpayer of his property without due process of law, the Court stated that it had 'held more than once that a statute creating a presumption which operates to deny a fair opportunity to rebut it violates the due process clause of the Fourteenth Amendment.' Id., at 329, 52 S.Ct., at 362. See, e.g., Schlesinger v. Wisconsin, 270 U.S. 230, 46 S.Ct. 260, 70 L.Ed. 557 (1926); Hoeper v. Tax Comm'n, 284 U.S. 206, 52 S.Ct. 120, 76 L.Ed. 248 (1931). See also Tot v. United States, 319 U.S. 463, 468-469, 63 S.Ct. 1241, 1245-1246, 87 L.Ed. 1519 (1943); Leary v. United States, 395 U.S. 6, 29-53, 89 S.Ct. 1532, 1544-1557, 23 L.Ed.2d. 57 (1969). 9 Cf. Turner v. United States, 396 U.S. 398, 418-419, 90 S.Ct. 642, 653-654, 24 L.Ed.2d. 610 (1970). 10 [United States Supreme Court, Vlandis v. Kline, 412 U.S. 441 (1973)] 11 12 This court has held more than once that a statute creating a presumption which operates to deny a fair 13 opportunity to rebut it violates the due process clause of the Fourteenth Amendment. For example, Bailey v. 14 Alabama, 219 U.S. 219, 238, et seq., 31 S.Ct. 145; Manley v. Georgia, 279 U.S. 1, 5-6, 49 S.Ct. 215. 15 'It is apparent,' this court said in the Bailey Case (219 U.S. 239, 31 S.Ct. 145, 151) 'that a constitutional 16 prohibition cannot be transgressed indirectly by the creation of a statutory presumption any more than it can 17 be violated by direct enactment. The power to create presumptions is not a means of escape from constitutional restrictions. 19

[Heiner v. Donnan, 285 U.S. 312 (1932)]

"A judgment rendered in violation of due process is void in the rendering State and is not entitled to full faith and credit elsewhere. Pennoyer v. Neff, 95 U.S. 714, 732-733 (1878)." [World-Wide Volkwagen Corp. v. Woodson, 444 U.S. 286 (1980)]

The following memorandum of law exhaustively proves that all such attempts to obfuscate or expand the meaning or to include things or classes of things that are not expressly indicated in the statutes themselves as being "included" constitute FRAUD that is easy to prove in front of a jury.

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

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The reason why proponents of the 861 Source Position have been so vehemently hated, prosecuted, and attacked by the government and the IRS is because they are focusing on the fact that the income tax is an excise tax upon taxable activities, and trying to put their finger on all of the specific, voluntary, avoidable activities. By doing this, they indirectly are emphasizing the voluntary nature of the income tax. Those who want to avoid the income tax simply avoid the activities. What they are doing, in most cases without even realizing it, is using the regulation at 26 C.F.R. §1.861-8(f)(1) to draw attention to the fact that the federal income tax is in fact an excise tax, and that the "taxable activities" are all enumerated individually in this regulation and nowhere else in either the I.R.C. or the Treasury Regulations. This regulation also happens to be the only regulation that describes exactly how to apply earnings from each enumerated "taxable activity" to the process of computing one's tax liability. Is it any surprise that the government doesn't want evidence like this in the hands of people? This interferes with the government's "voluntary compliance" efforts and exposes their willful and malicious fraud for what it is, and this is why they don't like it. This observation is the reason why most of the helpful examples contained within this regulation have been systematically removed over the years: to prevent people from correctly concluding that they aren't engaged in foreign commerce or public office and therefore don't owe the government any money.

Unfortunately, proponents of the 861 Source Position such as Larken Rose and those before him such as Thurston Bell fail to fully comprehend how they fit into this carefully crafted legal deception, fail to understand the nature of federal jurisdiction, and fail to fully understand that a "code" which only applies to those who volunteer to become engaged in a "trade or business" doesn't apply to them if they choose not to volunteer. They have spent so much time looking at the trees that they forgot about the forest and are being maliciously persecuted by the IRS mainly because of this monumental oversight. They don't understand that the I.R.C. was not enacted into positive law and in fact constitutes essentially a state sponsored religion and a franchise. This is not intended as a personal criticism by any means, but simply a realistic observation intended to help keep you out of trouble. Those who choose not to agree or "sign" or consent to the franchise contract by submitting the IRS Form W-4 or filing an IRS Form 1040 return with a nonzero "income" can have no legal liabilities under the code and cannot be described as "taxpayers" who are subject to it. Larken Rose thinks the "code" is "law" or "public law" for everyone, but in fact it is "private law" that is only "law" for "taxpayers", all of whom have consented to it in one way or another at some point in time. See the following free memorandum of law which proves this point:

9.28 "Zero Returns" without Correcting the Corresponding Information Returns

False Argument: Filing a tax return using standard IRS approved "taxpayer" forms and indicating zero income without correcting the corresponding information returns for the corresponding tax year is a valid way to get illegally withheld taxes back.

Corrected Alternative Argument: The only legitimate way to get all your money back is to:

- Correct all information returns filed against you for the given tax period.
- Send a NONTAXPAYER form, or an IRS form that has been modified to remove "taxpayer" presumptions.
- Attach a note of explanation describing exactly what you are doing so that you are not falsely presumed to be a "taxpayer" or subjected to frivolous penalties that may only lawfully be assessed against "taxpayers".

Further information:

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- 1. Federal Forms and Publications, Family Guardian Fellowship-amended/modified IRS forms to make them into NONTAXPAYER forms.
 - http://famguardian.org/TaxFreedom/Forms/IRS/IRSFormsPubs.htm
- The "Trade or Business" Scam, Form #05,001-explains why you MUST file corrected information returns in order to permanently and irrefutably rebut the presumption that you are a franchisee engaged in the "trade or business" franchise
 - http://sedm.org/Forms/FormIndex.htm
- Federal Nonresident Nonstatutory Claim for Return of Funds Unlawfully Paid to the Government, Form #15.001federal return that meets all the criteria suggested in this section. http://sedm.org/Forms/FormIndex.htm
- Some people falsely believe that they can legitimately get all of their money back simply by filling out an IRS Form 1040,
- indicating zero for "income", and not bothering to correct the false information returns filed against them for the
- corresponding tax year. This approach has been attempted by many who eventually were discredited, including Irwin Schiff,
- Larken Rose, and many others. This is a fatally flawed approach because:
- The IRS Form 1040 is for "resident aliens" and the filer is NOT a "resident alien". You must file a NONRESIDENT tax return, not a "resident alien" tax return. The only thing you do by filing a "resident" tax return is make an illegal election to be treated as a "resident alien" and needlessly confer jurisdiction upon the federal courts and the IRS that they 8 would not otherwise have over you. See sections 12.2 and 12.3 of the following:

Non-Resident Non-Person Position, Form #05.020 http://sedm.org/Forms/FormIndex.htm

The IRS Form 1040 is a "taxpayer" form, thus creating a false presumption that you are a "taxpayer". The perjury statement at the end says "other than the taxpayer". See:

"Taxpayer" v. "Nontaxpayer": Which One are You?, Family Guardian Fellowship http://famguardian.org/Subjects/Taxes/Remedies/TaxpayerVNontaxpayer.htm

3. Everything that goes on the IRS form 1040 is earnings connected to the "trade or business" franchise, thus creating a false presumption that you are a "public officer". See:

The "Trade or Business" Scam, Family Guardian Fellowship http://famguardian.org/Subjects/Taxes/Remedies/TradeOrBusinessScam.htm

- No effort is ever made to rebut the evidence connecting you to the "trade or business" franchise. All information returns filed against you during the reporting period on IRS Forms W-2, 1042-s, 1098, 1099, and K-1 create a prima facie presumption that you are a "public officer" in the U.S. government engaged in a "trade or business". If you never rebut the presumptions created by these usually false reports, then you are presumed to be a "taxpayer" subject to the I.R.C. You must follow the methods and forms approved by the IRS for rebutting these false presumptions as follows:
 - 4.1. Correcting Erroneous Information Returns, Form #04.001: Condenses the following four links into one http://sedm.org/Forms/FormIndex.htm
 - 4.2. Correcting Erroneous IRS Form 1042's, Form #04.003: http://sedm.org/Forms/FormIndex.htm

- 4.3. <u>Correcting Erroneous IRS Form 1098's</u>, Form #04.004: http://sedm.org/Forms/FormIndex.htm
- 4.4. Correcting Erroneous IRS Form 1099's, Form #04.005: http://sedm.org/Forms/FormIndex.htm

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- 4.5. Correcting Erroneous IRS Form W-2's, Form #04.006: http://sedm.org/Forms/FormIndex.htm
- We strongly discourage the filing of what the IRS calls "zero returns" WITHOUT ALSO doing all the following:
- 8 1. Attaching corrected versions of all information returns filed during the reporting period created according to the instructions above.
- Using NONTAXPAYER forms, or an IRS form that has been modified to remove "taxpayer" presumptions using the following:
 - http://famguardian.org/TaxFreedom/Forms/IRS/IRSFormsPubs.htm
 - 3. Attaching a cover letter explaining and describing exactly what you are doing so that you are not falsely presumed to be a "taxpayer" or subjected to:
 - 3.1. Frivolous penalties that may only lawfully be assessed against "taxpayers".
 - 3.2. Criminal prosecution for filing of fraudulent returns.
 - Anyone who does not follow the above guidance is an IDIOT with a capital "I" who deserves every type of harassment and persecution the government can throw at them. This is precisely what happened to Irwin Schiff, who will probably be dead before he gets out of club fed. If you want a simplified form that satisfies all the criteria suggested in this section, see:

<u>Federal Nonresident Nonstatutory Claim for Return of Funds Unlawfully Paid to the Government, Form #15.001</u>-federal return that meets all the criteria suggested in this section. http://sedm.org/Forms/FormIndex.htm

9.29 Exempt from income tax because a "state citizen", "natural born citizen", citizen of a state, etc

<u>False Argument</u>: Some people argue that they are exempt from taxes because they are a citizen of a state, a "state citizen", a "natural born sovereign", a "sovereign citizen", or some variation of these but they still file IRS Form 1040 and IRS Form W-4 and thereby contradict their own statements.

Corrected Alternative Argument: Income tax liability originates from the *coincidence* of one's choice of domicile on federal territory and their voluntary participation in the "trade or business" excise taxable activity and franchise. Those who have a domicile outside of federal territory cannot truthfully describe themselves as either a STATUTORY "citizen", a STATUTORY "resident", or a "permanent resident" on any FEDERAL form. They may also NOT file a "resident" tax form such as IRS Form 1040, which is only for use by "aliens" at home (26 C.F.R. §1.1-1) or STATUTORY "U.S.** citizens"/"U.S.** residents" abroad pursuant to 26 U.S.C. §911 who have a legal domicile on federal territory. If you are going to claim that you are domiciled outside of their jurisdiction and not protected by them, you MUST file the correct tax form, which is IRS Form 1040NR and NOT 1040 and fill out all your withholding paperwork consistent with the tax form.

Further information:

- 1. Revenue Ruling 2007-22
- 2. Internal Revenue Bulletin 2007-14
- 3. <u>You're Not a STATUTORY "citizen" under the Internal Revenue Code</u>, Family Guardian Fellowship http://famguardian.org/Subjects/Taxes/Citizenship/NotACitizenUnderIRC.htm
- 4. <u>You're Not a STATUTORY "resident" under the Internal Revenue Code</u>, Family Guardian Fellowship http://famguardian.org/Subjects/Taxes/Citizenship/Resident.htm
- 5. Non-Resident Non-Person Position, Form #05.020 http://sedm.org/Forms/FormIndex.htm
- 6. Why Domicile and Becoming a "Taxpayer" Require Your Consent, Form #05.002 http://sedm.org/Forms/FormIndex.htm
- 7. Why You are a "national", "state national", and Constitutional but not Statutory Citizen, Form #05.006 http://sedm.org/Forms/FormIndex.htm

Those who have not done their homework on the citizenship and domicile issues tend to try to oversimplify the issues and 1 get into trouble by: 2

1. Filing the same tax forms as they always have, which the IRS Form 1040. IRS Document 7130 says this form is ONLY 3 for statutory "U.S. citizens" and "U.S. residents", who collectively are called "U.S. persons" as defined in 26 U.S.C. 4 §7701(a)(30). If you have a domicile in a state of the Union, you are NOT a statutory "U.S. person". 5

> 1040A 11327A Each U.S. Individual Income Tax Return

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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), p. F-15; SOURCE: http://famguardian.org/TaxFreedom/Forms/IRS/IRSDoc7130.pdf]

- Claiming they are "exempt" because they are a "state citizen", a "sovereign citizen", a "natural born citizen", or a "citizen 13 of a state", or because they have renounced or rejected their U.S. citizenship. The definition of "exempt" in 26 U.S.C. 14 §7701(b)(5) does not include these statuses. Get with it. 15
 - Continuing to use the *same* withholding form, the IRS Form W-4, to control their withholding. This is an "employee" form for "public officers" in the U.S. government engaged in the "trade or business" franchise. See:

The "Trade or Business" Scam, Form #05.001 http://sedm.org/Forms/FormIndex.htm

Continuing to use Social Security Numbers. BAD. See: 4.

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

Those who take the above overly simplistic approach simply fail to understand that once one determines to pursue the Non-Resident Non-Person Position that is the foundation of this website, there are many other changes they must ALSO make in order to properly reflect that status in the public records of the government. A failure to accomplish all these steps so that their paperwork is consistent with what they claim to be will result in them rightly being called "frivolous" by the courts and the government. Please do your homework, folks. Doing your home means that one:

- May not use any term to describe their citizenship status that is NOT found in federal statutes. The terms "natural born citizen", "sovereign citizen", "state citizen", or "citizen of a state" are not found in federal statutes or the I.R.C. and therefore should be avoided and NOT used.
 - Must accurately describe their citizenship and domicile using the government's own statutes and laws:
 - 2.1. Describe their citizenship status using words found in the U.S. Code, such as "national" (8 U.S.C. §1101(a)(21)).
 - 2.2. Should avoid referencing any citizenship status that includes the term "United States" or which does not describe WHAT they are a citizen of, such as.
 - 2.2.1. A "citizen of the United States" pursuant to 8 U.S.C. §1401. This is a person born anywhere in the American Union with a domicile on federal territory.
 - 2.2.2. A "U.S. citizen". This will be presumed to be a statutory and not constitutional citizen pursuant to 8 U.S.C. §1401. A person who is a "national" is NOT a statutory "U.S. citizen".
 - 2.2.3. "citizen". 26 C.F.R. §1.1-1(c) presumes a statutory and not constitutional citizen.
 - 2.3. May not claim that one has renounced or rejected their U.S. Citizenship. Instead, one must indicate that they do not have a domicile on federal territory and that it is domicile which is the origin of the federal governments civil jurisdiction over them, including taxation:

"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)]

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"domicile. A person's legal home. That place where a man has his true, fixed, and permanent home and principal establishment, and to which whenever he is absent he has the intention of returning. Smith v. Smith, 206 Pa.Super. 310, 213 A.2d. 94. Generally, physical presence within a state and the intention to make it one's home are the requisites of establishing a "domicile" therein. The permanent residence of a person or the place to which he intends to return even though he may actually reside elsewhere. A person may have more than one residence but only one domicile. The legal domicile of a person is important since it, rather than the actual residence, often controls the jurisdiction of the taxing authorities and determines where a person may exercise the privilege of voting and other legal rights and privileges."

[Black's Law Dictionary, Sixth Edition, p. 485]

2.4. Must understand the affect upon their statutory citizenship status that not having a domicile on federal territory has, which is that they are not a statutory "U.S. citizen" (8 U.S.C. §1401), "U.S. resident" (26 U.S.C. §7701(b)(1)(A)), or "U.S. person" (26 U.S.C. §7701(a)(30)). See:

Why Domicile and Becoming a "Taxpayer" Require Your Consent, Form #05.002 http://sedm.org/Forms/FormIndex.htm

2.5. Should use the following form to document their citizenship and domicile status:

<u>Affidavit of Citizenship, Domicile, and Tax Status</u>, Form #02.001 http://sedm.org/Forms/FormIndex.htm

- Must stop filing IRS Form 1040, which is a "resident" tax form for statutory "U.S. persons" (26 U.S.C. §7701(a)(30)) with a domicile on federal territory.
 - 4. If they want to file a tax return, he/she must use the 1040NR form with our Tax Form Attachment, Form #04.201 attached. They must put all of earnings from the United States government in the category of not connected to a "trade or business" under 26 U.S.C. §871(a) and exclude earnings from within a state of the Union, which is foreign with respect to the statutory but not constitutional "United States". See:

<u>Tax Form Attachment</u>, Form #04.201 http://sedm.org/Forms/FormIndex.htm

- 5. May not use the term "exempt", which is a word of art. Instead indicate that their earnings are NOT SUBJECT but not "exempt" and are expressly excluded pursuant to:
 - 5.1. <u>26 U.S.C. §3401(a)(6)</u>-earnings are not "wages"
 - 5.2. <u>26 U.S.C. §864(b)(1)(A)</u>.
 - 5.3. 26 U.S.C. §861(a)(3)(C)(i).
 - 5.4. <u>26 U.S.C.</u> §1402(b).

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- 5.5. 26 C.F.R. §1.872-2(f).
- 5.6. 26 C.F.R. §1.871-7(a)(4).
- 6. Must stop using IRS Form W-4, which is an "employee" form for public officers in the U.S. government and replace all withholdings at their private employers with W-8BEN. See:

<u>About IRS Form W-8BEN</u>, Form #04.202 http://sedm.org/Forms/FormIndex.htm

The reason people pursue this flawed argument is mainly because they aren't reading, quoting, or using the law properly.

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"My [God's] people are destroyed [and enslaved] for lack of knowledge [and the lack of education that produces
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                            [Hosea 4:6, Bible, NKJV]
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                             "One who turns his ear from hearing the law [God's law or man's law], even his prayer is an abomination."
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                             [Prov. 28:9, Bible, NKJV]
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                             "But this crowd that does not know [and quote and follow and use] the law is accursed."
                            [John 7:49, Bible, NKJV]
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                             "Salvation is far from the wicked, For they do not seek Your [God's] statutes."
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                            [Psalm 119:155, Bible, NKJV]
                             "Every man is supposed to know the law. A party who makes a contract [or enters into a franchise, which is also
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                            a contract] with an officer [of the government] without having it reduced to writing is knowingly accessory to a
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                             violation of duty on his part. Such a party aids in the violation of the law."
                            [Clark v. United States, 95 U.S. 539 (1877)]
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If you can't find a statute and a regulation that documents both your status and why you aren't required to pay, then don't make words up to describe yourself that aren't in the code and then claim that because you have such a status, that you are

Flawed Tax Arguments to Avoid, Version 1.27 Copyright Family Guardian Fellowship, http://famguardian.org Last Revised: 1/23/2018 "exempt". This is unwise, presumptuous, and needlessly burdens the government and the IRS. Instead, follow and quote and use the law to document your status as described in the article below.

Non-Resident Non-Person Position, Form #05.020 http://sedm.org/Forms/FormIndex.htm

9.30 Application of the income tax has nothing whatsoever to do with citizenship or residency

<u>False Argument</u>: The application of the income tax has nothing whatever to do with "citizenship" or "residency". Tax law makes different provisions for how "income" (gains from taxable activities) received by each of several different kinds of persons is handled, taxed and/or accounted-for, but what is taxable and/or being taxed is exactly the same class of thing in each case, and when each of these kinds of persons engage in taxable activities, they all do so in exactly the same way and are taxable for exactly the same reasons.

Corrected Alternative Argument: This is a gross oversimplification of federal jurisdiction to tax that gets lots of people in trouble, including its own chief proponent, Pete Hendrickson. If Pete was correct on this issue, why did he end up in jail or even get prosecuted in the first place? Recall that Pete himself files RESIDENT tax returns available ONLY to those DOMICILED on federal territory and therefore SUBJECT to the income tax. Whether one is subject at ALL to the income tax is in fact determined by their receipt of "trade or business" excise taxable earnings as a public officer in the national government. Those with either a legislatively foreign domicile or who are not public officers are incapable of exercising "the functions of a public office" without at least evidence that Congress "expressly authorized" them to exercise the office in the specific geographic place they are physically situated as required by 4 U.S.C. §72. In the case of state citizens not lawfully elected or appointed to public office and with a legislatively foreign domicile by virtue of residence in a state, they are not the subject of the tax because they cannot lawfully either exercise "the functions of a public office" OR be subject to the civil legislative jurisdiction of Congress per 4 U.S.C. §72 and Federal Rule of Civil Procedure 17(b). This fact is recognized in 26 U.S.C. §7701(a)(31). The only reason they are the subject of illegal enforcement by the IRS is because they MISREPRESENT their domicile/citizenship on government forms to make them falsely appear as being subject to federal legislative jurisdiction.

Further information:

- 1. <u>Why Domicile and Becoming a "Taxpayer" Require Your Consent</u>, Form #05.002 proves that domicile is a prerequisite to having ANY civil status under federal law, INCLUDING "taxpayer". Domicile is an important component of citizenship itself and in most cases is even a synonym for "citizenship" in federal court.
- 2. Why You are a "national", "state national", and Constitutional but not Statutory Citizen, Form #05.006 http://sedm.org/Forms/FormIndex.htm
- 3. <u>Affidavit of Citizenship, Domicile, and Tax Status</u>, Form #02.001-proves that domicile, which is a component of and synonym for "citizenship" in federal court, IS important. http://sedm.org/Forms/FormIndex.htm
- 4. <u>Citizenship, Domicile, and Tax Status Options</u>, Form #10.003-domicile and citizenship limitations upon federal court useful in federal court. http://sedm.org/Forms/FormIndex.htm
- This argument is most frequently made by Pete Hendrickson and his misguided followers. For more information about Pete
- 5 Hendrickson, see:

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<u>Policy Document: Pete Hendrickson's "Trade or Business" Approach,</u> Form #08.003 http://sedm.org/Forms/FormIndex.htm

- 6 Oversimplification of issues is popular among legal neophytes or among those who want an excuse to STOP learning more
- about the law. This false contention falls in this dubious category. Accepting this false argument is equivalent to agreeing
- that the national government has jurisdiction ANYWHERE that it wants, which is clearly not the case. The most fundamental
- 9 principles of law that are the foundation of the Separation of Powers Doctrine of the U.S. Supreme Court state that:
- 1. Civil law is limited to specific territory.
 - 2. Law cannot extend beyond that territory except through the CONSENSUAL exercise of debt or contract.

1 2	3.	Domicile is the basis for civil jurisdiction and is the main limitation upon federal civil/tax jurisdiction. Those without a civil domicile in a place cannot have a "civil status", including "taxpayer", in that place unless they CONTRACT and
3		CONSENT to acquire that status. Hence, those without a civil domicile or a contract are statutory but not necessarily constitutional "aliens".
5		"Thus, the Court has frequently held that domicile or residence, more substantial than mere presence in transit
6		or sojourn, is an adequate basis for taxation, including income, property, and death taxes. Since the Fourteenth
7		Amendment makes one a citizen of the state wherein he resides, the fact of residence creates universally
8		reciprocal duties of protection by the state and of allegiance and support by the citizen. The latter obviously
9		includes a duty to pay taxes, and their nature and measure is largely a political matter. Of course, the situs of
10		property may tax it regardless of the citizenship, domicile, or residence of the owner, the most obvious illustration
11 12		being a tax on realty laid by the state in which the realty is located." [Miller Brothers Co. v. Maryland, <u>347 U.S. 340</u> (1954)]
13	4.	Domicile in a specific place is a prerequisite to being a statutory "citizen" or "resident" of that place.
14 15		"Domicile and citizen are synonymous in federal courts, Earley v. Hershey Transit Co., D.C. Pa., 55 F.Supp. 981, 982; inhabitant, resident and citizen are synonymous, Standard Stoker Co. v. Lower, D.C.Md., 46 F.2d. 678,
16		683."
17		[Black's Law Dictionary, Fourth Edition, p. 311]
18		The words "citizen" and citizenship," however, usually include the idea of domicile, Delaware, L. & W.R. Co.
19		"v. Petrowsky, C.C.A.N.Y., 250 F. 554, 557"
20		[Black's Law Dictionary, Fourth Edition, p. 310]
21		"The term 'citizen', as used in the Judiciary Act with reference to the jurisdiction of the federal courts, is
22		substantially synonymous with the term 'domicile'. <u>Delaware, L. & W.R. Co. v. Petrowsky, 2 Cir., 250 F. 554,</u>
23		<u>557.</u> "
24		[Earley v. Hershey Transit Co., 55 F.Supp. 981, D.C.PA. (1944)]
25	5.	Since you can only have a domicile in one place at a time, you can only be a "taxpayer" toward one government at a
26 27		time and are a statutory "alien" in relation to all other governments. In the case of state citizens, that government is a constitutional State.
•	Ца	ra ara a faw ayamplas:
28	пе	re are a few examples:
29		"It is a well established principle of law that all federal regulation applies only within the territorial jurisdiction
30		of the United States unless a contrary intent appears."
31		[Foley Brothers, Inc. v. Filardo, 336 U.S. 281 (1949)]
32		"The laws of Congress in respect to those matters [outside of Constitutionally delegated powers] do not extend
33		into the territorial limits of the states, but have force only in the District of Columbia, and other places that are
34		within the exclusive jurisdiction of the national government.")
35		[Caha v. U.S., 152 U.S. 211 (1894)]
36		"There is a canon of legislative construction which teaches Congress that, unless a contrary intent appears
37		[legislation] is meant to apply only within the territorial jurisdiction of the United States.")
38		[U.S. v. Spelar, 338 U.S. 217 at 222.]
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40		Debitum et contractus non sunt nullius loci.
41		Debt and contract [franchise agreement, in this case] are of no particular place.
42		- v 1 1
43		Locus contractus regit actum.
14		The place of the contract [franchise agreement, in this case] governs the act.
45		[Bouvier's Maxims of Law, 1856;
46		SOURCE: http://famguardian.org/Publications/BouvierMaximsOfLaw/BouviersMaxims.htm]
	W	[Bouvier's Maxims of Law, 1856; SOURCE: http://famguardian.org/Publications/BouvierMaximsOfLaw/BouviersMaxims.htm]

We do agree with Pete Hendrickson that the activity called a "trade or business" (public office) is the only subject of the I.R.C. Subtitle A excise tax. We disagree, however, that any of the following are true:

1. EVERYONE can lawfully engage in a public office activity. Aliens can't and those NOT lawfully elected or appointed can't.

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2. That the word "citizenship" in federal court means anything OTHER than domicile on federal territory. It does not:

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"Domicile and citizen are synonymous in federal courts, Earley v. Hershey Transit Co., D.C. Pa., 55 F.Supp. 981, 982; inhabitant, resident and citizen are synonymous, Standard Stoker Co. v. Lower, D.C.Md., 46 F.2d. 678, 683."

[Black's Law Dictionary, Fourth Edition, p. 311]

The words "citizen" and citizenship," however, usually include the idea of domicile, Delaware, L. & W.R. Co.
"v. Petrowsky, C.C.A.N.Y., 250 F. 554, 557"

[Black's Law Dictionary, Fourth Edition, p. 310]

"The term 'citizen', as used in the Judiciary Act with reference to the jurisdiction of the federal courts, is substantially synonymous with the term 'domicile'. Delaware, L. & W.R. Co. v. Petrowsky, 2 Cir., 250 F. 554, 557."

[Earley v. Hershey Transit Co., 55 F.Supp. 981, D.C.P.A. (1944)]
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- 3. One can unilaterally or lawfully "elect" themselves into a public office by filling out a government form, including a tax form. Doing this is, in fact, a CRIME in violation of 18 U.S.C. §912.
 - 4. Congress can legislatively reach inside a constitutional state and enforce against those who are NOT lawfully engaged in a public office of some kind. Federal Rule of Civil Procedure 17(b) forbids it.
 - 5. The activity can be conducted in a constitutional state WITHOUT both the consent of the party AND express legislative authorization from Congress. The government has the burden of proving BOTH in order to enforce a tax liability and they seldom can meet this burden of proof.
 - 6. The tax franchise codes enforcing the activity can extend to those not domiciled on federal territory WITHOUT their DEMONSTRATED express and informed consent. Non-domiciled parties are called "nonresident aliens". If they have no contracts or agreements or consent with the national government, they are called "non-resident NON-persons".
 - These facts are recognized in the law itself:

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<u>TITLE 4</u> > <u>CHAPTER 3</u> > § 72
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                              § 72. Public offices; at seat of Government
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                              All offices attached to the seat of government shall be exercised in the District of Columbia, and not elsewhere,
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                              except as otherwise expressly provided by law.
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                              IV. PARTIES > Rule 17.
                              Rule 17. Parties Plaintiff and Defendant; Capacity
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                              (b) Capacity to Sue or be Sued.
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                              Capacity to sue or be sued is determined as follows:
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                              (1) for an individual who is not acting in a representative capacity, by the law of the individual's domicile;
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                              (2) for a corporation, by the law under which it was organized; and
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                              (3) for all other parties, by the law of the state where the court is located, except that:
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                                 (A) a partnership or other unincorporated association with no such capacity under that state's law may sue or
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                                    be sued in its common name to enforce a substantive right existing under the United States Constitution or
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                                 (B) 28 U.S.C. §§ 754 and 959(a) govern the capacity of a receiver appointed by a United States court to sue
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                                    or be sued in a United States court.
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                              [Federal Rule of Civil Procedure 17(b)]
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All "public officers" engaged in a "trade or business" are officers of the "U.S. Inc." federal corporation mentioned in 28 U.S.C. §3002(15)(A) and therefore are governed by the laws of the District of Columbia WHEREVER they serve per Federal Rule of Civil Procedure 17(b). Every office must be EXPRESSLY AUTHORIZED to be exercised in a SPECIFIC place. Without the following factors, there is no lawful office or officer and no jurisdiction within a state to reach a human being called a "taxpayer"

- 1. The express legislative authorization of Congress to CREATE the office in a SPECIFIC geographical place.
- 2. A lawful election or appointment.

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- 3. An oath of office corresponding with the election or appointment.
- 4. The express CONSENT of the party to SERVE in the public office. Otherwise the Thirteenth Amendment has been violated.
- The IRS has never to our knowledge satisfied the above criteria in each case where they allege "taxpayer" status and therefore,
- most of their enforcement activity is a constitutional tort and a criminal trespass. The status of "taxpayer" itself is, in fact, an
 - office in the U.S. government as we prove in the following:

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

In fact, the ONLY party listed anywhere in the Internal Revenue Code as NOT LIABLE is a "nonresident alien individual", and the fact that they ARE "alien" is proof that citizenship DOES matter:

Title 26: Internal Revenue

<u>PART 1—INCOME TAXES</u>

<u>nonresident alien individuals</u>

§ 1 872-2 Exclusions from gross

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 $\S~1.872-2~$ Exclusions from gross income of nonresident alien individuals.

(f) Other exclusions.

Income which is from sources without[outside] the United States [federal zone, see 26 U.S.C. \$7701(a)(9) and (a)(10) and 4 U.S.C. \$110(d)], as determined under the provisions of sections 861 through 863, and the regulations thereunder, is not included in the gross income of a nonresident alien individual unless such income is effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual. To determine specific exclusions in the case of other items which are from sources within the United States, see the applicable sections of the Code. For special rules under a tax convention for determining the sources of income and for excluding, from gross income, income from sources without the United States which is effectively connected with the conduct of a trade or business in the United States, see the applicable tax convention. For determining which income from sources without the United States is effectively connected with the conduct of a trade or business in the United States, see section 864(c)(4) and \$1.864-5.

Furthermore, the above regulation mentions only "nonresident alien INDIVIDUALS". Everyone who does not consent to the public office called "individual" is:

- 1. Incapable of earning statutory "gross income", which is earnings from a public office.
- 2. Beyond the legislative jurisdiction of Congress per Federal Rule of Civil Procedure 17(b).
- 3. Not expressly listed as required to file a tax return under 26 C.F.R. §1.6012-1(b) and therefore NOT SUBJECT to the filing requirement.

Now some might simplistically say that the tax applies to anyone who occupies a public office in the government but constitutional ALIENS (foreign nationals) are not allowed to exercise the functions of a public office, and therefore are not allowed to BE public officers and therefore "taxpayers". Hence, citizenship DOES matter, no matter WHAT Mr. Hendrickson falsely PRESUMES.

4. Lack of Citizenship §74. Aliens can not hold Office. - -

It is a general principle that an alien can not hold a public office. In all independent popular governments, as is said by Chief Justice Dixon of Wisconsin, "it is an acknowledged principle, which lies at the very foundation, and the enforcement of which needs neither the aid of statutory nor constitutional enactments or restrictions, that the government is instituted by the citizens for their liberty and protection, and that it is to be administered, and its powers and functions exercised only by them and through their agency."

In accordance with this principle it is held that an alien can not hold the office of sheriff.⁹⁰ [A Treatise on the Law of Public Offices and Officers, Floyd Russell Mechem, 1890, p. 27, §74; SOURCE: http://books.google.com/books?id=g-I9AAAIAAJ&printsec=titlepage]

⁹⁰ State v. Smith, 14 Siw. 497; State v. Murray, 28 Wis. 96, 9 Am.Rep. 489.

9.31 The U.S. Supreme Court eliminated the Common Law in 1938

<u>False Argument</u>: The U.S. Supreme Court eliminated the common law in 1938, in the famous case of Erie Railroad v. Tompkins, 304 U.S. 64 (1938). You can't use the common law in any court, state or federal.

Corrected Alternative Argument: The U.S. Supreme Court declared that there is no FEDERAL common law applicable to a state of the Union. They did not invalidate the use of the common law in all courts. The Constitution, in fact, recognizes and invokes the common law so it can't be unilaterally repealed. The implication is that when a federal court is ruling on an issue between private parties domiciled within a state of the Union, the Rules of Decision Act, 28 U.S.C. §1652 requires that the common law OF THE STATE COURTS is the only basis for decision. No federal precedent may be cited as authority in such a case.

Further information:

- 1. <u>Sovereignty and Freedom Page</u>, Section 10.4: Common Law -Family Guardian Fellowship http://famguardian.org/Subjects/Freedom/Freedom.htm
- 2. <u>Common Law Practice Guide</u>, Litigation Tool #10.013 http://sedm.org/Litigation/LitIndex.htm
- This false argument was first discovered in the publications of Pastor Richard Standring of VIP Sales. His website is now defunct and was enjoined illegally and fraudulently by the U.S. Government from publishing tax materials. It is based on a misunderstanding of the significance of the Erie Railroad v. Tompkins, 304 U.S. 64 (1938). It comes up most frequently in tax cases filed by freedom lovers against the government which started in state court and which are unilaterally removed to federal court by the national government. Most freedom fighters mistakenly believe that because they are in a federal district court, then they HAVE to use federal statutes as their only defense and cannot invoke the common law.
- In fact, the Rules of Decision Act, 28 U.S.C. §1652 and Federal Rule of Civil Procedure 17 both require that STATE common law are the ONLY rules of decision in all cases in which the party filing suit is not domiciled on federal territory and instead is domiciled in the exclusive jurisdiction of a constitutional state.

11 IV. PARTIES > Rule 17. Rule 17. Parties Plaintiff and Defendant; Capacity 12 (b) Capacity to Sue or be Sued. 13 Capacity to sue or be sued is determined as follows: 14 (1) for an individual who is not acting in a representative capacity, by the law of the individual's domicile; 15 (2) for a corporation, by the law under which it was organized; and 16 (3) for all other parties, by the law of the state where the court is located, except that: 17 18 (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 19 20 (B) <u>28 U.S.C. §§754</u> and <u>959(a)</u> govern the capacity of a receiver appointed by a United States court to sue 21 or be sued in a United States court. 22 [SOURCE: http://www.law.cornell.edu/rules/frcp/Rule17.htm] 23 24 25 TITLE 28 > PART V > CHAPTER 111 > § 1652 26 § 1652. State laws as rules of decision 27 The laws of the several states, except where the Constitution or treaties of the United States or Acts of Congress 28 29 otherwise require or provide, shall be regarded as rules of decision in civil actions in the courts of the United 30 States, in cases where they apply.

The Erie Railroad case DID NOT change or alter the above rules at all. Instead, they indicated that the original Federal Judiciary Act of 1789, 28 U.S.C. §725, Sept 24, 1789 required state common law to be invoked and enforced:

The Erie had contended that application of the Pennsylvania rule was required, among other things, by § 34 of the Federal Judiciary Act of September 24, 1789, c. 20, 28 U.S.C. § 725, which provides:

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The Erie Case was one in which Constitutional Article III diversity of citizenship was invoked and the common law of the state courts was sought to be enforced. In response, the U.S. Supreme Court held:

There is no federal general common law. Congress has no power to declare substantive rules of common law applicable in a State whether they be local in their nature or "general," be they commercial law or a part of the law of torts. And no clause in the Constitution purports to confer such a power upon the federal courts. As stated by Mr. Justice Field when protesting in <u>Baltimore & Ohio R. Co. v. Baugh, 149 U.S. 368, 401,</u> against ignoring the Ohio common law of fellow servant liability:

"I am aware that what has been termed the general law of the country — which is often little less than what the judge advancing the doctrine thinks at the time should be the general law on a particular subject — has been often advanced in judicial opinions of this court to control a conflicting law of a State. I admit that learned judges have fallen into the habit of repeating this doctrine as a convenient mode of brushing aside the law of a State in conflict with their views. And I confess that, moved and governed by the authority of the great names of those judges, I have, myself, in many instances, unhesitatingly and confidently, but I think now erroneously, repeated the same doctrine. But, notwithstanding the great names which may be cited in favor of the doctrine, and notwithstanding the frequency with which the doctrine has been reiterated, there stands, as a perpetual protest against its repetition, the Constitution of the United States, which recognizes and preserves the autonomy and independence of the States — independence in their legislative and independence 79*79 in their judicial departments. Supervision over either the legislative or the judicial action of the States is in no case permissible except as to matters by the Constitution specifically authorized or delegated to the United States. Any interference with either, except as thus permitted, is an invasion of the authority of the State and, to that extent, a denial of its independence."

The fallacy underlying the rule declared in <u>Swift v. Tyson</u> is made clear by Mr. Justice Holmes. The doctrine rests upon the assumption that there is "a transcendental body of law outside of any particular State but obligatory within it unless and until changed by statute," that federal courts have the power to use their judgment as to what the rules of common law are; and that in the federal courts "the parties are entitled to an independent judgment on matters of general law":

"but law in the sense in which courts speak of it today does not exist without some definite authority behind it. The common law so far as it is enforced in a State, whether called common law or not, is not the common law generally but the law of that State existing by the authority of that State without regard to what it may have been in England or anywhere else...."the authority and only authority is the State, and if that be so, the voice adopted by the State as its own [whether it be of its Legislature or of its Supreme Court] should utter the last word."

Thus the doctrine of <u>Swift v. Tyson</u>, is, as Mr. Justice Holmes said, "an unconstitutional assumption of powers by courts of the United States which no lapse of time or respectable array of opinion should make us hesitate to correct." In disapproving that doctrine we do not hold 80*80 unconstitutional \S 34 of the Federal Judiciary Act of 1789 or any other Act of Congress. We merely declare that in applying the doctrine this Court and the lower courts have invaded rights which in our opinion are reserved by the Constitution to the several States.

[Erie Railroad v. Tompkins, 304 U.S. 64, 71-80 (1938)]

The Erie case was an appeal from a lower district court under constitutional diversity of citizenship. The jury in federal district court had held against the railroad company and the U.S. Supreme Court reversed the decision, essentially recognizing that:

- 1. The railroad was a state corporation and therefore nonresident to federal jurisdiction.
- 2. The common law of the state precluded liability of the railroad.
- 3. Federal venue was pursued by the injured party and against the railroad to see if the federal courts would overrule state common law.
- 4. The federal courts do not have authority to overrule the common law of the state, which precluded the federal court judgment against the railroad.
- 5. The case had to be dismissed because the federal courts cannot intervene.

At the same time, the court never said that there is not STATE common law. Only that the federal courts cannot exercise or overrule it. Thus, only state courts can decide issues involving those who are not domiciled on federal territory and not exercising federal privileges, even when diversity of citizenship is invoked under the United States Constitution.

The implications of this case to those whose tax cases against errant federal employees are removed from state to federal

court is that the federal court MUST dismiss the removed case and remand it back to state court. Otherwise, the plaintiff

suing the federal actor acting outside his delegated authority is a victim of criminal identity theft, as described in the following:

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

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In fact, a case against a federal actor by a state citizen MUST be certified under 28 U.S.C. §2679 by the Attorney General of

- the United States that the federal actor was acting within his authority before the case can be removed. Even then,
- 6 EVIDENCE must appear on the record of the court of proper delegated authority BEFORE the removal. If the case gets
 - removed ANYWAY WITHOUT evidence of authority from the Attorney General entered on the record by the U.S. Attorney
- by using a unilateral Notice of Removal:
- 1. The certification under 28 U.S.C. §2679 MUST be demanded from the U.S. Attorney General by the Plaintiff in federal court. The federal actor defendant or respondent is normally the one who requests this certification.
 - 2. The certification by the U.S. Attorney General MUST include EVIDENCE signed under penalty of perjury that jurisdiction to remove exists.
 - 3. The Defendant and the U.S. Attorney General has the burden of proof WITH EVIDENCE to demonstrate that the challenge to federal jurisdiction by the Plaintiff is in error. He may not simply PRESUME or allege that it is in error without satisfying his burden of proof. All presumptions which prejudice constitutional rights are impermissible.
 - 4. If the Plaintiff does NOT pursue the above approach he or she will CERTAINLY end up be a victim of criminal identity theft for all cases against federal actors removed from state to federal court.

Now let's further expand upon the burden of proof that the U.S. Attorney General and Defendant have in cases against errant federal actors removed to federal court. Under 28 U.S.C. §1652 and Federal Rule of Civil Procedure 17(b), the ONLY legitimate justification for removal is that the Plaintiff is a federal actor and officer exercising agency on behalf of U.S. Inc. by, for instance:

- 1. Engaging in a federal office when injured.
 - 2. Contracting with U.S. Inc. and thereby being an agent of U.S. Inc.

The above was the case in the famous case of Brushaber v. Union Pacific Railroad Co., 240 U.S. 1 (1916) because Frank Brushaber was a stockholder in the Union Pacific Railroad, which was a federal and not state corporation. All such stockholders are contractors with the national government and therefore agents of the U.S. government.

The court held that the first company's charter was a contract between it and the state, within the protection of the constitution of the United States, and that the charter to the last company was therefore null and void., Mr. Justice DAVIS, delivering the opinion of the court, said that, if anything was settled by an unbroken chain of decisions in the federal courts, it was that an act of incorporation was a contract between the state and the stockholders, 'a departure from which now would involve dangers to society that cannot be foreseen, whould shock the sense of justice of the country, unhinge its business interests, and weaken, if not destroy, that respect which has always been felt for the judicial department of the government.'

[New Orleans Gas Co. v. Louisiana Light Co., 115 U.S. 650 (1885)]

The federal agency of Brushaber the federal corporation stockholder was the object of enforcement of the tax laws Brushaber claimed injured him. That is the ONLY reason the U.S. Supreme Court could rule on the issue at all: Because it involved federal contracts, franchises, and agency under Article 4, Section 3, Clause 2 of the United States Constitution. The court held AGAINST Brushaber, because he was using federal property, namely stock in a federal corporation, to "benefit" himself, and therefore was a party to a federal franchise acting upon federal territory and a federal corporation domiciled WITHIN said territory. The reason the Brushaber case HAD to be heard in federal court instead of state court was because:

- 1. The Union Pacific Railroad was a federal and not state corporation originally incorporated in Utah at the time it was a federal territory.
- 2. Brushaber was a state citizen of New York, but the Union Pacific Railroad was not domiciled within his state. In fact, he was what we refer to as a STATUTORY "non-resident non-person". Even the Department of Treasury identified Brushaber in Treasury Decision 2313 as a "nonresident alien". Proof is found in his birth records:

<u>Frank R. Brushaber Genealogical Records</u>, SEDM Exhibit #09.034 <u>http://sedm.org/Exhibits/ExhibitIndex.htm</u>

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- Constitutional Article III diversity of citizenship had to be asserted by Brushaber in federal court in order to reach the Union Pacific Railroad. The domicile of the defendant or respondent determines where the case has to be filed. The Union Pacific Railroad had essentially foreign sovereign immunity from any state court because as a federal corporation, it was not domiciled in any constitutional state of the Union.
 - 4. The main issue of the case was the payment of taxes by the railroad, which was reducing the corporate dividends received by Brushaber. Brushaber didn't want the railroad to pay the taxes, which he asserted were optional.

So the real source of jurisdiction over the case was Article 4, Section 3, Clause 2 of the U.S. Constitution, although the U.S. Supreme court did not talk about it. The Brushaber opinion was written by Chief Justice White, the same guy who ruled AGAINST the majority opinion in Pollock v. Farmers' Loan & Trust Co., 158 U.S. 601 in FAVOR of the income tax. That is why he had to write what many refer to as the most confusing opinion in the history of the U.S. Supreme Court: In order to disguise the nature of the source of its jurisdiction and create the FALSE appearance that the income tax (the "trade or business"/public office franchise) extends OUTSIDE of federal territory and INSIDE a constitutional state.

"Contrary to all correct example, [the Federal judiciary] are in the habit of going out of the question before them, 13 to throw an anchor ahead and grapple further hold for future advances of power. They are then in fact the corps 14 of sappers and miners, steadily working to undermine the independent rights of the States and to consolidate all power in the hands of that government in which they have so important a freehold estate." 16 [Thomas Jefferson: Autobiography, 1821. ME 1:121] 17 18 "The [federal] judiciary branch is the instrument which, working like gravity, without intermission, is to press us at last into one consolidated mass." 19 [Thomas Jefferson to Archibald Thweat, 1821. ME 15:307] 20 "There is no danger I apprehend so much as the consolidation of our government by the noiseless and therefore 21 unalarming instrumentality of the Supreme Court.' 22 [Thomas Jefferson to William Johnson, 1823. ME 15:421 23 "When all government, domestic and foreign, in little as in great things, shall be drawn to Washington as the 24 center of all power, it will render powerless the checks provided of one government on another and will become 25 as venal and oppressive as the government from which we separated." 26 [Thomas Jefferson to Charles Hammond, 1821. ME 15:332] 27

9.32 The Revocation of Election (R.O.E.) SCAM

"It is good for nothing," cries the buyer; But when he has gone his way, then he boasts. [Prov. 20:14, Bible, NK[V]

<u>False Argument</u>: Revocations of Election for state nationals or "taxpayers" are a valid and effective process to restore your status as a "nontaxpayer".

<u>Corrected Alternative Argument</u>: Revocations of Election for state nationals are unnecessary, a waste of money, and a commercial scam designed to fleece the legally ignorant of their money.

Further information:

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- 1. <u>Revocation of Election-Weiss and Associates</u>, Exhibit #12.001 https://sedm.org/Exhibits/ExhibitIndex.htm
- 2. <u>Non-Resident Non-Person Position</u>, Form #05.020 http://sedm.org/Forms/FormIndex.htm
- 3. <u>Unalienable Rights Course</u>, Form #12.038 http://sedm.org/Forms/FormIndex.htm

Those who are in fact and in deed "nonresident alien INDIVIDUALS" (aliens) may elect to be treated AS IF they are "resident aliens" under the Internal Revenue Code. The conditions under which they may do this are found in 26 U.S.C. §7701(b)(4) and 26 U.S.C. §6013(g). All such "elections" can be revoked and the revocation is called a "revocation of election".

Businesses have sprung up to deliver "Revocation of Election" services. Such services, in most cases, are unnecessary and constitute commercial exploitation of the legally ignorant. This is because:

EXHIBIT:_____

- 1. They are marketed mostly to people who could not benefit.
 - 1.1. They are described as being applicable to single people but the statutes say they apply only to married people.
 - 1.2. They are described as pertaining to state nationals but they do not.
- 2. The people who COULD realistically benefit are not described in the marketing materials for fear of scaring away state nationals or single people who could not benefit.
 - 3. They operate on the premise that the person applying for the revocation is a statutory "taxpayer". Only statutory "taxpayers" can avail themselves of any of the "benefits" of the Internal Revenue Code. Even acknowledging that one is such a party is a dumb idea.
 - 4. They are available ONLY to statutory "aliens", meaning foreign nationals.
 - 4.1. All "individuals" in the Internal Revenue Code are aliens, as defined in 26 C.F.R. §1.1441-1(c)(3).
 - 4.2. State nationals are NOT "aliens" or "individuals".
 - 4.3. The only way a citizen COULD become a statutory "individual" is by being abroad under 26 U.S.C. §911(d), but state nationals are not STATUTORY citizens under federal law. See Form #05.006.
 - 5. They operate on the premise that the people applying for them can lawfully consent to give up an unalienable right, such as their "nontaxpayer" status, even though state nationals are INCAPABLE of lawfully consenting to give up constitutional rights under a REAL, de jure government and can ONLY do so when either abroad or when standing on federal territory. See:

<u>Unalienable Rights Course</u>, Form #12.038 https://sedm.org/Forms/FormIndex.htm

Authorities, procedures, and background on Revocation of Elections are found below. These resources are the basis for this analysis:

- 1. <u>IRS Forms and Publications:</u>
 - 1.1. IRS Publication 519: U.S. Tax Guide for Aliens, Chapter 1 for general information. https://www.irs.gov/pub/irs-pdf/p519.pdf
- 2. Statutes and regulations
 - 2.1. 26 C.F.R. §1.871-10 (for method of revocation of election)
 - 2.2. 26 U.S.C. §7701(b)(4)(F) for authority. Indicates that the CONSENT of the Secretary of Treasury is required to revoke the "election" of a "nonresident alien" to be treated as a "resident" found in 26 U.S.C. §7701(b)(4) and 26 U.S.C. §6013(g).
 - 2.3. <u>26 U.S.C.</u> §6013(g) for background
 - 3. <u>Publications:</u>
 - 3.1. <u>Sovereignty Forms and Instructions Manual</u>, Form #10.005, Section 4.5.3.13: Change your Citizenship Status https://sedm.org/ItemInfo/Ebooks/SovFormsInstr/SovFormsInstr.htm
 - 3.2. <u>Anna Von Reitz Comments on Revocation of Election</u> (OFFSITE LINK) http://annavonreitz.com/revocation.pdf
 - 4. Forms:

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- 4.1. <u>Revocation of Election-Weiss and Associates</u>, Exhibit #12.001 https://sedm.org/Exhibits/ExhibitIndex.htm
- 4.2. <u>Sovereignty Forms and Instructions Online</u>, Form #10.004, Form 4.8: Revocation of Election-this ROE is NOT the same one as that described here. It revokes an election to treat real property as located in the United States. https://famguardian.org/TaxFreedom/Forms/Emancipation/RevocationOfElection.htm
- 4.3. <u>Declaration of Revocation of Election</u>, Scribd (OFFSITE LINK). This form was produced by Kurt Kallenbach, who is a fan of this site. 91
 - https://www.scribd.com/doc/304711197/Declaration-of-Revocation-of-Election
- 5. <u>Service providers:</u>
 - 5.1. Weiss & Associates (OFFSITE LINK) -do revocations of elections for a fee http://www.weissparis.com/
 - 5.2. <u>Weiss & Associates Youtube Channel</u> (OFFSITE LINK) -videos on revocations of election <u>https://www.youtube.com/channel/UCoNwzY3vDj55AgrPXo8Xp_g</u>
 - 5.3. Galileo Paradigm, Form #11.303 -Book written by the founder of Weiss & Associates

EXHIBIT:____

⁹¹ Kurt Kallenbach is also the author of the following document posted on the Family Guardian sister site: <u>Withdrawal of Consent</u>, Kurt Kallenbach; https://famguardian.org/Publications/WithdrawalOfConsent/WithdrawalOfConsent.pdf.

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

- First of all, the presumption rules published in the IRS Regulations dictate that all aliens are automatically PRESUMED to 2 be "nonresident aliens": 3
- All "aliens" are presumed to be "nonresident aliens" but this may be overcome upon presentation of proof:

Title 26: Internal Revenue 5 PART 1—INCOME TAXES 6 nonresident alien individuals 8 § 1.871-4 Proof of residence of aliens.

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- (a) Rules of evidence. The following rules of evidence shall govern in determining whether or not an alien within the United States has acquired residence therein for purposes of the income tax.
- (b) Nonresidence presumed. An alien by reason of his alienage, is presumed to be a nonresident alien.
- (c) Presumption rebutted—
- (1) Departing alien.

In the case of an alien who presents himself for determination of tax liability before departure from the United States, the presumption as to the alien's nonresidence may be overcome by proof--

2. An "alien" who has acquired permanent residence retains that residence until he physically departs from the "United States", which is defined as federal territory in 26 U.S.C. §7701(a)(9) and (a)(10) and 4 U.S.C. §110(d) and is not expressly expanded anywhere else in the I.R.C. to include any other place. The purpose for this presumption is to perpetuate the jurisdiction to tax aliens:

> Title 26: Internal Revenue PART 1—INCOME TAXES nonresident alien individuals §1.871-5 Loss of residence by an alien.

An alien who has acquired residence in the United States retains his status as a resident until he abandons the same and actually departs from the United States. An intention to change his residence does not change his status as a resident alien to that of a nonresident alien. Thus, an alien who has acquired a residence in the United States is taxable as a resident for the remainder of his stay in the United States.

If you are state domiciled state national and a "non-resident non-person", don't let the above concern you, because you are not an "alien" as defined in 26 U.S.C. §7701(b)(1)(A), but rather an "non-resident non-person" if not engaged in a public office or a "nonresident alien" as defined in 26 U.S.C. §7701(b)(1)(B) if engaged in a public office. For the purposes of the above "residence" is defined as follows:

> Title 26: Internal Revenue PART 1—INCOME TAXES nonresident alien individuals § 1.871-2 Determining residence of alien individuals.

(b) Residence defined.

An alien actually present in the United States[**] who is not a mere transient or sojourner is a resident of the United States for purposes of the income tax. Whether he is a transient is determined by his intentions with regard to the length and nature of his stay. A mere floating intention, indefinite as to time, to return to another country is not sufficient to constitute him a transient. If he lives in the United States and has no definite intention as to his stay, he is a resident. One who comes to the United States for a definite purpose which in its nature may be promptly accomplished is a transient; but, if his purpose is of such a nature that an extended stay may be necessary for its accomplishment, and to that end the alien makes his home temporarily in the United States, he becomes a resident, though it may be his intention at all times to return to his domicile abroad when the purpose for which he came has been consummated or abandoned. An alien whose stay in the United States is limited to a definite period by the immigration laws is not a resident of the United States within the meaning of this section, in the absence of exceptional circumstances.

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"citizens" or statutory "nationals". An election (express consent) by a "nonresident alien" to be treated as a "resident alien" 2 is made under the authority of 26 U.S.C. §6013(g): 3 U.S. Code > Title 26 > Subtitle F > Chapter 61 > Subchapter A > Part II > Subpart B > § 6013 26 U.S. Code § 6013 - Joint returns of income tax by husband and wife (g) ELECTION TO TREAT NONRESIDENT ALIEN INDIVIDUAL AS RESIDENT OF THE UNITED STATES (1) IN GENERAL A nonresident alien individual with respect to whom this subsection is in effect for the taxable year shall be treated as a resident of the United States-(A) for purposes of chapter 1 for all of such taxable year, and 10 (B) for purposes of chapter 24 (relating to wage withholding) for payments of wages made during such 11 12 taxable year. (2) Individuals with respect to whom this subsection is in effect 13 14 This subsection shall be in effect with respect to any individual who, at the close of the taxable year for which an election under this subsection was made, was a nonresident alien individual married to a citizen or resident of 15 16 the <u>United States</u>, if both of them made such election to have the benefits of this subsection apply to them. (3) DURATION OF ELECTION 17 An <u>election</u> under this subsection shall apply to the <u>taxable year</u> for which made and to all subsequent <u>taxable</u> 18 years until terminated under paragraph (4) or (5); except that any such election shall not apply for any taxable 19 20 year if neither spouse is a citizen or resident of the United States at any time during such year. (4) TERMINATION OF ELECTION 21 An election under this subsection shall terminate at the earliest of the following times: 22 23 (A) Revocation by taxpayers If either taxpayer revokes the election, as of the first taxable year for which the last day prescribed by law 24 for filing the return of tax under chapter 1 has not yet occurred. 25 (B) Death 26 In the case of the death of either spouse, as of the beginning of the first taxable year of the spouse who 27 survives following the taxable year in which such death occurred; except that if the spouse who survives is 28 a citizen or resident of the United States who is a surviving spouse entitled to the benefits of section 2, the 29 time provided by this subparagraph shall be as of the close of the last taxable year for which such individual 30 is entitled to the benefits of section 2. 31 32 (C) Legal separation In the case of the legal separation of the couple under a decree of divorce or of separate maintenance, as 33 34 of the beginning of the taxable year in which such legal separation occurs. (D) Termination by Secretary 35 At the time provided in paragraph (5). 36 (5) TERMINATION BY SECRETARY 37 The Secretary may terminate any election under this subsection for any taxable year if he determines that either 38 39 spouse has failed-(A) to keep such books and records, 40

Notice that "residence" is defined ONLY in the context of aliens. NOWHERE is it defined to include either statutory

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We wish to emphasize the following limitations of MAKING such an election based on the above statute:

1. The election relates to the filing of TAXPAYER returns.

- 1.1. In most cases it is a CRIME for a state national to file such a return because they are NOT a statutory "individual" or public officer and would be committing the crime of impersonating a public officer, 18 U.S.C. §912, to even file a return. See Form #08.021.
- 1.2. Instead, the ONLY thing a state national who misrepresented their status by filing such a return can do is file a non-statutory claim for refund of funds unlawfully paid to the government and a demand to correct the criminally fraudulent information returns filed against them. See Forms #04.001 and #15.001.
- 2. You must be a "taxpayer" with a duty file a tax return to make such an election, which means you must be a public officer in the national government, as the following document proves:

Why Your Government is Either a Thief or You are a "Public Officer" for Income Tax Purposes, Form #05.008 https://sedm.org/Forms/FormIndex.htm

- 3. Because the "revocation of election" service can only be offered to "taxpayers", it could and probably eventually WILL be enjoined as an illegal tax shelter as described in 26 U.S.C. §6700. If the government prosecuted the people offering such an illegal tax shelter service, we would say they were doing so properly and lawfully.
- 4. Pursuant to 26 U.S.C. §7701(b)(4), the election can ONLY be made by an "alien".
 - 4.1. State nationals are NOT "aliens" but "nationals of the United States***" under and 22 C.F.R. §51.2. This type of national is a COMMON LAW national and not the STATUTORY national found in 8 U.S.C. §1101(a)(22). For details, see Form #05.006, Section 10.3 and Perkins v. Elg, 307 U.S. 325 (1939).
 - 4.2. You cannot simultaneously be a "national of the United States*" AND an "alien" at the same time. You can only be one or the other.
 - 4.3. The person MAKING such an election must be a STATUTORY "individual", which is defined ONLY as an alien. See 26 C.F.R. §1.1441-1(c)(3). Therefore everyone OTHER than aliens is EXCLUDED from making the election. "nationals of the United States*" and STATUTORY "U.S. citizens" are examples of people who CANNOT lawfully make such an election. There is ONE exception, which is found in 26 U.S.C. §911(d)(1)(A) whereby a STATUTORY "U.S.[**] citizen" is temporarily abroad and has their tax home in a foreign country, but who has a domicile on federal territory within the STATUTORY "United States**". So if that same STATUTORY "U.S. citizen" is in the geographical "United States**" under 26 U.S.C. §7701(a)(9) and (a)(10), then they would NOT be a STATUTORY "individual" but they COULD be a "U.S. person" under 26 U.S.C. §7701(a)(30).

Therefore, the election only applies to people born in other countries, even if they are in fact physically situated in the STATUTORY "United States**" (federal territory).

5. The "nonresident alien" MUST be married to a STATUTORY "U.S. citizen" under 8 U.S.C. §1401 or 8 U.S.C. §1101(a)(22)(A). State nationals married to OTHER state nationals and who are born and domiciled in a CONSTITUTIONAL rather than STATUTORY state would NOT be STATUTORY "U.S. citizens" under 8 U.S.C. §1401 or 8 U.S.C. §1101(a)(22)(A). For proof, see:

Why You are a "national", "state national", and Constitutional but not Statutory Citizen, Form #05.006 https://sedm.org/Forms/FormIndex.htm

- 6. The election is only useful in connection with them making of JOINT tax returns as statutory "taxpayers". 26 U.S.C. §6013(g)(1). The procedure would NOT be useful for those who are either filing single returns or who were single at the time of filing a return. People marketing Revocations of Elections often claim that the "election" they are revoking was made when the party was NOT married to a statutory "U.S.** citizen".
- 7. The election provided for may NOT be made under any of the following circumstances described in 26 U.S.C. §6013(b):
 - 7.1. after the expiration of 3 years from the last date prescribed by law for filing the return for such taxable year (determined without regard to any extension of time granted to either spouse); or

- 7.2. after there has been mailed to either spouse, with respect to such taxable year, a notice of deficiency under section 6212, if the spouse, as to such notice, files a petition with the Tax Court within the time prescribed in section 6213; or
 - 7.3. after either spouse has commenced a suit in any court for the recovery of any part of the tax for such taxable year; or
 - 7.4. after either spouse has entered into a closing agreement under section 7121 with respect to such taxable year, or after any civil or criminal case arising against either spouse with respect to such taxable year has been compromised under section 7122.
 - 8. The express consent of the Secretary of Treasury is required in order to REVOKE said election, as provided for under 26 U.S.C. §7701(b)(4)(F). That consent is usually NEVER expressly given and hence, the process effectively accomplishes NOTHING in most cases.
 - 9. Only ONE such election can lawfully be made. 26 U.S.C. §6013(g)(6).
 - 10. From a purely strategic point of view, it would clearly NOT be in the government's best interest to either ACKNOWLEDGE the existence of nontaxpayers or to publish a way to become one. If they did, everyone would take advantage of it. Clearly, 26 U.S.C. §6013(g) is not the "magic bullet" to exit the tax system because it merely changes the filing status of someone with a legal duty to file a return, rather than creating a presumption that that they have no duty to file said return as a "nontaxpayer". Nowhere does the statute indicate that the consequence of filing the R.O.E. is to change the status of the applicant to a "nontaxpayer".

We know of NO "State nationals" who could benefit or have benefitted by performing a Revocation of Election. There is no way to prove that the government's response to the filing of an R.O.E. actually has changed the status of the applicant to that of a "nontaxpayer". In most cases, the filing is merely simply IGNORED and the money paid for the service is WASTED. Even offering it to such an audience is a SCAM. The main audience are those with such limited legal knowledge that they are incapable of recognizing the R.O.E. for the scam that it is. R.O.E.'s only apply to ALIENS and "taxpayers", not to people who are and always have been "nontaxpayers" but who misrepresented their status in government filings.

One of our members in the forums asked about whether Revocations of Election were valid processes with the following question:

Revocation of Election

I'm not sure where I read it, but I saw a post that talked about filing a Revocation of Election form regarding a non-resident not being liable for the income tax. It cited 26 C.F.R. §1 871-10 as the basis for doing this. When I looked at this cite in the code, it appeared to apply to real estate income only. I'm not too good as deciphering legalese, so am I missing something? Is this a valid basis?

[...]

After more digging on the ROE, it appears that most people, at least those over the age of 50, weren't deemed taxpayers until they obtained an SSN and subsequently filed their first 1040 tax form. When they filed the 1040 they voluntarily "elected" to contract with the United States. After filing the first 1040 they were then subject to the tax laws, presumptions, and regulations, one presumption being that once in, one must continue filing...but since the taxpayer volunteered to participate, they could also volunteer to correct their mistake and unvolunteer by revoking their initial election. I couldn't find any concrete statutes stating this, but it seems to be standard contract law, and there is quite a bit of information on making elections of other sorts in the code which would be synonymous to this as they too apply to corporations with an ALL CAP NAME. We all, as non-resident aliens, have a right to contract, but since fraud vitiates everything, can exit the contract if the fraud is discovered and exposed. This is what the Revocation of Election form used on Family Guardian does which can be viewed at https://www.scribd.com/doc/304711197/Declaration-of-Revocation-of-Election.

I think that filing a ROE wouldn't hurt as it does give the one filing the document another piece of unrebutted leverage should he need to initiate a counter claim in a real court of record.

[SOURCE: https://sedm.org/forums/topic/revocation-of-election/#post-15584]

Below was our response:

Revocation of Election

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It is clearly mistaken to state that it is lawful for the IRS to make a BUSINESS out of alienating rights that the 2 Declaration of Independence says are UNALIENABLE. The Declaration of Independence is organic law published on the first page of the Statutes At Large, and therefore its statement that such rights are unalienable 3 is LAW. That is why the IRS isn't and CAN'T be part of the government: Because no de jure "government" can do what they have made a business out of doing: 5 Origins and Authority of the Internal Revenue Service, Form #05.005 6 https://sedm.org/Forms/05-MemLaw/OrigAuthIRS.pdf 7 8 They aren't part of the government because no de jure "government" can be in charge of protecting private rights 9 and at the same time, make a business out of alienating such rights to pay for the protection. That's Orwellian 10 doublethink and hypocrisy on a Phariseeical scale. Jesus said no man can serve two masters, so they obviously would violate this commandment if they could lawfully do what they are in charge of doing. 11 IRS has to engage in identity theft and kidnap your identity to federal territory and thus remove it from the 12 protections of the constitution before they can even THINK of doing what they claim to have the authority to do. 13 That is why the geographical definitions in the code limit it to the District of Columbia: To remove the 14 constitutional protections. If they try to pretend that's where you are or use equivocation to make you LOOK like 15 you are there, that's a crime too. See: 16 Government Identity Theft, Form #05.046. 17 https://sedm.org/Forms/05-MemLaw/GovernmentIdentityTheft.pdf 18 The reason Jefferson wrote this in the Declaration is to prevent the government from being tempted to make a 19 business out of alienating your rights. Governments first duty is to protect your PRIVATE rights, and it has a 20 financial conflict of interest that is irreconcilable if it makes a business out of alienating, destroying, taxing, or 21 regulating those rights. 22 Therefore, its provably erroneous and even unlawful to either claim or acknowledge that you can give up, 23 meaning "alienate" constitutional rights by joining the "tax club". Presumptions are a violation of due process 24 of law and therefore its equally absurd to PRESUME that you are a member based on your behavior. 25 You need to read: 26 27 Unalienable Rights Course, Form #12.038 https://sedm.org/LibertyU/UnalienableRights.pdf 28 29 Enumeration of Inalienable Rights, Form #10.002 https://sedm.org/Forms/10-Emancipation/EnumRights.pdf 30 It's also a crime to personally "elect" oneself into a public office called "taxpayer" by filling out any tax form. 31 18 U.S.C. §912. Calling it an "election" doesn't make it any more lawful. Therefore, it's simply wrong to believe 32 that even a "nonresident alien" could do so if they are protected by the Constitution and therefore their rights 33 are unalienable. Consequently, applying for an "INDIVIDUAL Taxpayer Identification Number" on a Form W-34 7 doesn't make them a STATUTORY "individual" if they don't consent to be one and can't elect themselves into 35 public office to BECOME one. 36 37 The ONLY "nonresident aliens" who could make such an "election" lawfully are those NOT protected by the constitution because they are physically situated on land NOT protected by the Constitution. For these people, 38 39 their rights are alienable because they are not protected by the constitution while either physically on federal territory or abroad. Even then, for them it is a crime to impersonate a public officer called a "taxpayer", and 40 41 therefore to become a public officer called "individual" in the process of doing business in this country from abroad. They must ALREADY be public officers receiving government payments connected ONLY to their office 42 in order to claim the benefits of such an office. No tax form can CREATE the office. 43 All "taxpayers" and "individuals" are PUBLIC OFFICERS. For proof, see: 44 1. Proof That There Is a "Straw Man", Form #05.042 https://sedm.org/Forms/05-MemLaw/StrawMan.pdf 46 2. Why Statutory Civil Law is Law for Government and Not Private Persons, Form #05.037 47 https://sedm.org/Forms/05-MemLaw/StatLawGovt.pdf 48 3. Why Your Government is Either a Thief or You are a "Public Officer" for Income Tax Purposes, Form 49 #05.008 50

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https://sedm.org/Forms/05-MemLaw/WhyThiefOrPubOfficer.pdf

These assertions are repeated so many places on this site, including these forums, that it is impossible to miss them. You must therefore be a new reader or one who needs to do more home work.

Furthermore, even if one mistakenly THINKS they joined the "tax club" and are a "nonresident alien", they can't "elect" to be treated as a "resident alien" without being PHYSICALLY PRESENT in the STATUTORY "United States" AND being married to a STATUTORY U.S. citizen as required by 26 U.S.C. 6013(g) and (h). AND, one can't claim income from "U.S. sources" WITHOUT being lawfully engaged in a public office AND receiving payments in connection with said office from ONLY the U.S. government. Nothing else qualifies as "income". This is covered in:

Non-Resident Non-Person Position, Form #05.020
https://sedm.org/Forms/05-MemLaw/NonresidentNonPersonPosition.pdf

[SOURCE: https://sedm.org/forums/topic/revocation-of-election/#post-15584]

For most state nationals, and especially for those who are single, the main method of "electing" to be treated as a resident alien occurs by filing the WRONG tax form, which is the IRS Form 1040. Both the IRS forms W-8 and W-9 say NOT to send them to the IRS. Therefore, the ONLY way the IRS could learn what you THINK you are is by the filing of a tax return.

The Form 1040 is a RESIDENT tax form to be filed ONLY by:

- 1. Resident aliens under 26 U.S.C. §7701(b)(1)(A) domiciled in the STATUTORY "United States*" (federal zone) and either physically present there or temporarily abroad on 26 U.S.C. §911.
- 2. STATUTORY "U.S. citizens" under 8 U.S.C. §1401 in the STATUTORY "United States*" (federal zone) on and ONLY abroad under 26 U.S.C. §911.

Even if one is physically present in the STATUTORY "United States" (federal zone), the law of domicile forbids them from having ANY civil status, including "citizen" or "resident" or "person" under the laws of the national Congress, unless and until they choose a domicile or contract with the national government to procure a civil status such as filling out a Form W-7 to become a STATUTORY "individual" under 26 C.F.R. §1.1441-1(c)(3) as an ALIEN. Civil status resulting from domicile is covered in Form #05.002. State nationals cannot submit the Form W-7 either because they are not aliens, but rather they are common law "nationals of the United States**" under Perkins v. Elg, 307 U.S. 325 (1939). They are NOT STATUTORY "nationals of the United States**" under 8 U.S.C. §1101(a)(22). See 22 C.F.R. §51.2 for a recognition by the Department of State that all those applying for passports are "nationals of the United States*".

There is no provision in the I.R.C. that we have found that allows a state national who is not married to a STATUTORY
"U.S. citizen" and who is not an alien to elect to be treated as a "resident alien", and if they file a 1040 form to make such an
"election" they are committing a crime as documented in:

Why It is a Crime for a State Citizen to File a 1040 Income Tax Return, Form #08.021 https://sedm.org/Forms/FormIndex.htm

Even for the state national party who files the more correct IRS Form 1040NR, the party filing the form would be committing perjury to sign the 1040NR and would invite false presumptions. The only way to avoid these false presumptions is to attach the *Tax Form Attachment*, Form #04.201 clarifying their status and the meaning of all the key "words of art" on the form. A Revocation of Election would not help any of these people and it wouldn't help even those who are married to state nationals, because their spouse is not truthfully a STATUTORY "U.S. citizen" under 8 U.S.C. §1401 or 8 U.S.C. §1101(a)(22)(A).

Yes, we agree with proponents of Revocations of Election that state nationals cannot even lawfully have a status under the Internal Revenue Code and are not even mentioned in it. Why then would one pursue a remedy to correct a status that they cannot even lawfully have?

39 Some people might say:

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"Well if a Revocation of Election" can't provide a remedy, then what CAN?".

The ONLY thing you can lawfully do if you were either the victim of false information returns or you were duped into filing a tax return that misrepresents your status is to:

1. Demand that the records be corrected. Accompany the demand with an affidavit signed under penalty of perjury

- describing your correct status. This gives them legally actionable evidence to base their actions upon. 1
- Accompany the demand with a criminal complaint if they are NOT corrected. It is a crime to maintain knowingly false 2. 2 records about people after you have been notified they are false and refuse to correct them. Making their inaction a 3 crime ensures that they have a DUTY to respond and become a party to a conspiracy and misprision of felony if they 4 DO NOT respond under 18 U.S.C. §§3 and 4. 5
 - 3. Demand evidence signed under penalty of perjury from the IRS as required by 26 U.S.C. §6065 if they disagree with you. Demand proof of identity and a street address of the party rebutting where they work so that they can be served with legal process if they DO NOT respond to your demand or at least provide someone who CAN and WILL respond.
 - Ask them to remain silent on everything they agree with and give them a specific time limit to respond. That way a non-response constitutes a commercial default under the U.C.C.

All of the above are satisfied by the following documents on our site, which are FREE. No commercial scams here. They 11 are part of our *Path to Freedom*, Form #09.015, Section 2 process. Submitting these is a mandatory in order to become a 12 compliant member, in fact: 13

- Legal Notice of Change in Domicile/Citizenship Records and Divorce from the United States, Form #10.001 https://sedm.org/Forms/FormIndex.htm
- 2. Resignation of Compelled Social Security Trustee, Form #06.002 https://sedm.org/Forms/FormIndex.htm

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It's the height of hypocrisy to offer services to prevent commercial exploitation of the legally ignorant by the IRS, but on the other hand institute your own similar commercial exploitation of those you are offering the services to. It's called "usury" and it's the worst sin in the Bible.

> "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, I. 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]

Furthermore, the offering of a similar "Citizenship Administrative Repudiation" program by a third party and for which SEDM was not responsible resulted in a failed attempt to enjoin this site. That original bogus program is now being offered by the same parties under a new name called "Revocation of Election" but which has the same flawed purpose and usurious result. We aren't going to stand by and passively watch the same thing happen again and especially not to members who come to us for protection.

We will end this section with some questions you can ask to those who are offering Revocation of Election for a fee:

- Do you agree with all the limitations upon the usefulness of Revocations of Election that are indicated in this section? 43
 - Do you indicate or admit these limitations in all of your marketing materials?
- When people ask you about these limitations, do you clearly admit that they are true? 45
 - Do you accept as clients for your service people who would not benefit from a Revocation of Election because they are state nationals and cannot lawfully pursue a Revocation of Election because they are not aliens, taxpayers, or public officers?
 - Exactly where are state nationals or nationals in general identified as both "aliens" and "individuals". If you don't have evidence to prove that they are, why should I believe anything you say?
 - Isn't there a danger in pursuing a remedy such as Revocation of Election that is available only to "taxpayers" as indicated in 26 U.S.C. §6013(g) if the client is NOT in fact a public officer and therefore "taxpayer"? 6.1. Wouldn't doing so constitute impersonating a public officer?

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- 6.2. Wouldn't you be helping them commit the crime of impersonating a public officer if you knew they were not a public officer or "taxpayer" and you helped them anyway?
- 7. If you don't think a statutory "taxpayer" is a public officer, then specifically what do you disagree with in Form #05.008? Please answer the questions at the end of that memorandum of law.
- If they don't want to answer these questions or they can't offer the evidence demanded in the questions, you probably shouldn't pursue their services.

10. Flawed Patriot Arguments Not Associated with Taxation

- 8 The arguments in the following subsections don't relate directly to taxes, but they are common among those who espouse
- flawed tax arguments. The government likes to use these crazy arguments to discredit tax honesty advocates. Please avoid
- these arguments or you will discredit this website and everyone else you associate with in the eyes of the legal profession.
- Most of these arguments amount to nothing more than a religion that cannot be substantiated by evidence in a court of law.
- We know that the tax code itself is nothing but a state-sponsored religion, of course, but two wrongs don't make a right. For
- the proof, see:

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

10.1 State citizens are Not Fourteenth Amendment "citizens of the United States"

<u>False Argument</u>: People in states of the Union are NOT Fourteenth Amendment "citizens of the United States". A Fourteenth Amendment "citizen of the United States[***]" is domiciled on federal territory and subject to the exclusive LEGISLATIVE jurisdiction of Congress.

<u>Corrected Alternative Argument</u>: All state citizens are, at this time, Fourteenth Amendment citizens. The fact that one is a Fourteenth Amendment "citizen of the United States[***]" does not mean that they are subject to the exclusive LEGISLATIVE jurisdiction of Congress under Article 1, Section 8, Clause 17, but rather the POLITICAL jurisdiction. Political jurisdiction encompasses allegiance, nationality, being a "national", and political rights. Exclusive LEGISLATIVE jurisdiction of Congress, on the other hand, has domicile and/or physical presence on federal territory as a prerequisite.

Further information:

- 1. <u>Political Jurisdiction</u>, Form #05.004-distinguishes POLITICAL jurisdiction from LEGISLATIVE jurisdiction. http://sedm.org/Forms/FormIndex.htm
- Why the Fourteenth Amendment is Not a Threat to Your Freedom, Form #08.015--explains and rebuts THE MOST prevalent flawed argument we hear from freedom advocates. http://sedm.org/Forms/FormIndex.htm
- 3. Why You are a "national", "state national", and Constitutional but not Statutory Citizen, Form #05.006 http://sedm.org/Forms/FormIndex.htm
- 4. Fourteenth Amendment Annotated, Findlaw http://www.findlaw.com/casecode/constitution/
- <u>Citizenship and Sovereignty Course</u>, Form #12.001 http://sedm.org/Forms/FormIndex.htm
- 6. Affidavit of Citizenship, Domicile, and Tax Status, Form #02.001
- http://sedm.org/Forms/FormIndex.htm

 7. <u>Citizenship, Domicile, and Tax Status Options</u>, Form #10.003 http://sedm.org/Forms/FormIndex.htm
- 8. Family Guardian Forums, Forum 6.1, Citizenship, Domicile, and Nationality
 http://famguardian.org/forums/forums/forums/forum/6-issue-and-research-debates-anyone-can-read-only-members-can-post/61-citizenship-domicile-and-nationality/
- A number of freedom advocates domiciled and born in states of the Union and who are state nationals falsely allege one or more of the following:

- 1. The Fourteenth Amendment is a threat to the freedom of the average American domiciled in a state of the Union.
- 2. People domiciled within states of the Union are NOT Fourteenth Amendment "citizens of the United States".
- 3. A Fourteenth Amendment "citizen of the United States" is domiciled on federal territory and subject to the exclusive LEGISLATIVE jurisdiction of Congress.
- This is what we call a "conspiracy theory" and it is actually an over-reaction to the verbicide abused by the government earlier
- in section 8.1. In fact, this view is COMPLETELY FALSE, as we will explain.
- The first thing we must understand to fully comprehend constitutional citizenship is that there are the TWO types of jurisdiction:
- 9 1. POLITICAL JURISDICTION: based upon allegiance, nationality, and being a national under 8 U.S.C. §1101(a)(21).
- 10 2. LEGISLATIVE JURISDICTION: based upon domicile and being a statutory "citizen" under the civil law.
- One can be subject to the POLITICAL JURISDICTION without being subject to the LEGISLATIVE JURISDICTION. An
 example would be an American Citizen domiciled in a state of the Union on land within the exclusive jurisdiction of the state
 that is not federal territory. THAT person would be subject to the POLITICAL JURISDICTION of the United States by
 virtue of possessing BOTH of the following characteristics:
- 1. Being born or naturalized anywhere within the country "United States*" AND
 - 2. Having allegiance to the United States*.
- 17 That person does not have a domicile on federal territory and therefore:
 - 1. Is NOT a "person" under federal statutory civil law.
 - 2. Is therefore not subject to exclusive federal civil LEGISLATIVE JURISDICTION under Article 1, Section 8, Clause 17 of the United States Constitution.
 - 3. Would be subject to federal criminal law within Title 18 of the U.S. Code only by setting foot temporarily on federal territory and committing a crime while there.
- The next thing we must understand about citizenship are the various jurisdictional phrases used to describe it in the USA Constitution and within federal statutory law. These phrases are summarized below.

Table 11: Meaning of jurisdictional phrases beginning with "subject to"

#	Phrase	Context	Type of jurisdiction	Jurisdiction created by	Extent of Jurisdiction
1	"Subject to THE jurisdiction"	Fourteenth Amendment, Section 1	Political jurisdiction	Oath of allegiance to "United States", including birth or naturalization in the United States*	States of the Union, federal territories, federal possessions
2	"Subject to ITS jurisdiction"	Federal statutory law	Legislative jurisdiction	Domicile on federal territory ONLY	Federal territories, federal possessions
3	"Subject to THEIR jurisdiction"	Thirteenth Amendment	Political jurisdiction	Oath of allegiance to a state of the Union. Becoming a "citizen under state law.	States of the Union ONLY
4	"within ITS jurisdiction"	Fourteenth Amendment, Section 1	Political jurisdiction	Oath of allegiance to a state of the Union. Becoming a "citizen under state law.	States of the Union ONLY

- Below is the case law upon which the above table is based:
 - 1. Meaning of "subject to THE jurisdiction":

"This section contemplates two sources of citizenship, and two sources only: birth and naturalization. The persons declared [112 U.S. 94, 102] to be citizens are 'all persons born or naturalized in the United States, and subject to the jurisdiction thereof.' The evident meaning of these last words is, not merely subject in some respect or degree to the jurisdiction of the United States, but completely subject to their political jurisdiction, and owing them direct and immediate allegiance. And the words relate to the time of birth in the one case, as they do to the time of naturalization in the other. Persons not thus subject to the jurisdiction of the United States at the time of birth cannot become so afterwards, except by being naturalized, either individually, as by proceedings under the naturalization acts; or collectively, as by the force of a treaty by which foreign territory is acquired."

[Elk v. Wilkins, 112 U.S. 94 (1884)]

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2 "This section contemplates two sources of citizenship, and two sources only,-birth and naturalization. The persons declared to be citizens are 'all persons born or naturalized in the United States, and subject to the jurisdiction thereof.' The evident meaning of these last words is, not merely subject in some respect or degree to the jurisdiction of the United States, but completely subject to their [plural, not singular, meaning states of the Union] political jurisdiction, and owing them [the state of the Union] direct and immediate allegiance. And the words

relate to the time of birth in the one case, as they do [169 U.S. 649, 725] to the time of naturalization in the other. Persons not thus subject to the jurisdiction of the United States at the time of birth cannot become so afterwards, except by being naturalized, either individually, as by proceedings under the naturalization acts, or collectively, as by the force of a treaty by which foreign territory is acquired.

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"It is impossible to construe the words 'subject to the jurisdiction thereof,' in the opening sentence, as less comprehensive than the words 'within its jurisdiction,' in the concluding sentence of the same section; or to hold that persons 'within the jurisdiction' of one of the states of the Union are not 'subject to the jurisdiction of the United States[***]."

[U.S. v. Wong Kim Ark, 169 U.S. 649, 18 S.Ct. 456, 42 L.Ed. 890 (1898), emphasis added]

Meaning of "subject to THEIR jurisdiction" found in the Thirteenth Amendment:

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

[Clyatt v. U.S., 197 U.S. 207 (1905)]

"The 13th Amendment to the Constitution, prohibiting slavery and involuntary servitude 'within the United States, or in any place subject to their jurisdiction,' is also significant as showing that there may be places within the jurisdiction of the United States that are no part of the Union. To say that the phraseology of this amendment was due to the fact that it was intended to prohibit slavery in the seceded states, under a possible interpretation that those states were no longer a part of the Union, is to confess the very point in issue, since it involves an admission that, if these states were not a part of the Union, they were still subject to the jurisdiction of the United States [because they were federal territory until the rejoined the Union].

Upon the other hand, the 14th Amendment, upon the subject of citizenship, declares only that 'all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the state wherein they reside.' Here there is a limitation to persons born or naturalized in the United States, which is not extended to persons born in any place 'subject to their jurisdiction.' [Downes v. Bidwell, 182 U.S. 244 (1901)]

Within the United States Constitution, there are two types of citizens mentioned:

1. Upper case "Citizen" of the original constitution

- 1.1. Mentioned in:
 - 1.1.1. Article 1, Section 2, Clause 2.
 - 1.1.2. Article 1, Section 3, Clause 3.
- 1.2. No doubt, was a white male ONLY. Excluded:
 - 1.2.1. Blacks. 15th Amendment.
 - 1.2.2. Women. 19th Amendment.
- 1.3. Rights defined are in the CONTEXT of ONLY the relationship between the national government and people in the several constitutional States.
- 1.4. Upper case because these people were the sovereigns who wrote the original constitution.

Lower case "citizen of the United States" in the constitution:

- 2.1. Mentioned first in the Fourteenth Amendment, Section 1.
- 2.2. Mentioned also in Constitutional Amendments 15, 19, and 26.
- 2.3. Includes people other than white males, such as blacks (15th Amend.), women (19th Amend.).

- 2.4. Since the passage of the Fourteenth Amendment, has been made a SUPERSET of the capital "C" Citizen in the earlier constitution, not a subset.
- 2.5. Rights defined are in the context of ONLY the relationship between the STATE government and the people in the several States. NOT the national government.
- 2.6. Lower case because the people protected are NOT the capital "C" citizen, are located in a foreign state, and THESE people were not among the original capitalized sovereigns. Therefore, they cannot be given the same name or use the same capitalization. It is a maxim of law that what is similar is not the same.
- 2.7. Is not inferior AT THIS TIME to a capital "C" Citizen. At one time it was, but right now, everyone is equal because of Amendments 14 and on.

The U.S. Supreme Court admitted that the "citizen of the United States***" described Fourteenth Amendment included EVERYONE and people of ALL RACES, and therefore was a superset of the capital "C" citizen of the original constitution, which was a white male only:

> "The fourteenth amendment, by the language, 'all persons born in the United States, and subject to the jurisdiction thereof,' was intended to bring all races, without distinction of color, within the rule which prior to that time pertained to the white race. 'Benny v. O'Brien (1895) 58 N.J.Law. 36, 39, 40, 32 Atl. 696.

> The foregoing considerations and authorities irresistibly lead us to these conclusions: The fourteenth amendment affirms the ancient and fundamental rule of citizenship by birth within the territory, in the allegiance and under the protection of the country [not the "United States**", but the "COUNTRY"]. including all children here born of resident aliens, with the exceptions or qualifications (as old as the rule itself) of children of foreign sovereigns or their ministers, or born on foreign public ships, or of enemies within and during a hostile occupation of part of our territory, and with the single additional exception of children of members of the Indian tribes owing direct allegiance to their several tribes. The amendment, in clear words and in manifest intent, includes the children born within the territory of the United States of all other persons, of whatever race or color, domiciled within the United States. Every citizen or subject of another country, while domiciled here, is within the allegiance and the protection, and consequently subject to the jurisdiction, of the United States. His allegiance to the United States is direct and immediate, and, although but local and temporary, continuing only so long as he remains within our territory, is yet, in the words of Lord Coke in Calvin's Case, 7 Coke, 6a, 'strong enough to make a natural subject, for, if he hath issue here, that issue is a natural-born subject'; and his child, as said by Mr. Binney in his essay before quoted, If born in the country, is as much a citizen as the natural-born child of a citizen, and by operation of the same principle.' It can hardly be denied that an alien is completely subject to the political jurisdiction of the country in which he resides, seeing that, as said by Mr. Webster, when secretary of state, in his report to the president on Thrasher's case in 1851, and since repeated by this court: 'Independently of a residence with intention to continue such residence; independently of any domiciliation; independently of the taking of any oath of allegiance, or of renouncing any former allegiance,—it is well known that by the public law an alien, or a stranger born, for so long a time as he continues within the dominions of a foreign government, owes obedience to the laws of that government, and may be punished for treason or other crimes as a native-born subject might be, unless his case is varied by some treaty stipulations. Executive Documents H. R. No. 10, 1st Sess. 32d Cong. p. 4; 6 Webster's Works, 526; U.S. v. Carlisle, 16 Wall. 147, 155; Calvin's Case, 7 Coke, 6a; Ellesmere, Postnati, 63; 1 Hale, P. C. 62; 4 Bl.Comm. 74, 92.

> To hold that the fourteenth amendment of the constitution excludes from citizenship the children born in the United States of citizens or subjects of other countries, would be to deny citizenship to thousands of persons of English, Scotch, Irish, German, or other European parentage, who have always been considered and treated as citizens of the United States.

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But, as already observed, it is impossible to attribute to the words, 'subject to the jurisdiction thereof' (that is to say, of the United States), at the beginning, a less comprehensive meaning than to the words 'within its jurisdiction' (that is, of the state), at the end of the same section; or to hold that persons, who are indisputably 'within the jurisdiction' of the state, are not 'subject to the jurisdiction' of the nation. ' [U.S. v. Wong Kim Ark, 169 U.S. 649 (1898)]

Obviously, the two types of citizenship started out as unequal in POLITICAL RIGHTS they had at the time the "citizen of the United States**" mentioned in the Fourteenth Amendment was first created in 1868. They were not unequal in OTHER rights, but only in POLITICAL RIGHTS. Political rights include voting and serving on jury duty. Over time, the above two types of citizens have converged to the point where they are now essentially equal in RIGHTS. That convergence has occurred by:

The addition of several new amendments after Amendment 14 that add additional rights to the "citizen of the United States" status. These amendments include Amendments 15, 19, and 26, for instance.

Additional federal legislation that enforce the new rights found in 42 U.S.C. §1983.

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The U.S. Supreme Court acknowledged the convergence of rights between "Citizens" within the original USA Constitution 2 and "citizens of the United States" within the Fourteenth Amendment when it held: 3

> There is no occasion to attempt again an exposition of the views of this Court as to the proper limitations of the privileges and immunities clause. There is a very recent discussion in Hague v. Committee Industrial Organization. The appellant purports to accept as sound the position stated as the view of all the justices concurring in the Hague decision. This position is that the privileges and immunities clause protects all citizens

> against abridgement by states of rights of national citizenship as distinct from the fundamental or [309 U.S. 83, 91] natural rights inherent in state

> citizenship. This Court declared in the Slaughter-House Cases 15 that the Fourteenth Amendment as well as the Thirteenth and Fifteenth were adopted to protect the negroes in their freedom. This almost contemporaneous interpretation extended the benefits of the privileges and immunities clause to other rights which are inherent in national citizenship but denied it to those which spring from [309 U.S. 83, 92] state citizenship.

> We repeat, then, in the light of this recapitulation of events, almost too recent to be called history, but which are familiar to us all; and on the most casual examination of the language of these amendments, no one can fail to be impressed with the one pervading purpose found in them all, lying at the foundation of each, and without which none of them would have been even suggested; we mean the freedom of the slave race, the security and firm establishment of that freedom, and the protection of the newly-made freeman and citizen from the oppressions of those who had formerly exercised unlimited dominion over him. ...

> 'And so if other rights are assailed by the States which properly and necessarily fall within the protection of these articles, that protection will apply, though the party interested may not be of African descent. But what we do say, and what we wish to be understood is, that in any fair and just construction of any section or phrase of these amendments, it is necessary to look to the purpose which we have said was the pervading spirit of them all, the evil which they were designed to remedy, and the process of continued addition to the Constitution, until that purpose was supposed to be accomplished, as far as constitutional law can accomplish it.' [Madden v. Commonwealth of Kentucky, 309 U.S. 83 (1940)]

Note, however, that even though these two types of constitutional citizens are EFFECTIVELY the same in RIGHTS: 28

- We are not saying that they apply to the same CONTEXTS.
 - 1.1. "Citizen" applies to the relationship between the national government and the state citizen.
 - 1.2. "citizen of the United States" applies to the relationship between the constitutional state governments and THEIR
- We are not saying their NAME or their GENESIS is equivalent.
- We are not saying that they were ALWAYS equivalent in the RIGHTS they enjoy, but that they have EVOLVED to be 34 equivalent AT THIS TIME.
 - We are not saying that a Fourteenth Amendment constitutional "citizen of the United States" is the equivalent to a statutory "citizen and national of the United States" found in 8 U.S.C. §1401. In fact, the two are mutually exclusive.

With regard to the last item in the above list, we must emphasize that the government only has the authority to LEGISLATIVELY regulate PUBLIC conduct, not private conduct, on government territory. Hence, statutes are law for government and not private people. Those mentioned in the constitution are PRIVATE people and statutes are written to protect these PRIVATE people, but not to regulate or control them or impose "duties" upon them. This is discussed in:

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

- In fact, the two types of citizens are just different subsets of the same sovereign state citizens within states of the Union. The 42 only difference is the CONTEXT described above. For both types of citizens: 43
 - The term "United States", in the constitutional geographic context, means ONLY states of the Union. This jurisdiction excludes federal territory and statutory "States", and therefore statutory jurisdiction of Congress.
 - The method of enforcing civil rights is found in 42 U.S.C. §1983.
 - 2.1. That provision applies to state officers and not private parties.
 - 2.2. This provision was enacted pursuant to Fourteenth Amendment, Section 5.

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- 2.3. The definition of "person" applicable to that provision and found in 42 U.S.C. §1981(a) refers to the "person" in the constitution and not the statutory "person" found either in Title 26 of the U.S. Code (26 C.F.R. §1.1-1(c)) or in the Social Security Act (see 26 U.S.C. §3121(e)).
 - 3. One only becomes a subject of federal LEGISLATIVE jurisdiction by:
 - 3.1. Being a state officer but not a PRIVATE person subject to 42 U.S.C. §1983. The ability to regulate PRIVATE conduct is "repugnant to the constitution", as held repeatedly by the U.S. Supreme Court.
 - 3.2. Changing your domicile to federal territory.

- 3.3. Setting foot on federal territory and committing a crime under Title 18 of the U.S. Code while there.
- Our official position on the position that state citizens are NOT Fourteenth Amendment "citizens of the United States" therefore summarized in the following list based on the evidence presented in this section:
 - 1. Fourteenth Amendment "citizens of the United States" are a SUPERSET of the "Citizen" mentioned in the original United States Constitution. Based on amendments and legislation created after the Fourteenth Amendment, it adds the following demographic groups to the "Citizen" found in the original USA Constitution:
 - 1.1. Blacks. See the 15th Amendment.
 - 1.2. Women. See the 19th Amendment.
 - 1.3. Voters under age 21, INCLUDING white males. See 26th Amendment.
 - 2. Those who are white males and therefore eligible to claim the "Citizen" status found in the original constitution will be faced with the following upon their approach that will limit its usefulness and applicability to a small subset of those that our official position can reach:
 - 2.1. It makes those who use it look like a racist.
 - 2.2. It is limited to WHITE OVERAGE MALES. It would not be useful for blacks, women, or UNDERAGE WHITE MALES.
 - 2.3. It confers NO DEMONSTRABLE ADDITIONAL RIGHTS that WHITE males did not possess at the founding of the country.
 - 3. One can be a Constitutional "Citizen" or Fourteenth Amendment "citizen of the United States" and STILL be a statutory alien under federal law. This seeming contradiction is explained by:
 - 3.1. The separation of legislative powers between the states of the Union and the federal government, which makes each foreign, sovereign, and alien in relation to the other.
 - 3.2. The differences in geographical definitions between federal statutory law and the Constitution itself.
 - 4. Being a either a "Citizen" or a "citizen of the United States" within the U.S.A. Constitution equates with being a "national" under federal statutory law at 8 U.S.C. §§1101(a)(21).
 - 4.1. You only become a statutory "citizen" under 8 U.S.C. §1401, 26 U.S.C. §3121(e), and 26 C.F.R. §1.1-1(c) by being born on federal territory and having a domicile on federal territory, so this moniker should be avoided, but the constitutional citizen moniker is not a problem.
 - 4.2. There is no harm in being a state national under 8 U.S.C. §1101(a)(21). Those with this status maintain their sovereignty and sovereign immunity and do not meet any of the exceptions to the Foreign Sovereign Immunities Act found in 28 U.S.C. §1605 or 28 U.S.C. §1603(b)(3).
 - 4.3. The term "United States" in the constitution, WHEN USED IN A GEOGRAPHIC SENSE, means states of the Union and excludes federal territory, as we already pointed out.
 - 4.4. There are NO LONGER any differences between the two statuses but as we said, at one time there was.
 - 5. Most of the confusion and misunderstandings about the Fourteenth Amendment within the freedom community arise from the following misunderstandings:
 - 5.1. Confusing POLITICAL jurisdiction with LEGISLATIVE jurisdiction. POLITICAL jurisdiction associates with allegiance and nationality. LEGISLATIVE jurisdiction associates with DOMICILE.
 - 5.2. Confusing CONSTITUTIONAL context with STATUTORY context. You can be a "Citizen" or a "citizen of the United States" under the Constitution while at the same time being an ALIEN under STATUTORY context.
 - 5.3. Confusing CONSTITUTIONAL RIGHTS with CIVIL RIGHTS. CIVIL RIGHTS activate with a domicile on federal territory. CONSTITUTIONAL rights activate by being physically present on GROUND protected by the Constitution, not by either allegiance or domicile.

"It is locality that is determinative of the application of the Con-	onstitution, in such matters as judicial procedu	re,
and not the status of the people who live in it."		
[Balzac v. Porto Rico, 258 U.S. 298 (1922)]		

5.4. Not tying the word "person" to the type of "subject to..." that corresponds to it, and hence are assuming the wrong context.

5.5. Not recognizing the genesis of 42 U.S.C. §1983, which is the Fourteenth Amendment. The reason that this statute mentions "white citizens" is precisely because it IMPLEMENTS the Fourteenth Amendment, and that 2 amendment extended equal protection and equal rights to everyone OTHER than white citizens. 3

> Section 1983 Litigation, Litigation Tool #08.008 http://sedm.org/Litigation/LitIndex.htm

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- We take the position that our Members are Fourteenth Amendment "citizens of the United States". Our position, in contrast: 5
 - 6.1. Can be used by ANYONE and EVERYONE who claims to be a state citizen.
 - 6.2. Does not result in a surrender of ANY right that a WHITE MALE OVERAGE "Citizen" in the original Constitution has.
 - 6.3. Avoids a lot of controversy and confusion that is pointless, and makes the advocate look like a conspiracy nut.
 - 6.4. Can be used simply and reliably by people with far less legal knowledge, because it is LESS complex and less
 - 6.5. Keeps the focus where it belongs, which is on GOVERNMENT VERBICIDE and WORD GAMES that destroy rights and violate due process of law. See:

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

- It is still possible to be a state citizen and yet NEITHER a "Citizen" as found in the original United States Constitution or a "citizen of the United States" found in the Fourteenth Amendment. Those satisfying this condition include:
 - 7.1. "Citizens", who are WHITE MALES who continue to distinguish themselves with this status and who REFUSE to adopt the "citizen of the United States" status adopted later...AND
 - 7.2. Aliens born in a foreign country who are citizens of a state of the Union but who were never naturalized.
- The subject of constitutional citizenship is a broadly contested subject in courts across the nation, including up to this day. The reason it is still widely contested is because:
 - 8.1. Those who controvert it or argue that they are NOT Fourteenth Amendment "citizens of the United States" in fact, DO NOT understand the context, or the nuances of the subject and are making a mountain out of a mole hill.
 - 8.2. Disputes over the subject are used by the government to distract attention away from MUCH more important and central issues, like what a "trade or business" is and how they can force you to occupy a public office without your consent without violating the Thirteenth Amendment.
 - 8.3. Those who make a mountain of the mole hill that is this subject are what the government truthfully and accurately calls "conspiracy nuts" and little more.
- Whether you, as a member and a reader decide to call yourself a "Citizen" of the original USA Constitution or a "citizen of the United States" within the Fourteenth Amendment is not our concern. You can choose either. Regardless of WHICH status you decide to choose, all members who wish to use our materials are REQUIRED to attach the following forms to the government forms they fill out as a way to prevent being victimized by the false presumptions of others, and to remove ALL discretion from every judge and bureaucrat to decide your citizenship status or civil status in a court of law or in an administrative franchise court:
 - 9.1. Affidavit of Citizenship, Domicile, and Tax Status, Form #02.001-use with tax or withholding forms http://sedm.org/Forms/FormIndex.htm
 - 9.2. USA Passport Application Attachment, Form #06.007 http://sedm.org/Forms/FormIndex.htm
 - 9.3. Voter Registration Attachment, Form #06.003 http://sedm.org/Forms/FormIndex.htm
 - 9.4. Citizenship, Domicile, and Tax Status Options, Form #10.003-use at depositions and with court pleadings. http://sedm.org/Forms/FormIndex.htm

Below is a list of case law relevant to the subject of what a constitutional "citizen of the United States" is and its relationship to that of state citizenship. All of the case law provided is entirely consistent with our position on citizenship. The cases are listed in chronological sequence, so you can see the historical evolution of jurisprudence on the subject over time:

> "The [14th] amendment referred to slavery. Consequently, the only persons embraced by its provisions, and for which Congress was authorized to legislate in the manner were those then in slavery." [Bowlin v. Commonwealth, 65 Kent.Rep. 5, 29 (1867)]

"No white person. . . owes the status of citizenship to the recent amendments to the Federal Constitution." [Van Valkenbrg v. Brown (1872), 43 Cal.Sup.Ct. 43, 47]

1	"The rights of the state, as such, are not under consideration in the 14th Amendment, and are fully guaranteed
2	by other provisions."
3	[United States v. Anthony, 24 Fed.Cas. 829 (No. 14,459), 830 (1873)]
4	"The first clause of the fourteenth amendment made negroes citizens of the United States**, and citizens of the
5	State in which they reside, and thereby created two classes of citizens, one of the United States** and the other
6	of the state."
7	[Cory et al. v. Carter, 48 Ind. 327, (1874) headnote 8, emphasis added]
8	"We have in our political system a Government of the United States** and a government of each of the several
9	States. Each one of these governments is distinct from the others, and each has citizens of its own"
10	[U.S. v. Cruikshank, 92 U.S. 542 (1875) emphasis added]
11	"One may be a citizen of a State and yet not a citizen of the United States. Thomasson v. State, 15 Ind. 449; Cory
12	v. Carter, 48 Ind. 327 (17 Am. R. 738); McCarthy v. Froelke, 63 Ind. 507; In Re Wehlitz, 16 Wis. 443."
13	[McDonel v. State, 90 Ind. 320, 323(1883) underlines added]
14	"A person who is a citizen of the United States** is necessarily a citizen of the particular state in which he resides.
15	But a person may be a citizen of a particular state and not a citizen of the United States **. To hold otherwise
16	would be to deny to the state the highest exercise of its sovereignty, the right to declare who are its citizens."
17	[State v. Fowler, 41 La. Ann. 380, 6 S. 602 (1889), emphasis added]
18	"The rights and privileges, and immunities which the fourteenth constitutional amendment and Rev. St. section
19	1979 [U.S. Comp. St. 1901, p. 1262], for its enforcement, were designated to protect, are such as belonging to
20	citizens of the United States as such, and not as citizens of a state".
21	[Wadleigh v. Newhall 136 F. 941 (1905)]
22	"The first clause of the fourteenth amendment of the federal Constitution made negroes citizens of the United
23	States**, and citizens of the state in which they reside, and thereby created two classes of citizens, one of the
24	United States** and the other of the state."
25	[4 Dec. Dig. '06, p. 1197, sec. 11, "Citizens" (1906), emphasis added]
26	"A fundamental right inherent in "state citizenship" is a privilege or immunity of that citizenship only. Privileges
27	and immunities of "citizens of the United States," on the other hand, are only such as arise out of the nature
28	and essential character of the national government, or as specifically granted or secured to all citizens or
29	persons by the Constitution of the United States."
30	[Twining v. New Jersey, 211 U.S. 78 (1908)]
31	"There are, then, under our republican form of government, two classes of citizens, one of the United States and
32	one of the state".
33	[Gardina v. Board of Registrars of Jefferson County, 160 Ala. 155, 48 So. 788 (1909)]
34	"There are, then, under our republican form of government, two classes of citizens, one of the United States**
35	and one of the state. One class of citizenship may exist in a person, without the other, as in the case of a resident
36	of the District of Columbia; but both classes usually exist in the same person."
37	[Gardina v. Board of Registrars, 160 Ala. 155, 48 S. 788, 791 (1909), emphasis added]
38	" citizens of the District of Columbia were not granted the privilege of litigating in the federal courts on the
39	ground of diversity of citizenship. Possibly no better reason for this fact exists than such citizens were not thought
40	of when the judiciary article [III] of the federal Constitution was drafted citizens of the United States**
41	were also not thought of; but in any event a citizen of the United States**, who is not a citizen of any state, is
42 43	not within the language of the [federal] Constitution.'' [Pannill v. Roanoke, 252 F. 910, 914 (1918)]
44	"United States citizenship does not entitle citizen to rights and privileges of state citizenship."
45	[K. Tashiro v. Jordan, 201 Cal. 236, 256 P. 545, 48 Supreme Court. 527 (1927)]
46	"A citizen of the United States is ipso facto and at the same time a citizen of the state in which he resides. While
47	the 14th Amendment does not create a national citizenship, it has the effect of making that citizenship 'paramount
48	and dominant' instead of 'derivative and dependent' upon state citizenship."
49	[Colgate v. Harvey, 296 U.S. 404, 427 (1935)]
50	"As applied to a citizen of another State, or to a citizen of the United States residing in another State, a state law
51	forbidding sale of convict made goods does not violate the privileges and immunities clauses of Art. IV, Sec. 2
52	and the Fourteenth Amendment of the Federal Constitution if it applies also and equally to the citizens of the
53	State that enacted it." (Syllabus)
54	[Whitfield v. State of Ohio, 297 U.S. 431 (1936)]

1	There is a distinction between citizenship of the United States** and citizenship of a particular state, and a
2	person may be the former without being the latter.''
3	[Alla v. Kornfeld, 84 F.Supp. 823 (1949) headnote 5, emphasis added]
4	"A person may be a citizen of the United States ** and yet be not identified or identifiable as a citizen of any
5	particular state.''
6	[Du Vernay v. Ledbetter, 61 So.2d. 573 (1952), emphasis added]
7	"On the other hand, there is a significant historical fact in all of this. Clearly, one of the purposes of the 13th and
8	14th Amendments and of the 1866 act and of section 1982 was to give the Negro citizenship"
9	[Jones v. Alfred H. Mayer Co., 379 F.2d. 33, 43 (1967)]
10	"[W]e find nothingwhich requires that a citizen of a state must also be a citizen of the United States, if no
11	question of federal rights or jurisdiction is involved."
12	[Crosse v. Bd. of Supvrs of Elections, 221 A.2d. 431 (1966)]

13 If you would like to learn more about citizenship, we encourage you to read:

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Why You are a "national", "state national", and Constitutional but not Statutory Citizen, Form #05.006, Sections 2 and 3 http://sedm.org/Forms/FormIndex.htm
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If you would like a simplified presentation that addresses the subject of this session for neophytes, see:

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Why the Fourteenth Amendment is Not a Threat to Your Freedom, Form #08.015
http://sedm.org/Forms/FormIndex.htm
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If you would like to read an excellent and spirited debate between a freedom fighter who advocates the flawed argument addressed by this section and this ministry, please read the following. You will need to join the forms by clicking on "Sign Up" in the upper right corner. Membership is free:

Family Guardian Forums, Forum 6.1, Citizenship, Domicile, and Nationality http://famguardian.org/forums/forums/topic/state-citizen-falsely-argues-that-he-is-not-a-fourteenth-amendment-citizen/

10.2 "Nom de Guerre"

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<u>False Argument</u>: The all caps name that the government uses against people in their correspondence is an enemy of the U.S. government who is an alien. That enemy is the subject of the Trading with the Enemy Act of 1917, 40 Stat. 911.

<u>Corrected Alternative Argument</u>: The all caps name the government uses is a federal public officer engaged in a "trade or business" or other federal franchise or "public right". The only way the government can write laws that apply to the human being is to connect him with a public office or other franchise so that he becomes the proper subject of nearly all federal legislation.

Further information:

- 1. <u>Proof That There Is a "Straw Man"</u>, Form #05.042 http://sedm.org/Forms/FormIndex.htm
- 2. <u>Affidavit of Corporate Denial</u>, Form #02.004 http://sedm.org/Forms/FormIndex.htm
- 3. <u>Resignation of Compelled Social Security Trustee</u>, Form #06.002: Proves that the real "taxpayer" is a public official and trustee for the government http://sedm.org/Forms/FormIndex.htm</u>
- 4. <u>Memorandum of Law on the Name, Gordon W. Epperly</u> http://famguardian.org/Subjects/LawAndGovt/Articles/MemLawOnTheName.htm

According to a book entitled <u>Military Government and Martial Law</u> written by William E. Birkhimer, a "nom de guerre" is a war name symbolized by a given name being written in capital letters. You can read this book at:

 $\underline{http://famguardian.org/Publications/MilitaryGovAndMartLaw/MilitaryGovernmentAndMartialLaw.htm}$

- This argument contends that because of events in 1933, we have been made "enemies" and government indicates our status
- as enemies by the nom de guerre. If this is true, then why have the styles of the decisions of the United States Supreme Court
- since its establishment been in caps? This argument has gotten lots of people in trouble. For example, Mike Kemp of the
- Gadsden Militia defended himself on state criminal charges with this argument and he was thrown into jail. I have not even
- seen a decent brief on this issue which was predicated upon cases you can find in an ordinary law library.
- In any event, several courts have rejected this argument:

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- 1. Jaeger v. Dubuque County, 880 F.Supp. 640 (N.D.Iowa 1995)
- 2. *United States v. Heard*, 952 F.Supp. 329 (N.D.W.Va. 1996)
- 3. *Boyce v. C.I.R.*, 72 T.C.M. ¶ 1996-439 ("an objection to the spelling of petitioners' names in capital letters because they are not 'fictitious entities'" was rejected)
- 4. *United States v. Washington*, 947 F.Supp. 87, 92 (S.D.N.Y. 1996)("Finally, the defendant contends that the Indictment must be dismissed because 'Kurt Washington,' spelled out in capital letters, is a fictitious name used by the Government to tax him improperly as a business, and that the correct spelling and presentation of his name is 'Kurt Washington.' This contention is baseless")
- 5. *United States v. Klimek*, 952 F.Supp. 1100 (E.D.Pa. 1997)
- 6. *In re Gdowik*, 228 B.R. 481, 482 (S.D.Fla. 1997)(claim that "the use of his name JOHN E GDOWIK is an 'illegal misnomer' and use of said name violates the right to his lawful status" was rejected)
- 7. Russell v. United States, 969 F.Supp. 24, 25 (W.D. Mich. 1997)("Petitioner ... claims because his name is in all capital letters on the summons, he is not subject to the summons"; this argument held frivolous)
- 8. *United States v. Lindbloom*, 97-2 U.S.T.C. ¶ 50650 (W.D. Wash. 1997)("In this submission, Mr. Lindbloom states that he and his wife are not proper defendants to this action because their names are not spelled with all capital letters as indicated in the civil caption." The CAPS argument and the "refused for fraud" contention were rejected)
- 9. Rosenheck & Co., Inc. v. United States, 79 A.F.T.R.2d (RIA) 2715 (N.D. Ok. 1997)("Kostich has made the disingenuous argument the IRS documents at issue here fail to properly identify him as the taxpayer. Defendant Kostich contends his 'Christian name' is Walter Edward, Kostich, Junior and since the IRS documents do not contain his 'Christian name,' he is not the person named in the Notice of Levy. The Court expressly finds Defendant WALTER EDWARD KOSTICH JR. is the person identified in the Notice of Levy, irrespective of the commas, capitalization of letters, or other alleged irregularities Kostich identifies as improper. Similarly, the Court's finding applies to the filed pleadings in this matter")
- 10. *United States v. Weatherley*, 12 F.Supp.2d. 469 (E.D.Pa. 1998)
- 11. <u>United States v. Frech</u>, 149 F.3d. 1192 (10th Cir. 1998)("Defendants' assertion that the capitalization of their names in court documents constitutes constructive fraud, thereby depriving the district court of jurisdiction and venue, is without any basis in law or fact").

More recently, Jon Roland of <u>The Constitution Society</u> web site wrote the following about this argument:

Typographic Conventions in Law Jon Roland, Constitution Society

One of the persistent myths among political dissidents is that such usages as initial or complete capitalization of names indicates different legal entities or a different legal status for the entity. They see a person's name sometimes written in all caps, and sometimes written only in initial caps, and attribute a sinister intent to this difference. They also attach special meanings to the ways words may be capitalized or abbreviated in founding documents, such as constitutions or the early writings of the Founders.

Such people seem to resist all efforts to explain that such conventions have no legal significance whatsoever, that they are just ways to emphasize certain kinds of type, to make it easier for the reader to scan the documents quickly and organize the contents in his mind.

They also seem to go to enormous lengths looking for dictionaries or court rules to tell them what such typography means, without ever seeming to find what they are looking for, other than the actual usages themselves in important court cases.

Well, there is an authoritative reference, the one used by courts and lawyers all over the world. It is <u>The Bluebook: A Uniform System of Citation</u>, compiled by the editors of the Columbia Law Review, the Harvard Law

Review Association, the University of Pennsylvania Law Review, and The Yale Law Journal, 16th ed. 1996. 2 Copies can be obtained from any law book store or by writing The Harvard Law Review Association, Gannett House, 1511 Massachusetts Av., Cambridge, MA 02138. 3 To explain how typographic conventions originated, and what they mean, I am reminded of the story of the first 4 grader whose teacher became alarmed by the crayon drawings of one of her students. She called in the school 5 counselor and she became alarmed, so she called in a child psychologist, who also became alarmed in turn. 6 7 Fearing for the mental health of the child, they called in her parents. 8 The parents, now themselves concerned about their child, arrived at the meeting. "What happened?", the father said. The school staff persons showed his daughter's art work to him and to his wife. The father looked the 9 10 drawings over, and said, "Look pretty good to me. I couldn't do that well at that age." "But the colors!" the teacher said. "She does everything in black, grey, and brown!" said the counselor. "It seems 11 morbid" said the psychologist. 12 So the father said, "Why don't we ask my daughter?" The school staff looked aghast at this audacious suggestion, 13 14 but, not having any better ideas, they asked the little girl to come in. 15 She saw her parents, and the school staffers, all gathered around her art work, looking concerned, and became a bit concerned herself. But her father knew what to say. "Hon, your teachers want to know why you are drawing 16 17 everything in black, grey, and brown." "I gave most of my crayons to the other kids when they used theirs up", she said. "Black, grey, and brown are the 18 19 only colors I have left." Lawyers continued to hand write legal documents long after typewriters were invented. As a profession, they tend 20 21 to be the last to adopt new technology. When things were hand written, they had only a few ways to highlight 22 words. They could use block printed characters instead of cursive, or they could underline. Typesetters converted the block printed characters to all caps, sometimes with different font sizes, and the underlined words to italics. 23 24 As lawyers and legal staff began to use typewriters, they could not conveniently underline, and they didn't have 25 italic fonts, so putting words in all caps was about the only way they had to show emphasis. Judges began 26 rewarding lawyers (or so they thought) with better decisions if they put some words, like the names of parties, in 27 all caps, to make it easier for overworked judges to quickly scan through many pages of pleadings and make 28 sense of them. 29 Then computers came along. People started using them to produce legal documents. But a lot of them only had 30 capital letters on their printers, or did not distinguish between upper and lower case. Programs in COBOL are 31 examples of this. It was also found that it was easier to read words printed in all caps on forms, and to distinguish 32 the newly-printed words from the pre-printed words on the forms. In the meantime, there were advances in typesetting typography. People became able to print special symbols, 33 bold face, different fonts and sizes, superscripts, underlined, and colors. And with that came demands for using 34 35 differences in typography to highlight words in legal documents, including treatises, law review articles, briefs, 36 37 Now we have personal computers and laser printers that can do anything the typesetter can do, and legal workers are now under pressure to produce nicely composed legal documents according to the same conventions that 38 39 typesetters are asked to use. This explosion of choices could have led to confusion, so the various courts have established rules for how they 40 want legal documents prepared, and these rules are matched by similar but sometimes different rules of the major 41 42 law review editors. Basically, they have settled on three font styles: upper-and-lower case Roman, Italics, and Roman all-caps with 43 larger point size for initials. Of course, if these are saved as ASCII text files, the Italics are lost, and the all-caps 44 only show up as a single point size. Sometimes, to show Italics, as a legacy of underscoring, the words to be italicized are surrounded by underscore characters, as we do in the text above in the text version of this article. 46 The Bluebook calls for different typographics for the same kinds of things in different places. For example, a case 47 48 cite like Marbury v. Madison would be italicized in the body of a law review article, but not in a footnote. Why? Who knows. It doesn't have to make sense. It's what they do. If you submit it using different conventions, the 49 editors will change it to their journal's conventions. 50 The important thing to remember, however, is that there is no legal significance to the typography of a name, 51

other than how well it distinguishes one object from others with which it might be confused. It is the object that

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1	matters. A misspelling is a "scrivener's error". Doesn't changed anything. Just needs to be corrected. Caps,
2	complete or initial, don't mean anything. Just whatever the writer thought would aid the reader to get through
3	the document quickly and with a minimum of confusion.
4	[Constitution Society, 1731 Howe Av #370, Sacramento, CA 95825 916/568-1022, 916/450-7941VM]

The nom de guerre position is one rabidly advocated by Right Way Law. It is all based upon hype and emotions; the speakers

- who advocate this argument know how to push the emotional "hot buttons" at patriot pep rallies. I have reviewed the "best"
- briefs regarding this issue and they are all trash. Yet I continue to see people call themselves "John, of smith," "John: Smith,"
- etc., and I just simply conclude that such parties have attended a Wrong Way Law seminar and have accepted a pack of lies.
- Further, it is remarkable that all the people who believe this idea have never checked it out; they just accept it because some patriot guru claimed it was correct. 10
- The "Nom De Guerre" argument in this section has also been called the "Straw Man Argument". Our position on the "Straw 11 Man Argument" is as follows: 12
 - 1. There is a "straw man". The term "straw man" is, in fact, defined in Black's Law Dictionary.

Straw man. A "front"; a third party who is put up in name only to take part in a transaction. Nominal party to a transaction; one who acts as an agent for another for the purpose of taking title to real property and executing whatever documents and instruments the principal may direct respecting the property. Person who purchases property, or to accomplish some purpose otherwise not allowed. [Black's Law Dictionary, Sixth Edition, p. 1421]

- The straw man is not identified by the all capital letter name.
- The straw man is a public officer in the government. 3.

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- The straw man is voluntarily engaged in some kind of government franchise. 21
 - The straw man was created as a crafty way to circumvent the fact that the government cannot lawfully or constitutionally pay public funds to private persons without abusing its taxing powers and becoming a thief and a Robin Hood.

"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>U.S. v. Butler</u>, 297 U.S. 1 (1936)]

Therefore, they had to create a straw man fiction to pay "benefits" to that is part of the government and an office within the government. This is what facilitated FDR's "New Deal" and the rise of the "Administrative State" that plagues us today. That state and all the regulatory law which it embodies operates ONLY against the straw man and not the natural being.

The following document proves with evidence that the straw man does in fact exist, explains how and why it was created, 32 how people are fooled into acting as the straw man, and how to avoid becoming surety for the straw man. See: 33

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

An article on names is available on the Family Guardian website at the address below which further expands on the content 34 of this section. We didn't write the article: 35

Memorandum of Law on the Name, Gordon W. Epperly

http://famguardian.org/Subjects/LawAndGovt/Articles/MemLawOnTheName.htm 37

The UCC Draft Argument 10.3

False Argument: Because the United States outlawed real money in 1933, then we can essentially make our own by issuing "drafts" that are sent to the Treasury to pay our tax bills. This is the same thing that banks can do by making money out of thin air by lending ten times the money they have on deposit. It must be legal if the banks can do it.

Corrected Alternative Argument: The Federal Reserve System is the equivalent of a "counterfeiting franchise", whereby only banks can manufacture money out of nothing by lending ten times what they have on deposit. Yes, counterfeiting is a crime if we do it, and yes it should be a crime if banks do it too, and it violates 18 U.S.C. §472. However, two wrongs don't make a right. The remedy for the fraudulent Federal Reserve system is not MORE fraud.

Further information:

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- Money, Banking, and Credit Page, Family Guardian Website-Family Guardian http://famguardian.org/Subjects/MoneyBanking/MoneyBanking.htm
- Uniform Commercial Code http://www.law.cornell.edu/ucc/
- <u>UNIDROIT</u>-the organization that writes and publishes the Uniform Commercial Code (UCC) http://en.wikipedia.org/wiki/UNIDROIT
- Back in the early nineties, Hartford Van Dyke promoted the theory that "commercial law" was the foundation for all law around the world. Based upon Hartford's contention regarding commercial law, he developed the idea that an "affidavit of truth" submitted "in commerce" could create a lien against property which simply had to be paid. The lien created on property.
- he argued, then became a form of redeemable commercial paper or "draft". Hartford claimed that his findings were well
- known everywhere and that this lien process had been used for thousands of years. I obtained his memo regarding this
- argument and went to the law library. His contention that this "principle" manifested itself in the law was wrong; I could find
- nothing which supported this argument. This theory appears to us to be a complete fabrication.
- Did others act upon Hartford's ideas anyway? Leroy Schweitzer of the Montana Freemen took Hartford's ideas to heart and claimed that he created liens against public officials. Based upon these liens, Leroy started issuing sight drafts drawn upon some "post office" account and started passing them out to many gullible people who believed that such drafts were required 10 to be paid by the feds. Not only did Leroy get into deep trouble, so did many who got drafts from him. There have been lots 11 of people who have been prosecuted, convicted and jailed for using drafts allegedly justified by this crazy theory. 12
- One of the most recent prosecutions of someone for using one of Leroy's drafts is Pete Stern, a patriot from North Carolina. 13 Several years ago, Pete issued some of these drafts to the IRS. Pete has been one of the most vocal advocates of the UCC 14 Draft Argument, "we are Brits," nom de guerre, etc. While I like Pete, still he has followed crazy arguments. Pete's federal 15 criminal case is filed in the Western District of North Carolina and you may visit the clerk's web site by clicking here. Once 16 you get to this page, look on the left side of the page to the sidebar and click on the case information section called 17 "docket/image." When that page comes up, insert Pete's case number of 2:1999cr00081 and his name. His file will come up 18 and you can read all the pleadings. Is he using for his own defense the arguments he advocates? 19
- As best I can tell, the popular "UCC" Draft Argument has its origins in Howard Freeman's theories, Hartford's work and the 20 "improvements" made by Leroy Schweitzer. The UCC Draft Argument is one of the most legally baseless ideas we have ever 21 encountered, yet organizations like "Right Way Law" and people like Jack Smith continue to promote it. Here are some 22 published cases which have correctly rejected this lunacy: 23
 - Jones v. City of Little Rock, 314 Ark. 383, 862 S.W.2d. 273, 274 (1993)(In reference to traffic tickets, the court stated, "The Uniform Commercial Code does not apply to any of these offenses")
- United States v. Stoecklin, 848 F.Supp. 1521 (M.D. Fla. 1994) 26
 - Barcroft v. State, 881 S.W.2d. 838, 840 (Tex.App. 1994) ("First, the UCC is not applicable to criminal proceedings; it applies to commercial transactions")
 - United States v. Greenstreet, 912 F.Supp. 224 (N.D.Tex. 1996)(also raised flag and common law court issues)
- 29 5. United States v. Andra, 923 F.Supp. 157 (D.Idaho 1996) ("The complaint filed by the plaintiff is not a negotiable 30 instrument and the Uniform Commercial Code is inapplicable")
- 6. Watts v. IRS, 925 F.Supp. 271, 276 (D.N.J. 1996)("The IRS's Notice of Intent to Levy is not a negotiable instrument") 32
- 7. United States v. Klimek, 952 F.Supp. 1100 (E.D.Pa. 1997)(returning lawsuit complaint marked "Refusal For Cause 33 Without Dishonor UCC 3-501" and refusing other court pleadings "for fraud" based upon UCC argument got nowhere; also raised nom de guerre and flag issues)
 - City of Kansas City v. Hayward, 954 S.W.2d. 399 (Mo.App. W.D. 1997).

Flawed Tax Arguments to Avoid, Version 1.27

A substantial part of the UCC Draft Argument was "developed" by Howard Freeman. Freeman contended that some super-1 secret treaty back in 1930 put this and other countries around the world in "bankruptcy" with the "international bankers" 2 being the "creditor/rulers." Once these banker/rulers were ensconced in power, they needed some way to "toss out the old law" based upon the common law, and erect commercial law as the law which regulated and controlled everything. Roosevelt and his fellow conspirators then set to work and developed a plan to achieve the destruction of the "common law" and the erection of commercial law. This was accomplished by the decision in the Erie Railroad case in 1938. According to this theory, Erie RR banished the common law, leaving in its place only commercial law via the UCC. Freeman also alleged that lawyers were informed of this "takeover" by the "international bankers" and that they were required to take a secret oath to not tell the American people about the takeover. Of course, as the direct result of this change in the law from common law to commercial law, no court could ever cite a case decided prior to 1938. 10

But there are the tremendous flaws in this argument. I do not challenge the fact that big international bankers are economically powerful and that such power enables them to secure favorable legislation. However I do disagree with the "secret treaty" 12 contention. Back in the 1930s and indeed all the way up to about 1946, all treaties adopted by the United States were published in the U.S. Statutes at Large. As a student of treaties, I looked for this secret treaty and could not find it and I had access to complete sets of all books containing treaties, especially those in the Library of Congress in DC. The major premise of this 15 argument is this contention regarding the secret treaty, which even the proponents of the argument cannot produce. Their argument, "I cannot produce this secret treaty, but believe me anyway," simply is unacceptable to me as I want proof.

The advocates of this argument also contend that the Erie RR case was the one which banished the common law and erected 18 commercial law in its place. The problem with this contention is that Erie RR does not stand for this proposition. This was a 19 personal injury case; Thompkins was injured while walking along some railroad tracks as a train passed. Something sticking 20 out of the train hit Thompkins and injured him, hence his suit for damages. Please read this case of Erie R. Co. v. Tompkins, 21 304 U.S. 64 (1938), which stands for the proposition that federal courts must follow the common law of the state where the 22 injury occurred. How this case is alleged to declare the exact opposite escapes me, but in any event, Erie RR does not support 23 the contention of the UCC advocates. 24

To prove that Erie RR changed the law, it is alleged that no court can cite a case decided prior to 1938. This is perhaps the 25 simplest contention to disprove, achieved just by reading cases (which apparently the UCC activists do not do). All my life 26 I have read cases which cited very old cases and I have never seen such a sharp demarcation where the courts did cite pre-27 1938 cases before 1938 and then ceased afterwards. Here are just a few post-1938 cases which cite pre-1938 cases, the 28 constitution, the Federalist Papers and lots of other old authority: 29

1. *INS v. Chadha*, 462 U.S. 919 (1983) 30

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- New York v. United States, 505 U.S. 144 (1992) 2.
- Printz and Mack v. United States, 521 U.S. 898 (1997) 32

When you scan these cases, please note the parentheses like "(1997)" above for Richard Mack's case. This denotes the year 33 any particular case was decided. You can easily see that these recent cases do in fact cites cases decided as far back as 1798. 34 The contention that pre-1938 cases are not cited is nothing but lunacy, believed by folks like Dave DeReimer, a "redemption 35 process" advocate. 36

This argument also contends that the states of this nation were placed in "bankruptcy" via the "secret treaty." If this were true, 37 why did the Supreme Court decide in 1936 that states and their subdivisions could not bankrupt? See Ashton v. Cameron 38 County Water Improvement Dist., 298 U.S. 513, 56 S.Ct. 892 (1936). 39

Finally, I must inform you that neither I nor any other lawyer I know has ever taken the "secret oath" as alleged by this 40 argument. When I was sworn in as an Alabama lawyer in September, 1975, it was on the steps of the Alabama Supreme Court 41 down in Montgomery in front of God, my parents and everybody else. I swore to uphold and protect the United States and 42 Alabama Constitutions. Nothing in that oath could remotely be the alleged "secret oath." I have also been admitted to practice 43 before the U.S. Supreme Court, and the U.S. Courts of Appeals for the 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th and 11th 44 Circuits; I did not take the "secret oath" when I was admitted to practice before these courts, nor when I was admitted to 45 practice before several U.S. district courts. I have not taken any other oath and I know that the only oath most other lawyers 46 have taken is the same. But, I do not doubt that some lawyers are members of other secret societies who may have taken oaths 47 of which I am unaware. 48

Flawed Tax Arguments to Avoid, Version 1.27 Copyright Family Guardian Fellowship, http://famguardian.org Last Revised: 1/23/2018

Our advice is that if you hear anyone making some argument about the UCC Draft Argument, run away as fast as you can.
The argument is crazy. However, don't confuse this advice by improperly concluding that the UCC is <u>not</u> useful for <u>any</u> purpose. As a matter of fact, the most effective technique we know of for getting the IRS off your back derives directly from the UCC and it is called the "Notary Certificate of Default Method" and we document this method earlier in <u>Sovereignty Forms and Instructions Manual, Form #10.005</u>, section 1.4.4 (http://sedm.org/Forms/FormIndex.htm). We use the Notary Certificate of Default Method, for instance, in most of our correspondence with the IRS and this approach is effective because most dealings with the IRS are related to money and "commerce". Unlike the UCC Draft Argument, the Notary Certificate of Default Method has a firm basis in law and is commonly used by most banks, insurance companies, and government agencies in dealing with members of the public. You will ever see it referenced in the statutes of several of the states and in notary training materials.

If you would like to know our official position towards those who advocate UCC arguments, see the following document:

<u>Policy Document: UCC Redemption</u>, Form #08.002 http://sedm.org/Forms/FormIndex.htm

10.4 The "Straw Man" Sight Drafts (posted September 18, 1999)

There is a "new" theory floating around the movement which is absolutely crazy, yet it is promoted as "the hot new solution." This new theory has its origins with a fellow named Roger Elvick, who has been involved with some con jobs in the past; see <u>Bye v. Mack</u>, 519 N.W.2d. 302 (N.D. 1994). Roger Elvick was years ago "into" the idea of sending forms 1099 to the IRS for its agents who stole your constitutional rights. This was a part of his "redemption process" back then and if you wish to learn about what happened to one party who followed Elvick's advice, read <u>United States v. Wiley</u>, 979 F.2d. 365 (5th Cir. 1992). Many others who followed Elvick's advice also went to jail; see <u>United States v. Dykstra</u>, 991 F.2d. 450, 453 (8th Cir. 1994)("He voluntarily made the decision to purchase and use Roger Elvick's 'redemption program,' and he admitted that he did not pay any of the purported recipients any of the amounts reflected on the 1099 Forms. Because he knew he never paid the individuals, he could not have believed that the forms, which he signed under penalties of perjury, were in fact true and correct. The evidence also established that appellant acted corruptly in pursuing the retaliation scheme, in violation of 26 U.S.C. §7212(a)"). Roger was convicted for this activity; see <u>United States v. Lorenzo</u>, 995 F.2d. 1448 (9th Cir. 1993).

While there, Roger developed this new argument. In essence, he contends that everyone's birth certificate constitutes ownership in "America, Inc." and we all have stock in this corporation, which stock is represented by these birth certificates (see *Lodi v. Lodi*, 173 Cal.App.3d. 628, 219 Cal.Rptr. 116 (1985), where similar arguments were rejected; and *Dose v. United States*, 86 U.S.T.C. ¶ 9773 (N.D.Iowa 1986)("Petitioner... informs the Court of [his] 'notorious rescission of [his] social security number' and rescission of his birth certificate, which documents had previously made him a 'member of Corporate America (commune)' converting him into 'a slave of the commune subject to the regulation and control of the Federal Government'... the fact that Dose has attempted to rescind his social security number and birth certificate by sworn affidavit is irrelevant...")). According to Roger, the big banks and other financial institutions regularly trade in these birth certificates, buying and selling them to others. Of course according to this new argument, you can do the same thing.

From here, the argument goes downhill and becomes even more bizarre. I know precisely what are the major features of this argument because I have read the course material and even viewed a video tape of one meeting where this issue was discussed; this contention is utterly crazy. However, many people are studying this new issue and even issuing "sight drafts" based on this argument. But the promoters of this argument like Roger Elvick, Wally Peterson, Ron Knutt and Dave DeReimer are really selling federal indictments. You are free to "buy into" this scheme, but be ready to face criminal charges, the maximum term of imprisonment of which is 25 years.

Here is late breaking news, an e-mail, regarding the law enforcement activity against the redemption advocates:

January 11, 2000 - @:25 PM, EDT

I was just informed that a Federal swat team, approximately 30, raided a farm house near the town of Evart,
Michigan this AM. The raid started at approximately 6:00 AM and lasted 4 hours until 10:00 AM.

They captured the occupants, made them sit and watch the proceedings. They were told nothing except they were
Not under arrest".

The raid was pursuant to a Grand Jury Subpoena and contained a Warrant for any and all items relating to
"Accepted for Value", "sight drafts" and anything to do with "IRS" and United States "Securities".

I was told that there were 22 people on a list that were raided this AM.

At least one of the occupants there was served a Grand Jury subpoena to appear and testify in February.

NO FURTHER INFORMATION AT THIS TIME!

Be Advised!

So what is going to happen? I bet that those who advocated using "acceptance for value" to refuse criminal process like an indictment or information will be charged with obstruction of justice, and they will be tied into a giant conspiracy of those who told others to send in drafts drawn on the U.S. Treasury. This stupidity will just be another instance where the freedom movement will be held up to the press and the rest of America as a bunch of crackpots, nuts and fruitcakes, and "dangerous" ones at that.

Have people already gotten into trouble by using the "redemption process" sight drafts? Hyla Clapier is a sweet, little old lady from Idaho. She was convinced last year by the redemptionists to try to buy a car with one of those "redemption process" sight drafts drawn on the U.S. Treasury. Her effort brought her an indictment, trial and conviction. If you wish to study the details of her case, simply read her docket sheet posted on the U.S. District Court of Idaho's web site. In late April, 2000, I received a call from an Ohio newspaper reporter and was informed that a man in his local community had attempted to buy 8 Cadillacs with those sight drafts. I was also informed that the man was being prosecuted for several felonies. Is the "redemption process" sight draft effort anything but another crackpot idea? I think so.

There are certain very fundamental flaws within this argument which are as follows:

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Flaw 1: The birth certificate is not the basis for the creation of credit in this country.

Economic texts and a wide variety of other materials plainly demonstrate the manner by which credit ("money") is created in 21 this country: a bank (or central bank like the Fed) extends credit in exchange for the receipt of some note or other financial 22 obligation made by either a private party or government. At the federal level, the Federal Reserve extends credit to the U.S. 23 Treasury simply by book keeping entry made in favor of the United States when the Fed buys obligations of the United States. 24 In contrast, a birth certificate is not a note or other debt instrument, contrary to what Roger Elvick, Ron Knutt, Wally Peterson 25 or idiots like Dave DeReimer may contend. Simply stated, a birth certificate is not a note, bond or other financial obligation, 26 and it is not sold to financial institutions, contrary to the blatant lies of the "liaryer" promoters of this argument. In short, the 27 birth certificate is not the foundation for the credit used as money today. 28

Why don't you ask the advocates of this argument to produce some reliable documentation that birth certificates are the basis of credit in this country rather than the instruments mentioned above? It is simply foolish to rely on the word of Roger Elvick. It is even more foolish to believe anything that DeReimer declares.

Flaw 2: The birth certificate cannot be, as a matter of law, a guarantee of debt.

A debt is created by a debtor making a promise to pay a creditor a specified amount of money over a specified period of time. Merchandise purchased on credit involves the buyer delivering a promissory note to the seller wherein he promises to pay a specific periodic amount with interest until the debt is paid. When a borrower obtains a loan, he delivers a promissory note to the lender. A promissory note by definition requires the payment of certain specific amounts of funds to the holder of that note. Is a birth certificate a promissory note? It simply cannot be because the party named therein has no obligation to make any payment of anything to some alleged holder thereof (and traffic tickets, indictments, IRS documents and letters, etc., also are not commercial instruments).

But ignoring for the moment this major fatal flaw, presume for purposes of argument that a birth certificate is indeed a promissory note. The redemption advocates claim that the "straw man" is liable to pay some unspecified amount to some unspecified creditor who holds the financial instrument known as a birth certificate (I have been unable to learn from the advocates the name of the ephemeral creditor). They further argue that the "counterpart" of the "straw man," you, must answer for this debt of the "straw man." This is legally impossible. I view such an argument as evidence of lunacy.

The "statute of frauds" originates from the common law and every state today has a general "statute of frauds." For example, here in Alabama, we have a "statute of frauds" found in Ala. Code §8-9-2, which states that "every special promise to answer for the debt, default or miscarriage of another" must be in writing and signed by the party to be charged. This same type of requirement appears in our version of the UCC, Ala. Code §7-2-201, which requires contracts for the sale of goods of more than 500 bucks to be in writing and subscribed by the party liable. Precisely where is your agreement to answer for the debt of the straw man? If such an agreement exists, have you signed that agreement making you legally liable to pay that debt of the straw man? The truth of the matter is that such a signed agreement does not exist. But without your signature to a guarantee making you liable for this debt, you cannot legally be liable.

The advocates of this insanity further contend that the international banks which hold these birth certificates as security for some unknown financial obligation have a claim against you for your whole life, unless of course you "redeem your straw man" by perfecting your claim against him by filing a Form UCC-1 financing statement. Can you really be legally responsible for some debt for the rest of your life? Again, our statute of frauds found at Alabama Code §8-9-2 requires that "every agreement which, by its terms, is not to be performed within one year from the making thereof" must be in writing and signed by the party to be charged. The redemptionists assert that whenever a child is born and his birth certificate is filed in DC and later bought by some big bank, that creditor owns you for the rest of your life. We all know that the average life expectancy of a baby is longer than a single year. Just where is this agreement signed by you (apparently on the day you were born) which cannot by its very terms be performed within a single year? Have you ever signed such an agreement? The truth of the matter is that every aspect of this redemption theory flies in the face of the statute of frauds.

Flaw 3: Our bodies and our labor are not articles of commerce.

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The "redemption process" advocates contend that via our birth certificates, we have pledged our bodies and the labor of our lifetimes to those creditors who hold these birth certificates; in essence, our labor is commerce according to this theory. The purchase of these birth certificates is allegedly performed in Washington, DC. However, at this place where federal law clearly applies, federal law declares via 15 U.S.C. §17, that "The labor of a human being is not a commodity or article of commerce." Does this "redemption" argument not plainly conflict with federal law?

Flaw 4: The 1935 Social Security Act did not create an account for everyone born in this country in the amount of approximately \$630,000.

In review of the material I have been provided regarding this argument, it is plainly alleged that whenever anyone is born in this country, a sum of approximately \$630,000 is deposited into some account at the U.S. Treasury or the Social Security Administration and that this account was created by the 1935 Social Security Act. This contention is utterly false as may be seen simply by reading the act which is posted to the SSA web site.

Flaw 5: The above named account is not the "Treasury direct account."

Neither the original Social Security Act nor any amendment to it created an account known as the "Treasury direct account."
However, there is such an account established by Treasury for those who routinely purchase U.S. notes and bonds. A
description of this account may be found at 31 C.F.R., part 357 and specifically 31 C.F.R. §357.20. Those who assert that
everyone has such an account know nothing about such accounts. And there is no "public side" and "private side" for these
accounts.

Flaw 6: You cannot write sight drafts on the Treasury of the United States via this non-existent account.

If you send any such sight draft to anyone, you will be prosecuted for violations of 18 USC §514 which provides as follows:

Sec. 514. Fictitious obligations

(a) Whoever, with the intent to defraud
(1) draws, prints, processes, produces, publishes, or otherwise makes, or attempts or causes the same, within the United States;

(2) passes, utters, presents, offers, brokers, issues, sells, or attempts or causes the same, or with like intent possesses, within the United States; or

1	(3) utilizes interstate or foreign commerce, including the use of the mails or wire, radio, or other electronic
2	communication, to transmit, transport, ship, move, transfer, or attempts or causes the same, to, from, or through
3	the United States,
-	and district,
	and false on finitions instrument. I compare on other item appropriate appropriate and appropriate on a containing
4	any false or fictitious instrument, document, or other item appearing, representing, purporting, or contriving
5	through scheme or artifice, to be an actual security or other financial instrument issued under the authority of
6	the United States, a foreign government, a State or other political subdivision of the United States, or an
7	organization, shall be guilty of a class B felony.
8	(b) For purposes of this section, any term used in this section that is defined in section 513(c) has the same
9	meaning given such term in section 513(c).
10	(c) The United States Secret Service, in addition to any other agency having such authority, shall have authority
11	to investigate offenses under this section.
12	Violations of this statute provide for a maximum period of 25 years imprisonment.
	A friend of mine from Vecality Idaha attended a meeting whom Isal Smith of Wrong Way I are analys recording this nave
13	A friend of mine from Kooskia, Idaho attended a meeting where Jack Smith of Wrong Way Law spoke regarding this new
14	"redemption process." During a break at this meeting, my friend asked Smith to provide specific authority and documentation
15	demonstrating that this was a bona fide argument. Smith admitted that this new argument was 100% theory.
16	The "redemption process" is one of the craziest arguments I have ever seen arise within this movement. Yet, people blindly
17	accept this argument without question or investigation.
17	accept this digument without question of investigation.
18	Latest News About the Redemption Process (Feb. 23, 2001):
19	This e-mail was received this date; it concerns one of the unfortunate followers of the process who was recently indicted:
20	Ballard man doubts U.S. existence
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22	By: BILL ARCHER, Staff February 19, 2001
23	BALLARD - The small Monroe County farming community of Ballard seems an unlikely place for a story with
24	national implications to emerge, but that's exactly what is taking place. One of the community's residents, Rodney
25	Eugene Smith, is involved in litigation that calls into question the very existence of the U.S. government. Smith,
26	63, seems quiet, polite and soft-spoken in his court appearances. Like about anyone would, he expressed a
27	preference to be seated in the audience gallery during hearings. But unlike everyone in the federal courtroom in
28	Beckley on Thursday, he was in the custody of U.S. Marshals, and therefore, had to sit at the defense table.
20	Beckley on Thursday, he was in the custody by C.S. Marshalls, that therefore, had to still a the defense table.
20	U.S. District Judge David A. Faber of the Southern District of West Virginia had ordered him to take a mental
29	competency exam at a hearing on Feb. 5 in Bluefield. At that time, Faber questioned the "nonsensical" motions
30	Smith has been filing in the case involving the serious federal criminal charges he faces.
31	Smith has been fitting in the case involving the serious jeaeral criminal charges he jaces.
22	Smith's life isn't necessarily an open book. At least eight years before appearing in federal court in the Southern
32	District of West Virginia, Smith was convicted in the state of New York for passing fraudulent documents - a
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34	felony. A similar set of circumstances led to his Dec. 6, 2000, arrest and initial appearance before U.S. Magistrate
35	Judge Mary S. Feinberg.
26	The charges that brought Smith into the federal courts in Bluefield and Beckley involved passing four "bills of
36	exchange," totaling under \$50,000, to various people and entities. The Internal Revenue Service agent heading
37	the investigation characterized the drafts as being associated to "fictitious obligations." Since his arrest, the
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39 40	government's initial complaint has expanded to include charges of possession of firearms by a convicted felon. A Beckley grand jury issued a "superseding indictment" against Smith in January.
40	beckies grand jury issued a superseaing indiciment against smith in January.
41	None of that seems to faze him. Based on his statements to the court as well as the voluminous number of
41	documents Smith has filed in this and other cases he is associated with in federal court, the entire process seems
42 43	to be an exercise in "acceptance for value."
+3	to be an exercise in acceptance for value.
44	The federal government and several states are aware of the entire "acceptance for value" concept. The U.S.
44	Department of Justice is constantly monitoring any surfacing of what they term the "Redemption Scheme." As of
45 46	June 2000, 16 states including Arizona, Colorado, Florida, Hawaii, Idaho, Illinois, Missouri, Montana, Ohio,
46 47	Oregon, South Dakota, Texas, Utah, Washington, Wisconsin and Wyoming have passed at least some laws - in
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several instances several laws - to protect public officials and private citizens from becoming victims of the

scheme.

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Much has been written about the evolution of the so-called "redeemers," but the thumb nail version goes like this. 2 Redeemers (who don't refer to themselves by that term) are essentially a composite of several fringe (militia-like) 3 organizations that tend to hold some very strong anti-government beliefs. During Smith's hearing Thursday in Beckley, Faber made reference to two specific documents that he said helped 4 the court understand some of the phrases Smith has been using in court and in his "pro se" (self-represented) court filings. Faber referenced a paper by Mark Pitcavage, Ph.D., titled "Old Wine, New Bottles: Paper 6 Terrorism, Paper Scams and Paper Redemption," published Nov., 8, 1999, and "The Radical Common Law 8 Movement and Paper Terrorism, The State Response," dated June 2000, by Denise Griffith and L. Cheryl Runyon. 9 At the risk of oversimplification, the independent researchers and the state and federal agencies mentioned in the 10 reports, claim that "redeemers" trace their roots to a murky event in 1909, that somehow - in redemption practitioner belief - caused the United States to go bankrupt. Pitcavage states that in the redeemer's scenario, the 11 12 World Bank gave the U.S., a 20-year moratorium to get its financial act together. However, when that failed to happen, the stock market crashed and America was thrown in the depths of the Great Depression. 13 Redeemer beliefs, according to Pitcavage and Griffith, are interwoven with significant developments in American 14 history including passage of the U.S. Social Security Act of 1935, and the change from a "gold standard" monetary 15 policy to a money system backed by the Federal Reserve, founded in 1913. The researchers claim a thread of 16 continuity connects present day paper terrorists with high-profile groups such as the Texas Freemen, the Branch 17 18 Davidians and others Griffith wrote that anti-government activity "escalated to unprecedented levels during the 1009s," and referred 19 20 to the 1992 confrontation between Randy Weaver and federal agents at Ruby Ridge, Idaho, as well the 1993 federal action at the Branch Davidian compound at Waco, Texas, as being some of the more prominent events. 21 "It was the 1996 standoff at the Freemen compound in Montana, however, that helped shed national light on a 22 quieter, less visible form of protest that is being played out in the nation's judicial system," Griffith wrote. "...the 23 filing of frivolous liens against the property of public officials." She added that clearing the fraudulent liens, 24 "clogs an already overburdened judicial system." 25 26 Smith has filed documents indicating that Rodney Eugene Smith will "accept for value" and documents filed on RODNEY EUGENE SMITH, spelled in all capital letters. Smith refers to H.J.R.-192, a House Joint Resolution 27 28 passed by Congress on June 5, 1933, among the massive federal New Deal package, that redeemers interpret as the nation's declaration of bankruptcy. 29 Redemption scheme practitioners cite the Uniform Commercial Code as defined in H.J.R.-192 as their vehicle for 30 recovering what they call their "straw men" or "stramineus homo," an entity they claim the government created 31 to serve as a conduit to extract energy from flesh and blood citizens. They claim each person's "straw man" is 32 33 referenced by the government in all capital letters. Subscribers to this philosophy appear willing to invest whatever is required of them to liberate or "redeem" their 34 straw man. The passing of fraudulent documents, such as the bogus "bill of exchanges" Smith was arrested for, 35 36 as well as other bogus documents called "sight drafts" are considered means of liberation, according to Griffith and Pitcavage. 37 The Treasury Department's Office of the Comptroller of the Currency and the Federal Deposit Insurance 38 Corporation issued alerts to banking officials, warning about the fraudulent sight drafts and instructing bank 39 officials to notify the Federal Bureau of Investigation if they receive one. 40 "Your institution should also prepare a Suspicious Activity Report," according to an OCC advisory. "Under no 41 circumstances should your institution honor one of these instruments or submit it for payment." 42 Pitcavage and Griffith also described a redemption scheme tactic meant to harass public officials. Both explained 43 that, for example, if a police officer cited a redemption practitioner for a traffic violation, the practitioner would 44 fix a "value" to the document - say \$50,000 - accept it for value, then submit an IRS Form 1099 naming the issuing 45 officer as the recipient of a gift. Under normal circumstances, the IRS would see the gift as unreported income 46 when the unsuspecting officer filed his taxes. 47 48 Faber has proceeded very cautiously in Smith's criminal case. The judge stated openly in court that people have a right to voice opposition to the government, however, he made it clear that Smith "is not entitled to harass and 49 interfere with other people," and added that as a federal judge, he has a responsibility "to protect the public.' 50 Faber ordered Smith to have a mental competency hearing exam locally, and scheduled a hearing on the matter 51 for March 5, in Bluefield. 52 ©Bluefield Daily Telegraph 2001 53

- We have an article on the Family Guardian website about Roger Elvick himself being arrested:
- http://famguardian.org/Subjects/LawAndGovt/News/RogerElvickArrest-030905.pdf
- The U.S. Treasury has also put the public on notice that Bills of Exchange and Sight Drafts filed with the Dept. of the Treasury
- will promptly land anyone who uses them into jail:

http://www.treasurvdirect.gov/instit/statreg/fraud/fraud_bogussightdraft.htm

10.5 The International Monetary Fund (IMF) Argument

- Some contend that the Secretary of the Treasury is in reality a foreign agent under the control of the IMF; this argument has
- been rejected by the courts.
- 8 1. *United States v. Rosnow*, 977 F.2d. 399, 413 (8th Cir. 1992)
 - 2. United States v. Jagim, 978 F.2d. 1032, 1036 (9th Cir. 1992)
- 3. *United States v. Higgins*, 987 F.2d. 543, 545 (8th Cir. 1993).

10.6 The Flag Issue

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False Argument: The gold fringed flag used in federal and state courts indicates admiralty jurisdiction.

<u>Corrected Alternative Argument</u>: Most federal and state courts are legislative courts that deal with franchises and "public rights". Nearly all federal or state franchises treat the franchise as a public office with a domicile or residence on federal territory who has no Constitutional rights. It is a criminal offense to create, offer, or enforce franchises within a constitutional state of the Union because it is a criminal offense for a non-consenting and otherwise PRIVATE human to impersonate a public officer per 18 U.S.C. §912.

Further information:

- Affidavit of Corporate Denial, Form #02.004 http://sedm.org/Forms/FormIndex.htm
- 2. <u>Resignation of Compelled Social Security Trustee</u>, Form #06.002: Proves that the real "taxpayer" is a public official and trustee for the government http://sedm.org/Forms/FormIndex.htm
- A currently popular argument is that the gold fringed flag indicates the admiralty jurisdiction of the court. Naturally, pro se's have made this argument and lost.
- 1. Vella v. McCammon, 671 F.Supp. 1128, 1129 (S.D. Tex. 1987)(the argument has "no arguable basis in law or fact")
- 2. Comm. v. Appel, 652 A.2d. 341, 343 (Pa.Super. 1994)(the contention is a "preposterous claim")
- 3. *United States v. Schiefen*, 926 F.Supp. 877, 884 (D.S.D. 1995)(in this case, the C.F.R. cross reference index argument, those regarding the UCC, common law courts and the flag issue were rejected)
- 4. *McCann v. Greenway*, 952 F.Supp. 647 (W.D.Mo. 1997)
 - 5. *Sadlier v. Payne*, 974 F.Supp. 1411 (D.Utah 1997)
- 6. <u>Schneider v. Schlaefer</u>, 975 F.Supp. 1160 (E.D.Wis. 1997).

10.7 Land Patents can be used to defeat mortgages

False Argument: Land patents can be used to defeat mortgages.

<u>Corrected Alternative Argument</u>: It's wrong to steal. Any attempt to dishonor your loans, agreements, or commitments is stealing.

Further information:

- 1. Exodus 20:15-the ten commandments. Prohibits stealing.
- 2. <u>Prov. 1:10-19</u>-prohibits hanging around with those who steal.

- Back in 1983 and 1984, Carol Landi popularized an argument that the land patent was the highest and best form of title and
- that by updating the patent in your own name, you could defeat any mortgages. This contention violated many principles of
- real property law and when Carol started trying to get patents for most of the land in California brought up into her own
- name, she went to jail. Others who have raised this crazy argument lost the issue.
- 5 1. Landi v. Phelps, 740 F.2d. 710 (9th Cir. 1984)
 - 2. Sui v. Landi, 209 Cal.Rptr. 449 (Cal.App. 1 Dist. 1985)
- 3. *Hilgeford v. People's Bank*, 607 F.Supp. 536 (N.D.Ind. 1985)
- 4. Nixon v. Individual Head of St. Joseph Mtg. Co., 612 F.Supp. 253 (N.D. Ind. 1985)
- 9 5. Nixon v. Phillipoff, 615 F.Supp. 890 (N.D. Ind. 1985)
- 6. Wisconsin v. Glick, 782 F.2d. 670 (7th Cir. 1986)
- 7. Britt v. Federal Land Bank Ass'n. of St. Louis, 505 N.E.2d. 387 (Ill. App. 1987)
- 8. Charles F. Curry Co. v. Goodman, 737 P.2d. 963 (Okl.App. 1987)
 - 9. Federal Land Bank of Spokane v. Redwine, 755 P.2d. 822 (Wash.App. 1988).

Executive Order 11110

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There is currently floating around the Net one theory of the Kennedy assassination based upon certain legal documents.

According to this idea, Kennedy was assassinated because he was about ready to start issuing silver certificates; to prevent him from doing so, the "powers that be" had him killed. Please understand that what I offer below explaining the flaw of this argument does not mean that I am an apologist for the Fed or banking industry; it should be obvious from my site that I am not. I only offer these comments because this argument demonstrates just one of the completely erroneous arguments which are allegedly based upon the "law" but are not.

When Congress enacts a law, it often delegates authority to enforce and administer the law to some executive official, typically the President. Naturally, the President does not personally attend to such duties and must himself delegate to others within the Executive branch. The Agricultural Adjustment Act of May 12, 1933, was one of these acts and it permitted the President in §43 to issue silver certificates.

Public Law 673 enacted by Congress in 1950 was similar to many previous ones and it allowed the President to delegate his statutory functions to others within the Executive branch. It provided:

The President of the United States is hereby authorized to designate and empower the head of any department or agency in the executive branch, or any official thereof who is required to be appointed by and with the advice and consent of the Senate, to perform, without approval, ratification, or other action by the President (1) any function which is vested in the President by law, or (2) any function which such officer is required or authorized by law to perform only with or subject to the approval ratification, or other action of the President: ...

Pursuant to this statutory authority, on September 19, 1951, President Truman issued Executive Order 10289, which delegated to the Secretary of the Treasury lots of the statutory duties of the President. This executive order provided in part as follows:

By virtue of the authority vested in me by section 1 of the act of August 8, 1950, 64 Stat. 419 (Public Law 673, 81st Congress), and as President of the United States, it is ordered as follows:

1. The Secretary of the Treasury is hereby designated and empowered to perform the following described functions of the President without the approval, ratification, or other action of the President:
(a) The authority vested in the President by section 1 of the act of August 1, 1914, c. 223, 38 Stat. 609, as amended (19 U.S.C. §2), (1) to rearrange, by consolidation or otherwise, the several customs-collection districts, (2) to discontinue ports of entry by abolishing the same and establishing others in their stead, and (3) to change from time to time the location of the headquarters in any customs-collection district as the needs of the service may require.
(b) The authority vested in the President....

Thereafter, this executive order listed another 8 statutory powers of the President which he was delegating to the Treasury Secretary, the substance of which is not important for this discussion. Please remember that this delegation to the Treasury Secretary was to be exercised "without the approval, ratification, or other action of the President." It should also be noted that this particular executive order did not delegate to the Treasury Secretary the authority to issue silver certificates granted to the President in the 1933 law noted above.

Flawed Tax Arguments to Avoid, Version 1.27 Copyright Family Guardian Fellowship, http://famguardian.org Last Revised: 1/23/2018 From 1933 until 1963, the President alone possessed the statutory authority to issue silver certificates. But then on June 4, 1963, President Kennedy amended Truman's 1951 Executive Order 10289 by Executive Order 11110. This particular order read as follows:

AMENDMENT OF EXECUTIVE ORDER NO. 10289 4 AS AMENDED. RELATING TO THE PERFORMANCE OF 5 CERTAIN FUNCTIONS AFFECTING THE DEPARTMENT OF THE TREASURY 7 By virtue of the authority vested in me by section 301 of title 3 of the United States Code, it is ordered as follows: 8 SECTION 1. Executive Order No. 10289 of September 19, 1951, as amended, is hereby further amended -9 10 (a) By adding at the end of paragraph 1 thereof the following subparagraph (j): 11 (j) The authority vested in the President by paragraph (b) of section 43 of the Act of May 12, 1933, as amended (31 U.S.C. §821 (b)), to issue silver certificates against any silver bullion, silver, or standard silver dollars in the 12 13 Treasury not then held for redemption of any outstanding silver certificates, to prescribe the denominations of such silver certificates, and to coin standard silver dollars and subsidiary silver currency for their redemption," 14 15 and (b) By revoking subparagraphs (b) and (c) of paragraph 2 thereof. 16 17 SECTION 2. The amendment made by this Order shall not affect any act done, or any right accruing or accrued or any suit or proceeding had or commenced in any civil or criminal cause prior to the date of this Order but all 18 19 such liabilities shall continue and may be enforced as if said amendments had not been made. 20 JOHN F. KENNEDY 21 THE WHITE HOUSE, 22 23 June 4, 1963

By this executive order, the statutory authority of the President to issue silver certificates was delegated to the Treasury Secretary. In Kennedy's administration, the Treasury Secretary was Douglas Dillon, a man from a banking family and a known established "power" in the banking community. Kennedy delegated the authority to issue silver certificates to Dillon and his successors and this power could be exercised "without the approval, ratification, or other action of the President."

The only reasonable conclusion which may be reached based upon the facts are the exact opposite of the argument made on the Net. For some 30 years, the President himself held the power to issue silver certificates. But some 5 months before his assassination, Kennedy delegated this power to Dillon, and via this order, Dillon could do as he pleased with this power. To assert that Kennedy was by Executive Order 11110 getting ready to issue silver certificates is contrary to the plain facts. Instead, Kennedy was surrendering this power and delegating it to the Treasury Secretary, who then (and as always) has been someone from the banking industry. There is no substance to this theory on the Net. I cannot understand how this particular order proves that Kennedy was about to issue silver certificates. Where is the proof that Kennedy was anything other than a pawn of the banking community?

Additional Note re Executive Order 11110:

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From Jim Ewart at zns@interserv.com

Hi Larry:

Thanks for the input re the John F. Kennedy "silver-certificate" item. As chance would have it, about two months ago I helped Ed Griffin ("Creature From Jekyll Island") write a letter to a guy who raised this issue with Ed. Ed and I came to the same conclusion as you did, that the story being circulated by some "patriots" was seriously flawed.

As you may recall, some 20 years ago a different story was making the rounds of the "patriot" community. This story said that JFK made a speech at Columbia University a couple of weeks before his death. In that speech JFK supposedly said, "I have discovered that the high office of the presidency has been used to foment a plot against the American people," and allegedly, this presentation continued with him saying that he was going to take decisive steps to stop that plot in its tracks.

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1	JFK supposedly then ordered the U.S. Treasury to immediately print zilions of U.S. Notes [not_silver
2	certificates) to replace all the Federal Reserve Notes then in circulation. The implication was that by replacing
3	the Federal Reserve Notes with U.S. Notes, the federal government would no long have to pay interest to the Fed
4	on the face value of all the paper currency precisely because U.S. Notes are "spent into circulation interest
5	free" (echoing the late Pastor Sheldon Emery and others of his persuasion, that is, the advocates of "populism"
6	and/or "social credit.")
7	A few days before JFK's death, supposedly about \$300 million of these U.S. Notes were placed in circulation, and
8	it was exactly this action by JFK that caused the bad guys, the "banksters," to arrange for JFK to be killed.
9	However, while this story is interesting, it apparently has almost no factual basis.
10	One of Congressman Ron Paul's researchers was a libertarian gal with heavy economic and finance credentials,
11	a Masters Degree in finance if I recall correctly, and many years of investment analysis for a major brokerage
12	firm. This gal, Rita something or another, spent several months early in 1983 investigating the story for Ron Paul.
13	She called me later that year to see if I could supply her with any supporting information.
14	I told her I had heard the rumor but did not have any facts to support it. She said she'd been in close touch with
15	top-level people in the Kennedy family, and in contact with several of JFK's closest political cronies, and also in
16	contact with top people at Columbia University. The University had no memory or other record of JFK being on
17 18	that campus or in the area for any meeting of any kind within several years of the alleged appearance, and none of JFK's associates, political or personal, offered anything but negative comment on the whole tale.
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19	This researcher (Rita D. Simone, from Arlington, Virginia, whose name, address, and phone number is still in the
20	ZNS database) concluded that the alleged event simply did not happen.
21	However, some U.S. Notes were issued in 1962 but solely to replace worn-out Federal Reserve Notes from the
22	series of 1950 and earlier. The U.S. Notes were used because the Treasury had already issued all of its authorized
23	inventory of uncirculated Federal Reserve Notes, and because the Treasury could print U.S. Notes without special
24	prior approval from the Federal Reserve banking system.
25	But the U.S. Notes were strictly an interim solution to the problem of replacing worn Federal Reserve Notes.
26	Please recall that the next year, in 1963, the Treasury printed and began issuing Federal Reserve tokens, FRTs,
27	the "new Federal Reserve Note" bills, the ones missing the phrases "will pay to the bearer on demand" and "and
28	is redeemable in lawful money at the United States Treasury or at any Federal Reserve Bank."
29	FRTs would eventually replace _all_ then-circulating paper currency: U.S. Notes, Federal Reserve Notes from
30	the series of 1950 and earlier, and silver certificates. Within 10 years or so, the only paper currency circulating
31	in the U.S. was the FRT.
22	The man who contacted Ed Criffin questioning compthing Ed had said in "Creature from John Heland" said ha
32	The man who contacted Ed Griffin, questioning something Ed had said in "Creature from Jekyll Island," said he had heard the U.S. Note story from an organization called "Christian" something or another. I had not heard of
33	that entity, I had no record of it in my big database of patriotic groups, publications, and broadcasts, etc., and I
34 35	had no record of any similar-sounding entity in the general area of the writer's home address.
36	I concluded that the "Christian" something or another "group" was really just a dba of a lone individual patriot,
37	someone who simply and innocently echoed a highly inaccurate version of the largely fictional JFK-Columbia
38	University tale.
39	[snip re personal matters]
40	Here's wishing you and your fine family a very happy Thanksgiving.
41	Also, thanks again for the analysis of the JFK "silver certificate" story.
42	Best wishes,
43	Jim Ewart
	····· -······
44 People	should read Jim's book, <u>Money.</u>

10.9 <u>H.J.R.-192 Is Still Enacted Law</u>

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False Argument: H.J.R.-192 is still enacted law.

<u>Corrected Alternative Argument</u>: H.J.R.-192, which is the law that supposedly abandoned commodity based currency in 1933, is *no longer enacted into law*. It was repealed in 1982 when Title 31 of the U.S. Code was enacted into law. 38 Stat. 1065 et seq.

Further information:

- 1. <u>H.J.R.-192</u>-Family Guardian Website http://famguardian.org/Subjects/MoneyBanking/Money/1933-HJR192.pdf
- 2. <u>The Money Scam</u>, Form #05.041-Section 10.4 contains the full text of H.J.R.-192. Section 10.5 contains the REPEAL of H.J.R.-192.
 - http://sedm.org/Forms/FormIndex.htm
- 3. <u>Money, Banking, and Credit Page</u>, Family Guardian Website http://famguardian.org/Subjects/MoneyBanking/MoneyBanking.htm
- House Joint Resolution (HJR) 192, 48 Stat. 112-113 was enacted into law on June 5-6, 1933. The full text of this act can be
- 2 found at:

H.J.R.-192-Family Guardian Website

http://famguardian.org/Subjects/MoneyBanking/Money/1933-HJR192.pdf

- 3 H.J.R.-192 was enacted in order to deal with the outflow of gold from our economy caused by the Great Depression and
- 4 financial instability. Many patriots who claim to believe in "redemption" hang their hat on the fact that H.J.R.-192 outlawed
- ⁵ lawful money and that this resolution is still law. See:

Policy Document: UCC Redemption, Form #08.002

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

- Most of those who believe in "redemption" that we have met, however, do not realize that this act has been repealed by Public
- Law 97-258, 96 Stat. 1068. For proof of this fact, see:

<u>The Money Scam</u>, Form #05.041-Section 16.4 contains the full text of H.J.R.-192. Section 6.6 proves the REPEAL of H.J.R.-192.

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

10.10 Use of Postal ZIP codes implies a domicile on federal territory

<u>False Argument</u>: The use of a postal ZIP code in one's address implies that one maintains a domicile within federal territory and is subject to federal civil law or that they are engaged in some kind of federal franchise that makes them subject to federal law.

<u>Corrected Alternative Argument</u>: There is no evidence that any government has ever made the zip code portion of a person's mailing address into a material fact in court for determining whether that address is on federal territory and is therefore subject to federal civil law. One's mailing address is not the main criteria for judicially or administratively determining the domicile of a man or woman. Mailing address is only material to the determination of legal domicile in the <u>absence</u> of express declaration on a government form.

Further information:

- Why Domicile and Becoming a "Taxpayer" Require Your Consent, Family Guardian Fellowship http://famguardian.org/Subjects/Taxes/Remedies/DomicileBasisForTaxation.htm
- 2. Why Domicile and Becoming a "Taxpayer" Require Your Consent, Form #05.002 http://sedm.org/Forms/FormIndex.htm
- 9 Many freedom fighters mistakenly believe that the use of postal zip codes implies any one or more of the following:
- 1. That the address that uses the zip code is on federal territory.

- 2. That the person at said address maintains a domicile on federal territory.
- 2 3. That zip codes are a federal franchise which makes all those who use them into government franchisees who have surrendered their rights.
- These types of conclusions are absolutely crazy and unfounded. We suspect that they originate from the resentment that
- 5 people feel who have been victimized by other government franchises that abuse numbers, such as Social Security and the
- income tax. What these types of beliefs reveal is simply presumption, ignorance, and superstition. They are not based on
- ⁷ fact. For instance:

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- Domicile is what determines tax liability, not your mailing address. Your mailing address is not legal evidence of your choice of domicile, but only *one* of the factors for determining it ABSENT express declaration.
 - 2. The government never argues any of the above in court, so it isn't material. Why argue or oppose something that the opposition isn't even talking about? You're just making needless work and anxiety for yourself and distracting attention away from core freedom and law enforcement issues.
 - 3. We have never seen any evidence that connects a zip code ONLY to federal territory.
 - 4. We have never seen any evidence that use of zip codes constitutes consent to any type of federal franchise and evidence is the only thing upon we rely as a basis for belief.
 - 5. We have never seen nor heard about any litigation where use of zip codes was material to establishing the domicile of the defendant or the receipt of any federal benefit.
 - 6. Government forms that establish your domicile usually use two addresses. "Mailing Address" and "Permanent Address"/"Residence". Both of these addresses include a zip code usually. It is what you put in the "Permanent Address"/ "Residence" that establishes your legal domicile.
- You can overcome any presumption of domicile on federal territory simply by stating on your mailing address the following, thus making the zip IRRELEVANT.

"Not a Domicile"

The subject of domicile is exhaustively covered in the authoritative articles below:

- 1. <u>Why Domicile and Becoming a "Taxpayer" Require Your Consent</u>, Family Guardian Fellowship http://famguardian.org/Subjects/Taxes/Remedies/DomicileBasisForTaxation.htm
- 27 2. Why Domicile and Becoming a "Taxpayer" Require Your Consent, Form #05.002 http://sedm.org/Forms/FormIndex.htm

If you have any evidence in your possession that contradicts the content of this section, please provide it so we can post it for all to review. Otherwise, we need to quit imitating our oppressors by engaging in religion and presumption that are not supported by evidence.

10.11 The U.S. Government went bankrupt in 1933

False Argument: The U.S. Government went bankrupt in 1933

<u>Corrected Alternative Argument</u>: There is no evidence to support the contention that the U.S. went bankrupt. Alleged quotes attributed to Congressman Louis Mcfadden that admit of bankruptcy are FALSE. Freedom advocates should NOT be making claims that they have no evidence to prove. PRESUMPTIONS are not facts. Take more time to check your sources before you shoot off your mouth and discredit the entire freedom community. If you don't know how to do legal research and fact check claims of others, then KEEP YOUR MOUTH SHUT.

"It's better to close your mouth and be thought a fool than to open it and remove all doubt."

Further information:

- 1. <u>Highlights of American Legal and Political History CD</u>, SEDM http://sedm.org/ItemInfo/Disks/HOALPH/HOALPH.htm
- 2. <u>Legal Research Sources</u>, Family Guardian Website http://famguardian.org/TaxFreedom/LegalRef/LegalResrchSrc.htm
- 3. <u>Legal Research and Writing Techniques Course</u>, Form #12.013 http://sedm.org/Forms/FormIndex.htm

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- For years, there has been a completely baseless contention floating around, promoted by gurus, that there was a bankruptcy 1 of the United States back in the early 1930s. Of course, lots of gurus have made this argument, but nobody has ever proved 2 it, the contention being nothing but guru mythology, the purpose of which is to deceive the gullible. We have not yet seen any concrete court admissible evidence that this is true. People should not be making ANY claims, especially in court, that 4 they do not have court admissible evidence is true. Please exercise your due diligence in fact checking ALL the claims of
- Below is an example of a false claim alleging the bankruptcy of the United States Inc. from the writings of so-called "Judge" Anna von Reitz: 8

others, and especially before passing on or endorsing what amounts to patriot mythology.

The United States defined as "...the District of Columbia et alia" went "Bankrupt" in 1933 and was declared so by President Roosevelt in Executive Orders 6073, 6102, 6111, and finally, as consolidated in Executive Order 6260, (See: Senate Report 93-549, pages 187 & 594) under the "Trading With The Enemy Act" (Sixty-Fifth Congress, Sess. I, Chs. 105, 106, October 6, 1917), and as codified at 12 U.S.C.A. 95a.

The several Federal "States of the Union"—purely incorporated political fictions created as franchises of the United States of America, Inc., represented by their respective Governors pledged the "full faith and credit" of their States and their citizenry, to the aid of the National Government represented by the "United States of America, Inc.", and formed numerous committees, such as the "Council of State Governments", the "Social Security Administration", etc., to purportedly deal with the economic "Emergency" caused by the bankruptcy. These organizations operated under the "Declaration of Interdependence" of January 22, 1937, and published some of their activities in "The Book of the States."

The Reorganization of the bankruptcy is located in Title 5 of the United States Code Annotated. The "Explanation" at the beginning of 5 U.S.C.A. is most informative reading. The "Secretary of Treasury" was appointed as the "Receiver" in Bankruptcy. (See: Reorganization Plan No. 26, 5 U.S.C.A. 903, Public Law 94-564, Legislative History, pg. 5967) As a Bankrupt loses control over his business, this appointment to the "Office of Receiver" in bankruptcy had to have been made by the "creditors" who are "foreign powers or principals". As revealed by Title 27 U.S.C. 250.11 and elsewhere, the "Secretary of the Treasury" being referenced is the Secretary of the Treasury of Puerto Rico, an Officer of the Federal United States who was designated as the "Receiver" in bankruptcy by the Foreign Creditors (banks).

The United States as Corporator, (22 U.S.C.A. 286E, et seq.) and "State" (C.R.S. 24-36-104, C.R.S. 24-60-1301(h)) declared "Insolvency" according to 26 I.R.C. 165(g)(1), U.C.C. 1-201(23), C.R.S. 39-22-103.5, Westfall vs. Braley, 10 Ohio 188, 75 Am.Dec. 509, Adams v. Richardson, 337 S.W.2d. 911; Ward vs. Smith, 7 Wall. 447)

A permanent state of "Emergency" was instituted within the Union and the Federal Reserve has acted as the "fiscal and depository agent" of the "creditors" ever since. Please note that the member banks of the Federal Reserve are all privately owned corporations, 22 U.S.C.A. §286d.

The government, by becoming a "corporator" (See: 22 U.S.C.A. 286e) lays down its sovereignty and takes on that character and status of a private citizen. It can exercise no power which is not derived from the corporate charter. (See: The Bank of the United States vs. Planters Bank of Georgia, 6 L.Ed. (9 Wheat) 244, U.S. vs. Burr, 309 U.S. 242).

The Corporate Charter adopted by the "federal corporation", aka, US Corp, included the Constitution of the United States of America as its By-Laws, which are of course, as By-Laws subject to change and interpretation just like any other corporate By-Laws. The Constitution of the United States of America also remains as a public commercial contract which is being "traded upon" by corporations claiming to be successors and holders in due course of the original contractual agreement known as The Constitution for the united States of America. [Before Things Get Out of Hand...Judge Anna Von Reitz;

SOURCE: http://annavonreitz.com/beforethingsgetoutofhand.pdf]

- NONE of the authorities cited above admit or a U.S. government bankruptcy. They only appear authoritative to the legally ignorant.
- Another similar example is found at: 48

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The United States is Bankrupt, USA the Republic

http://usa-the-republic.com/emergency%20powers/United%20States%20Bankrupt.html

Yet another example is found below: 49

Three Claims, Freedom School

http://www.freedom-school.com/truth/3 claims.htm

Another similar example is from the Family Guardian Website submitted by someone else and not written by us:

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The United States went "Bankrupt" in 1933 and was declared so by President Roosevelt by Executive Orders
                            6073, 6102, 6111 and by Executive Order 6260 on March 9, 1933 (See: Senate Report 93-549, pgs. 187 & 594),
3
                            under the "Trading with The Enemy Act" (Sixty-Fifth Congress, Sess. I, Chs. 105, 106, October 5, 1917), and as
                            codified at 12 U.S.C.A. §95a.
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                            On May 23, 1933, Congressman, Louis T. McFadden, brought formal charges against the Board of Governors
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                            of the Federal Reserve Bank System, the Comptroller of the Currency and the Secretary of the United States
                            Treasury for criminal acts. The petition for Articles of Impeachment was thereafter referred to the Judiciary
8
                            Committee, and has yet to be acted upon (See: Congressional Record, pp. 4055-4058). Congress confirmed the
                            Bankruptcy on June 5, 1933, and impaired the obligations and considerations of contracts through the "Joint
10
                            Resolution To Suspend The Gold Standard And Abrogate The Gold Clause, June 5, 1933", (See: House Joint
                            Resolution 192, 73rd Congress, 1st Session).
12
                            [Declaration of Cause and Necessity to Abolish and Declaration of Separate and Equal Station, Family Guardian
13
                            Fellowship:
14
                            SOURCE: http://famguardian.org/subjects/LawAndGovt/NewWorldOrder/DeclarationToAbolishUSGov.htm]
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Here are the Executive Orders mentioned in the above examples, none of which admit of a U.S. Bankruptcy: 16

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1. E.O. 6073
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          http://www.presidency.ucsb.edu/ws/?pid=14507
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http://www.presidency.ucsb.edu/ws/?pid=14611 20

3. E.O. 6111

http://www.presidencv.ucsb.edu/ws/?pid=14621

4. E.O. 6260 23

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http://www.presidency.ucsb.edu/ws/?pid=14509

The House Congressional Record of June 10, 1932, pp. 399-403, is sometimes offered as proof of the bankruptcy but it does 25 NOT indicate a bankruptcy. 26

http://annavonreitz.com/mcfaddenspeechonthefed.pdf 27

The above document claims to directly quote from the Congressional record the following alleged language of McFadden: 28

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"Mr. Chairman, the United States is bankrupt: It has been bankrupted by the corrupt and dishonest Fed. It has
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                                repudiated its debts to its own citizens. Its chief foreign creditor is Great Britain, and a British bailiff has been at
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                                the White House and the British Agents are in the United States Treasury making inventory arranging terms of
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                                liquidations!'
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                                [Congressman McFadden's Speech on the Federal Reserve Corporation, Arizona Caucus Club;
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                                SOURCE: <a href="http://annavonreitz.com/mcfaddenspeechonthefed.pdf">http://annavonreitz.com/mcfaddenspeechonthefed.pdf</a>]
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- Unfortunately, the above language is NOT in the Congressional record referenced in the above document as being there:
- http://www.afn.org/~govern/mcfadden speech 1932.html 36
- http://www.perfecteconomy.com/pg-congressman-louis-t-mcfadden-1932.html 37

A bankruptcy is a simple matter to understand. The debtor's assets are collected by a duly appointed trustee and sold in the 38 open market. The proceeds from the sale of assets are used to pay all creditors. How people can claim that the events in 1933 39 are really some bankruptcy is difficult to understand. They claim the United States was bankrupt. But assets of the United 40 States were not seized. Yes, President Franklin Delano Roosevelt DID seize all the gold of STATUTORY "U.S. citizens" 41 (not state citizens) in 1933, but the assets of the "U.S. Inc." federal corporation were not seized. Can somebody please explain 42 how the seizure of property (gold) from STATUTORY "U.S. citizens" and the delivery of that gold to the possession of the 43 United States Inc. evidences some nefarious and mysterious bankruptcy? 44



- With this background in mind, let me explain the "quotes" made from the above Congressional Record that are claimed to 1
- support the contention of the bankruptcy of the United States in the early 1930s. The House Congressional Record of Dec. 2
- 13, 1932 explains the context of the above speech by McFadden. The June 10, 1932 FALSE "quote" is from a resolution
- offered by Louis McFadden to impeach President Hoover. If you read the whole resolution, it is clear that Hoover was 4
- engaged in what the historical record reveals: an international effort to provide relief to debtor nations, with the US being 5
- their creditor (especially Germany). These facts were recounted in McFadden's impeachment resolution.
- The last page of McFadden's resolution to impeach President Hoover, offered a mere 2 days before debtor nations were to
- make payments to creditor United States, was tabled, an overwhelming defeat for McFadden. What we state above does not 8
- mean that we dislike McFadden, who was a man we hold in high regard. However, what you provide below to support your 9
- false claim of the bankruptcy of the United States is exposed for the lie that it is. 10
- Let us present the real historical facts. After WWI, Germany was loaded down with war reparations, the payment of which 11
- resulted in the downfall of the Weimar Republic due to hyper-inflation in the early 1920s. The financial condition of Germany 12
- was exacerbated when the Great Depression hit in late 1929. By 1930 and early 1931, most of Europe was prostrated by the 13
- depression, and payment of the WWI reparations, and indeed payments of loans from debtor nations to creditors nations was 14
- creating serious economic problems and hardships. The United States was a creditor for Germany, being owed reparations 15
- and other debts. 16

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- In the summer of 1932, conferences in London and Geneva were held to address these problems, and President Hoover sent 17
- representatives. See: 18
- https://en.wikipedia.org/wiki/London Economic Conference 19
- While a tentative agreement was reached, it still would have required the agreement of Congress after that to relieve debts 20 owed to the United States, including those owed by Germany. 21
- Some historical facts regarding these events may be learned by reading some of President Hoover's statements regarding this 22 matter, posted here: 23
- Telegram to Members of the Congress About the Moratorium on Intergovernmental Debts. June 23, 1931 24 http://www.presidencv.ucsb.edu/ws/index.php?pid=22722 25
- White House Statement About Latin American Debts. June 27, 1931 26
 - http://www.presidency.ucsb.edu/ws/index.php?pid=22725
- 3. Statement on the Moratorium on Intergovernmental Debts and Reparations. July 6, 1931 28 http://www.presidency.ucsb.edu/ws/index.php?pid=22735 29
- 4. Message to Senator Arthur Capper About the Domestic Impact of the European Economic Crisis. July 18, 1931 30 http://www.presidency.ucsb.edu/ws/index.php?pid=22748 31
- 5. Statement on the London Conference of Ministers. July 23, 1931 32
 - http://www.presidency.ucsb.edu/ws/index.php?pid=22750
- White House Statement on the American Proposal to the London Conference of Ministers. July 23, 1931 34 http://www.presidency.ucsb.edu/ws/index.php?pid=22751 35
- 7. Messages Congratulating the Secretary of State and the Secretary of the Treasury on Their Roles in the London 36 Conference of Ministers. July 23, 1931 37 http://www.presidency.ucsb.edu/ws/index.php?pid=22752 38
- 8. The President's News Conference. August 25, 1931 39
 - http://www.presidency.ucsb.edu/ws/index.php?pid=22786
- 9. White House Statement About an International Conference on World Trade. September 15, 1931 41 http://www.presidency.ucsb.edu/ws/index.php?pid=22805 42
 - 10. The President's News Conference. September 22, 1931
 - http://www.presidency.ucsb.edu/ws/index.php?pid=22811
- 11. Message to the Congress on United States Foreign Relations. December 10, 1931 45 http://www.presidency.ucsb.edu/ws/index.php?pid=22936 46
- The link immediately above notes that on Dec. 15, 1932, lots of debtor nations were required to make payments on their debts 47 to the United States. 48

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For further information about this subject, see the following, which also agrees with this section:

<u>Is the U.S. Bankrupt?</u>, St Lois Federal Reserve Bank https://research.stlouisfed.org/publications/review/06/07/Kotlikoff.pdf

11. <u>Techniques for Combatting Government Verbicide and Presumption When Litigating</u> Against the Government

As we said in the Introduction of this document, the most prevalent method for unlawfully enlarging government jurisdiction and advancing the government flawed tax arguments described starting in Section 8 are presumptions, equivocation, and verbicide using "words of art". The following subsections contain verbiage that we recommend including in any Memorandum of Law you file in any especially federal court during litigation involving taxation in order to prevent being victimized by such abuses. The language assumes that you are litigating against the government. The last of the three subsections derives from the following free memorandum of law, Section 3.9:

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

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If you would like all of the following subsections in one convenient form ready to attach to your pleadings, you can obtain it at the link below:

<u>Rules of Presumption and Statutory Interpretation</u>, Litigation Tool #01.006 http://sedm.org/Litigation/LitIndex.htm

11.1 Rebuttal of Those who Fraudulently Challenge or Try to Expand the Statutory Definitions in this Document

The main purpose of law is to limit government power. The foundation of what it means to have a "society of law and not men" is law that limits government powers. We cover this in <u>Legal Deception</u>, <u>Propaganda</u>, <u>and Fraud</u>, <u>Form #05.014</u>, Section 5. Government cannot have limited powers without DEFINITIONS in the written law that are limiting and which define and declare ALL THINGS that are included and implicitly exclude all things not expressly identified. The rules of statutory construction and interpretation recognize this critical function of law with the following maxims:

"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)]

The ability to define terms or ADD to the EXISTING statutory definition of terms is a LEGISLATIVE function that can lawfully and constitutionally be exercised ONLY by the Legislative Branch of the government. The power to define or expand the definition of statutory terms:

- 1. CANNOT lawfully be exercised by either a judge or a government prosecutor or the Internal Revenue Service.
- 2. CANNOT be exercised by making <u>PRESUMPTIONS</u> about what a term means or by enforcing the COMMON meaning of the term that is already defined in a statute. See <u>Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction, Form #05.017</u>:

"It is apparent," this court said in the Bailey Case (219 U.S. 239, 31 S.Ct. 145, 151) 'that a constitutional 2 prohibition cannot be transgressed indirectly by the creation of a statutory presumption any more than it can be violated by direct enactment. The power to create presumptions is not a means of escape from constitutional restrictions. [Heiner v. Donnan, 285 U.S. 312 (1932)] 5 6 A presumption is an assumption of fact that the law requires to be made from another fact or group of facts found 8 or otherwise established in the action. A presumption is not evidence. A presumption is either conclusive or rebuttable. Every rebuttable presumption is either (a) a presumption affecting the burden of producing evidence 10 or (b) a presumption affecting the burden of proof. Calif. Evid. Code, §600. In all civil actions and proceedings not otherwise provided for by Act of Congress or by the Federal Rules of 11 Evidence, a presumption imposes on the party against whom it is directed the burden of going forward with 12 evidence to rebut or meet the presumption, but does not shift to such party the burden of proof in the sense of the 13 risk of nonpersuasion, which remains throughout the trial upon the party on whom it was originally cast. Federal 14 Evidence Rule 301. 15 See also Disputable presumption; inference; Juris et de jure; Presumptive evidence; Prima facie; Raise a 16 presumption. 17 18 [Black's Law Dictionary, Sixth Edition, p. 1185] 3. Unlawfully and unconstitutionally violates the separation of powers when it IS exercised by a judge or government 19 prosecutor. See Government Conspiracy to Destroy the Separation of Powers, Form #05.023. 20 4. Produces the following consequences when it IS exercised by a judge or government prosecutor or administrative 21 agency. The statement below was written by the man who DESIGNED our three branch system of government. He 22 also described in his design how it can be subverted, and corrupt government actors have implemented his 23 techniques for subversion to unlawfully and unconstitutionally expand their power: 24 "When the legislative and executive powers are united in the same person, or in the same body of magistrates, 25 there can be no liberty; because apprehensions may arise, lest the same monarch or senate should enact 26 27 tyrannical laws, to execute them in a tyrannical manner. Again, there is no liberty, if the judiciary power be not separated from the legislative and executive. Were it 28 29 joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control; for the judge would be then the legislator. Were it joined to the executive power, the judge might behave with violence and 30 oppression [sound familiar?]. 31 32 There would be an end of everything, were the same man or the same body, whether of the nobles or of the people, to exercise those three powers, that of enacting laws, that of executing the public resolutions, and of 33 34 trying the causes of individuals. [...] 35 In what a situation must the poor subject be in those republics! The same body of magistrates are possessed, 36 as executors of the laws, of the whole power they have given themselves in quality of legislators. They may 37 38 plunder the state by their general determinations; and as they have likewise the judiciary power in their hands, every private citizen may be ruined by their particular decisions." 39 Spirit of Laws, Charles de Montesquieu, BookXISection 1758: 40 41 SOURCE: http://famguardian.org\Publications\SpiritOfLaws\sol_11.htm]

Any judge, prosecutor, or clerk in an administrative agency who tries to EXPAND or ADD to statutory definitions is violating all the above. Likewise, anyone who tries to QUOTE a judicial opinion that adds to a statutory definition is violating the separation of powers, usurping authority, and STEALING your property and rights. It is absolutely POINTLESS and an act of ANARCHY, lawlessness, and a usurpation to try to add to statutory definitions.

The most prevalent means to UNLAWFULLY and UNCONSTITUTIONALLY add to statutory definitions is through the abuse of the words "includes" or "including". That tactic is thoroughly described and rebutted in:

Legal Deception, Propaganda, and Fraud, Form #05.014, Section 15.2

DIRECT LINK: https://sedm.org/Forms/05-MemLaw/LegalDecPropFraud.pdf

FORMS PAGE: https://sedm.org/Forms/FormIndex.htm

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- Government falsely accuses sovereignty advocates of practicing anarchy, but THEY, by trying to unlawfully expand statutory 1
- definitions through either the abuse of the word "includes" or through PRESUMPTION, are the REAL anarchists. 2

11.2 **Identity Theft Prevention During Litigation**

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- 1. Attaching the following to your initial complaint or response in every action in federal court: 4
 - 1.1. Federal Pleading/Motion/Petition Attachment, Litigation Tool #01.002 http://sedm.org/Litigation/LitIndex.htm
 - 1.2. Rules of Presumption and Statutory Interpretation, Litigation Tool #01.006 http://sedm.org/Litigation/LitIndex.htm
 - 1.3. Affidavit of Citizenship, Domicile, and Tax Status, Form #02.001 http://sedm.org/Forms/FormIndex.htm
- Not citing statutes implementing federal franchises in your defense and instead basing your action entirely upon the 11 constitution, equity, and equal protection. All you do by citing provisions of a franchise agreement that is voluntary is 12 prove that you are subject to it. Such franchises include but are not limited to: 13
 - 2.1. 26 U.S.C.: Internal Revenue Code.
 - 2.2. 42 U.S.C.: Social Security Act, Medicare, and Unemployment insurance
 - 3. Introducing the following document into evidence whenever you are either deposed or sent a request for production of documents.

Citizenship, Domicile, and Tax Status Options, Form #10.003 http://sedm.org/Forms/FormIndex.htm

Using the Overbreadth Doctrine to attack vague or undefined statutes or terms or attempts to compel you to fill out government forms a certain way or punish you for language you accurately used on the form

The Overbreadth Doctrine of the U.S. Supreme Court was invented to prevent the chilling effect upon the First Amendment rights of litigants caused by statutes that are vague or which use undefined words or government enforcement actions that enjoin any kind of speech, including specific types of speech on government forms or even tax forms. For instance, it is used to attack:

Definitions of key terms in statutes so as to include PRIVATE people or PRIVATE property. The ability to regulate 24 PRIVATE rights and PRIVATE property is repugnant to the Constitution and therefore, Congress cannot define terms 25 to include anything PRIVATE. See: 26

> Enumeration of Inalienable (PRIVATE) Rights, Form #10.002 https://sedm.org/Forms/FormIndex.htm

- 2. The validity of all legislation that administratively or financially penalizes specific types of truthful speech, including on 27 government forms. 28
 - Attempts by judges and IRS to call you "frivolous" without providing court admissible evidence from a neutral third party that PROVES that the speech they seek to penalize you for as "frivolous" satisfies the definition of "frivolous". A judge cannot practice law by being the judge, jury, and executioner without jury oversight in sanctioning litigants for being frivolous and yet refusing to even prove their case. See:

Meaning of the Word "Frivolous", Form #05.027 https://sedm.org/Forms/FormIndex.htm

- 4. Attempts by the IRS to penalize you for truthfully claiming under penalty of perjury that you are any of the following on government forms, in court, or at an IRS audit:
 - 4.1. A statutory "nonresident" or "non-resident non-person".
 - 4.2. A statutory "nontaxpayer".
 - 4.3. Not a statutory "employee".
 - 4.4. Not a statutory "employer".
 - 4.5. Not in the statutory "United States" (federal zone).
 - 4.6. Not in the CORPORATION "United States" (28 U.S.C. §3002(15)(A)) as a legal person and a public officer.
 - All such attempts constitute criminal witness tampering if authenticated with a perjury statement.
- Attempts by the IRS to ignore correspondence or custom or amended forms you submit claiming to be a nontaxpayer because they refuse to offer "nontaxpayer" or "non-resident non-person" status forms or status blocks on existing forms. When they ignore such correspondence, they usually will try long after receiving such forms from you to say that they

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- either didn't receive your correspondence or try to penalize you for truthfully claiming to be a "non-resident non-person" and a "nontaxpayer". This also constitutes criminal witness tampering and violates the overbreadth doctrine.
- 6. Attempts by the IRS to penalize you for defining terms on government forms so as to place you outside of their territorial or enforcement jurisdiction. See:

Why Penalties are Illegal for Anything But Government Franchisees, Employees, Contractors, and Agents, Form #05.010

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

It is important to note that the Overbreadth Doctrine:

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- Only applies to those protected by the Constitution and the First Amendment. That means people standing on land within a constitutional state at the time of the injury. The constitution attaches to LAND, and not the status of the people ON the land. 92
 - 2. Does NOT apply to fictions of law or statutory franchisee creations of Congress such as "taxpayers", all of which are public offices in the national government. Such fictions and franchisee offices have ONLY the privileges that Congress chooses by statute to convey to them. See:

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

- 12 3. Can be employed by those who are protected by the Constitution but were compelled under duress to declare themselves "taxpayers" under threat of administrative penalty if they DO NOT.
 - 4. Cannot be employed by those who readily admit they are statutory "taxpayers", "persons", "individuals", or those who describe themselves as such on government forms. Submitting a duress statement signed under penalty of perjury in your court pleadings is MANDATORY BEFORE undertaking an Overbreadth Action for those whose administrative record reflects the false notion that they are "taxpayers", "individuals", "persons", etc. A failure to do so will result in them rightfully being penalized as "frivolous". For an example of such a duress statement in a tax context, see:

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

- 5. Can be successfully employed even among those who cannot personally demonstrate an injury. This makes it different from most common law actions and adds a LOT of flexibility and coverage to many more situations than usual.
- 6. Applies to ALL First Amendment activity, including not only speech but the exercise of your First Amendment right to both politically and CIVLLY DISASSOCIATE with anyone and everyone and to be protect ONLY by the CRIMINAL and CONSTITUTIONAL law and not any civil statutes. In fact, the means by which you associate or disassociate with any political entity are the civil statuses that you connect yourself with VOLUNTARILY on government forms. A REFUSAL or FAILURE to associate with any political group and thereby become a "non-resident non-person" or "nontaxpayer" is, in fact, an act of DISASSOCIATION protected by the First Amendment and the Overbreadth Doctrine. See:

<u>Your Exclusive Right to Declare or Establish Your Civil Status</u>, Form #13.008 <u>https://sedm.org/Forms/FormIndex.htm</u>

The following subsections deal with the employment of this doctrine. They derive from the American Jurisprudence 2d, 16A Am.Jur.2d, Constitutional Law, Sections 409 through 414 (1999).

11.3.1 Validity of legislation, in general

In determining the validity of legislation where a violation of protected First Amendment freedoms has been alleged, a comprehensive review of the entire record is important to assure that no intrusion upon them has occurred. 13 Moreover, in appraising a statute's inhibitory effect upon First Amendment rights, the United States Supreme Court will not hesitate to take into account the possible applications of the statute in other factual contexts besides the one being specifically considered. 14 In this connection, it has been held that the limit placed upon the power of the states by the Fourteenth Amendment is not narrower than that placed upon the national government by the First Amendment, 15 but, by the same token, it has also been held that stricter scrutiny of validity should not be exercised in instances of a national statute under the First Amendment than in those of a state statute under the Fourteenth Amendment. 16 Decisions of the United States Supreme Court as to whether

EXHIBIT:_____

^{92 &}quot;It is locality that is determinative of the application of the Constitution, in such matters as judicial procedure, and not the status of the people who live in it." [Balzac v. Porto Rico, 258 U.S. 298 (1922)]

- a congressional act contravenes the First Amendment are authoritative when a state court considers whether a state enactment 1
- contravenes the Fourteenth Amendment. 17 2
- Courts will not assume in advance that Congress will pass legislation in violation of the First Amendment, and will presume, 3
- until the contrary appears, that Congress will fulfill its obligation to defend and preserve the Constitution. 18 4

Footnotes

- Footnote 13. Grausam v. Murphey, 448 F.2d. 197 (3d Cir. 1971), cert. dismissed, 405 U.S. 981, 92 S.Ct. 1207, 31 L.Ed.2d.
- 257 (1972).
- Footnote 14. Bigelow v. Virginia, 421 U.S. 809, 95 S.Ct. 2222, 44 L.Ed.2d. 600, 1 Media L. Rep. (BNA) 1919 (1975).
- Footnote 15. Rase v. U.S., 129 F.2d. 204 (C.C.A. 6th Cir. 1942); Bolling v. Superior Court for Clallam County, 16 Wash.2d. 10 373, 133 P.2d. 803 (1943). 11
- Footnote 16. Dunne v. U. S., 138 F.2d. 137 (C.C.A. 8th Cir. 1943), cert. denied, 320 U.S. 790, 64 S.Ct. 205, 88 L.Ed. 476 12 (1943), reh'g denied, 320 U.S. 814, 64 S.Ct. 260, 88 L.Ed. 492 (1943) and reh'g denied, 320 U.S. 815, 64 S.Ct. 426, 88 L.Ed. 13
- 493 (1944). 14
- Footnote 17. State v. Barlow, 107 Utah 292, 153 P.2d. 647 (1944), appeal dismissed, 324 U.S. 829, 65 S.Ct. 916, 89 L.Ed. 15 1396 (1945), reh'g denied, 324 U.S. 891, 65 S.Ct. 1026, 89 L.Ed. 1438 (1945). 16
- Footnote 18. U.S. v. Josephson, 165 F.2d. 82 (C.C.A. 2d Cir. 1947), cert. denied, 333 U.S. 838, 68 S.Ct. 609, 92 L.Ed. 1122 17
- (1948), reh'g denied, 333 U.S. 858, 68 S.Ct. 731, 92 L.Ed. 1138 (1948) and reh'g denied, 335 U.S. 899, 69 S.Ct. 294, 93 L.Ed. 18
- 434 (1948). 19

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11.3.2 Vagueness of legislation

- The vagueness of a content-based regulation of speech raises special First Amendment concerns because of its obvious 21 chilling effect on free speech. 19 Thus, reasonable certainty in statutes is more essential than usual when vagueness might 22 induce individuals to forgo their First Amendment rights for fear of violating an unclear law. 20 23
- While a statute punishing verbal acts, carefully drawn so as not unduly to impair liberty of expression, is not too vague for a 24
- criminal law, 21 a statute which, upon its face, and as authoritatively construed, is so vague as to permit the punishment of 25
- the fair use of the opportunity of free political discussion is repugnant to the guarantee of liberty contained in the Fourteenth 26 Amendment. 22 Vague laws in any area suffer a constitutional infirmity, but when First Amendment rights are involved.
- 27
- the United States Supreme Court looks even more closely lest, under the guise of regulating conduct that is reachable by the 28
- police power, a First Amendment freedom suffers; such a law must be narrowly drawn to prevent the supposed evil. 23 29
- Because First Amendment freedoms need breathing space to survive, the government may regulate in the area only with 30
- narrow specificity. 24 Stricter standards of permissible statutory vagueness may be applied to a statute having a potentially 31
- inhibiting effect on speech; 25 precision of regulation must be the touchstone in an area so closely involving our most 32
- precious freedoms. 26 And since standards of permissible statutory vagueness are strict in the area of free expression, the 33
- United States Supreme Court will not assume that an ambiguous line between permitted and prohibited activities curtails 34
- constitutionally protected activity as little as possible, or that in subsequent enforcement of the statute, ambiguities will be 35
- resolved in favor of adequate protection of First Amendment rights. 27 36
- "Observation: Although the Supreme Court has held that the application of the overbreadth doctrine 28 is inappropriate in 37 commercial speech cases, 29 it has not limited the reach of the vagueness doctrine in the same way. 30 38

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Footnotes

- Footnote 19. Reno v. American Civil Liberties Union, 117 S.Ct. 2329, 138 L.Ed.2d. 874, 25 Media L. Rep. (BNA) 1833 1
- (U.S. 1997) (holding provisions of the Communications Decency Act (CDA) prohibiting transmission of obscene or indecent 2
- communications over the Internet to persons under the age of 18, or sending patently offensive communications through the 3
- use of an interactive computer service to persons under that age, to be unconstitutional). 4
- Footnote 20. Scull v. Com. of Va. ex rel. Committee on Law Reform and Racial Activities, 359 U.S. 344, 79 S.Ct. 838, 3
- L.Ed.2d. 865 (1959).
- As to vagueness of statutes in general, see 73 Am Jur 2d, Statutes § 346.
- As to certainty and definiteness, or vagueness, of criminal statutes, see 21 Am Jur 2d, Criminal Law § 17.
- Footnote 21. Chaplinsky v. State of New Hampshire, 315 U.S. 568, 62 S.Ct. 766, 86 L.Ed. 1031 (1942). 9
- Annotation: Supreme Court's views regarding validity of criminal disorderly conduct statutes under void-for-vagueness 10 doctrine, 75 L.Ed.2d. 1049. 11
- Footnote 22. Cox v. State of Louisiana, 379 U.S. 536, 85 S.Ct. 466, 13 L.Ed.2d. 487 (1965); Edwards v. South Carolina, 372 12
- U.S. 229, 83 S.Ct. 680, 9 L.Ed.2d. 697 (1963); Cramp v. Board of Public Instruction of Orange County, Fla., 368 U.S. 278, 13
- 82 S.Ct. 275, 7 L.Ed.2d. 285 (1961); Winters v. New York, 333 U.S. 507, 68 S.Ct. 665, 92 L.Ed. 840 (1948). 14
- But the First Amendment is not implicated by the Cuban Asset Control Regulations, restricting travel to Cuba, and the 15
- regulations are not subject to challenge for vagueness on the ground that their vague language gives officials of the Office of 16
- Foreign Assets Control the ability to arbitrarily interfere with the right to gather firsthand information about Cuba. Freedom 17
- to Travel Campaign v. Newcomb, 82 F.3d. 1431 (9th Cir. 1996). 18
- Footnote 23. Ashton v. Kentucky, 384 U.S. 195, 86 S.Ct. 1407, 16 L.Ed.2d. 469 (1966). 19
- Footnote 24. Gooding v. Wilson, 405 U.S. 518, 92 S.Ct. 1103, 31 L.Ed.2d. 408 (1972); National Ass'n for Advancement of 20
- Colored People v. Button, 371 U.S. 415, 83 S.Ct. 328, 9 L.Ed.2d. 405 (1963). 21
- Generally, as to the requirement of narrow specificity in legislation affecting fundamental rights, see § 397. 22
- As to overbreadth of legislation affecting First Amendment rights, see §§ 411 et seq. 23
- Footnote 25. Keyishian v. Board of Regents of University of State of N.Y., 385 U.S. 589, 87 S.Ct. 675, 17 L.Ed.2d. 629 24
- (1967); National Ass'n for Advancement of Colored People v. Button, 371 U.S. 415, 83 S.Ct. 328, 9 L.Ed.2d, 405 (1963); 25
- Cramp v. Board of Public Instruction of Orange County, Fla., 368 U.S. 278, 82 S.Ct. 275, 7 L.Ed.2d. 285 (1961); Smith v. 26
- People of the State of California, 361 U.S. 147, 80 S.Ct. 215, 4 L.Ed.2d. 205, 14 Ohio.Op.2d. 459 (1959), reh'g denied, 361 27
- U.S. 950, 80 S.Ct. 399, 4 L.Ed.2d. 383 (1960). 28
- Footnote 26. Keyishian v. Board of Regents of University of State of N.Y., 385 U.S. 589, 87 S.Ct. 675, 17 L.Ed.2d. 629 29
- (1967). 30
- Footnote 27. National Ass'n for Advancement of Colored People v. Button, 371 U.S. 415, 83 S.Ct. 328, 9 L.Ed.2d. 405 31
- (1963).32
- Footnote 28. As to the overbreadth doctrine, see § 411. 33
- Footnote 29. § 413. 34
- Footnote 30. Jacobs v. The Florida Bar, 50 F.3d. 901, 23 Media L. Rep. (BNA) 1718 (11th Cir. 1995), reh'g and suggestion 35
- for reh'g en banc denied, (June 16, 1995). 36

11.3.3 Overbreadth of legislation; generally

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"Overbreadth" is a judicially created doctrine designed to prevent the chilling of protected expression. 31 The doctrine of overbreadth derives from the recognition that an unconstitutional restriction of expression may deter protected speech by parties not before the court and thereby escape judicial review. 32 Numerous decisions have dealt with the question whether legislation 33 is invalid, upon its face or as applied, because due to its overbreadth, it infringes upon First Amendment rights, that is, the rights of free speech and press, of freedom of religion, of peaceful assembly and association, and of petitioning the government for a redress of grievances.

The doctrine of overbreadth is of relatively recent origin. 34 Claims of facial overbreadth have been entertained in cases: (1) involving statutes which, by their terms, seek to regulate "only spoken words," in such cases it being the judgment of the court that the possible harm to society in permitting some unprotected speech to go unpunished is outweighed by the possibility that protected speech of others may be muted and perceived grievances left to fester because of the possible inhibitory effect of overly broad statutes; (2) where the court thought that rights of association were ensnared in statutes which, by their broad sweep, might result in burdening innocent associations; and (3) where statutes, by their terms, purport to regulate the time, place, and manner of expressive or communicative conduct and such conduct has required official approval under laws that delegated standardless discretionary power to local functionaries, resulting in virtually unreviewable prior restraints on First Amendment rights. 35

"Practice guide: In order to prevail on a facial attack on the constitutionality of a statute on grounds of overbreadth, the challenger must show either that every application of the statute creates an impermissible risk of suppression of ideas, or that the statute is "substantially" overbroad, which requires the court to find a realistic danger that the statute itself will significantly compromise recognized First Amendment protections of parties not before the court. 36

The distinction between the doctrine of overbreadth and the doctrine of vagueness 37 is that the overbreadth doctrine is applicable primarily in the First Amendment area 38 and may render void legislation which is lacking neither in clarity nor precision, 39 whereas the vagueness doctrine is based on the due process clauses of the Fifth and Fourteenth Amendments 40 and is applicable solely to legislation which is lacking in clarity and precision. 41

"Observation: However, in some cases, legislation has been struck down on the grounds of both overbreadth and vagueness,
 and the Supreme Court has not always made a clear distinction between the two doctrines.

While in general there is no such thing as a First Amendment challenge for "underbreadth," that is, an underinclusiveness of the law, as evidenced by the failure of government to regulate other, similar activity, such a circumstance may, in some rare cases, give rise to the conclusion that the government has in fact made an impermissible distinction on the basis of the content of regulated speech. 44

Footnotes

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Footnote 31. Massachusetts v. Oakes, 491 U.S. 576, 109 S.Ct. 2633, 105 L.Ed.2d. 493 (1989).

A complete ban on handbilling, by suppressing a great quantity of speech that does not cause the evils that it seeks to eliminate, whether they be fraud, crime, litter, traffic congestion, or noise, is substantially broader than necessary to achieve the interests justifying it, and thus violates the free speech provision of the First Amendment. Ward v. Rock Against Racism, 491 U.S. 781, 109 S.Ct. 2746, 105 L.Ed.2d. 661 (1989), reh'g denied, 492 U.S. 937, 110 S.Ct. 23, 106 L.Ed.2d. 636 (1989).

Annotation: Supreme Court's views as to overbreadth of legislation in connection with First Amendment rights, 45 L.Ed.2d. 725.

Footnote 32. Central Hudson Gas &Elec. Corp. v. Public Service Commission of New York, 447 U.S. 557, 100 S.Ct. 2343, 65 L.Ed.2d. 341, 6 Media L. Rep. (BNA) 1497, 34 Pub. Util. Rep. 4th (PUR) 178 (1980).

Footnote 33. As used in this discussion, the term "legislation" includes federal and state statutes and ordinances, as well as executive and administrative regulations.

However, it should be noted that not only legislation, but also a court's injunction, may be challenged as overbroad. Carroll v. President and Com'rs of Princess Anne, 393 U.S. 175, 89 S.Ct. 347, 21 L.Ed.2d. 325, 1 Media L. Rep. (BNA) 1016 (1968).

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- Footnote 34. Gooding v. Wilson, 405 U.S. 518, 92 S.Ct. 1103, 31 L.Ed.2d. 408 (1972).
- Footnote 35. Broadrick v. Oklahoma, 413 U.S. 601, 93 S.Ct. 2908, 37 L.Ed.2d. 830 (1973). 2
- A city ordinance which is not limited to fighting words, or to obscene or opprobrious language, but which prohibits speech
- that "in any manner" interrupts a police officer in the performance of his duties, is unconstitutionally overbroad. City of
- Houston, Tex. v. Hill, 482 U.S. 451, 107 S.Ct. 2502, 96 L.Ed.2d. 398 (1987).
- Annotation: Supreme Court's view as to the protection or lack of protection, under the Federal Constitution, of the utterance
- of "fighting words," 39 L.Ed.2d. 925.
- Law Reviews: Wertheimer, The First Amendment Distinction Between Conduct and Content: A Conceptual Framework for
- Understanding Fighting Words Jurisprudence. 63 Fordham LR 793, December, 1994.
- Footnote 36. New York State Club Ass'n, Inc. v. City of New York, 487 U.S. 1, 108 S.Ct. 2225, 101 L.Ed.2d. 1, 46 Empl. 10
- Prac. Dec. (CCH) ¶ 38035 (1988). 11
- Footnote 37. Generally, as to the vagueness doctrine, see § 410. 12
- Footnote 38. § 413. 13
- Footnote 39. Grayned v. City of Rockford, 408 U.S. 104, 92 S.Ct. 2294, 33 L.Ed.2d. 222 (1972); Cameron v. Johnson, 390 14
- U.S. 611, 88 S.Ct. 1335, 20 L.Ed.2d. 182 (1968), reh'g denied, 391 U.S. 971, 88 S.Ct. 2029, 20 L.Ed.2d. 887 (1968); U.S. v. 15
- Robel, 389 U.S. 258, 88 S.Ct. 419, 19 L.Ed.2d. 508 (1967). 16
- Footnote 40. See, for instance, Parker v. Levy, 417 U.S. 733, 94 S.Ct. 2547, 41 L.Ed.2d. 439 (1974) (Fifth Amendment); 17
- Baggett v. Bullitt, 377 U.S. 360, 84 S.Ct. 1316, 12 L.Ed.2d. 377 (1964) (Fourteenth Amendment). 18
- Footnote 41. Grayned v. City of Rockford, 408 U.S. 104, 92 S.Ct. 2294, 33 L.Ed.2d. 222 (1972); Zwickler v. Koota, 389 U.S. 19
- 241, 88 S.Ct. 391, 19 L.Ed.2d. 444 (1967) (distinguishing the overbreadth and vagueness doctrines). 20
- Annotation: Supreme Court's views as to overbreadth of legislation in connection with First Amendment rights, 45 L.Ed.2d. 21
- 725. 22
- Footnote 42. See, for instance Plummer v. City of Columbus, Ohio, 414 U.S. 2, 94 S.Ct. 17, 38 L.Ed.2d. 3, 68 Ohio.Op.2d. 23
- 78 (1973); Coates v. City of Cincinnati, 402 U.S. 611, 91 S.Ct. 1686, 29 L.Ed.2d. 214, 58 Ohio.Op.2d. 481 (1971); Keyishian 24
- v. Board of Regents of University of State of N.Y., 385 U.S. 589, 87 S.Ct. 675, 17 L.Ed.2d. 629 (1967). 25
- 26 Footnote 43. Cox v. State of Louisiana, 379 U.S. 536, 85 S.Ct. 466, 13 L.Ed.2d. 487 (1965) (where the court held that the
- challenged statute was "unconstitutionally vague in its overly broad scope"); National Ass'n for Advancement of Colored 27
- People v. Button, 371 U.S. 415, 83 S.Ct. 328, 9 L.Ed.2d. 405 (1963). 28
- In Adderley v. State of Fla., 385 U.S. 39, 87 S.Ct. 242, 17 L.Ed.2d. 149 (1966), reh'g denied, 385 U.S. 1020, 87 S.Ct. 698, 29
- 17 L.Ed.2d. 559 (1967), the court pointed out that in Cantwell v. State of Connecticut, 310 U.S. 296, 60 S.Ct. 900, 84 L.Ed. 30
- 1213, 128 A.L.R. 1352 (1940), a breach-of-the-peace statute was struck down as being "so broad and all-embracing" as to 31
- jeopardize speech, press, assembly, and petition, and that "it was on this same ground of vagueness" that another state's breach 32
- of the peace statute was invalidated in Cox v. State of Louisiana, 379 U.S. 536, 85 S.Ct. 466, 13 L.Ed.2d. 487 (1965). 33
- Footnote 44. DLS, Inc. v. City of Chattanooga, 107 F.3d. 403, 1997 FED.App. 66P (6th Cir. 1997), reh'g and suggestion for 34
- reh'g en banc denied, (Apr. 15, 1997). 35
- Law Reviews: Lee, The First Amendment Doctrine of Underbreadth. 71 Wash U LQ 637, Fall, 1993. 36

11.3.4 Procedural aspects of doctrine 37

Flawed Tax Arguments to Avoid, Version 1.27 Last Revised: 1/23/2018

The general rule governing the standing of a party to challenge the constitutionality of legislation is that a litigant to whom a statute may constitutionally be applied will not be heard to challenge the statute on the ground that it may conceivably be applied unconstitutionally to others in situations not before the court. A closely related principle is that constitutional rights are personal and may not be asserted vicariously. However, the Supreme Court has recognized some limited exceptions to this rule in the presence of the most "weighty countervailing policies." 45

One of these modifications or exceptions has been carved out by the Supreme Court in the area of the First Amendment, where the court, altering its traditional rules of standing, permits attacks on overly broad statutes without requiring that the person making the attack demonstrate that his or her own conduct cannot be regulated by a statute drawn with the requisite narrow specificity. 46 A defendant's standing to challenge a statute on First Amendment grounds as facially overbroad has been held not to depend upon whether his or her own activity is shown to be constitutionally privileged. 47 In other words, 10 although a statute or ordinance is not vague, overbroad, or otherwise invalid as applied to conduct charged against a particular 11 defendant, he or she is permitted by the court to raise its unconstitutional vagueness or overbreadth as applied to other persons 12 in situations not before the court. 48 The same rule applies to corporations and other entities. 49 However, a litigant has 13 no standing to attack legislation on overbreadth grounds, where he or she does not claim a specific present subjective harm 14 or a threat of specific future harm, or where the alleged overbreadth is not substantial. 50 Also, the overbreadth exception 15 to the general rule of standing has less weight in the military than in the civilian context, 51 and has ordinarily not been 16 applied by the Supreme Court to litigation in areas other than those relating to the First Amendment. 52 17

In addition, the doctrine of abstention—under which, as a general proposition, a federal court, confronted with issues of constitutional dimension which implicate or depend upon unsettled questions of state law, should abstain and stay its proceedings until those state law questions are definitely resolved by the state courts 53—has been held inapplicable where a clear and precise state statute, not susceptible to a narrowing construction by the state courts, is challenged on the grounds of overbreadth. 54

Footnotes

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- 25 Footnote 45. Broadrick v. Oklahoma, 413 U.S. 601, 93 S.Ct. 2908, 37 L.Ed.2d. 830 (1973).
- Annotation: Supreme Court's views as to overbreadth of legislation in connection with First Amendment rights, 45 L.Ed.2d. 725.
- Generally, as to the interest essential to raising the question of the constitutionality of legislation, see §§ 139 et seq.
- As to the necessity of having a personal interest, generally, see § 145.
- Footnote 46. Bigelow v. Virginia, 421 U.S. 809, 95 S.Ct. 2222, 44 L.Ed.2d. 600, 1 Media L. Rep. (BNA) 1919 (1975) (where the court rested the exception on the danger of tolerating, in the area of First Amendment freedoms, the existence of a penal statute susceptible of sweeping and improper application); Lewis v. City of New Orleans, 415 U.S. 130, 94 S.Ct. 970, 39 L.Ed.2d. 214 (1974); Broadrick v. Oklahoma, 413 U.S. 601, 93 S.Ct. 2908, 37 L.Ed.2d. 830 (1973); Gooding v. Wilson, 405 U.S. 518, 92 S.Ct. 1103, 31 L.Ed.2d. 408 (1972); Dombrowski v. Pfister, 380 U.S. 479, 85 S.Ct. 1116, 14 L.Ed.2d. 22 (1965); Freedman v. State of Md., 380 U.S. 51, 85 S.Ct. 734, 13 L.Ed.2d. 649, 1 Media L. Rep. (BNA) 1126 (1965).
- Footnote 47. Bigelow v. Virginia, 421 U.S. 809, 95 S.Ct. 2222, 44 L.Ed.2d. 600, 1 Media L. Rep. (BNA) 1919 (1975).
- Footnote 48. Board of Airport Com'rs of City of Los Angeles v. Jews for Jesus, Inc., 482 U.S. 569, 107 S.Ct. 2568, 96 L.Ed.2d. 500 (1987); Doran v. Salem Inn, Inc., 422 U.S. 922, 95 S.Ct. 2561, 45 L.Ed.2d. 648 (1975); Bigelow v. Virginia, 421 U.S. 809, 95 S.Ct. 2222, 44 L.Ed.2d. 600, 1 Media L. Rep. (BNA) 1919 (1975); Plummer v. City of Columbus, Ohio, 414 U.S. 2, 94 S.Ct. 17, 38 L.Ed.2d. 3, 68 Ohio.Op.2d. 78 (1973); Broadrick v. Oklahoma, 413 U.S. 601, 93 S.Ct. 2908, 37 L.Ed.2d. 830 (1973); Grayned v. City of Rockford, 408 U.S. 104, 92 S.Ct. 2294, 33 L.Ed.2d. 222 (1972); Gooding v. Wilson, 405 U.S. 518, 92 S.Ct. 1103, 31 L.Ed.2d. 408 (1972).
- Given a case or controversy, a litigant whose own activities are unprotected may challenge a statute by showing that it substantially abridges the First Amendment rights of other parties not before the court. Village of Schaumburg v. Citizens

- for a Better Environment, 444 U.S. 620, 100 S.Ct. 826, 63 L.Ed.2d. 73 (1980), reh'g denied, 445 U.S. 972, 100 S.Ct. 1668,
- ₂ 64 L.Ed.2d. 250 (1980).
- The overbreadth doctrine permits litigants to challenge a law's facial validity on grounds that it unconstitutionally restricts
- the First Amendment rights of third parties not before the court; the application of the overbreadth doctrine depends in part
- 5 upon whether commercial or noncommercial speech is involved, and a statute is unconstitutionally overbroad only if it
- reaches a "substantial amount" of noncommercial speech. Garner v. White, 726 F.2d. 1274 (8th Cir. 1984).
- Footnote 49. Board of Airport Com'rs of City of Los Angeles v. Jews for Jesus, Inc., 482 U.S. 569, 107 S.Ct. 2568, 96
- 8 L.Ed.2d. 500 (1987); Village of Schaumburg v. Citizens for a Better Environment, 444 U.S. 620, 100 S.Ct. 826, 63 L.Ed.2d.
- 9 73 (1980), reh'g denied, 445 U.S. 972, 100 S.Ct. 1668, 64 L.Ed.2d. 250 (1980) (a nonprofit environmental-protection
- organization is entitled to a judgment of the facial invalidity of a municipal ordinance prohibiting the solicitation of
- contributions by charitable organizations that do not use at least 75 percent of their receipts for "charitable purposes" if the
- ordinance purports to prohibit canvassing by a substantial category of charities to which the 75-percent limitation cannot be
- applied consistently with First and Fourteenth Amendments, even if there is no demonstration that the environmental
- organization itself is one of those organizations).
- Footnote 50. Young v. American Mini Theatres, Inc., 427 U.S. 50, 96 S.Ct. 2440, 49 L.Ed.2d. 310, 1 Media L. Rep. (BNA)
- 16 1151 (1976), reh'g denied, 429 U.S. 873, 97 S.Ct. 191, 50 L.Ed.2d. 155 (1976); Bigelow v. Virginia, 421 U.S. 809, 95 S.Ct.
- 2222, 44 L.Ed.2d. 600, 1 Media L. Rep. (BNA) 1919 (1975).
- Annotation: Supreme Court's views as to overbreadth of legislation in connection with First Amendment rights, 45 L.Ed.2d.
- 19 725.
- 20 Footnote 51. Parker v. Levy, 417 U.S. 733, 94 S.Ct. 2547, 41 L.Ed.2d. 439 (1974).
- Footnote 52. Moose Lodge No. 107 v. Irvis, 407 U.S. 163, 92 S.Ct. 1965, 32 L.Ed.2d. 627 (1972).
- But see Eisenstadt v. Baird, 405 U.S. 438, 92 S.Ct. 1029, 31 L.Ed.2d. 349 (1972), where the exception to the general rule of
- standing was applied in a case decided under the equal protection clause of the Fourteenth Amendment.
- Footnote 53. As to abstention by the federal courts, generally, see 32A Federal Courts §§ 1277 et seq.
- 25 Footnote 54. Zwickler v. Koota, 389 U.S. 241, 88 S.Ct. 391, 19 L.Ed.2d. 444 (1967).
- Annotation: Supreme Court's views as to overbreadth of legislation in connection with First Amendment rights, 45 L.Ed.2d.
- 27 725.

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Generally, as to the abstention doctrine, see § 122.

29 11.3.5 Substantive aspects of doctrine

- The Supreme Court's departure from traditional rules of standing in the First Amendment area, discussed in the preceding
- section, has been held by the Court also to have consequences in deciding an overbreadth case on its merits. The Supreme
- 32 Court has ruled that if a law is found deficient because of overbreadth as applied to others, it may not be applied to the
- particular litigant either, until and unless a satisfactorily limiting construction is placed on the legislation. 55 In addition, the
- 34 Supreme Court has stated the following general rules for determining whether a statute is overbroad or not:
- 1. legislation is unconstitutionally overbroad where it is susceptible of application to conduct protected by the First
 Amendment 56
 - 2. a challenge of overbreadth is based on the ground that legislation, even if lacking neither clarity nor precision, offends the constitutional principle that a governmental purpose to control or prevent activities constitutionally subject to state regulation may not be achieved by means which sweep unnecessarily broadly and thereby invade the area of freedom protected by the First Amendment 57

- 3. where conduct and not mere speech is involved, the overbreadth must not only be real, but substantial as well, judged in 1 relation to the challenged statute's plainly legitimate sweep 58 2
- the breadth of legislative abridgement of First Amendment rights must be viewed in the light of less drastic or narrower 3 means for achieving the same basic purpose 59 4
- 5. where statutes have an overbroad sweep, just as where they are vague, the hazard of loss or substantial impairment of 5 the precious First Amendment rights may be critical, since those persons covered by the statutes are bound to limit their 6 behavior to that which is unquestionably safe. 60 7
- "Observation: An important factor considered by the Supreme Court in determining the overbreadth of legislation is the 8 Court's balancing of the governmental interests involved against First Amendment rights. 61
- Where First Amendment freedoms are at stake, precision of drafting and clarity of purpose of regulating legislation are 10 essential. 62 While the government may regulate the content of constitutionally protected speech in order to promote a 11 compelling interest, it must choose the least restrictive means to further the articulated interest. 63 12
- In public places considered to be public forums, the government's ability to permissibly restrict expressive conduct is very limited. The government may enforce reasonable time, place, and manner regulations as long as the restrictions are contentneutral, are narrowly tailored to serve a significant governmental interest, and leave open ample alternative channels of communication. Additional restrictions, such as an absolute prohibition on a particular type of expression, will be upheld only if narrowly drawn to accomplish a compelling governmental interest. 64 Thus, the consequence of the Court's departure from traditional rules of standing in the First Amendment area is that any enforcement of a statute challenged on the ground of overbreadth is totally forbidden, until and unless a limiting construction or partial invalidation so narrows it as to remove the seeming threat or deterrents to the constitutionally protected expression. 65 Obviously, for this rule to apply, the legislation must be susceptible of a narrowing construction in the first place. 66 21
- The application of the overbreadth doctrine has been held by the Supreme Court to be limited to freedoms guaranteed by the 22 Bill of Rights. 67 On the other hand, there are cases in which legislation occasionally has been held to be overbroad and 23 hence to violate provisions of the Federal Constitution other than the freedoms guaranteed by the Bill of Rights. 68 24
- "Caution: The overbreadth doctrine does not apply to commercial speech. 69 25
 - The Supreme Court has observed that declaring a statute facially unconstitutional because of overbreadth "is, manifestly, strong medicine," and that such a declaration has been employed by the Court sparingly and only as a last resort. 70 regard to the overbreadth doctrine, a declaration of facial invalidity of legislation has been held inappropriate where: (1) there are a substantial number of situations to which the legislation might be validly applied; 71 (2) the legislation covers a whole range of easily identifiable and constitutionally proscribable conduct; 72 or (3) the legislation is susceptible of a narrowing construction. 73
 - In determining whether legislation which violates the First Amendment on the ground of overbreadth may be saved from invalidity by a narrowing construction, the Supreme Court has made a distinction, based on a general rule, not limited to the overbreadth doctrine, between the scope of its review of federal and of state statutes. This general rule is to the effect that the Supreme Court lacks jurisdiction to authoritatively construe state legislation so as to avoid constitutional issues, but has the power to give a federal statute such authoritative construction. 74 The Court has also ruled that only the state courts can supply the requisite narrowing construction, since the Supreme Court lacks jurisdiction to authoritatively construe state legislation. 75 The Court, on the other hand, has observed that although its interpretation of a state statute is obviously not binding on state authorities, a federal court still must determine what a state statute means before it can judge its facial Where possible, the Court gives federal legislation a narrowing construction, 77 whereas the constitutionality. 76 determination of the issue of overbreadth of state legislation depends upon whether a state court has given the legislation in question a properly narrowing construction. 78 In many cases, an overbreadth challenge to state legislation has been rejected by the Supreme Court on the ground that the state courts had given such legislation a narrowing construction. 79 On the other hand, in other cases state legislation has been held invalid on the ground of overbreadth since the state court's construction of such legislation did not properly narrow its scope. 80

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Footnotes

- ² Footnote 55. Plummer v. City of Columbus, Ohio, 414 U.S. 2, 94 S.Ct. 17, 38 L.Ed.2d. 3, 68 Ohio.Op.2d. 78 (1973); Gooding
- v. Wilson, 405 U.S. 518, 92 S.Ct. 1103, 31 L.Ed.2d. 408 (1972).
- 4 Annotation: Supreme Court's views as to overbreadth of legislation in connection with First Amendment rights, 45 L.Ed.2d.
- ₅ 725, § 5.
- 6 Footnote 56. Lewis v. City of New Orleans, 415 U.S. 130, 94 S.Ct. 970, 39 L.Ed.2d. 214 (1974); Plummer v. City of
- 7 Columbus, Ohio, 414 U.S. 2, 94 S.Ct. 17, 38 L.Ed.2d. 3, 68 Ohio.Op.2d. 78 (1973); Grayned v. City of Rockford, 408 U.S.
- 8 104, 92 S.Ct. 2294, 33 L.Ed.2d. 222 (1972); Coates v. City of Cincinnati, 402 U.S. 611, 91 S.Ct. 1686, 29 L.Ed.2d. 214, 58
- 9 Ohio.Op.2d. 481 (1971); Dandridge v. Williams, 397 U.S. 471, 90 S.Ct. 1153, 25 L.Ed.2d. 491 (1970), reh'g denied, 398 U.S.
- 914, 90 S.Ct. 1684, 26 L.Ed.2d. 80 (1970).
- Footnote 57. Cameron v. Johnson, 390 U.S. 611, 88 S.Ct. 1335, 20 L.Ed.2d. 182 (1968), reh'g denied, 391 U.S. 971, 88 S.Ct.
- 2029, 20 L.Ed.2d. 887 (1968); Zwickler v. Koota, 389 U.S. 241, 88 S.Ct. 391, 19 L.Ed.2d. 444 (1967).
- Footnote 58. Parker v. Levy, 417 U.S. 733, 94 S.Ct. 2547, 41 L.Ed.2d. 439 (1974); Broadrick v. Oklahoma, 413 U.S. 601, 93
- s.Ct. 2908, 37 L.Ed.2d. 830 (1973).
- A state statute providing for enhancement of a defendant's sentence whenever he intentionally selects his victim based on the
- victim's race is not unconstitutionally overbroad because of its possible chilling effect on free speech; the possibility that the
- statute might lead a citizen to suppress his unpopular bigoted opinions, out of fear that these opinions might later be offered
- against him to enhance his sentence if he later commits an offense covered by the statute, is too speculative to support an
- overbreadth claim. Wisconsin v. Mitchell, 508 U.S. 476, 113 S.Ct. 2194, 124 L.Ed.2d. 436, 21 Media L. Rep. (BNA) 1520
- 20 (1993).
- Law Reviews: Gellman, Hate Speech and a New View of the First Amendment. 24 Cap.U.LR. 309, 1995.
- Schweitzer, Hate Speech on Campus and the First Amendment: Can They Be Reconciled? 27 Conn LR 493, Winter, 1995.
- Degan, "Adding the First Amendment to the Fire": Cross Burning and Hate Crime Laws. 26 Creighton LR 1109, June, 1993.
- Turner, Regulating Hate Speech and the First Amendment: The Attractions of, and Objections to, an Explicit Harms-Based
- ²⁵ Analysis. 29 Ind LR 257, 1995.
- Size and Britton, Is There Hate Speech?: R.A.V. and Mitchell in the Context of First Amendment Jurisprudence. 21
- 27 Ohio.NU.LR. 913, 1995.
- Burnett, Wisconsin v. Mitchell: First Amendment Fast-Food Style. 4 Temp Pol & Civ Rts LR 379, Spring, 1995.
- Turner, Hate Speech and the First Amendment: The Supreme Court's R.A.V. Decision. 61 Tenn.LR. 197, Fall, 1993.
- Footnote 59. Keyishian v. Board of Regents of University of State of N.Y., 385 U.S. 589, 87 S.Ct. 675, 17 L.Ed.2d. 629
- 31 (1967); Shelton v. Tucker, 364 U.S. 479, 81 S.Ct. 247, 5 L.Ed.2d. 231 (1960).
- Footnote 60. Keyishian v. Board of Regents of University of State of N.Y., 385 U.S. 589, 87 S.Ct. 675, 17 L.Ed.2d. 629
- 33 (1967); Dombrowski v. Pfister, 380 U.S. 479, 85 S.Ct. 1116, 14 L.Ed.2d. 22 (1965).
- ³⁴ Footnote 61. Erznoznik v. City of Jacksonville, 422 U.S. 205, 95 S.Ct. 2268, 45 L.Ed.2d. 125, 1 Media L. Rep. (BNA) 1508
- 1975) (invalidating the challenged ordinance); Grayned v. City of Rockford, 408 U.S. 104, 92 S.Ct. 2294, 33 L.Ed.2d. 222
- 36 (1972) (upholding the challenged ordinance); Colten v. Kentucky, 407 U.S. 104, 92 S.Ct. 1953, 32 L.Ed.2d. 584 (1972)
- upholding the challenged statute); Keyishian v. Board of Regents of University of State of N.Y., 385 U.S. 589, 87 S.Ct. 675,
- ³⁸ 17 L.Ed.2d. 629 (1967) (invalidating state statute).

- Footnote 62. Erznoznik v. City of Jacksonville, 422 U.S. 205, 95 S.Ct. 2268, 45 L.Ed.2d. 125, 1 Media L. Rep. (BNA) 1508
- 2 (1975).
- 3 A statutory classification impinging upon First Amendment rights must be narrowly tailored to serve a compelling
- 4 governmental interest. Austin v. Michigan Chamber of Commerce, 494 U.S. 652, 110 S.Ct. 1391, 108 L.Ed.2d. 652 (1990);
- 5 Larson v. Valente, 456 U.S. 228, 102 S.Ct. 1673, 72 L.Ed.2d. 33 (1982), reh'g denied, 457 U.S. 1111, 102 S.Ct. 2916, 73
- 6 L.Ed.2d. 1323 (1982).
- ⁷ Footnote 63. Sable Communications of California, Inc. v. F.C.C., 492 U.S. 115, 109 S.Ct. 2829, 106 L.Ed.2d. 93, 16 Media
- 8 L. Rep. (BNA) 1961 (1989); Boos v. Barry, 485 U.S. 312, 108 S.Ct. 1157, 99 L.Ed.2d. 333 (1988); Widmar v. Vincent, 454
- 9 U.S. 263, 102 S.Ct. 269, 70 L.Ed.2d. 440, 1 Ed.Law.Rep. 13 (1981).
- The government may impose reasonable restrictions on the time, place, or manner as to the exercise of protected speech, even
- of speech in a public forum, as long as the restrictions are justified without reference to the content of the regulated speech,
- serve a significant governmental interest, and leave open ample alternative channels for the communication of information.
- Ward v. Rock Against Racism, 491 U.S. 781, 109 S.Ct. 2746, 105 L.Ed.2d. 661 (1989), reh'g denied, 492 U.S. 937, 110 S.Ct.
- 23, 106 L.Ed.2d. 636 (1989).
- Similar statements appear in Regan v. Time, Inc., 468 U.S. 641, 104 S.Ct. 3262, 82 L.Ed.2d. 487 (1984); U.S. v. Grace, 461
- U.S. 171, 103 S.Ct. 1702, 75 L.Ed.2d. 736 (1983); Perry Educ. Ass'n v. Perry Local Educators' Ass'n, 460 U.S. 37, 103 S.Ct.
- 948, 74 L.Ed.2d. 794, 9 Ed.Law.Rep. 23, 112 L.R.R.M. (BNA) 2766 (1983); and Matney v. County of Kenosha, 86 F.3d.
- 692 (7th Cir. 1996) (a regulation which imposes a financial burden on speakers because of the content of their speech must
- be narrowly tailored to achieve a compelling state interest).
- While the First Amendment does not guarantee the right to employ every conceivable method of communication at all times
- and in all places, a restriction on expressive activity may be invalid if the remaining modes of communication are inadequate.
- Members of City Council of City of Los Angeles v. Taxpayers for Vincent, 466 U.S. 789, 104 S.Ct. 2118, 80 L.Ed.2d. 772
- 23 (1984).
- ²⁴ Footnote 64. U.S. v. Grace, 461 U.S. 171, 103 S.Ct. 1702, 75 L.Ed.2d. 736 (1983); Perry Educ. Ass'n v. Perry Local Educators'
- Ass'n, 460 U.S. 37, 103 S.Ct. 948, 74 L.Ed.2d. 794, 9 Ed.Law.Rep. 23, 112 L.R.R.M. (BNA) 2766 (1983); Schad v. Borough
- of Mount Ephraim, 452 U.S. 61, 101 S.Ct. 2176, 68 L.Ed.2d. 671, 7 Media L. Rep. (BNA) 1426 (1981); Mahoney v. Babbitt,
- 27 105 F.3d. 1452 (D.C. Cir. 1997), reh'g denied, 113 F.3d. 219 (D.C. Cir. 1997).
- ²⁸ Footnote 65. Broadrick v. Oklahoma, 413 U.S. 601, 93 S.Ct. 2908, 37 L.Ed.2d. 830 (1973).
- ²⁹ Footnote 66. Broadrick v. Oklahoma, 413 U.S. 601, 93 S.Ct. 2908, 37 L.Ed.2d. 830 (1973).
- 30 While a demonstrably overbroad statute or ordinance may deter the legitimate exercise of First Amendment rights,
- nevertheless, when considering a facial challenge it is necessary to proceed with caution and restraint, since invalidation may
- result in unnecessary interference with a state regulatory program; in accommodating these competing interests a state statute
- should not be deemed facially invalid unless it is not readily subject to a narrowing construction by the courts. Erznoznik v.
- ³⁴ City of Jacksonville, 422 U.S. 205, 95 S.Ct. 2268, 45 L.Ed.2d. 125, 1 Media L. Rep. (BNA) 1508 (1975).
- Footnote 67. Dandridge v. Williams, 397 U.S. 471, 90 S.Ct. 1153, 25 L.Ed.2d. 491 (1970), reh'g denied, 398 U.S. 914, 90
- S.Ct. 1684, 26 L.Ed.2d. 80 (1970); Aptheker v. Secretary of State, 378 U.S. 500, 84 S.Ct. 1659, 12 L.Ed.2d. 992 (1964).
- Footnote 68. Eisenstadt v. Baird, 405 U.S. 438, 92 S.Ct. 1029, 31 L.Ed.2d. 349 (1972) (involving an anticontraceptive statute);
- McGautha v. California, 402 U.S. 183, 91 S.Ct. 1454, 28 L.Ed.2d. 711, 58 Ohio.Op.2d. 243 (1971) (involving definitions in
- a murder statute).
- Footnote 69. Village of Hoffman Estates v. Flipside, Hoffman Estates, Inc., 455 U.S. 489, 102 S.Ct. 1186, 71 L.Ed.2d. 362
- 41 (1982), reh'g denied, 456 U.S. 950, 102 S.Ct. 2023, 72 L.Ed.2d. 476 (1982).
- Footnote 70. Bigelow v. Virginia, 421 U.S. 809, 95 S.Ct. 2222, 44 L.Ed.2d. 600, 1 Media L. Rep. (BNA) 1919 (1975);
- 43 Broadrick v. Oklahoma, 413 U.S. 601, 93 S.Ct. 2908, 37 L.Ed.2d. 830 (1973).

- Footnote 71. Parker v. Levy, 417 U.S. 733, 94 S.Ct. 2547, 41 L.Ed.2d. 439 (1974).
- Annotation: Supreme Court's views as to overbreadth of legislation in connection with First Amendment rights, 45 L.Ed.2d.
- 3 725
- ⁴ Footnote 72. Parker v. Levy, 417 U.S. 733, 94 S.Ct. 2547, 41 L.Ed.2d. 439 (1974); Broadrick v. Oklahoma, 413 U.S. 601, 93
- 5 S.Ct. 2908, 37 L.Ed.2d. 830 (1973); U.S. Civil Service Commission v. National Ass'n of Letter Carriers, AFL-CIO, 413 U.S.
- 6 548, 93 S.Ct. 2880, 37 L.Ed.2d. 796 (1973).
- ⁷ Footnote 73. Broadrick v. Oklahoma, 413 U.S. 601, 93 S.Ct. 2908, 37 L.Ed.2d. 830 (1973).
- 8 A statute will not be struck down as overbroad when limiting its construction could end the statute's chilling effect on
- protected expression. Holton v. State, 602 P.2d. 1228 (Alaska 1979).
- Footnote 74. U.S. v. 12 200-Foot Reels of Super 8mm. Film, 413 U.S. 123, 93 S.Ct. 2665, 37 L.Ed.2d. 500 (1973); U.S. v.
- Thirty-Seven (37) Photographs, 402 U.S. 363, 91 S.Ct. 1400, 28 L.Ed.2d. 822, 1 Media L. Rep. (BNA) 1130 (1971), for
- dissenting opinion, see, 402 U.S. 363, 91 S.Ct. 1416, 28 L.Ed.2d. 822, 1 Media L. Rep. (BNA) 1130 (1971) and reh'g denied,
- 403 U.S. 924, 91 S.Ct. 2221, 29 L.Ed.2d. 702 (1971).
- Annotation: Supreme Court's views as to overbreadth of legislation in connection with First Amendment rights, 45 L.Ed.2d.
- 15 725, § 9[a].
- Footnote 75. Lewis v. City of New Orleans, 415 U.S. 130, 94 S.Ct. 970, 39 L.Ed.2d. 214 (1974); Gooding v. Wilson, 405
- U.S. 518, 92 S.Ct. 1103, 31 L.Ed.2d. 408 (1972).
- A state law prohibiting the possession of nude photographs of minors does not violate the First Amendment on overbreadth
- 19 grounds, even though the statute proscribes lewd exhibitions of nudity rather than lewd exhibitions of the genitals, and even
- though the statute does not specify any required mental state, inasmuch as the state supreme court interpreted and narrowed
- the statute to require a lewd exhibition or to involve graphic focus on the genitals of a person who is neither a child nor ward
- of the person being charged, and since another state statute required proof of recklessness. Osborne v. Ohio, 495 U.S. 103,
- 23 110 S.Ct. 1691, 109 L.Ed.2d. 98 (1990), reh'g denied, 496 U.S. 913, 110 S.Ct. 2605, 110 L.Ed.2d. 285 (1990).
- Annotation: Supreme Court's views as to overbreadth of legislation in connection with First Amendment rights, 45 L.Ed.2d.
- 25 725.
- ²⁶ Footnote 76. Broadrick v. Oklahoma, 413 U.S. 601, 93 S.Ct. 2908, 37 L.Ed.2d. 830 (1973).
- Footnote 77. Arnett v. Kennedy, 416 U.S. 134, 94 S.Ct. 1633, 40 L.Ed.2d. 15 (1974), reh'g denied, 417 U.S. 977, 94 S.Ct.
- 3187, 41 L.Ed.2d. 1148 (1974); U.S. v. Thirty-Seven (37) Photographs, 402 U.S. 363, 91 S.Ct. 1400, 28 L.Ed.2d. 822, 1
- Media L. Rep. (BNA) 1130 (1971), for dissenting opinion, see, 402 U.S. 363, 91 S.Ct. 1416, 28 L.Ed.2d. 822, 1 Media L.
- Rep. (BNA) 1130 (1971) and reh'g denied, 403 U.S. 924, 91 S.Ct. 2221, 29 L.Ed.2d. 702 (1971).
- Annotation: Supreme Court's views as to overbreadth of legislation in connection with First Amendment rights, 45 L.Ed.2d.
- 725, § 9[b].
- Footnote 78. Lewis v. City of New Orleans, 415 U.S. 130, 94 S.Ct. 970, 39 L.Ed.2d. 214 (1974).
- Annotation: Supreme Court's views as to overbreadth of legislation in connection with First Amendment rights, 45 L.Ed.2d.
- 35 725, § 9[c].
- ³⁶ Footnote 79. Broadrick v. Oklahoma, 413 U.S. 601, 93 S.Ct. 2908, 37 L.Ed.2d. 830 (1973); Law Students Civil Rights
- 37 Research Council, Inc. v. Wadmond, 401 U.S. 154, 91 S.Ct. 720, 27 L.Ed.2d. 749 (1971).
- Footnote 80. Erznoznik v. City of Jacksonville, 422 U.S. 205, 95 S.Ct. 2268, 45 L.Ed.2d. 125, 1 Media L. Rep. (BNA) 1508
- 39 (1975); Lewis v. City of New Orleans, 415 U.S. 130, 94 S.Ct. 970, 39 L.Ed.2d. 214 (1974); Plummer v. City of Columbus,

- Ohio, 414 U.S. 2, 94 S.Ct. 17, 38 L.Ed.2d. 3, 68 Ohio.Op.2d. 78 (1973); Gooding v. Wilson, 405 U.S. 518, 92 S.Ct. 1103, 31
- L.Ed.2d. 408 (1972); Cox v. State of Louisiana, 379 U.S. 536, 85 S.Ct. 466, 13 L.Ed.2d. 487 (1965).

3 11.3.6 Specific fields of legislation

- 4 Decisions on the merits of a challenge of overbreadth of legislation affecting First Amendment rights cover a wide range of
- subject matter, such as legislation directed to: abusive, profane, or otherwise opprobrious language; 81 breach of the peace;
- 82 cable television; 83 courtroom news coverage; 84 denying access to military posts; 85 disorderly or annoying conduct;
- 86 disrupting a public employee's performance of official duties; 87 disrupting official proceedings; 88 distribution of
- literature and handbills; 89 licensing and license taxes; 90 loyalty oaths and proof; 91 military laws; 92 noise abatement;
- 9 93 obscene matters; 94 picketing, demonstrations, and protest marches; 95 prison control and management; 96 public
- employment, including political activities, 97 employment of subversives, 98 subversive activities; 99 public nudity; 1 and
- miscellaneous other statutes. 2

Footnotes

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- Footnote 81. Lewis v. City of New Orleans, 415 U.S. 130, 94 S.Ct. 970, 39 L.Ed.2d. 214 (1974); Plummer v. City of
- ¹⁵ Columbus, Ohio, 414 U.S. 2, 94 S.Ct. 17, 38 L.Ed.2d. 3, 68 Ohio.Op.2d. 78 (1973); Gooding v. Wilson, 405 U.S. 518, 92
- S.Ct. 1103, 31 L.Ed.2d. 408 (1972); Street v. New York, 394 U.S. 576, 89 S.Ct. 1354, 22 L.Ed.2d. 572 (1969).
- Generally, as to the Supreme Court's view as to the protection or lack of protection, under the Federal Constitution of the
- utterance of "fighting words," see § 502.
- Annotation: Supreme Court's views as to overbreadth of legislation in connection with First Amendment rights, 45 L.Ed.2d.
- ²⁰ 725, §§ 11 et seq.
- Supreme Court's view as to the protection or lack of protection, under the Federal Constitution, of the utterance of "fighting
- 22 words," 39 L.Ed.2d, 925.
- ²³ Footnote 82. Broadrick v. Oklahoma, 413 U.S. 601, 93 S.Ct. 2908, 37 L.Ed.2d. 830 (1973); Brown v. State of La., 383 U.S.
- 24 131, 86 S.Ct. 719, 15 L.Ed.2d. 637 (1966); Cox v. State of Louisiana, 379 U.S. 536, 85 S.Ct. 466, 13 L.Ed.2d. 487 (1965);
- 25 Edwards v. South Carolina, 372 U.S. 229, 83 S.Ct. 680, 9 L.Ed.2d. 697 (1963).
- ²⁶ Footnote 83. Swarner v. U.S., 937 F.2d. 1478 (9th Cir. 1991).
- Footnote 84. Nebraska Press Ass'n v. Stuart, 427 U.S. 539, 96 S.Ct. 2791, 49 L.Ed.2d. 683, 1 Media L. Rep. (BNA) 1064
- 28 (1976); Chicago Council of Lawyers v. Bauer, 522 F.2d. 242, 1 Media L. Rep. (BNA) 1094 (7th Cir. 1975), cert. denied, 427
- 29 U.S. 912, 96 S.Ct. 3201, 49 L.Ed.2d. 1204 (1976).
- A local court rule prohibiting the taking of photographs in a courtroom or its environs was not overbroad as applied to the
- taking of photographs in a parking lot of a two-story federal building housing a post office on the first floor and court facilities
- on the second floor. Mazzetti v. U. S., 518 F.2d. 781 (10th Cir. 1975).
- Footnote 85. Swarner v. U.S., 937 F.2d. 1478 (9th Cir. 1991).
- Footnote 86. Coates v. City of Cincinnati, 402 U.S. 611, 91 S.Ct. 1686, 29 L.Ed.2d. 214, 58 Ohio.Op.2d. 481 (1971); Squire
- v. Pace, 516 F.2d. 240 (4th Cir. 1975), cert. denied, 423 U.S. 840, 96 S.Ct. 68, 46 L.Ed.2d. 58 (1975).
- On the other hand, in the following cases the legislation prohibiting the disorderly conduct described therein was upheld by
- the Supreme Court against a challenge of overbreadth: Grayned v. City of Rockford, 408 U.S. 104, 92 S.Ct. 2294, 33 L.Ed.2d.
- ³⁸ 222 (1972); Colten v. Kentucky, 407 U.S. 104, 92 S.Ct. 1953, 32 L.Ed.2d. 584 (1972).
- Footnote 87. U.S. v. Brice, 926 F.2d. 925 (9th Cir. 1991).

- Footnote 88. Melugin v. Hames, 38 F.3d. 1478 (9th Cir. 1994).
- ² Footnote 89. Talley v. California, 362 U.S. 60, 80 S.Ct. 536, 4 L.Ed.2d. 559 (1960); Martin v. City of Struthers, Ohio, 319
- 3 U.S. 141, 63 S.Ct. 862, 87 L.Ed. 1313 (1943), for dissenting opinion, see, 319 U.S. 157, 63 S.Ct. 882, 87 L.Ed. 1324 (1943).
- Where a minister of a religious group who was prevented from distributing free religious literature at the Los Angeles
- 5 International Airport brought suit challenging a resolution of the board of airport commissioners banning all "First
- 6 Amendment activities" within the "Central Terminal Area" at the airport, the Supreme Court held that the resolution was
- 7 facially unconstitutional under the First Amendment overbreadth doctrine, regardless of whether the airport was considered
- a nonpublic forum or not, because no conceivable governmental interest could justify such an absolute prohibition of speech.
- 9 Board of Airport Com'rs of City of Los Angeles v. Jews for Jesus, Inc., 482 U.S. 569, 107 S.Ct. 2568, 96 L.Ed.2d. 500 (1987).
- Footnote 90. Joseph Burstyn, Inc. v. Wilson, 343 U.S. 495, 72 S.Ct. 777, 96 L.Ed. 1098, 1 Media L. Rep. (BNA) 1357 (1952);
- Saia v. People of State of New York, 334 U.S. 558, 68 S.Ct. 1148, 92 L.Ed. 1574 (1948); Murdock v. Com. of Pennsylvania,
- 319 U.S. 105, 63 S.Ct. 870, 87 L.Ed. 1292, 146 A.L.R. 81 (1943), for dissenting opinion, see, 319 U.S. 157, 63 S.Ct. 882, 87
- L.Ed. 1324 (1943) and for dissenting opinion, see, 319 U.S. 105, 63 S.Ct. 891, 87 L.Ed. 1292 (1943).
- Footnote 91. Communist Party of Indiana v. Whitcomb, 414 U.S. 441, 94 S.Ct. 656, 38 L.Ed.2d. 635 (1974), reh'g denied,
- 415 U.S. 952, 94 S.Ct. 1476, 39 L.Ed.2d. 568 (1974); Elfbrandt v. Russell, 384 U.S. 11, 86 S.Ct. 1238, 16 L.Ed.2d. 321
- 16 (1966).
- On the other hand, the New York system for screening applicants for admission to the New York Bar was unsuccessfully
- challenged, primarily on First Amendment vagueness and overbreadth grounds, in Law Students Civil Rights Research
- Council, Inc. v. Wadmond, 401 U.S. 154, 91 S.Ct. 720, 27 L.Ed.2d. 749 (1971).
- The non-Communist affidavit provision of the Labor Management Relations Act (29 U.S.C.A. §159(h)), was upheld in
- American Communications Ass'n, C.I.O., v. Douds, 339 U.S. 382, 70 S.Ct. 674, 94 L.Ed. 925 (1950), reh'g denied, 339 U.S.
- 990, 70 S.Ct. 1017, 94 L.Ed. 1391 (1950) and reh'g denied, 339 U.S. 990, 70 S.Ct. 1017, 94 L.Ed. 1391 (1950).
- 23 Footnote 92. Secretary of Navy v. Avrech, 418 U.S. 676, 94 S.Ct. 3039, 41 L.Ed.2d. 1033 (1974), reh'g denied, 419 U.S. 885,
- 95 S.Ct. 156, 42 L.Ed.2d. 129 (1974); Parker v. Levy, 417 U.S. 733, 94 S.Ct. 2547, 41 L.Ed.2d. 439 (1974).
- 25 Footnote 93. Reeves v. McConn, 631 F.2d. 377 (5th Cir. 1980), reh'g denied, 638 F.2d. 762 (5th Cir. 1981) (a municipal
- ordinance which prohibits operation of any sound amplification equipment with excess of 20 watts of power in the last stage
- of amplification is unconstitutionally overbroad to the extent that amplification is limited absent any showing that sound
- amplification in excess of 20 watts is disruptive).
- 29 Footnote 94. U.S. v. Orito, 413 U.S. 139, 93 S.Ct. 2674, 37 L.Ed.2d. 513 (1973).
- ₃₀ Footnote 95. Madsen v. Women's Health Center, Inc., 512 U.S. 753, 114 S.Ct. 2516, 129 L.Ed.2d. 593 (1994) (by restraining
- antiabortion protesters from using images observable to the patients inside an abortion clinic, a state court injunction burdened
- more speech than was necessary to achieve the purpose of limiting threats to clinic patients or their families or to reduce the
- level of anxiety and hypertension suffered by patients inside the clinic; nothing more than pulling the curtains was required
- to avoid seeing placards through the windows of the clinic); Howard Gault Co. v. Texas Rural Legal Aid, Inc., 848 F.2d. 544,
- 128 L.R.R.M. (BNA) 2890, 109 Lab. Cas. (CCH) ¶ 55908 (5th Cir. 1988).
- A District of Columbia provision which prohibited signs or displays critical of foreign governments within 500 feet of their
- embassies, although not viewpoint-based, was a content-based restriction on political speech in a public forum, which was
- not narrowly tailored to serve a compelling state interest and thus violated the First Amendment. Boos v. Barry, 485 U.S.
- 39 312, 108 S.Ct. 1157, 99 L.Ed.2d. 333 (1988).
- Activities such as demonstrations, protest marches, and picketing are protected by the First Amendment. Collins v. Jordan,
- 102 F.3d. 406 (9th Cir. 1996).
- 42 Annotation: Governmental regulation of nonlabor picketing as violating freedom of speech or press under Federal
- Constitution's First Amendment–Supreme Court cases, 101 L.Ed.2d. 1052.

- Validity, construction, and application of Freedom of Access to Clinic Entrances Act (FACE) (18 U.S.C.S. §248), 134 A.L.R. 1
- Fed. 507. 2
- Law Reviews: Elliott, Madsen v. Women's Health Center, Inc.: Heightened Scrutiny for Injunctions Implicating First 3
- Amendment Freedoms. 24 Cap.U.LR. 457, 1995.
- Kelly, Silencing the Lambs: Restricting the First Amendment Rights of Abortion Clinic Protestors in Madsen v. Women's
- Health Center. 68 S.Cal.LR 427, January, 1995.
- Footnote 96. U.S. v. Berrigan, 482 F.2d. 171, 21 A.L.R. Fed. 105 (3d Cir. 1973).
- Footnote 97. Broadrick v. Oklahoma, 413 U.S. 601, 93 S.Ct. 2908, 37 L.Ed.2d. 830 (1973); U.S. Civil Service Commission
- v. National Ass'n of Letter Carriers, AFL-CIO, 413 U.S. 548, 93 S.Ct. 2880, 37 L.Ed.2d. 796 (1973).
- Footnote 98. Keyishian v. Board of Regents of University of State of N.Y., 385 U.S. 589, 87 S.Ct. 675, 17 L.Ed.2d. 629 10
- (1967); Shelton v. Tucker, 364 U.S. 479, 81 S.Ct. 247, 5 L.Ed.2d. 231 (1960). 11
- See also Elfbrandt v. Russell, 384 U.S. 11, 86 S.Ct. 1238, 16 L.Ed.2d. 321 (1966), where a state statute requiring state 12
- employees to take a loyalty oath was voided by the court, apparently on grounds of overbreadth. 13
- Footnote 99. Brandenburg v. Ohio, 395 U.S. 444, 89 S.Ct. 1827, 23 L.Ed.2d. 430, 48 Ohio.Op.2d. 320 (1969); U.S. v. Robel, 14
- 389 U.S. 258, 88 S.Ct. 419, 19 L.Ed.2d. 508 (1967). 15
- On the other hand, the federal statutes punishing the advocacy of the overthrow of the government (18 U.S.C.A. §2385) and 16
- advising or urging of disloyalty by members of the armed forces (18 U.S.C.A. §2387) have been upheld as against claims 17
- that they were overbroad. Dunne v. U. S., 138 F.2d. 137 (C.C.A. 8th Cir. 1943), cert. denied, 320 U.S. 790, 64 S.Ct. 205, 88 18
- L.Ed. 476 (1943), reh'g denied, 320 U.S. 814, 64 S.Ct. 260, 88 L.Ed. 492 (1943) and reh'g denied, 320 U.S. 815, 64 S.Ct. 19
- 426, 88 L.Ed. 493 (1944). 20
- Law Reviews: Wirenius, The Road to Brandenburg: A Look at the Evolving Understanding of the First Amendment. 43 21
- Drake.LR. 1, 1994. 22
- Footnote 1. Triplett Grille, Inc. v. City of Akron, 40 F.3d. 129, 1994 FED.App. 386P (6th Cir. 1994); Dodger's Bar & Grill, 23
- Inc. v. Johnson County Bd. of County Com'rs, 32 F.3d. 1436 (10th Cir. 1994). 24
- Footnote 2. Challenges based on overbreadth were sustained as to: 25
- -a federal statute (18 U.S.C.A. §1718) punishing persons for writing libelous and defamatory words on the outside of 26
- envelopes, or on postcards. Tollett v. U. S., 485 F.2d. 1087 (8th Cir. 1973). 27
- -an ordinance making it unlawful to encumber or obstruct any street with any article or thing whatsoever. People v. Katz, 21 28
- N.Y.2d 132, 286 N.Y.S.2d 839, 233 N.E.2d 845 (1967). 29
- On the other hand, challenges based on overbreadth were rejected as to: 30
- -the provisions of the Federal Election Campaign Act of 1971 (18 U.S.C.A. §608(b)(1)) imposing a \$1,000 limitation on 31
- contributions by individuals and groups to any single candidate with respect to any election for federal office. Buckley v. 32
- Valeo, 424 U.S. 1, 96 S.Ct. 612, 46 L.Ed.2d. 659, 76-1 U.S. Tax Cas. (CCH) ¶ 9189 (1976). 33
- -a federal statute concerning imparting false information concerning an alleged attempt to be made to commit air piracy. U.S. 34
- v. Irving, 509 F.2d. 1325 (5th Cir. 1975), cert. denied, 423 U.S. 931, 96 S.Ct. 281, 46 L.Ed.2d. 259 (1975). 35
- -a statute extending juvenile court jurisdiction over incorrigible children. Blondheim v. State, 84 Wash.2d. 874, 529 P.2d. 36
- 1096 (1975). 37
- -a statute punishing "terroristic threats" or acts. Lanthrip v. State, 235 Ga. 10, 218 S.E.2d. 771 (1975). 38

11.4 Preventing the enforcement of perjury statements and ALL civil franchises against you in court

- All franchises are LOANS rather than GIFTS of money, property, or services. That's what a "privilege" is: a loan of 2 government property WITH conditions. Perjury statements on government forms that you signed are the main method abused 3
- by the government to establish franchises and to "selectively enforce" against those who don't want to participate in,
- subsidize, or permit the enforcement of government franchises against them. It is very important to understand how to prevent
- these abuses and that is the focus of this section.

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- Criminal perjury at the federal level is enforced under the authority of 18 U.S.C. §§1001, 1542, and 1621. Criminal perjury
- is very difficult to prosecute and infrequently prosecuted because like other crimes, they require the government to prove
- mens rea. Mens rea in the context of criminal perjury requires them to prove that:
 - You KNEW the statement contained a factual falsehood.
 - That falsehood would or did result in a direct, quantifiable injury to a specific person. In other words, the falsehood was "material" to an injury:

MATERIAL. Important; more or less necessary; having influence or effect; going to the merits; having to do with matter, as distinguished from form.

Representation relating to matter which is so substantial and important as to influence party to whom made is "material." McGuire v. Gunn, 133 Kan. 422, 300 P. 654, 656. Any misrepresentation bringing about issuance of policy on reduced premium rate is "material." Brooks Transp. Co. v. Merchants' Mut. Casualty Co., 6 W.W.Harr.

[Black's Law Dictionary, Fourth Edition, p. 1128]

MATERIAL EVIDENCE. Such as is relevant and goes to the substantial matters in dispute, or has a legitimate and effective influence or bearing on the decision of the case. Porter v. Valentine, 18 Misc. 213, 41 N.Y.S. 507; Connecticut Fire Ins. Co. of Hartford, Conn., v. George, 52 Okl. 432, 153 P. 116, 119. "Materiality," with reference to evidence does not have the same signification as "relevancy." Pangburn v. State, Tex.Cr.App., 56 [Black's Law Dictionary, Fourth Edition, p. 1128]

The injured party was physically on territory under the exclusive jurisdiction of the national government, meaning federal territory. All law is prima facie territorial.

In order to establish the above elements of a valid claim of criminal perjury in the context of a government civil statutory franchise, the government must FIRST have provided commercial money, property, or services to the recipient that they were typically NOT eligible for, and the perjury by the recipient was intended to falsely establish that they WERE eligible. Otherwise, there could be no "damages" that could be recovered and the government would have no "standing" to sue. Lack of standing under Federal Rule of Civil Procedure 12(b)(6) is the most frequently cited authority for dismissing such a case.

Rule 12. Defenses and Objections: When and How Presented; Motion for Judgment on the Pleadings; Consolidating Motions; Waiving Defenses; Pretrial Hearing

(b) How to Present Defenses.

Every defense to a claim for relief in any pleading must be asserted in the responsive pleading if one is required. But a party may assert the following defenses by motion:

- (1) lack of subject-matter jurisdiction;
- (2) lack of personal jurisdiction;
- (3) improper venue;
- (4) insufficient process;
- (5) insufficient service of process;
- (6) failure to state a claim upon which relief can be granted; and
- (7) failure to join a party under Rule 19.

A motion asserting any of these defenses must be made before pleading if a responsive pleading is allowed. If a pleading sets out a claim for relief that does not require a responsive pleading, an opposing party may assert at trial any defense to that claim. No defense or objection is waived by joining it with one or more other defenses or objections in a responsive pleading or in a motion.

[SOURCE: https://www.law.cornell.edu/rules/frcp/rule_12]

Therefore, in order to PREVENT or DEFEAT criminal perjury under a civil statutory franchise enforcement proceeding, the defendant needs to do use the following:

- 1. Define all critical terms on every government form when submitted.
 - 1.1. This is already done for those who are compliant members in the following mandatory submissions they sent to the government when joining:
 - 1.1.1. <u>Legal Notice of Change in Domicile/Citizenship Records and Divorce from the United States</u>, Form #10.001 http://sedm.org/Forms/FormIndex.htm
 - 1.1.2. <u>Resignation of Compelled Social Security Trustee</u>, Form #06.002 http://sedm.org/Forms/FormIndex.htm
 - 1.2. If you haven't sent in the above forms, you can use the following primary attachments for individual applications:
 - 1.2.1. <u>Affidavit of Citizenship, Domicile, and Tax Status</u>, Form #02.001

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

- 1.2.2. <u>Tax Form Attachment</u>, Form #04.201 http://sedm.org/Forms/FormIndex.htm
- 2. If the form was already submitted without definitions, mail in an addendum after the fact using the forms mentioned in the previous step 1.
- 3. In the definition, state that:

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- 3.1. The terms are EXCLUDE all STATUTORY contexts and include ONLY YOUR definitions or, if you didn't define it, the ORDINARY/PRIVATE meaning.
- 3.2. The application is a request for a RETURN of funds ALREADY paid to the government and loaned temporarily to them WITH CONDITIONS AND COVENANTS ATTACHED. Those CONDITIONS AND COVENANTS are documented in:

<u>Injury Defense Franchise and Agreement, Form</u> #06.027 http://sedm.org/Forms/FormIndex.htm

- 3.3. The government is not returning property that it OWNS, but rather property it is holding as a custodian that is and always WAS owned by the recipient.
- 3.4. The money, property, or services provided by you were not paid as a "tax" as that term is statutorily defined, but rather a LOAN from you to them.
- 3.5. Any government form or application containing the alleged perjury statement is rendered FALSE, FRAUDULENT, AND/OR PERJURIOUS BY THE GOVERNMENT RECIPIENT if the attachment or changes to it containing the covenant and/or definitions is either redacted or removed.
- 3.6. The above approach is an implementation of your First Amendment right to practice your religion. God commands believers to owe nothing to no one and to be a LENDER but not a BORROWER to all "nations". By "nations" He can only mean "governments". See Romans 13:8, Deut. 15:6, and Deut. 28:12.

REMEMBER, as we say in our <u>Path to Freedom</u>, Form #09.015, Section 5.7:

"He who writes the rules OR the definitions ALWAYS WINS!"

The above tactic is PRECISELY HOW the government, in fact, ensures that IT wins against the public, and therefore YOU must emulate their behavior. Furthermore, under the concept of equal protection and equal treatment, the government MUST allow you to do so. Otherwise, they have implemented the equivalent of a civil religion in which THEY are the pagan "god" being worshipped. That religion is exhaustively described in <u>Socialism: The New American Civil Religion</u>, Form #05.016.

Using the above tactic makes it literally impossible for the government to prosecute any franchise or tax crime against you. It also forces the government to fight against itself and disprove its own enforcement authority. After all, if they want to claim that YOU can't do it, then indirectly neither can THEY under the concept of equal protection and equal treatment. This is the Sun Tzu approach: Use your enemy's greatest strength against them! You are using your OWN franchises to fight THEIR franchises, and recruiting them to YOUR franchises by EXACTLY the same method as they are recruiting you! All franchises are LOANS rather than GIFTS or PAYMENTS of property. As long as you never give up ownership of your PRIVATE property and everything you give them remains YOURS loaned with CONDITIONS, then you remain the Merchant, they remain the Buyer, and you can NEVER owe them ANYTHING.

"Owe no one anything except to love one another, for he who loves another has fulfilled the law." [Romans 13:8, Bible, NKJV]

Flawed Tax Arguments to Avoid, Version 1.27 Copyright Family Guardian Fellowship, http://famguardian.org

Last Revised: 1/23/2018

1 2	"For the Lord your God will bless you just as He promised you; you shall lend to many nations, but you shall not borrow; you shall reign over many nations, but they shall not reign over you."
3	[Deut. 15:6, Bible, NKJV]
4	"The Lord will open to you His good treasure, the heavens, to give the rain to your land in its season, and to
5	bless all the work of your hand. You shall lend to many nations, but you shall not borrow."
6	[Deut. 28:12, Bible, NKJV]

- The above scriptures are COMMANDMENTS direct from God. They are therefore a religious practice protected by the First
- Amendment. Any attempt to actively interfere with the above religious practice is a violation of the First Amendment AND
- 9 possibly even a crime.

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- Some in the government might claim that this is an "unfair" tactic, but in fact, if it is UNFAIR, it is EQUALLY unfair for the government to use it! And if they can't use it, they can't offer or enforce ANY franchise, including the ENTIRE civil code, against anyone, because that is what it is BASED on! See:
- 13 1. Why Domicile and Becoming a "Taxpayer" Require Your Consent, Form #05.002 http://sedm.org/Forms/FormIndex.htm
 - 2. <u>Government Instituted Slavery Using Franchises</u>, Form #05.030 http://sedm.org/Forms/FormIndex.htm
- For further authorities on perjury, see:

<u>Sovereignty Forms and Instructions Online</u>, Form #10.004, Cites by Topic: "perjury" http://famguardian.org/TaxFreedom/CitesByTopic/perjury.htm</u>

For a more detailed explanation of this approach, see:

<u>Path to Freedom</u>, Form #09.015, Sections 5.4 through 5.7 http://sedm.org/Forms/FormIndex.htm

11.5 <u>Legal Constraints Upon the Meaning and Interpretation of All "Terms" Used by All Parties Throughout All Pleadings, Motions, and Orders Filed in This Proceeding</u>

In the interests of justice, and to prevent abusive verbicide using "words of art" by government opponent and the court, the following subsections hereby conclusively establish the rules for construction and interpretation of legal "terms" and definitions, and the meaning of such terms when the <u>specific</u> and inclusive definition is NOT provided by the speaker. These presumptions shall apply to ALL FUTURE PLEADINGS throughout this FRAUDULENT action by the government. The intent and spirit of these prescriptions is motivated by the Founding Fathers themselves and other famous personalities, who said of this MOST IMPORTANT subject the following:

"It has been frequently remarked, with great propriety, that a voluminous code of laws is one of the inconveniences necessarily connected with the advantages of a free government. To avoid an arbitrary discretion in the courts, it is indispensable that they should be bound down by strict rules lof statutory construction and interpretation] and precedents, which serve to define and point out their duty in every particular case that comes before them; and it will readily be conceived from the variety of controversies which grow out of the folly and wickedness of mankind, that the records of those precedents must unavoidably swell to a very considerable bulk, and must demand long and laborious study to acquire a competent knowledge of them."

[Federalist Paper No. 78, Alexander Hamilton]

"Judicial 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, during Watergate hearing]

"When words lose their meaning, people will lose their liberty."

[Confucius, 500 B.C.]

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"Every nation, consequently, whose affairs betray a want of wisdom and stability, may calculate on every loss 2 which can be sustained from the more systematic policy of their wiser neighbors. But the best instruction on this 3 subject is unhappily conveyed to America by the example of her own situation. She finds that she is held in no 4 respect by her friends; that she is the derision of her enemies; and that she is a prey to every nation which has an interest in speculating on her fluctuating councils and embarrassed affairs. 6 The internal effects of a mutable policy are still more calamitous. It poisons the blessing of liberty itself. It will 7 8 be of little avail to the people, that the laws are made by men of their own choice, if the laws be so voluminous that they cannot be read, or so incoherent that they cannot be understood; if they be repealed or revised before 9 10 they are promulgated, or undergo such incessant changes that no man, who knows what the law is to-day, can guess what it will be to-morrow. Law is defined to be a rule of action; but how can that be a rule, which is little 11 12 known, and less fixed? Another effect of public instability is the unreasonable advantage it gives to the sagacious, the enterprising, 13 and the moneyed few over the industrious and uniformed mass of the people. Every new regulation concerning 14 commerce or revenue, or in any way affecting the value of the different species of property, presents a new harvest 15 to those who watch the change, and can trace its consequences; a harvest, reared not by themselves, but by the 16 toils and cares of the great body of their fellow-citizens. This is a state of things in which it may be said with 17 some truth that laws are made for [benefit of] the FEW, not for the MANY. 18 [Federalist Paper No. 62, James Madison] 19 11.6 **Rules of Statutory Construction and Interpretation** 20 For the purpose of all "terms" used by the government, myself, and the Court, the following rules of statutory construction 21 and interpretation shall apply. 22 The law should be given it's plain meaning wherever possible. 23 Statutes must be interpreted so as to be entirely harmonious with all law as a whole. The pursuit of this harmony is often 24 the best method of determining the meaning of specific words or provisions which might otherwise appear ambiguous: 25 It is, of course, true that statutory construction "is a holistic endeavor" and that the meaning of a provision is 26 clarified by the remainder of the statutory scheme ... [when] only one of the permissible meanings produces a 27 substantive effect that is compatible with the rest of the law." United Sav. Assn. of Tex. v. Timbers of Inwood 28 Forest Associates, Ltd., 484 U.S. 365, 371, 108 S.Ct. 626, 98 L.Ed.2d. 740 (1988). 29 [U.S. v. Cleveland Indians Baseball Co., 532 U.S. 200, 121 S.Ct. 1433 (2001)] 30 Every word within a statute is there for a purpose and should be given its due significance. 31

"This fact only underscores our duty to refrain from reading a phrase into the statute when Congress has left it out." [W]here Congress includes particular language in one section of a statute but omits it in another ..., it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion." [Russello v. United States, 464 U.S. 16, 23, 78 L.Ed.2d. 17, 104 S.Ct. 296 (1983)]

4. All laws are to be interpreted consistent with the legislative intent for which they were *originally* enacted, as revealed in the Congressional Record prior to the passage. The passage of no amount of time can change the original legislative intent of a law.

"Courts should construe laws in Harmony with the legislative intent and seek to carry out legislative purpose. With respect to the tax provisions under consideration, there is no uncertainty as to the legislative purpose to tax post-1913 corporate earnings. We must not give effect to any contrivance which would defeat a tax Congress plainly intended to impose."

[Foster v. U.S., 303 U.S. 118 (1938)]

"We are bound to interpret the Constitution in the light of the law as it existed at the time it was adopted." [Mattox v. U.S., 156 U.S. 237 (1938)]

5. Presumption may not be used in determining the meaning of a statute. Doing otherwise is a violation of due process and a religious sin under Numbers 15:30 (Bible). A person reading a statute cannot be required by statute or by "judge made law" to read anything into a Title of the U.S. Code that is not expressly spelled out. See:

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

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1	о.	The proper audience to turn to in order to deduce the meaning of a statute are the persons who are the subject of the law
2		and not a judge. Laws are supposed to be understandable by the common man because the common man is the proper
3		subject of most laws. Judges are NOT common men.
4		"It is a basic principle of due process that an enactment [435 U.S. 982, 986] is void for vagueness if its
5		prohibitions are not clearly defined. Vague laws offend several important values. First, because we assume that
6		man is free to steer between lawful and unlawful conduct, we insist that laws give the person of ordinary
7		intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly. Vague laws
8		may trap the innocent by not providing fair warning. Second, if arbitrary and discriminatory enforcement is to
9		be prevented, laws must provide explicit standards for those who apply them. A vague law impermissibly delegates
10		basic policy matters to policemen, judges, and juries for resolution on an ad hoc and subjective basis, with the
11		attendant dangers of arbitrary and discriminatory application."
12		[Grayned v. City of Rockford, 408 U.S. 104, 108 (1972)]
13		"whether right or wrong, the premise underlying the constitutional method for determining guilt or innocence
14		in federal courts is that laymen are better than specialists to perform this task."
15		[United States ex rel. Toth v. Quarles, <u>350 U.S. 11, 18 (</u> 1955)]
16	7.	If a word is not statutorily defined, then the courts are bound to start with the common law meaning of the term.
17		"Absent contrary direction from Congress, we begin our interpretation of statutory language with the general
18		presumption that a statutory term has its common law meaning. See Taylor v. United States, 495 U.S. 575, 592
19		(1990); Morissette v. United States, 342 U.S. 246, 263 (1952)."
20		[Scheidler v. National Organization for Women, 537 U.S. 393 (2003)]
21	8.	The purpose for defining a word within a statute is so that its ordinary (dictionary) meaning is <u>not</u> implied or assumed
22		by the reader. A "definition" by its terms excludes non-essential elements by mentioning only those things to which i
23		shall apply.
23		shan appry.
24		"Define. To explain or state the exact meaning of words and phrases; to state explicitly; to limit; to determine
25		essential qualities of; to determine the precise signification of; to settle; to establish or prescribe authoritatively;
26		to make clear. (Cite omitted)"
27		"To "define" with respect to space, means to set or establish its boundaries authoritatively; to mark the limits of;
28		to determine with precision or exhibit clearly the boundaries of; to determine the end or limit; to fix or establish the
29		limits. It is the equivalent to declare, fix or establish.
30		[Black's Law Dictionary, Sixth Edition, p. 422]
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32		"Definition. A description of a thing by its properties; an explanation of the meaning of a word or term. The process
33		of stating the exact meaning of a word by means of other words. Such a description of the thing defined, including all essential
34		elements and excluding all nonessential, as to distinguish it from all other things and classes."
35		[Black's Law Dictionary, Sixth Edition, p. 423]
36	9.	When a term is defined within a statute, that definition is provided usually to <i>supersede</i> and not <i>enlarge</i> other definitions
37		of the word found elsewhere, such as in other Titles or Codes.
38		"When a statute includes an explicit definition, we must follow that definition, even if it varies from that term's
39		ordinary meaning. Meese v. Keene, 481 U.S. 465, 484-485 (1987) ("It is axiomatic that the statutory definition
40		of the term excludes unstated meanings of that term"); Colautti v. Franklin, 439 U.S. at 392-393, n. 10 ("As a
41		rule, `a definition which declares what a term "means" excludes any meaning that is not stated"); Western
42		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
43		(1935) (Cardozo, J.); see also 2A N. Singer, Sutherland on Statutes and Statutory Construction § 47.07, p. 152,
44		and n. 10 (5th ed. 1992) (collecting cases). That is to say, the statute, read "as a whole," post at 998 [530 U.S.
45		943] (THOMAS, J., dissenting), leads the reader to a definition. That definition does not include the Attorney
46		General's restriction "the child up to the head." Its words, "substantial portion," indicate the contrary."
47		[Stenberg v. Carhart, 530 U.S. 914 (2000)]
48	10.	It is a violation of due process of law to employ a "statutory presumption", whereby the reader is compelled to guess
49		about precisely what is included in the definition of a word, or whereby all that is included within the meaning of a term
50		defined is not described SOMEWHERE within the body of law or Title in question.
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The Schlesinger Case has since been applied many times by the lower federal courts, by the Board of Tax Appeals, 2 and by state courts;⁹³ and none of them seem to have been **361 at any loss to understand the basis of the decision, namely, that a statute which imposes a tax upon an assumption of fact which the taxpayer is forbidden 3 to controvert is so arbitrary and unreasonable that it cannot stand under the Fourteenth Amendment. [...] A rebuttable presumption clearly is a rule of evidence which has the effect of shifting the burden of proof, Mobile, J. & K. C. R. Co. v. Turnipseed, <u>219 U.S. 35, 43</u>, 31 S.Ct. 136, 32 L.R.A. (N. S.) 226, Ann. Cas. 1912A, 8 463; and it is hard to see how a statutory rebuttable presumptions is turned from a rule of evidence into a rule of substantive law as the result of a later statute making it conclusive. In both cases it is a substitute for proof; 9 10 in the one open to challenge and disproof, and in the other conclusive. However, whether the latter presumption be treated as a rule of evidence or of substantive law, it constitutes an attempt, by legislative fiat, 11 12 to enact into existence a fact which here does not, and cannot be made to, exist in actuality, and the result is the same, unless we are ready to overrule the Schlesinger Case, as we are not; for that case dealt with a conclusive 13 presumption, and the court held it invalid without regard to the question of its technical characterization. This court has held more than once that a statute creating a presumption which operates to deny a fair opportunity 15 to rebut it violates the due process clause of the Fourteenth Amendment. For example, Bailey v. Alabama, 219 16 U.S. 219, 238, et seq., 31 S.Ct. 145; Manley v. Georgia, 279 U.S. 1, 5-6, 49 S.Ct. 215. 17 'It is apparent,' this court said in the Bailey Case (219 U.S. 239, 31 S.Ct. 145, 151) 'that a constitutional 18 prohibition cannot be transgressed indirectly by the creation of a statutory presumption any more than it can 19 be violated by direct enactment. The power to create presumptions is not a means of escape from constitutional 20 restrictions.' 21 [Heiner v. Donnan, 285 U.S. 312 (1932)] 22 The implications of this rule are that the following definition cannot imply the common definition of a term IN 23 ADDITION TO the statutory definition, or else it is compelling a presumption, engaging in statutory presumptions, and 24 violating due process of law: 25 26 U.S.C. Sec. 7701(c) INCLUDES AND INCLUDING. 26 The terms 'include' and 'including' when used in a definition contained in this title shall not be deemed to exclude 27 28 other things otherwise within the meaning of the term defined." 11. Expressio Unius est Exclusio Alterius Rule: The term "includes" is a term of *limitation* and not enlargement in most 29 cases. Where it is used, it prescribes all of the things or classes of things to which the statute pertains. All other possible 30 objects of the statute are thereby excluded, by implication. 31 "expressio unius, exclusio alterius"—if one or more items is specifically listed, omitted items are purposely 32 excluded. Becker v. United States, 451 U.S. 1306 (1981) 33 34 "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, 35 36 170 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 37 inferred. Under this maxim, if statute specifies one exception to a general rule or assumes to specify the effects 38 of a certain provision, other exceptions or effects are excluded." 39 [Black's Law Dictionary, Sixth Edition, p. 581] 40 12. When the term "includes" is used as implying enlargement or "in addition to", it only fulfills that sense when the 41 definitions to which it pertains are scattered across multiple definitions or statutes within an overall body of law. In each 42 instance, such "scattered definitions" must be considered AS A WHOLE to describe all things which are included. The 43 U.S. Supreme Court confirmed this when it said: 44 "That is to say, the statute, read "as a whole," post at 998 [530 U.S. 943] (THOMAS, J., dissenting), leads the 45

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."

EXHIBIT:_____

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⁹³ See, for example, <u>Hall v. White (D. C.) 48 F.(2d) 1060; Donnan v. Heiner (D. C.) 48 F.(2d) 1058</u> (the present case); Guinzburg v. Anderson (D. C.) F. (2d) 592; <u>American Security & Trust Co. et al., Executors, 24 B. T. A. 334; State Tax Commission v. Robinson's Executor, 234 Ky. 415, 28 S.W.(2d) 491 (involving a three-year period).</u>

in the statute itself. That means they may not imply or infer the common definition of a term IN ADDITION to the statutory definition, but must rely ONLY on the things clearly included in the statute itself and nothing else.

> Franklin, 439 U.S. 379, 392, and n. 10 (1979). Congress' use of the term "propaganda" in this statute, as indeed in other legislation, has no pejorative connotation. [19] As judges, it is our duty to [481 U.S. 485] construe legislation as it is written, not as it might be read by a layman, or as it might be understood by someone who has not even read it." [Meese v. Keene, 481 U.S. 465, 484 (1987)]

15. Citizens [not "taxpayers", but "citizens"] are presumed to be exempt from taxation unless a clear intent to the contrary is clearly manifested in a positive law taxing statute.

> "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)]

For additional authorities similar to those above, see: Spreckles Sugar Refining Co. v. McClain, 192 U.S. 397, 416 (1904); Smietanka v. First Trust & Savings Bank, 257 U.S. 602, 606 (1922); Lucas v. Alexander, 279 U.S. 573, 577 (1929); Crooks v. Harrelson, 282 U.S. 55 (1930); Burnet v. Niagra Falls Brewing Co., 282 U.S. 648, 654 (1931); Miller v. Standard Nut Margarine Co., 284 U.S. 498, 508 (1932); Gregory v. Helvering, 293 U.S. 465, 469 (1935); Hassett v. Welch, 303 U.S. 303, 314 (1938); U.S. v. Batchelder, 442 U.S. 114, 123 (1978); Security Bank of Minnesota v. CIA, 994 F.2d. 432, 436 (CA8 1993).

16. Ejusdem Generis Rule: Where general words follow an enumeration of persons or things, by words of a particular and specific meaning, such general words are not to be construed in their widest extent, but are to be held as applying only to persons or things of the same general kind or class as those specifically mentioned

"[w]here general words [such as the provisions of 26 U.S.C. §7701(c)] follow specific words in a statutory								
enumeration, the general words are construed to embrace only objects similar in nature to those objects								
enumerated by the preceding specific words."								
[Circuit City Stores v. Adams, 532 U.S. 105, 114-115 (2001)]								

"Under the principle of ejusdem generis, when a general term follows a specific one, the general term should be understood as a reference to subjects akin to the one with specific enumeration." [Norfolk & Western R. Co. v. Train Dispatchers, 499 U.S. 117 (1991)]

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2		"Ejusdem generis. Of the same kind, class, or nature. In the construction of laws, wills, and other instruments,
3		the "ejusdem generis rule" is, that where general words follow an enumeration of persons or things, by words of a particular and specific meaning, such general words are not to be construed in their widest extent, but are to
4		be held as applying only to persons or things of the same general kind or class as those specifically mentioned.
5 6		U.S. v. LaBrecque, D.C. N.J., 419 F.Supp. 430, 432. The rule, however, does not necessarily require that the
7		general provision be limited in its scope to the identical things specifically named. Nor does it apply when the
8		context manifests a contrary intention.
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9		Under "ejusdem generis" cannon of statutory construction, where general words follow the enumeration of
0		particular classes of things, the general words will be construed as applying only to things of the same general
1		class as those enumerated. Campbell v. Board of Dental Examiners, 53 Cal.App.3d. 283, 125 Cal.Rptr. 694,
2		696."
3		[Black's Law Dictionary, Sixth Edition, p. 517]
4	17.	In all criminal cases, the "Rule of Lenity" requires that where the interpretation of a criminal statute is ambiguous, the
5		ambiguity should be resolved in favor of the defendant and against the government. An ambiguous statute fails to give
		"reasonable notice" to the reader what conduct is prohibited, and therefore renders the statute unenforceable. The Rule
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7		of Lenity may only be applied when there is ambiguity in the meaning of a statute:
8		This expansive construction of § 666(b) is, at the very least, inconsistent with the rule of lenity which the
9		Court does not discuss. This principle requires that, to the extent that there is any ambiguity in the term
0		"benefits," we should resolve that ambiguity in favor of the defendant. See United States v. Bass, 404 U.S. 336,
1		347 (1971) ("In various ways over the years, we have stated that, when choice has to be made between two readings of what conduct Congress has made a crime, it is appropriate, before we choose the harsher
2		alternative, to require that Congress should have spoken in language that is clear and definite" (internal
3		quotation marks omitted))."
5		[Fischer v. United States, 529 U.S. 667 (2000)]
.5		[1 istner v. Omied states, 327 O.S. 607 (2000)]
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_		"It's not a bound of the second of the secon
7		"It is not to be denied that argumentative skill, as was shown at the Bar, could persuasively and not unreasonably
8		reach either of the conflicting constructions. About only one aspect of the problem can one be dogmatic. When
9		Congress has the will it has no difficulty in expressing it - when it has the will, that is, of defining what it desires to make the unit of prosecution and, more particularly, to make each stick in a faggot a single criminal
0		unit. When Congress leaves to the Judiciary the task of imputing to Congress an undeclared will, the ambiguity
1		should be resolved in favor of lenity. And this not out of any sentimental consideration, or for want of sympathy
3		with the purpose of Congress in proscribing evil or antisocial conduct. It may fairly be said to be a presupposition
4		of our law to resolve doubts in the enforcement of a penal code against the imposition of a harsher punishment.
5		This in no wise implies that language used in criminal statutes should not be read with the saving grace of common
6		sense with which other enactments, not cast in technical language, are to be read. Nor does it assume that
7		offenders against the law carefully read the penal [349 U.S. 81, 84] code before they embark on crime. It merely
8		means that if Congress does not fix the punishment for a federal offense clearly and without ambiguity, doubt
9		will be resolved against turning a single transaction into multiple offenses, when we have no more to go on
0		than the present case furnishes."
1		[Bell v. United States, 349 U.S. 81 (1955)]
2	18.	When Congress intends, by one of its Acts, to supersede the police powers of a state of the Union, it must do so <u>very</u>
3		<u>clearly</u> .
4		"If Congress is authorized to act in a field, it should manifest its intention clearly. It will not be presumed that a
5		federal statute was intended to supersede the exercise of the power of the state unless there is a clear
6		manifestation of intention to do so. The exercise of federal supremacy is not lightly to be presumed."
7		[Schwartz v. Texas, <u>344 U.S. 199</u> , 202-203 (1952)]
8	19.	There are no exceptions to the above rules. However, there are cases where the "common definition" or "ordinary
9		definition" of a term <u>can</u> and <u>should</u> be applied, but ONLY where a statutory definition is NOT provided that might
		supersede the ordinary definition. See:
0		
1		19.1. Crane v. Commissioner of Internal Revenue, 331 U.S. 1, 6 (1947), Malat v. Riddell, 383 U.S. 569, 571 (1966);
2		"[T]he words of statutesincluding revenue actsshould be interpreted where possible in their ordinary,
3		everyday senses." [Crano v. Commission on of Internal Property 231 U.S. 1.6 (1047) Malatin Piddell, 282 U.S. 560, 571 (1066)]
4		[Crane v. Commissioner of Internal Revenue, 331 U.S. 1, 6 (1947), Malat v. Riddell, 383 U.S. 569, 571 (1966)]

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19.2. Commissioner v. Soliman, 506 U.S. 168, 174 (1993);

1	"In interpreting the meaning of the words in a revenue Act, we look to the 'ordinary, everyday senses' of the
2	words."
3	[Commissioner v. Soliman, 506 U.S. 168, 174 (1993)]
	10.2 Halvering v. Heret. 211 U.S. 112, 119 (1040) ; Old Colony P. Co. v. Commissioner of Internal Payanus, 249 U.S.
4	19.3. Helvering v. Horst, 311 U.S. 112, 118 (1940); Old Colony R. Co. v. Commissioner of Internal Revenue, 248 U.S.
5	552, 560 (1932)
_	"Common understanding and experience are the touchstones for the interpretation of the revenue laws."
6	
7	[Helvering v. Horst, 311 U.S. 112, 118 (1940); Old Colony R. Co. v. Commissioner of Internal Revenue, 248 U.S.
8	552, 560 (1932)]
9	20. We must ALWAYS remember that the fundamental purpose of law is "the definition and <u>limitation</u> of power":
0	"When we consider the nature and theory of our institutions of government, the principles
1	upon which they are supposed to rest, and review the history of their development, we are
2	constrained to conclude that they do not mean to leave room for the play and action of purely
3	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
4	the agencies of government, sovereignty itself remains with the people, by whom and for
5	
6 7	whom all government exists and acts. And the law is the definition and limitation of power."
8	From Marbury v. Madison to the present day, no utterance of this Court has intimated a doubt that in its operation
9	on the people, by whom and for whom it was established, the national government is a government of enumerated
0	powers, the exercise of which is restricted to the use of means appropriate and plainly adapted to constitutional
1	ends, and which are "not prohibited, but consist with the letter and spirit of the Constitution."
2	The powers delegated by the people to their agents are not enlarged by the expansion of the domain within which
3	they are exercised. When the restriction on the exercise of a particular power by a particular agent is ascertained,
4	that is an end of the question.
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5	To hold otherwise is to overthrow the basis of our constitutional law, and moreover, in effect, to reassert the proposition that the states, and not the people, created the government.
7	It is again to antagonize Chief Justice Marshall, when he said:
8	The government of the Union, then (whatever may be the influence of this fact on the case),
9	is emphatically and truly a government of the people. In form and in substance, it emanates
0	from them. Its powers are granted by them, and are to be exercised directly on them and for
1	their benefit. This government is acknowledged by all to be one of enumerated powers.
2	[Downes v. Bidwell, 182 U.S. 244 (1901)]
3	11.7 Presumptions about the Meaning of Terms
4	My religious beliefs do NOT allow me to "presume" anything, or to encourage or allow others to make presumptions.
5	"But the person who does anything presumptuously, whether he is native-born or a stranger, that one brings
6	reproach on the Lord, and he shall be cut off from among his people."
7	[Numbers 15:30, Bible, NKJV]
8	Consonant with the above, I have a mandate from my God to define all the words that I use and that anyone else might use
	against me. The following table provides default definitions for all key "words of art" that both the Government opponent
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0	and the Court are likely to use in order to destroy and undermine my rights throughout this proceeding.

11.7.1 Meaning of specific terms

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- This section is a defense against the following fraudulent tactics by those in government:
 - Foundations of Freedom Course, Form #12.021, Video 4: Willful Government Deception and Propaganda https://www.youtube.com/watch?v=hPWMfa_oD-w

- 2. <u>Legal Deception, Propaganda, and Fraud, Form #05.014</u> https://sedm.org/Forms/05-MemLaw/LegalDecPropFraud.pdf
- 3. <u>Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction, Form #05.017</u> https://sedm.org/Forms/05-MemLaw/Presumption.pdf
 - 4. The Beginning of Wisdom is to Call Things By Their Proper Names, Stefan Molyneux https://youtu.be/FXZSEHVtWOE
 - Mirror Image Rule http://www.youtube.com/embed/j8pgbZV757w

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- The biblical reason for this section is explained in the following videos:
 - 1. <u>Oreilly Factor, April 8, 2015</u>, John Piper of the Oklahoma Wesleyan University http://famguardian1.org/Mirror/Famguardian/20150408-1958-The-O'Reilly Factor-Dealing%20with%20slanderous%20liberals%20biblically-Everett%20Piper.mp4
 - 2. Overcoming the World 2014 Conference: Against the World, Ligonier Ministries. Click here for original source, minutes 15-24.
 - $\underline{https://sedm.org/Media/Ligioneer-OvercomingTheWorld2014-Against\%20the\%20World-15-24-Language.mp4}$
 - 3. <u>Kingdom Bible Studies, Lesson 1: WHO'S WHO?-The Correct Meaning of Names, Sheldon Emry Memorial Library</u>
 - https://sheldonemrylibrary.famguardian.org/BibleStudyCourses/KBS-1.pdf
 - 4. <u>Kingdom Bible Studies, Lesson 2: WHO's WHO?-Understanding Word Meanings, Sheldon Emry Memorial Library</u>
 - https://sheldonemrylibrary.famguardian.org/BibleStudyCourses/KBS-2.pdf
 - 5. Words are Our Enemies' Weapons, Part 1, Sheldon Emry
 - http://sheldonemrylibrary.famguardian.org/CassetteTapedMessages/1976/7603a.mp3
 - 6. Words are Our Enemies' Weapons, Part 2, Sheldon Emry http://sheldonemrylibrary.famguardian.org/CassetteTapedMessages/1976/7603b.mp3
 - 7. Roman Catholicism and the Battle Over Words, Ligonier Ministries https://youtu.be/uxmEK1RGJQc
 - 8. <u>The Keys to Freedom</u>, Bob Hamp https://youtu.be/rYIDRxDU5mw
- The legal purpose of these definitions is to prevent **GOVERNMENT** crime using words:

Word Crimes, Al Yankovic https://youtu.be/8Gv0H-vPoDc

The definitions in this section are MANDATORY in any interaction between either the government or any of its agents or officers and any agent or member of this ministry. The reasons why this MUST be the case are described in:

<u>Path to Freedom, Form #09.015, Sections 5.3 through 5.8 https://sedm.org/Forms/09-Procs/PathToFreedom.pdf</u>

All use of the words "should", "shall", "must", or "we recommend" on this website or in any of the interactions of this ministry with the public shall mean "may at your choice and discretion". This is similar to the government's use of the same words. See <u>Legal Deception</u>, <u>Propaganda</u>, <u>and Fraud</u>, <u>Form #05.014</u>, Sections 12.4.13, 12.4.17, 12.4.19, and 12.4.26 for further details.

- The word "private" when it appears in front of other entity names such as "person", "individual", "business", "employee", "employee", etc. shall imply that the entity is:
 - 1. In possession of absolute, exclusive ownership and control over their own labor, body, and all their property. In Roman Law this was called "dominium".

- 2. On an EQUAL rather than inferior relationship to government in court. This means that they have no obligations to any government OTHER than possibly the duty to serve on jury and vote upon voluntary acceptance of the obligations of the civil status of "citizen" (and the DOMICILE that creates it). Otherwise, they are entirely free and unregulated unless and until they INJURE the equal rights of another under the common law.
- 3. A "nonresident" in relation to the state and federal government.

- 4. Not a PUBLIC entity defined within any state or federal statutory law. This includes but is not limited to statutory "person", "individual", "taxpayer", "driver", "spouse" under any under any civil statute or franchise.
- 5. Not engaged in a <u>public office or "trade or business" (per 26 U.S.C. §7701(a)(26))</u>. Such offices include but are not limited to statutory "person", "individual", "taxpayer", "driver", "spouse" under any civil statute or franchise.
- 6. Not consenting to contract with or acquire any public status, public privilege, or public right under any state or federal franchise. For instance, the phrase "private employee" means a common law worker that is NOT the statutory "employe" defined within 26 U.S.C. §3401(c) or 26 C.F.R. §301.3401(c)-1 or any other federal or state law or statute.
- 7. Not sharing ownership or control of their body or property with anyone, and especially a government. In other words:
 - 7.1 Ownership is not "qualified" but "absolute".
 - 7.2 There are not moities between them and the government.
 - 7.3 The government has no usufructs over any of their property.
- 8. Not subject to <u>civil enforcement or regulation</u> of any kind, except AFTER an injury to the equal rights of others has occurred. Preventive rather than corrective regulation is an unlawful taking of property according to the Fifth Amendment takings clause.

Every attempt by anyone in government to alienate rights that the Declaration of Independence says are UNALIENABLE shall also be treated as "PRIVATE BUSINESS ACTIVITY" that cannot be protected by sovereign, official, or judicial immunity. So called "government" cannot make a <u>profitable business or franchise</u> out of alienating inalienable rights without ceasing to be a classical/de jure government and instead becoming in effect an <u>economic terrorist and de facto government</u> in violation of Article 4, Section 4.

"No servant [or government or biological person] can serve **two masters**; for either he will hate the one and love the other, or else he will be loyal to the one and despise the other. **You cannot serve God and mammon [government].**"
[Luke 16:13, Bible, NKJV]

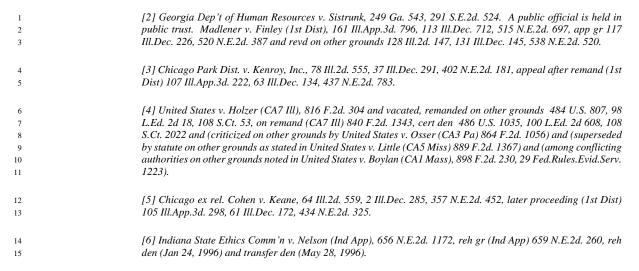
The term "government" is defined to include that group of people dedicated to the protection of purely and exclusively PRIVATE RIGHTS and PRIVATE PROPERTY that are absolutely and exclusively owned by a truly free and sovereign human being who is EQUAL to the government in the eyes of the law per the Declaration of Independence. It excludes the protection of <u>PUBLIC rights or PUBLIC privileges (franchises, Form #05.030)</u> and <u>collective rights (Form #12.024)</u> because of the tendency to subordinate PRIVATE rights to PUBLIC rights due to the CRIMINAL conflict of financial interest on the part of those in the alleged "government" (18 U.S.C. §208, 28 U.S.C. §§144, and 455). See <u>Separation Between Public and Private Course, Form #12.025</u> for the distinctions between PUBLIC and PRIVATE.

"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. [1] 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. [2] That is, a public officer occupies a fiduciary relationship to the political entity on whose behalf he or she serves. [3] and owes a fiduciary duty to the public. [4] It has been said that the fiduciary responsibilities of a public officer cannot be less than those of a private individual. 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 [PRIVATE] rights is against public policy. [5] "
[63C American Jurisprudence 2d, Public Officers and Employees, §247 (1999)]

FOOTNOTES:

[1] 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.

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Anything done CIVILLY for the benefit of those working IN the government at the <u>involuntary</u>, <u>enforced</u>, <u>coerced</u>, <u>or compelled</u> (Form #05.003) expense of PRIVATE free humans is classified as <u>DE FACTO</u> (Form #05.043), non-governmental, PRIVATE business activity beyond the core purpose of government that cannot and should not be protected by official, judicial, or sovereign immunity. <u>Click here</u> (Form #11.401) for a detailed exposition of ALL of the illegal methods of enforcement (Form #05.032) and <u>duress</u> (Form #02.005). "Duress" as used here INCLUDES:

1. Any type of LEGAL DECEPTION, Form #05.014.

- 2. Every attempt to insulate government workers from responsibility or accountability for their false or misleading statements (Form #05.014 and Form #12.021 Video 4), forms, or publications (Form #05.007 and Form #12.023).
- 3. Every attempt to offer or enforce civil franchise statutes against anyone OTHER than public officers ALREADY in the government. Civil franchises cannot and should not be used to CREATE new public offices, but to add duties to EXISTING public officers who are ALREADY lawfully elected or appointed.. See Form #05.030.
- 4. Every attempt to commit identity theft by legally kidnapping <u>CONSTITUTIONAL</u> state domiciled parties onto federal territory or into the "United States" federal corporation as public officers. <u>Form #05.046</u>.
- 5. Every attempt to offer or enforce any kind of franchise within a CONSTITUTIONAL state. See Form #05.030.
- 6. Every attempt to entice people to give up an inalienable CONSTITUTIONAL right in exchange for a franchise privilege. See Form #05.030.
- 7. Every attempt to use the police to enforce civil franchises or civil penalties. Police power can be lawfully used ONLY to enforce the criminal law. Any other use, and especially for revenue collection, is akin to sticking people up at gunpoint. See Form #12.022.
- 8. Every attempt at CIVIL asset forfeiture to police in the conduct of CRIMINAL enforcement. This merely creates a criminal conflict of interest in police and makes them into CIVIL revenue collectors who seek primarily their own enrichment. See Form #12.022.
- 9. Every attempt to compel or penalize anyone to declare a specific civil status on a government form that is signed under penalty of perjury. That is criminal witness tampering and the IRS does it all the time.
- 10. Every attempt to call something voluntary and yet to refuse to offer forms and procedures to unvolunteer. This is criminal FRAUD. Congressmen call income taxes voluntary all the time but the IRS refuses to even recognize or help anyone who is a "nontaxpayer". See <u>Exhibit #05.051</u>.

All of the above instances of duress place personal interest in direct conflict with obedience to <u>REAL law</u>, <u>Form #05.048</u>. They are the main source of <u>government corruption (Form #11.401)</u> in the present <u>de facto system (Form #05.043)</u>. The only type of enforcement by a DE JURE government that can or should be compelled and lawful is CRIMINAL or COMMON LAW enforcement where a SPECIFIC private human has been injured, not <u>CIVIL statutory enforcement (a franchise, Form #05.030)</u>. Under the State Action Doctrine of the U.S. Supreme Court, everyone who is the target of CIVIL enforcement is, by definition a public officer or agent in the government and Christians are forbidden by the Bible from becoming such public officers. <u>Form #13.007</u>.

Every type of DE JURE CIVIL governmental service or regulation MUST be voluntary and ALL must be offered the right to NOT participate on every governmental form that administers such a CIVIL program. It shall mandatorily, publicly, and

NOTORIOUSLY be enforced and prosecuted as a crime NOT to offer the right to NOT PARTICIPATE in any CIVIL STATUTORY activity of government or to call a service "VOLUNTARY" but actively interfere with and/or persecute those who REFUSE to volunteer or INSIST on unvolunteering. All statements by any government actor or government form or publication relating to the right to volunteer shall be treated as statements under penalty of perjury for which the head of the governmental department shall be help PERSONALLY liable if false. EVERY CIVIL "benefit" or activity offered by any government MUST identify at the beginning of ever law creating the program that the program is VOLUNTARY and HOW specifically to UNVOLUNTEER or quit the program. Any violation of these rules makes the activity NON-GOVERNMENTAL in nature AND makes those offering the program into a DE FACTO government (Form #05.043). The Declaration of Independence says that all "just powers" of government derive from the CONSENT of those governed. Any attempt to CIVILLY enforce MUST be preceded by an explicit written attempt to procure consent, to not punish those who DO NOT consent, and to not PRESUME consent by virtue of even submitting a government form that does not IDENTIFY that submission of the form is an IMPLIED act of consent (Form #05.003). This ensures "justice" in a constitutional sense, which is <u>legally defined</u> as "the right to be <u>left alone</u>". For the purposes of this website, those who do not consent to ANYTHING civil are referred to "non-resident non-persons" (Form #05.020). An example of such a human would be a devout Christian who is acting in complete obedience to the word of God in all their interactions with anyone and everyone in government. Any attempt by a PRIVATE human to consent to any CIVIL STATUTORY offering by any government (a franchise, Form #05.030) is a violation of their delegation of authority order from God (Form #13.007) that places them OUTSIDE the protection of God under the Bible.

Under this legal definition of "government" the IDEAL and DE JURE government is one that:

- 1. The States cannot offer THEIR taxable franchises within federal territory and the FEDERAL government may not establish taxable franchises within the territorial borders of the states. This limitation was acknowledged by the U.S. Supreme Court in the <u>License Tax Cases</u>, 72 U.S. 462 (1866) and continues to this day but is UNCONSTITUTIONALLY ignored more by fiat and practice than by law.
- 2. Has the administrative burden of proof IN WRITING to prove to a common law jury of your peers that you CONSENTED in writing to the CIVIL service or offering before they may COMMENCE administrative enforcement of any kind against you. Such administrative enforcement includes, but is not limited to administrative liens, administrative levies, administrative summons, or contacting third parties about you. This ensures that you CANNOT become the unlawful victim of a <u>USUALLY FALSE PRESUMPTION</u> (Form #05.017) about your <u>CIVIL STATUS</u> (Form #13.008) that ultimately leads to <u>CRIMINAL IDENTITY THEFT</u> (Form #05.046). The decision maker on whether you have CONSENTED should NOT be anyone in the AGENCY that administers the service or benefit and should NEVER be ADMINISTRATIVE. It should be JUDICIAL.
- 3. Judges making decisions about the payment of any CIVIL SERVICE fee may NOT participate in ANY of the programs they are deciding on and may NOT be "taxpayers" under the I.R.C. Subtitle A Income tax. This creates a criminal financial conflict of interest that denies due process to all those who are targeted for enforcement. This sort of corruption was abused to unlawfully expand the income tax and the Social Security program OUTSIDE of their lawful territorial extent (Form #05.018). See Lucas v. Earl, 281 U.S. 111 (1930), O'Malley v. Woodrough, 307 U.S. 277 (1939) and later in Hatter v. U.S, 532 U.S. 557 (2001).
- 4. EVERY CIVIL service offered by any government MUST be subject to choice and competition, in order to ensure accountability and efficiency in delivering the service. This INCLUDES the minting of substance based currency. The government should NOT have a monopoly on ANY service, including money or even the postal service. All such monopolies are inevitably abused to institute duress and destroy the autonomy and sovereignty and EOUALTY of everyone else.
- CANNOT "bundle" any service with any other in order to FORCE you to buy MORE services than you want.
 Bundling removes choice and autonomy and constitutes biblical "usury". For instance, it CANNOT:

 Use "driver licensing" to FORCE people to sign up for Social Security by forcing them to provide a "franchise license number" called an SSN or TIN in order to procure the PRIVILEGE of "driving", meaning using the commercial roadways FOR HIRE and at a profit.
 - 5.2. Revoke driver licenses as a method of enforcing ANY OTHER franchise or commercial obligation, including but not limited to child support, taxes, etc.
 - 5.3. Use funds from ONE program to "prop up" or support another. For instance, they cannot use Social Security as a way to recruit "taxpayers" of other services or the income tax. This ensures that EVERY PROGRAM stands on its own two feet and ensures that those paying for one program do not have to subsidize failing OTHER programs that are not self-supporting. It also ensures that the government MUST follow the SAME free market rules that every other business must follow for any of the CIVIL services it competes with other businesses to deliver.

- 5.4 Piggyback STATE income taxes onto FEDERAL income taxes, make the FEDERAL government the tax collector for STATE TAXES, or the STATES into tax collectors for the FEDERAL government.
- 6. Can lawfully enforce the CRIMINAL laws without your express consent.
- 7. Can lawfully COMPEL you to pay for BASIC SERVICES of the courts, jails, military, and ROADS and NO OTHERS. EVERYONE pays the same EQUAL amount for these services.
- 8. Sends you an ITEMIZED annual bill for CIVIL services that you have contracted in writing to procure. That bill should include a signed copy of your consent for EACH individual CIVIL service or "social insurance". Such "social services" include anything that costs the government money to provide BEYOND the BASIC SERVICES, such as health insurance, health care, Social Security, Medicare, etc.
- 9. If you do not pay the ITEMIZED annual bill for the services you EXPRESSLY consented to, the government should have the right to collect ITS obligations the SAME way as any OTHER PRIVATE human. That means they can administratively lien your real or personal property, but ONLY if YOU can do the same thing to THEM for services or property THEY have procured from you either voluntarily or involuntarily. Otherwise, they must go to court IN EQUITY to collect, and MUST produce evidence of consent to EACH service they seek payment or collection for. In other words, they have to follow the SAME rules as every private human for the collection of CIVIL obligations that are in default. Otherwise, they have superior or supernatural powers and become a pagan deity and you become the compelled WORSHIPPER of that pagan deity. See Socialism: The New American Civil Religion, Form #05.016 for details on all the BAD things that happen by turning government into such a CIVIL RELIGION.

Jesus described the above de jure government as follows. He is implying that Christians cannot consent to any government that rules from above or has superior or supernatural powers in relation to biological humans. In other words, the government Christians adopt or participate in or subsidize CANNOT function as a religion as described in Socialism: The New American Civil Religion, Form #05.016:

"You know that the rulers of the Gentiles [unbelievers] lord it over them [govern from ABOVE as pagan idols], and those who are great exercise authority over them [supernatural powers that are the object of idol worship]. Yet it shall not be so among you; but whoever desires to become great among you, let him be your servant [serve the sovereign people from BELOW rather than rule from above]. And whoever desires to be first among you, let him be your slave—just as the Son of Man did not come to be served, but to serve, and to give His life a ransom for many."

[Matt. 20:25-28] Bible NKIVI

[Matt. 20:25-28, Bible, NKJV]

For documentation on HOW to implement the above IDEAL or DE JURE government by making MINOR changes to existing foundational documents of the present government such as the Constitution, see:

<u>Self Government Federation: Articles of Confederation, Form #13.002</u> http://sedm.org/Forms/13-SelfFamilyChurchGovnce/SGFArtOfConfed.pdf

The term "civil service" or "civil service fee" relates to any and all activities of "government" OTHER than:

- 1. Police.
- 2. Military.
- 3. Jails.

- 4. Criminal court.
- Common law court.

"civil service" and "civil service fee" includes any attempt or act to:

- 1. Establish or enforce a domicile (Form #05.002)
- 2. Procure <u>consent (Form #05.003)</u> of any kind to alienate rights that are supposed to be INALIENABLE per the Declaration of Independence.
- 3. PRESUME consent (Form #05.003) to surrender INALIENABLE PRIVATE RIGHTS by virtue of submitting, accepting, or receiving any application for a government benefit, license, or franchise. See Form #12.023.
- 4. Convert PRIVATE property or PRIVATE rights to PUBLIC property, PUBLIC offices, or excise taxable franchises. See Form #12.025. Government's FIRST and most important duty is to at all times maintain TOTAL

Flawed Tax Arguments to Avoid, Version 1.27 Copyright Family Guardian Fellowship, http://famguardian.org Last Revised: 1/23/2018 separation between PRIVATE and PUBLIC and NEVER to allow them to convert one to another. Every attempt to convert one to the other represents a criminal financial conflict of interest that turns the PUBLIC trust into a SHAM trust.

- 5. Offer or enforce the civil statutory code.
- 6. Offer or enforce civil franchises (see Form #05.030),

The term "law" is defined as follows:

"True Law is right reason in agreement with Nature, it is of universal application, unchanging and everlasting; it summons to duty by its commands and averts from wrong-doing by its prohibitions. And it does not lay its commands or prohibitions upon good men in vain, although neither have any effect upon the wicked. It is a sin to try to alter this law, nor is it allowable to try to repeal a part of it, and it is impossible to abolish it entirely. We cannot be freed from its obligations by Senate or People, and we need not look outside ourselves for an expounder or interpreter of it. And there will not be different laws at Rome or at Athens, or different laws now and in the future, but one eternal and unchangeable law will be valid for all times and all nations, and there will be one master and one rule, that is God, for He is the author of this law, its promulgator, and its enforcing judge."

[Marcus Tullius Cicero, 106-43 B.C.]

"Power and law are not synonymous. In truth, they are frequently in opposition and irreconcilable. There is <u>God's Law</u> from which <u>all equitable laws of man</u> emerge and by which men must live if they are not to die in oppression, chaos and despair. Divorced from <u>God's eternal and immutable Law</u>, established before the founding of the suns, man's power is evil no matter the noble words with which it is employed or the motives urged when enforcing it. Men of good will, mindful therefore of the <u>Law laid down by God</u>, will oppose governments whose rule is by men, and if they wish to survive as a nation they will destroy the <u>[de facto] government</u> which attempts to adjudicate by the whim of venal judges."

[Marcus Tullius Cicero, 106-43 B.C.]

"Law" is defined to EXCLUDE any and all <u>civil statutory codes</u>, <u>franchises</u>, <u>or privileges</u> in relation to any and all governments and to include ONLY the COMMON law, the CONSTITUTION (if trespassing government actors ONLY are involved), and the CRIMINAL law.

The Court developed, for its own governance in the cases confessedly within its jurisdiction, a series of rules under which it has avoided passing upon a large part of all the constitutional questions pressed upon it for decision. They are:

[...]

6. The Court will not pass upon the constitutionality of a statute at the instance of one who has availed himself of its benefits. FN7 Great Falls Mfg. Co. v. Attorney General, 124 U.S. 581, 8 S.Ct. 631, 31 L.Ed. 527; Wall v. Parrot Silver & Copper Co., 244 U.S. 407, 411, 412, 37 S.Ct. 609, 61 L.Ed. 1229; St. Louis Malleable Casting Co. v. Prendergast Construction Co., 260 U.S. 469, 43 S.Ct. 178, 67 L.Ed. 351.

FOOTNOTES:

FN7 Compare Electric Co. v. Dow, 166 U.S. 489, 17 S.Ct. 645, 41 L.Ed. 1088; Pierce v. Somerset Ry., 171 U.S. 641, 648, 19 S.Ct. 64, 43 L.Ed. 316; Leonard v. Vicksburg, etc., R. Co., 198 U.S. 416, 422, 25 S.Ct. 750, 49 L.Ed. 1108.

[Ashwander v. Tennessee Valley Authority, 297 U.S. 288, 56 S.Ct. 466 (1936)]

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

[...]

It is also called a rule to distinguish it from a compact or agreement; for a compact is a promise proceeding from us, law is a command directed to us. The language of a compact is, "I will, or will not, do this"; that of a law is, "thou shalt, or shalt not, do it." It is true there is an obligation which a compact carries with it, equal in point of conscience to that of a law; but then the original of the obligation is different. In compacts we ourselves determine and promise what shall be done, before we are obliged to do it; in laws, we are obliged to act without

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The above methods of REMOVING the protections of the common law and the constitution from the INALIENABLE rights [rights that CANNOT lawfully be given away, even WITH consent] that are protected by them has been described by the U.S. Congress as the ESSENCE of communism itself! This is especially true when you add games with legal words of art to remove even the STATUTORY limitations upon the conduct of the government. See Legal Deception, Propaganda, and Fraud, Form #05.014.

SOURCE: http://famguardian.org/PublishedAuthors/Indiv/SpoonerLysander/NaturalLaw.htm]

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

ESPECIALLY those who never expressly consented in writing].' [Natural Law, Chapter 1, Section IV, Lysander Spooner;

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

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

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The above corruption of our Constitutional Republic by the unconstitutional abuse of franchises, the violation of the rules of statutory construction, and interference with common law remedies was described by the U.S. Supreme Court as follows:

"These are words of weighty import. They involve consequences of the most momentous character. I take leave to say that if the principles thus announced should ever receive the sanction of a majority of this court, a radical and mischievous change in our system of government will be the result. We will, in that event, pass from the era of constitutional liberty guarded and protected by a written constitution into an era of legislative absolutism.

Although from the foundation of the Government this court has held steadily to the view that the Government of the United States was one of enumerated powers, and that no one of its branches, nor all of its branches combined, could constitutionally exercise powers not granted, or which were not necessarily implied from those expressly granted, Martin v. Hunter, 1 Wheat. 304, 326, 331, we are now informed that Congress possesses powers outside of the Constitution, and may deal with new territory, 380*380 acquired by treaty or conquest, in the same manner as other nations have been accustomed to act with respect to territories acquired by them. In my opinion, Congress has no existence and can exercise no authority outside of the Constitution. Still less is it true that Congress can deal with new territories just as other nations have done or may do with their new territories. This nation is under the control of a written constitution, the supreme law of the land and the only source of the powers which our Government, or any branch or officer of it, may exert at any time or at any place. Monarchical and despotic governments, unrestrained by written constitutions, may do with newly acquired territories what this Government may not do consistently with our fundamental law. To say otherwise is to concede that Congress may, by action taken outside of the Constitution, engraft upon our republican institutions a colonial system such as exists under monarchical governments. Surely such a result was never contemplated by the fathers of the Constitution. If that instrument had contained a word suggesting the possibility of a result of that character it would never have been adopted by the People of the United States. The idea that this country may acquire territories anywhere upon the earth, by conquest or treaty, and hold them as mere colonies or provinces — the people inhabiting them to enjoy only such rights as Congress chooses to accord to them — is wholly inconsistent with the spirit and genius as well as with the words of the Constitution. [Downes v. Bidwell, 182 U.S. 244 (1901), Justice Harlan, Dissenting]

Civil statutory codes, franchises, or privileges are referred to on this website as "private law", but not "law". The word "public" precedes all uses of "law" when dealing with acts of government and hence, refers only to COMMON law and CRIMINAL law that applies equally to everyone, regardless of their consent. Involvement in any and all "private law" franchises or privileges offered by any government ALWAYS undermines and threatens sovereignty, autonomy, and equality, turns government into an unconstitutional civil religion, and corrupts even the finest of people. This is explained in:

<u>Government Instituted Slavery Using Franchises, Form #05.030</u> <u>https://sedm.org/Forms/05-MemLaw/Franchises.pdf</u>

Any use of the word "law" by any government actor directed at us or any member, if not clarified with the words "private" or "public" in front of the word "law" shall constitute:

- A criminal attempt and conspiracy to recruit us to be <u>a public officer called a "person", "taxpayer", "citizen", "resident"</u>, etc.
- 2. A solicitation of illegal bribes called "taxes" to treat us "AS IF" we are a public officer.
- 3. A criminal conspiracy to convert PRIVATE rights into PUBLIC rights and to violate the Bill of Rights.

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The protection of PRIVATE rights mandated by the Bill of Rights BEGINS with and requires:

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- 1. ALWAYS keeping PRIVATE and PUBLIC rights separated and never mixing them together.
- 2. Using unambiguous language about the TYPE of "right" that is being protected: PUBLIC or PRIVATE in every use of the word "right". The way to avoid confusing PUBLIC and PRIVATE RIGHTS is to simply refer to PRIVATE rights as "privileges" and NEVER refer to them as "rights".
- 3. Only converting PRIVATE rights to PUBLIC rights with the express written consent of the HUMAN owner.
- 4. Limiting the conversion to geographical places where rights are NOT unalienable. This means the conversion occurred either abroad or on government territory not within the exclusive jurisdiction of a Constitutional state. Otherwise, the Declaration of Independence, which is organic law, would be violated.
- 5. Keeping the rules for converting PRIVATE to PUBLIC so simple, unambiguous, and clear that a child could understanding them and always referring to these rules in every interaction between the government and those they are charged with protecting.
- 6. Ensuring that in every interaction (and ESPECIALLY ENFORCEMENT ACTION) between the government both administratively and in court, that any right the government claims to civilly enforce against, regulate, tax, or burden otherwise PRIVATE property is proven ON THE RECORD IN WRITING to originate from the rules documented in the previous step. This BURDEN OF PROOF must be met both ADMINISTRATIVELY and IN COURT BEFORE any enforcement action may be lawfully attempted by any government. It must be met by an IMPARTIAL decision maker with NO FINANCIAL interest in the outcome and not employed by the government or else a criminal financial conflict of interest will result. In other words, the government has to prove that it is NOT stealing before it can take property, that it is the lawful owner, and expressly HOW it became the lawful owner.
- 7. Enforcing the following <u>CONCLUSIVE PRESUMPTION</u> against <u>government jurisdiction</u> to enforce unless and until the above requirements are met:

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

- a. A SPECIFIC formerly PRIVATE owner consented IN WRITING to convert said property to PUBLIC property.
- b. 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.
- c. 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."
- For a detailed exposition on the mandatory separation between PUBLIC and PRIVATE as indicated above, please see the following course on our site:

<u>Separation Between Public and Private Course, Form #12.025</u> https://sedm.org/LibertyU/SeparatingPublicPrivate.pdf

For a detailed exposition of the legal meaning of the word "law" and why the above restrictions on its definition are important, see:

What is "law"?, Form #05.048 https://sedm.org/Forms/05-MemLaw/WhatIsLaw.pdf

The words "Copyright" or "Copyright Sovereignty Education and Defense Ministry (SEDM)" used in connection with any of the intellectual property on this site shall mean the following:

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- 1. Owned by an exclusively private, nonstatutory human and not any artificial entity, "person", "citizen", or "resident" under any civil statutory law.
- 2. Protected only under the common law and the constitution and not subject to the statutory civil law, including any tax law.
- 3. Not owned by this website or ministry.
- 4. Owned by an anonymous third party who we have an agreement with to reuse the materials on this site.
- 5. Not owned or controlled by any government per 17 U.S.C. §105. Governments are not allowed to copyright their works. Any attempt to bring this ministry under the control of any government or make it the property of any government therefore results in no copyright being held in the name of the government.

The purpose of these copyright restrictions is to ensure that no government can use legal process or tax assessment as a method to censor free speech materials found on this website.

The word "frivolous" as used by the government or on other websites in referring to this website shall mean "correct" and "truthful". Any attempts to call anything on this website incorrect or untruthful must be accompanied by authoritative, court-admissible evidence to support such a conclusion or shall be presumed by the reader to be untrustworthy and untruthful. All such evidence MUST derive EXCLUSIVELY from the consensual civil domicile of the defendant pursuant to Federal Rule of Civil Procedure 17(b). Parties subject to this agreement stipulate that any violation of this rule is a malicious prosecution and obstruction of justice in violation of 18 U.S.C. §1589(a)(3). Click here for details on domicile.

The term "federal income tax", in the context of this website, means the revenue scheme described in Subtitle A of the Internal Revenue Code as applied specifically and only to human beings who are not statutory "persons" or "individuals" under federal law and shall NOT refer to businesses or artificial entities. This website does NOT concern itself with businesses or corporations or artificial entities of any description.

The term "tax" includes any method to collect revenues to support ONLY the operation of the government. It does NOT include the abuse of taxing power to transfer wealth between ordinary citizens or residents and when it is used for this purpose it is THEFT, not "taxation".

"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 <u>taxes are a public imposition</u>, <u>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.</u>' 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)]

"<u>Tax</u>" includes ONLY impositions upon PUBLIC property or franchises (<u>Form #05.030</u>) and not upon absolutely owned PRIVATE property.

1. PRIVATE property must be consensually converted to PUBLIC property before it can be taxed, and the burden of proof rests on the government to prove that it was lawfully converted before it can be subject to tax. See:

Separation Between Public and Private Course, Form #12.025 https://sedm.org/LibertyU/SeparatingPublicPrivate.pdf

2. The "persons" spoken above are civil statutory PUBLIC "persons" and not PRIVATE humans. See:

Why Statutory Civil Law is Law for Government and Not Private Persons, Form #05.037

https://sedm.org/Forms/05-MemLaw/StatLawGovt.pdf

The word "protection" includes only CRIMINAL, constitutional, and common law protection. It excludes every type of government activity, franchise, or program that requires a <u>predicate civil status</u> (Form #13.008) to enforce, such as "citizen", "resident", "taxpayer", "spouse", Social Security beneficiary, etc. Every attempt to impose, acquire, or enforce a civil status or to enforce duties upon a civil status NOT related to voting or jury service constitutes the following:

- 1. An INJURY and an INJUSTICE (Form #05.050).
- 2. Identity Theft (Form #05.046).

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The word "fact" means that which is admissible as evidence in a court of law BECAUSE ENACTED LAW makes it admissible AND because the speaker (other than us) INTENDED for it to be factual. It does NOT imply that we allege that it is factual, actionable, or even truthful. Any attempt by any government to make anything published on this website or anything said by members or officers of the ministry FACTUAL or ACTIONABLE in conflict with this disclaimer is hereby declared and stipulated by all members to be FRAUDULENT, PERJURIOUS, and a willful act of international terrorism and organized extortion.

The term "statutory" when used as a prefix to any other term, means that the term it precedes pertains only to federal territory, property, PUBLIC rights, or privileges under the exclusive jurisdiction of the national government. Includes NO private property or people.

The term "constitutional" when used as a prefix to any other term, means that the term it precedes pertains only to land, property, rights, or privileges under the exclusive jurisdiction of a state of the Union and not within the civil or criminal jurisdiction of the national government.

The terms "law practice" or "practice of law":

- 1. Exclude any and all statutory references to said term in any state or federal statute.
- 2. Exclude any use of these terms found in any rule of court.
- 3. Exclude any litigation in which the party "practicing" is representing either a government instrumentality or acting as an officer for said instrumentality such as a statutory "taxpayer" (under the Internal Revenue Code), "driver" (under the vehicle code), "spouse" (under the family code), or "benefit recipient" (under any entitlement program, including Social Security).
- 4. Include litigation involving ONLY the protection of EXCLUSIVELY PRIVATE rights beyond the jurisdiction of any de jure government.

The word "sovereign" when referring to humans or governments means all the following:

- A human being and NOT a "government". Only human beings are "sovereign" and only when they are acting in strict obedience to the laws of their religion. All powers of government are delegated from the PEOPLE and are NOT "divine rights". Those powers in turn are only operative when government PREVENTS the conversion of PRIVATE rights into PUBLIC rights. When that goal is avoided or undermined or when law is used to accomplish involuntary conversion, we cease to have a government and instead end up with a private, de facto for profit corporation that has no sovereign immunity and cannot abuse sovereign immunity to protect its criminal thefts from the people.
- 2. EQUAL in every respect to any and every government or actor in government. All governments are legal "persons" and under our Constitutional system, ALL "persons" are equal and can only become UNEQUAL in relation to each other WITH their EXPRESS and NOT IMPLIED consent. Since our Constitutional rights are unalienable per the Declaration of Independence, then we can't become unequal in relation to any government, INCLUDING through our consent.
- 3. Not superior in any way to any human being within the jurisdiction of the courts of any country.
- 4. Possessing the EQUAL right to acquire rights over others by the same mechanisms as the government uses. For instance, if the government encourages the filing of FALSE information returns that essentially "elect" people into public office without their consent, then we have an EQUAL right to elect any and every government or officer within government into our PERSONAL service as our PERSONAL officer without THEIR consent. See:

<u>Correcting Erroneous Information Returns</u>, Form #04.001 http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/CorrErrInfoRtns.pdf

- 5. Subject to the criminal laws of the jurisdiction they are physically situated in, just like everyone else. This provision excludes "quasi criminal provisions" within civil franchises, such as tax crimes.
- 6. The origin of all authority delegated to the government per the Declaration of Independence.
- 7. Reserving all rights and delegating NONE to any and every government or government actor. U.C.C. 1-308 and its predecessor, U.C.C. 1-207.
- 8. Not consenting to any and every civil franchise offered by any government.
- 9. Possessing the same sovereign immunity as any government. Hence, like the government, any government actor asserting a liability or obligation has the burden of proving on the record of any court proceeding EXPRESS WRITTEN consent to be sued before the obligation becomes enforceable.
- 10. Claiming no civil or franchise status under any statutory franchise, including but not limited to "citizen", "resident", "driver" (under the vehicle code), "spouse" (under the family code), "taxpayer" (under the tax code). Any attempt to associate a statutory status and the public rights it represents against a non-consenting party is THEFT and SLAVERY and INJUSTICE.
- 11. Acting as a fiduciary, agent, and trustee on behalf of God 24 hours a day, seven days a week as an ambassador of a legislatively foreign jurisdiction and as a public officer of "Heaven, Inc.", a private foreign corporation. God is the ONLY "sovereign" and the source of all sovereignty. We must be acting as His agent and fiduciary before we can exercise any sovereignty at all. Any attempt by so-called "government" to interfere with our ability to act as His fiduciaries is a direct interference with our right to contract and the free exercise of religion. See:

<u>Delegation of Authority Order from God to Christians</u>, Form #13.007 https://sedm.org/Forms/13-SelfFamilyChurchGovnce/DelOfAuthority.pdf

12. Capable of being civilly sued ONLY under the common law and equity and not under any statutory civil law. All statutory civil laws are law for government and public officers, and NOT for private human beings. They are civil franchises that only acquire the "force of law" with the consent of the subject. See:

<u>Why Statutory Civil Law is Law for Government and Not Private Persons</u>, Form #05.037 https://sedm.org/Forms/05-MemLaw/StatLawGovt.pdf

- 13. Protected from the civil statutory law by the First Amendment requirement for separation of church and state because we Christians are the church and our physical body is the "temple" of the church. See: 1 Cor. 6:19.
- 14. Responsible for all the injuries they cause to every other person under equity and common law ONLY, and not under civil statutory law.

The term "anarchy" implies any one or more of the following, and especially as regards so-called "governments". An important goal of this site it to eliminate all such "anarchy":

1. Are superior in any way to the people they govern UNDER THE LAW.

- 2. Are not directly accountable to the people or the law. They prohibit the PEOPLE from criminally prosecuting their own crimes, reserving the right to prosecute to their own fellow criminals. Who polices the police? THE CRIMINALS.
- 3. Enact laws that exempt themselves. This is a violation of the Constitutional requirement for equal protection and equal treatment and constitutes an unconstitutional Title of Nobility in violation of Article 1, Section 9, Clause 8 of the United States Constitution.
- 4. Only enforce the law against others and NOT themselves, as a way to protect their own criminal activities by persecuting dissidents. This is called "selective enforcement". In the legal field it is also called "professional courtesy". Never kill the goose that lays the STOLEN golden eggs.
- 5. Break the laws with impunity. This happens most frequently when corrupt people in government engage in "selective enforcement", whereby they refuse to prosecute or interfere with the prosecution of anyone in government. The Department of Justice (D.O.J.) or the District Attorney are the most frequent perpetrators of this type of crime.
- 6. Are able to choose which laws they want to be subject to, and thus refuse to enforce laws against themselves. The most frequent method for this type of abuse is to assert sovereign, official, or judicial immunity as a defense in order to protect the wrongdoers in government when they are acting outside their delegated authority, or outside what the definitions in the statutes EXPRESSLY allow.
- 7. Impute to themselves more rights or methods of acquiring rights than the people themselves have. In other words, who are the object of PAGAN IDOL WORSHIP because they possess "supernatural" powers. By "supernatural", we mean that which is superior to the "natural", which is ordinary human beings.
- 8. Claim and protect their own sovereign immunity, but refuse to recognize the same EQUAL immunity of the people from whom that power was delegated to begin with. Hypocrites.
- 9. Abuse sovereign immunity to exclude either the government or anyone working in the government from being subject to the laws they pass to regulate everyone ELSE'S behavior. In other words, they can choose WHEN they want to be a statutory "person" who is subject, and when they aren't. Anyone who has this kind of choice will ALWAYS corruptly exclude themselves and include everyone else, and thereby enforce and implement an unconstitutional "Title of Nobility" towards themself. On this subject, the U.S. Supreme Court has held the following:

"No man in this country [including legislators of the government as a legal person] is so high that he is above the law. No officer of the law may set that law at defiance with impunity. All the officers of the government, from the highest to the lowest, are creatures of the law and are bound to obey it. It is the only supreme power in our system of government, and every man who by accepting office participates in its functions is only the more strongly bound to submit to that supremacy, and to observe the limitations which it imposes upon the exercise of the authority which it gives," 106 U.S., at 220. "Shall it be said... that the courts cannot give remedy when the Citizen has been deprived of his property by force, his estate seized and converted to the use of the government without any lawful authority, without any process of law, and without any compensation, because the president has ordered it and his officers are in possession? If such be the law of this country, it sanctions a tyranny which has no existence in the monarchies of Europe, nor in any other government which has a just claim to well-regulated liberty and the protection of personal rights," 106 U.S., at 220, 221.

[United States v. Lee, 106 U.S. 196, 1 S. Ct. 240 (1882)]

- 10. Have a monopoly on anything, INCLUDING "protection", and who turn that monopoly into a mechanism to force EVERYONE illegally to be treated as uncompensated public officers in exchange for the "privilege" of being able to even exist or earn a living to support oneself.
- 11. Can tax and spend any amount or percentage of the people's earnings over the OBJECTIONS of the people.
- 12. Can print, meaning illegally counterfeit, as much money as they want to fund their criminal enterprise, and thus to be completely free from accountability to the people.
- 13. Deceive and/or lie to the public with impunity by telling you that you can't trust anything they say, but force YOU to sign everything under penalty of perjury when you want to talk to them. 26 U.S.C. §6065.

In support of the above definition of "anarchy", here is how the U.S. Supreme Court defined it:

"Decency, security, and liberty alike demand that **government officials shall be subjected to the same rules of conduct that are commands to the citizen.** In a government of laws, existence of the government will be imperiled

Flawed Tax Arguments to Avoid, Version 1.27 Copyright Family Guardian Fellowship, http://famguardian.org Last Revised: 1/23/2018 if it fails to observe the law scrupulously. <u>Our government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means-to declare that the government may commit crimes in order to secure the conviction of a private criminal-would bring terrible retribution. Against that pernicious doctrine this court should resolutely set its face."

[Olmstead v. United States, 277 U.S. 438 (1928)]</u>

The above requirements are a consequence of the fact that the foundation of the United States Constitution is <u>EQUAL</u> protection and <u>EQUAL</u> treatment. Any attempt to undermine equal rights and equal protection described above constitutes:

- The establishment of a state sponsored religion in violation of the First Amendment and the Religious Freedom Restoration Act, 42 U.S.C. Chapter 21B. That religion is described in: <u>Socialism: The New American Civil</u> <u>Religion, Form #05.016</u>. The object of worship of such a religion is imputing "supernatural powers" to civil rulers and forcing everyone to worship and serve said rulers as "superior beings".
- 2. The establishment of an unconstitutional Title of Nobility in violation of <u>Article 1, Section 9, Clause 8 of the United States Constitution.</u>

The term "political" as used throughout our website in reference to us or our activities:

- 1. Excludes the endorsement of specific candidates for political office.
- 2. Excludes any motivation that might result in a revocation of 26 U.S.C. §501(c)(4) status.
- 3. Excludes activities of public officers or agents of the government.

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- 4. Excludes those who are "persons", "individuals", "taxpayers" under any revenue law.
- 5. Excludes those with a domicile or residence "in this State", meaning the government.
- 6. Includes efforts to educate the public about the law and the legal limits upon the jurisdiction of those in the government.
- 7. Includes ONLY EXCLUSIVELY PRIVATE people beyond the <u>civil legislative control</u> of the specific government affected by the policy.
- 8. Involves the protection of purely private property and private rights exclusively owned by human beings and not businesses or artificial entities of any description.
- 9. Includes activities undertaken ONLY in the fulfillment of <u>purely religious goals as a full time fiduciary of God under the Bible trust indenture</u>.

The term "non-citizen national" MEANS a human being born in a constitutional state and domiciled or at least physically present there. These people are described in <u>8 U.S.C. §1101(a)(21)</u>. They are STATUTORY "non-resident non-persons" as described in <u>Non-Resident Non-Person Position</u>, <u>Form #05.020</u>. It DOES NOT mean or include those who are:

- 1. <u>Domiciled</u> either abroad or on federal territory.
- 2. Statutory "nationals and citizens of the United States[**] at birth" per <u>8 U.S.C. §1401</u>. These people are born in federal territories exclusively.
- 3. Statutory "national but not citizen of the United States[**] at birth" per <u>8 U.S.C. §1408</u>. These people are born in federal possessions such as Puerto Rico.
- 4. Statutory "citizens of the United States[**]" per <u>8 U.S.C. §1101(a)(22)(A)</u>.
- The term "state national" means those who are born in a Constitutional but not Statutory "State" as described in the Fourteenth Amendment. Equivalent to a "non-citizen national of the United States OF AMERICA". EXCLUDES any of the following:
 - 1. STATUTORY "person" under 26 U.S.C. §6671(b) and §7343.

- 2. Statutory "national and citizen of the United States** at birth" as defined in <u>8 U.S.C. §1401</u>. This is a territorial citizen rather than a state citizen.
- 3. "citizen of the United States**[federal zone]" under 26 U.S.C. §911, 26 U.S.C. §3121(e), or 26 C.F.R. §1.1-1(c).
- 4. "National but not citizen of the United States** at birth" under <u>8 U.S.C. §1408</u>. This is a person born in a federal possession RATHER than a state of the Union.
- 5. "U.S.[**] non-citizen national" under <u>8 U.S.C. §1452</u>. This is a person born in a federal possession RATHER than a state of the Union.
- 6. STATUTORY "U.S. person" as defined in 26 U.S.C. §7701(a)(30), which is a human being born and domiciled on federal territory not within the exclusive jurisdiction of any Constitutional state.

The term "non-person" or "non-resident non-person" (Form #05.020) as used on this site we define to be a human not domiciled on federal territory, not engaged in a public office, and not "purposefully and consensually availing themself" of commerce within the jurisdiction of the United States government. Synonymous with "transient foreigner", "in transitu", and "stateless" (in relation to the national government). We invented this term. The term does not appear in federal statutes because statutes cannot even define things or people who are not subject to them and therefore foreign and sovereign. The term "non-individual" used on this site is equivalent to and a synonym for "non-person" on this site, even though STATUTORY "individuals" are a SUBSET of "persons" within the Internal Revenue Code. Likewise, the term "private human" is also synonymous with "non-person". Hence, a "non-person":

- 1. Retains their sovereign immunity. They do not waive it under the Foreign Sovereign Immunities Act, 28 U.S.C. Chapter 97 or the longarm statutes of the state they occupy.
- 2. Is protected by the United States Constitution and not federal statutory civil law.
- 3. May not have federal statutory civil law cited against them. If they were, a violation of Federal Rule of Civil Procedure 17 and a constitutional tort would result if they were physically present on land protected by the United States Constitution within the exterior limits of states of the Union.
- 4. Is on an equal footing with the United States government in court. "Persons" would be on an UNEQUAL, INFERIOR, and subservient level if they were subject to federal territorial law.

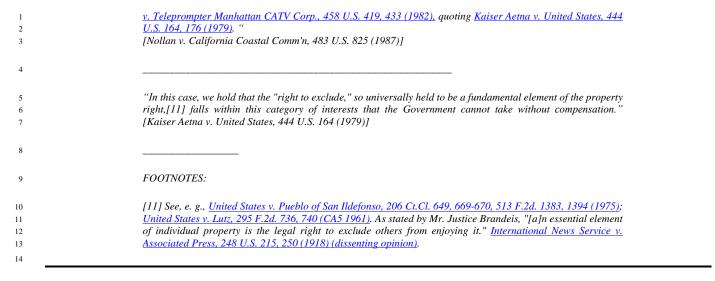
Don't expect vain public servants to willingly admit that there is such a thing as a human "non-person" who satisfies the above criteria because it would undermine their systematic and treasonous plunder and enslavement of people they are supposed to be protecting. However, the U.S. Supreme Court has held that the "right to be left alone" is the purpose of the constitution. Olmstead v. United States, 277 U.S. 438. A so-called "government" that refuses to leave you alone or respect or protect your sovereignty and equality in relation to them is no government at all and has violated the purpose of its creation described in the Declaration of Independence. Furthermore, anyone from the national or state government who refuses to enforce this status, or who imputes or enforces any status OTHER than this status under any law system other than the common law is:

- 1. "purposefully availing themselves" of commerce within OUR jurisdiction.
- 2. STEALING, where the thing being STOLEN are the public rights associated with the statutory civil "status" they are presuming we have but never expressly consented to have.
- 3. Engaging in criminal identity theft, because the civil status is associated with a domicile in a place we are not physically in and do not consent to a civil domicile in.
- 4. Consenting to our Member Agreement.
- 5. Waiving official, judicial, and sovereign immunity.
- 6. Acting in a private and personal capacity beyond the statutory jurisdiction of their government employer.
- 7. Compelling us to contract with the state under the civil statutory "social compact".
- 8. Interfering with our First Amendment right to freely and civilly DISASSOCIATE with the state.
- 9. Engaged in a constitutional tort.

If freedom and self-ownership or "ownership" in general means anything at all, it means the right to deny any and all others, including governments, the ability to use or benefit in any way from our body, our exclusively owned private property, and our labor.

"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

EXHIBIT:____



The term "advice" or "legal advice" means education about tools, facts, remedies, and options for making your own informed choice. It does not include any method of: 1. Transferring liability or responsibility from the person asking to the person responding; 2. Anything that could be classified as "legal advice" or "law practice" as used in any statute or enacted law; 3. Anything that could be classified as factual or a basis for belief or reliance upon the person asked in connection with commercial speech subject to government protection or regulation.

Other than the words defined above, all words used on this website and in the materials on it shall:

1. Have only the common meaning ascribed to them.

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- 2. Be associated with the EXCLUSIVELY PRIVATE status beyond the reach of civil statutory law.
- 3. NOT be construed in any way to have the statutory meaning found in any federal or state law.
- 4. NOT be associated with a "public office", "publici juris", or "public interest", or anything within the CIVIL jurisdiction of any state or federal court.
- 5. Be subject to enforcement only in the context of the common law where perfect equity and equality is enforced between the government and any and every human being.
- The only exception to this rule is that when a word is surrounded in quotation marks and preceded or succeeded by an indication of the legal definition upon which it is based, then and only then will it assume the legal definition.
- The legal or statutory definitions for words used by this ministry in turn:
 - 1. Shall be based FIRST upon statutory definitions provided.
 - Shall conclusively be presumed to EXCLUDE the ordinary or EXCLUSIVELY PRIVATE civil context for the meaning of words. This is because the ability to regulate EXCLUSIVELY PRIVATE conduct is REPUGNANT TO THE CONSTITUTION as held by the U.S. Supreme Court.
 - Shall rely FIRST on the <u>Sovereignty Forms and Instructions Online, Form #10.004, Cites By Topic</u> for the statutory definitions. http://famguardian.org/TaxFreedom/FormsInstr-Cites.htm
 - 4. May not ADD anything not EXPRESSLY appearing in any statute in which they are defined, if a statutory definition is provided. Any attempt to do so shall be interpreted as TREASON by the judge or government prosecutor who attempts it.

"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,

The purpose of this requirement is to <u>eliminate ALL presumptions</u> from any legal proceeding about what we might write or say so that such false and unauthorized presumptions *cannot* be used to discredit or slander us or prejudice our rights or sovereignty. For instance, here are two examples:

Statement from this website	Meaning
	Earnings from labor of a human being that <u>do not</u> fit the description of "wages" defined in <u>26</u> U.S.C. §3401(a) and <u>26 C.F.R. §31.3401(a)-3</u> are not taxable without the consent of the subject.
"Wages" are taxable	Wages as defined in 26 U.S.C. §3401(a) and 26 C.F.R. §31.3401(a)-3 ARE taxable because they fit the legal description of "wages".

Key to Capitalization Conventions within Laws. Whenever you are reading a particular law, including the U.S. Constitution, or a statute, the Sovereign referenced in that law, who is usually the author of the law, is referenced in the law with the first letter of its name capitalized. For instance, in the U.S. Constitution the phrase "We the People", "State", and "Citizen" are all capitalized, because these were the sovereign entities who were writing the document residing in the States. This document formed the federal government and gave it its authority. Subsequently, the federal government wrote statutes to implement the intent of the Constitution, and it became the Sovereign, but only in the context of those territories and lands ceded to it by the union states. When that federal government then refers in statutes to federal "States", for instance in 26 U.S.C. §7701(a)(10) or 4 U.S.C. §110(d), then these federal "States" are Sovereigns because they are part of the territory controlled by the Sovereign who wrote the statute, so they are capitalized. Foreign states referenced in the federal statutes then must be in lower case. The sovereign 50 union states, for example, must be in lower case in federal statutes because of this convention because they are foreign states. Capitalization is therefore always relative to who is writing the document, which is usually the Sovereign and is therefore capitalized. The exact same convention is used in the Bible, where all appellations of God are capitalized because they are sovereigns: "Jesus" ", "God", "Him", "His", "Father". These words aren't capitalized because they are proper names, but because the entity described is a sovereign or an agent or part of the sovereign. The only exception to this capitalization rule is in state revenue laws, where the state legislators use the same capitalization as the Internal Revenue Code for "State" in referring to federal enclaves within their territory because they want to scam money out of you. In state revenue laws, for instance in the California Revenue and Taxation Code (R&TC) sections 17018 and 6017, "State" means a federal State within the boundaries of California and described as part of the Buck Act of 1940 found in 4 U.S.C. §§105-113.

Terms in Quotation Marks: Whenever a term appears in quotation marks, we are using the statutory or regulatory definition of the term *instead* of the layman's or dictionary definition. We do this to clarify which definition we mean and to avoid creating the kind of confusion with definitions that our government and the unethical lawyers who work in it are famous for. For instance, when we use say "employee", we mean the statutory definition of that term found in 26 U.S.C. §3401(c) and 26 C.F.R. §31.3401(c)-1 rather than the common definition everyone uses, which means anyone who receives compensation for their labor. "Employees" are much more narrowly defined in the Internal Revenue Code to mean elected or appointed officers of the U.S. government only. We also put terms in quotation marks if they are new or we just introduced the term, to emphasize that we are trying to explain what the word means.

11.7.2 Meaning of Geographical and political terms

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- This section describes the meaning of various geographical and political terms used throughout this proceeding.
- Table 12: Summary of meaning of various terms and the contexts in which they are used

Law	Federal constitution	Federal statutes	Federal regulations	State constitutions	State statutes	State regulations
Author	Union States/ "We The People"	Federal Government		"We The People"	State Government	
"state"	Foreign country	Union state or foreign country	Union state or foreign country	Other Union state or federal government	Other Union state or federal government	Other Union state or federal government
"State"	Union state	Federal state	Federal state	Union state	Union state	Union state
"in this State" or "in the State" ⁹⁴	NA	NA	NA	NA	Federal enclave within state	Federal enclave within state
"State"95 (State Revenue and taxation code only)	NA	NA	NA	NA	Federal enclave within state	Federal enclave within state
"several States"	Union states collectively ⁹⁶	Federal "States" collectively	Federal "States" collectively	Federal "States" collectively	Federal "States" collectively	Federal "States" collectively
"United States"	states of the Union collectively	Federal United States**	Federal United States**	United States* the country	Federal United States**	Federal United States**

- What the above table clearly shows is that the word "State" in the context of federal statutes and regulations means (not includes!) federal States only under <u>Title 48 of the U.S. Code</u>⁹⁷, and these areas do not include any of the 50 Union States.
- This is true in *most cases and especially in the Internal Revenue Code*. In the context of the above, a "Union State" means
- one of the 50 Union states of the United States* (the country, not the federal United States**), which are sovereign and
- 5 foreign with respect to federal legislative jurisdiction.
- I will interpret each and every use of any one of the words of art or geographical terms defined above and used in any pleading
- 7 filed in this matter as having the default meanings provided if no specific statutory definition is provided by the government
- 8 opponent or the court.

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- All geographical terms appearing in Table 1 describe <u>six</u> different and unique <u>contexts</u> in which legal "terms" can be used, and each implies a DIFFERENT meaning. Government opponent and the court are demanded to describe which context they intend for each use of a geographical term in order to prevent any ambiguity. For instance, if they use the term "United States", they MUST follow the term with a parenthesis and the context such as "United States (Federal constitution)". The contexts are:
 - 1. Federal constitution
 - 2. Federal statutes
- 16 3. Federal regulations
 - 4. State constitution
- 5. State statutes

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⁹⁴ See California Revenue and Taxation Code, Section 6017

⁹⁵ See California Revenue and Taxation Code, Section 17018

⁹⁶ See, for instance, U.S. Constitution Article IV, Section 2.

⁹⁷ See https://www.law.cornell.edu/uscode/text/48

6. State regulations

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- If the context is "Federal statutes", the specific statutory definition from the I.R.C. MUST be specified after that phrase to prevent any ambiguity. For instance:
- 4 "United States (Federal statutes, 26 U.S.C. §7701(a)(9) and (a)(10)).
- If the context is "Federal regulations", the specific regulation to which is referred to or assume must be provided if there is one. For instance:
 - "United States (Federal regulations, 26 C.F.R. §31.3121(e)-1)".
- Every unique use of a geographical term may ONLY have ONE context. If multiple contexts are implicated, then a new sentence and a new statement relevant to that context only must be made. For instance:
 - 1. "Defendant is a citizen of the United States (Federal constitution)."
 - 2. "Defendant is NOT a citizen of the United States (Federal statutes or 8 U.S.C. §1401)."
- If a geographical term is used and the context is not specified by the speaker and the speaker is talking about jurisdiction, it shall imply the statutory context only.
 - I welcome a rebuttal on the record of anything appearing in the above pamphlet within 30 days, including an answer to all the admissions at the end. If no rebuttal is provided, government opponent admits it all pursuant to Federal Rule of Civil Procedure 8(b)(6). Silence is an admission, because injustice and prejudicial presumptions about the status of the litigants will result if the government opponent does not speak on the record about this MOST PIVOTAL subject. Government opponent is using this proceeding to enforce "club dues" called taxes, and Defendant simply seeks to establish that he/she chooses not to join the club and cannot be compelled to join without violating the First Amendment prohibition against compelled association.

"The Supreme Court, though rarely called upon to examine this aspect of the right to freedom of association, has nevertheless established certain basic rules which will cover many situations involving forced or prohibited associations. Thus, where a sufficiently compelling state interest, outside the political spectrum, can be accomplished only by requiring individuals to associate together for the common good, then such forced association is constitutional.

But the Supreme Court has made it clear that compelling an individual to become a member of an organization with political aspects [such as a "citizen"], or compelling an individual to become a member of an organization which financially supports [through payment of club membership dues called "taxes"], in more than an insignificant way, political personages or goals which the individual does not wish to support, is an infringement of the individual's constitutional right to freedom of association.

The First Amendment prevents the government, except in the most compelling circumstances, from wielding its power to interfere with its employees' freedom to believe and associate, or to not believe and not associate; it is not merely a tenure provision that protects public employees from actual or constructive discharge.

The First Amendment right to freedom of association of teachers was not violated by enforcement of a rule that white teachers whose children did not attend public schools would not be rehired. Cook v. Hudson, 511 F.2d. 744, 9 Empl. Prac. Dec. (CCH) ¶ 10134 (5th Cir. 1975), reh'g denied, 515 F.2d. 762 (5th Cir. 1975) and cert. granted, 424 U.S. 941, 96 S.Ct. 1408, 47 L.Ed.2d. 347 (1976) and cert. dismissed, 429 U.S. 165, 97 S.Ct. 543, 50 L.Ed.2d. 373, 12 Empl. Prac. Dec. (CCH) ¶ 11246 (1976).

Annotation: Supreme Court's views regarding Federal Constitution's First Amendment right of association as applied to elections and other political activities, 116 L.Ed.2d. 997, § 10.

Annotation: Public employee's right of free speech under Federal Constitution's First Amendment–Supreme Court cases, 97 L.Ed.2d. 903.

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⁹⁸ Lathrop v. Donohue, 367 U.S. 820, 81 S.Ct. 1826, 6 L.Ed.2d. 1191 (1961), reh'g denied, 368 U.S. 871, 82 S.Ct. 23, 7 L.Ed.2d. 72 (1961) (a state supreme court may order integration of the state bar); Railway Emp. Dept. v. Hanson, 351 U.S. 225, 76 S.Ct. 714, 100 L.Ed. 1112 (1956), motion denied, 351 U.S. 979, 76 S.Ct. 1044, 100 L.Ed. 1494 (1956) and reh'g denied, 352 U.S. 859, 77 S.Ct. 22, 1 L.Ed.2d. 69 (1956) (upholding the validity of the union shop provision of the Railway Labor Act).

⁹⁹ Rutan v. Republican Party of Illinois, 497 U.S. 62, 110 S.Ct. 2729, 111 L.Ed.2d. 52, 5 I.E.R. Cas. (BNA) 673 (1990), reh'g denied, 497 U.S. 1050, 111 S.Ct. 13, 111 L.Ed.2d. 828 (1990) and reh'g denied, 497 U.S. 1050, 111 S.Ct. 13, 111 L.Ed.2d. 828 (1990) (conditioning public employment hiring decisions on political belief and association violates the First Amendment rights of applicants in the absence of some vital governmental interest).

¹⁰⁰ Rutan v. Republican Party of Illinois, 497 U.S. 62, 110 S.Ct. 2729, 111 L.Ed.2d. 52, 5 I.E.R. Cas. (BNA) 673 (1990), reh'g denied, 497 U.S. 1050, 111 S.Ct. 13, 111 L.Ed.2d. 828 (1990) and reh'g denied, 497 U.S. 1050, 111 S.Ct. 13, 111 L.Ed.2d. 828 (1990).

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First Amendment principles prohibit a state from compelling any individual to associate with a political party, as a condition of retaining public employment. ¹⁰¹ The First Amendment protects nonpolicymaking public employees from discrimination based on their political beliefs or affiliation. ¹⁰² But the First Amendment protects the right of political party members to advocate that a specific person be elected or appointed to a particular office and that a specific person be hired to perform a governmental function. 103 In the First Amendment context, the political patronage exception to the First Amendment protection for public employees is to be construed broadly, so as presumptively to encompass positions placed by legislature outside of "merit" civil service. Positions specifically named in relevant federal, state, county, or municipal laws to which discretionary authority with respect to enforcement of that law or carrying out of some other policy of political concern is granted, such as a secretary of state given statutory authority over various state corporation law practices, fall within the political patronage exception to First Amendment protection of public employees. 104 However, a supposed interest in ensuring effective government and efficient government employees, political affiliation or loyalty, or high salaries paid to the employees in question should not be counted as indicative of positions that require a particular party affiliation. 105, [American Jurisprudence 2d, Constitutional law, §546: Forced and Prohibited Associations (1999)]

If the "Federal constitution" and the "Federal statutes" meanings of a geographical term are said by the speaker to be equivalent, some authority MUST be provided. The reason is that this is VERY seldom the case. For instance:

- The term "United States" in the context of the Federal constitution implies ONLY the states of the Union and excludes federal territory....WHEREAS
- 2. The term "United States" in the statutory sense includes only federal territory and excludes states of the Union.

Example proofs for the above consists of the following:

"The earliest case is that of Hepburn v. Ellzey, 2 Cranch, 445, 2 L.Ed. 332, in which this court held that, under that clause of the Constitution limiting the jurisdiction of the courts of the United States to controversies between citizens of different states, a citizen of the District of Columbia could not maintain an action in the circuit court of the United States. It was argued that the word 'state.' in that connection, was used simply to denote a distinct political society. 'But,' said the Chief Justice, 'as the act of Congress obviously used the word 'state' in reference to that term as used in the Constitution, it becomes necessary to inquire whether Columbia is a state in the sense

of that instrument. The result of that examination is a conviction that the members of the American confederacy only are the states contemplated in and excludes from the term the signification

First Amendment protection for law enforcement employees subjected to discharge, transfer, or discipline because of speech, 109 A.L.R. Fed. 9.

First Amendment protection for judges or government attorneys subjected to discharge, transfer, or discipline because of speech, 108 A.L.R. Fed. 117.

First Amendment protection for public hospital or health employees subjected to discharge, transfer, or discipline because of speech, 107 A.L.R. Fed. 21.

First Amendment protection for publicly employed firefighters subjected to discharge, transfer, or discipline because of speech, 106 A.L.R. Fed. 396.

101 Abood v. Detroit Bd. of Ed., 431 U.S. 209, 97 S.Ct. 1782, 52 L.Ed.2d. 261, 95 L.R.R.M. (BNA) 2411, 81 Lab. Cas. (CCH) ¶ 55041 (1977), reh'g denied, 433 U.S. 915, 97 S.Ct. 2989, 53 L.Ed.2d. 1102 (1977); Parrish v. Nikolits, 86 F.3d. 1088 (11th Cir. 1996), cert. denied, 117 S.Ct. 1818, 137 L.Ed.2d. 1027 (U.S. 1997).

Responsibilities of the position of director of a municipality's office of federal programs resembled those of a policymaker, privy to confidential information, a communicator, or some other office holder whose function was such that party affiliation was an equally important requirement for continued tenure. Ortiz-Pinero v. Rivera-Arroyo, 84 F.3d. 7 (1st Cir. 1996).

Law Reviews: Stokes, When Freedoms Conflict: Party Discipline and the First Amendment. 11 JL &Pol 751, Fall, 1995.

Pave, Public Employees and the First Amendment Petition Clause: Protecting the Rights of Citizen-Employees Who File Legitimate Grievances and Lawsuits Against Their Government Employers. 90 N.W. U LR 304, Fall, 1995.

Singer, Conduct and Belief: Public Employees' First Amendment Rights to Free Expression and Political Affiliation. 59 U Chi LR 897, Spring, 1992.

As to political patronage jobs, see § 472.

¹⁰⁵ Parrish v. Nikolits, 86 F.3d. 1088 (11th Cir. 1996), cert. denied, 117 S.Ct. 1818, 137 L.Ed.2d. 1027 (U.S. 1997).

EXHIBIT:_

¹⁰² LaRou v. Ridlon, 98 F.3d. 659 (1st Cir. 1996); Parrish v. Nikolits, 86 F.3d. 1088 (11th Cir. 1996), cert. denied, 117 S.Ct. 1818, 137 L.Ed.2d. 1027 (U.S. 1997).

¹⁰³ Vickery v. Jones, 100 F.3d. 1334 (7th Cir. 1996), cert. denied, 117 S.Ct. 1553, 137 L.Ed.2d. 701 (U.S. 1997).

¹⁰⁴ McCloud v. Testa, 97 F.3d. 1536, 12 I.E.R. Cas. (BNA) 1833, 1996 FED App. 335P (6th Cir. 1996), reh'g and suggestion for reh'g en banc denied, (Feb. 13, 1997).

attached to it by writers on the law of nations.' This case was followed in 1 Barney v. Baltimore, 6 Wall. 280, 18 L.Ed. 825, and quite recently in Hooe v. Jamieson, 166 U.S. 395, 41 L.Ed. 1049, 17 Sup.Ct.Rep. 596. The same rule was applied to citizens of territories in New Orleans v. Winter, 1 Wheat, 91, 4 L.Ed. 44, in which an attempt was made to distinguish a territory from the District of Columbia. But it was said that 'neither of them is a state in the sense in which that term is used in the Constitution.' In Scott v. Jones, 5 How. 343, 12 L.Ed. 181, and in Miners' Bank v. Iowa ex rel. District Prosecuting Attorney, 12 How. 1, 13 L.Ed. 867, it was held that under the judiciary act, permitting writs of error to the supreme court q 10 of a state in cases where the validity of a state statute is drawn in question, an act of a territorial legislature was not within the contemplation of Congress." 11 12 [Downes v. Bidwell, 182 U.S. 244 (1901)] "As the only judicial power vested in Congress is to create courts whose judges shall hold their offices during 13 good behavior, it necessarily follows that, if Congress authorizes the creation of courts and the appointment of 14 15

judges for limited time, it must act independently of the Constitution upon territory which is not part of the United States within the meaning of the Constitution.'

[O'Donoghue v. United States, 289 U.S. 516, 53 S.Ct. 740 (1933)]

Notice that last quote "not part of the United States within THE meaning of the Constitution", which implies that there is ONLY ONE meaning and that meaning does not include the "territory" of the United States, which is the community property of the states mentioned in ONLY ONE place in the constitution, which is Article 1, Section 8, Clause 17 and nowhere else.

The most likely words to be subjected to "deliberate and malicious and self-serving verbicide" and deceit by the government opponent and the Court are "United States", "State", and "trade or business". The rules of statutory construction indicated in section 11.6 shall be VERY STRICTLY applied to these terms:

- Since the terms are statutorily defined, the statutory definition shall SUPERSEDE the common meaning or the constitutional meaning of the term.
- Only that which is *expressly* specified SOMEWHERE within the statutes cited as authority may be "included" within the meaning.
- That which is NOT expressly specified shall be presumed to be purposefully 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]

"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)]

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

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

Citizenship and nationality

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If the speaker is talking about the citizenship:

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1. Any reference to the citizenship of a litigant MUST specify one and only one definition of "United States" identified in the preceding section and follow the term "United States" with the asterisk symbology shown in Table 4 therein. For instance, the following would define a person who is a citizen of a state of the Union who has a domicile within that state on other than federal territory within:

"citizen of the United States*** (Federal Constitution)"

- 2. If one of the six contexts for a geographical term is not specified when describing citizenship or if the term 'United States' is not followed by the correct number of asterisks to identify WHICH "United States" is intended from within section 11.7.3, then the context shall imply the "Federal constitution" and exclude the "Federal statutes" and imply THREE asterisks.
 - 3. If the context is the "Federal Constitution", the following citizenship status shall be imputed to the person described.
 - 3.1. Constitutional citizen within the meaning of the Fourteenth Amendment.
 - 3.2. Not a statutory citizen pursuant to 8 U.S.C. §1401 or 26 C.F.R. §1.1-1(c) or 26 U.S.C. §911.
 - 3.3. "national" pursuant to 8 U.S.C. §1101(a)(21).
 - 3.4. NOT a ""national but not citizen of the United States[**] at birth" pursuant to 8 U.S.C. §1408.
 - 4. If the term "United States" is used in describing citizenship, it shall imply the "Federal Constitution" and exclude the "Federal Statutes" contexts.
 - 5. The only method for imputing a citizenship status within the "Federal Statutes" context is to invoke one of the following terms, and to specify WHICH SINGLE definition of "United States" is implied within the list of three definitions defined by the U.S. Supreme Court in Hooven & Allison Co. v. Evatt, 324 U.S. 652 (1945).
 - 5.1. "statutory citizen of the United States pursuant to 8 U.S.C. §1401".
 - 5.2. "citizen pursuant to 26 C.F.R. §1.1-1(c)".

The implication of all the above is that the person being described by default:

- 1. Is not domiciled or resident on federal territory of the "United States**" and is therefore protected by the United States Constitution.
- 2. Is not domiciled or resident within any United States judicial district.
- 3. Is not domiciled or resident within any internal revenue district described in Treasury Order 150-02. The only remaining internal revenue district is the District of Columbia.
- 4. May not lawfully have his or her or its legal identity kidnapped and transported to the District of Columbia involuntarily pursuant to 26 U.S.C. §7701(a)(39) or 26 U.S.C. §7408(d).
- 5. Is a "stateless person" within the meaning of 28 U.S.C. §1332 because not domiciled in the "States" described in 28 U.S.C. §1332(e). See Newman-Green v. Alfonso Larrain, 490 U.S. 826 (1989) for the meaning of the term "stateless person".
- 6. Is a nonresident to the exclusive jurisdiction of the United States government described in Article 1, Section 8, Clause 17 of the United States Constitution.
- 7. Is a statutory "non-resident non-person" for the purposes of federal taxation and is NOT a "nonresident alien individual". All "individuals" are aliens and public offices and creations of Congress within the I.R.C. The only time an "individual" includes STATUTORY "U.S.** citizens" is when they are domiciled on federal territory and temporarily abroad under 26 U.S.C. §911(d). When "citizens" are in this condition, they interface to the I.R.C. as "resident aliens" under a tax treaty with the foreign country that they are in.
- 8. Is protected by the separation of legislative powers between the states and the federal government:

"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)]

"We start with first principles. The Constitution creates a Federal Government of enumerated powers. See U.S. 2 Const., Art. I, 8. As James Madison wrote, "[t]he powers delegated by the proposed Constitution to the federal 3 government are few and defined. Those which are to remain in the State governments are numerous and 4 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 10 11 of tyranny and abuse from either front." Ibid. [U.S. v. Lopez, 514 U.S. 549 (1995)] 12

9. Is protected by the Foreign Sovereign Immunities Act, 28 U.S.C. Chapter 97 because an instrumentality of a foreign state, meaning a state of the Union, as a jurist, voter, or domiciliary.

<u>Foreign States</u>: "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]

<u>Foreign Laws</u>: "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]

23 If you want to know why the above rules are established for citizenship, please refer to:

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

11.8 Meaning of "United States" based on CONTEXT used¹⁰⁶

11.8.1 Three geographical definitions of "United States"

Most of us are completely unaware that the term "<u>United States</u>" has several distinct and separate legal meanings and contexts and that it is up to us to know and understand these differences, to use them appropriately, and to clarify exactly which one we mean whenever we sign any government or financial form (including voter registration, tax documents, etc.). If we do not, we could unknowingly, unwillingly and involuntarily be creating <u>false presumptions</u> that cause us to surrender our Constitutional rights and our sovereignty. The fact is, most of us have unwittingly been doing just that for most, if not all, of our lives. Much of this misunderstanding and legal ignorance has been deliberately "manufactured" by our corrupted government in the public school system. It is a fact that our public dis-servants want docile sheep who are easy to govern, not "high maintenance" sovereigns capable of critical and independent thinking and who demand their rights. We have become so casual in our use of the term "United States" that it is no longer understood, even within the legal profession, that there are actually <u>three different</u> legal meanings to the term. In fact, the legal profession has contributed to this confusion over this term by removing its definitions from all legal dictionaries currently in print that we have looked at. See <u>Great IRS Hoax</u>, Form #11.302, Section 6.13.1 for details on this scam.

Most of us have grown up thinking the term "<u>United States</u>" indicates and includes all 50 states of the Union. This is true in the context of the U.S. Constitution but it is not true in all contexts. As you will see, this is the third meaning assigned to the term "United States" by the United States Supreme Court. But, usually when we (Joe six pack) use the term United States we actually think we are saying the <u>united States</u>, as we are generally thinking of the <u>several states</u> or the <u>union of States</u>. As you will learn in this section, the meaning of the term depends entirely on the context and when we are filling out federal forms or speaking with the federal government, this is a very costly false presumption.

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¹⁰⁶ Source: Why You are a "national", "state national", and Constitutional but not Statutory Citizen, Form #05.006, Section 3; https://sedm.org/Forms/FormIndex.htm.

First, it should be noted that the term United States is a noun. In fact, it is the proper name and title "We the people..." gave to the <u>corporate entity</u> (non-living thing) of the federal (central) government created by the Constitution. This in turn describes where the "United States" federal corporation referenced in 28 U.S.C. §3002(15)(A) was to be housed as the Seat of the Government - In the District of Columbia, not to exceed a ten mile square.

5 Constitution 6 Article 1, Section 8, Clause 17

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To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the <u>Seat of the Government of the United States</u>, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;—And [underlines added]

Below is how the <u>united States Supreme Court</u> addressed the question of the meaning of the term "United States" (see Black's Law Dictionary) in the famous case of *Hooven & Allison Co. v. Evatt*, 324 U.S. 652 (1945). The Court ruled that the term United States has three uses:

"The term 'United States' may be used in any one of several senses. It may be merely the name of a sovereign occupying the position analogous to that of other sovereigns in the family of nations. It may designate the territory over which the sovereignty of the United States extends, or it may be the collective name of the states which are united by and under the Constitution."

[Hooven & Allison Co. v. Evatt, 324 U.S. 652 (1945)]

[1100ven & 1111150v Co. v. Dvini, 321 (15. 032 (17.13)]

We will now break the above definition into its three contexts and show what each means.

Table 13: Meanings assigned to "United States" by the U.S. Supreme Court in Hooven & Allison v. Evatt

#	U.S. Supreme Court Definition of "United	Context in which usually used	Referred to in this article as	Interpretation
	States" in Hooven			
1	"It may be merely the name of a sovereign occupying the position analogous to that of other sovereigns in the family of nations."	International law	"United States*"	"These united States," when traveling abroad, you come under the jurisdiction of the President through his agents in the U.S. State Department, where "U.S." refers to the sovereign society. You are a "Citizen of the United States" like someone is a Citizen of France, or England. We identify this version of "United States" with a single asterisk after its name: "United States*" throughout this article.
2	"It may designate the territory over which the sovereignty of the United States extends, or"	Federal law Federal forms	"United States**"	"The United States (the District of Columbia, possessions and territories)". Here Congress has exclusive legislative jurisdiction. In this sense, the term "United States" is a singular noun. You are a person residing in the District of Columbia, one of its Territories or Federal areas (enclaves). Hence, even a person living in the one of the sovereign States could still be a member of the Federal area and therefore a "citizen of the United States." This is the definition used in most "Acts of Congress" and federal statutes. We identify this version of "United States" with two asterisks after its name: "United States**" throughout this article. This definition is also synonymous with the "United States" corporation found in 28 U.S.C. §3002(15)(A).
3	"as the collective name for the states which are united by and under the Constitution."	Constitution of the United States	"United States***"	"The several States which is the united States of America." Referring to the 50 sovereign States, which are united under the Constitution of the United States of America. The federal areas within these states are not included in this definition because the Congress does not have exclusive legislative authority over any of the 50 sovereign States within the Union of States. Rights are retained by the States in the 9th and 10th Amendments, and you are a "Citizen of these united States." This is the definition used in the Constitution for the United States of America. We identify this version of "United States" with a three asterisks after its name: "United States***" throughout this article.

The U.S. Supreme Court helped to clarify which of the three definitions above is the one used in the U.S. Constitution, when it held the following. Note they are implying the THIRD definition above and not the other two:

"The earliest case is that of Hepburn v. Ellzey, 2 Cranch, 445, 2 L.Ed. 332, in which this court held that, under that clause of the Constitution limiting the jurisdiction of the courts of the United States to controversies between citizens of different states, a citizen of the District of Columbia could not maintain an action in the circuit court of the United States. It was argued that the word 'state.' in that connection, was used simply to denote a distinct

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political society. 'But,' said the Chief Justice, 'as the act of Congress obviously used the word 'state' in reference to that term as used in the Constitution, it becomes necessary to inquire whether Columbia is a state in the sense of that instrument. The result of that examination is a conviction that the members of the American confederacy only are the states contemplated in the Constitution,... and excludes from the term the signification attached to it by writers on the law of nations.' This case was followed in Barney v. Baltimore, 6 Wall. 280, 18 L.Ed. 825, and quite recently in Hooe v. Jamieson, 166 U.S. 395, 41 L.Ed. 1049, 17 Sup.Ct.Rep. 596. The same rule was applied to citizens of territories in New Orleans v. Winter, 1 Wheat. 91, 4 L.Ed. 44, in which an attempt was made to distinguish a territory from the District of Columbia. But it was said that 'neither of them is a state in the sense in which that term is used in the Constitution.' In Scott v. Jones, 5 How. 343, 12 L.Ed. 181, and in Miners' Bank v. Iowa ex rel. District Prosecuting Attorney, 12 How. 1, 13 L.Ed. 867, it was held that under the judiciary act, permitting writs of error to the supreme court of a state in cases where the validity of a state statute is drawn in question, an act of a territorial legislature was not within the contemplation of Congress."

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

The U.S. Supreme Court further clarified that the Constitution implies the third definition above, which

The U.S. Supreme Court further clarified that the Constitution implies the third definition above, which is the United States*** when they held the following. Notice that they say "not part of the United States within the meaning of the Constitution" and that the word "the" implies only ONE rather than multiple GEOGRAPHIC meanings:

"As the only judicial power vested in Congress is to create courts whose judges shall hold their offices during good behavior, it necessarily follows that, if Congress authorizes the creation of courts and the appointment of judges for limited time, it must act independently of the Constitution upon territory which is not part of the United States within the meaning of the Constitution."

[O'Donoghue v. United States, 289 U.S. 516, 53 S.Ct. 740 (1933)]

And finally, the U.S. Supreme Court has also held that the Constitution does not and cannot determine or limit the authority of Congress over federal territory and that the ONLY portion of the Constitution that does in fact expressly refer to federal territory and therefore the statutory "United States" is Article 1, Section 8, Clause 17. Notice they ruled that Puerto Rico is NOT part of the "United States" within the meaning of the Constitution, just like they ruled in O'Donoghue above that territory was no part of the "United States":

In passing upon the questions involved in this and kindred cases, we ought not to overlook the fact that, while the Constitution was intended to establish a permanent form of government for the states which should elect to take advantage of its conditions, and continue for an indefinite future, the vast possibilities of that future could never have entered the minds of its framers. The states had but recently emerged from a war with one of the most powerful nations of Europe, were disheartened by the failure of the confederacy, and were doubtful as to the feasibility of a stronger union. Their territory was confined to a narrow strip of land on the Atlantic coast from Canada to Florida, with a somewhat indefinite claim to territory beyond the Alleghenies, where their sovereignty was disputed by tribes of hostile Indians supported, as was popularly believed, by the British, who had never formally delivered possession [182 U.S. 244, 285] under the treaty of peace. The vast territory beyond the Mississippi, which formerly had been claimed by France, since 1762 had belonged to Spain, still a powerful nation and the owner of a great part of the Western Hemisphere. <u>Under these circumstances it is little wonder</u> that the question of annexing these territories was not made a subject of debate. The difficulties of bringing about a union of the states were so great, the objections to it seemed so formidable, that the whole thought of the convention centered upon surmounting these obstacles. The question of territories was dismissed with a single clause, apparently applicable only to the territories then existing, giving Congress the power to govern and dispose of them.

Had the acquisition of other territories been contemplated as a possibility, could it have been foreseen that, within little more than one hundred years, we were destined to acquire, not only the whole vast region between the Atlantic and Pacific Oceans, but the Russian possessions in America and distant islands in the Pacific, it is incredible that no provision should have been made for them, and the question whether the Constitution should or should not extend to them have been definitely settled. If it be once conceded that we are at liberty to acquire foreign territory, a presumption arises that our power with respect to such territories is the same power which other nations have been accustomed to exercise with respect to territories acquired by them. If, in limiting the power which Congress was to exercise within the United States[***], it was also intended to limit it with regard to such territories as the people of the United States[***] should thereafter acquire, such limitations should have been expressed. Instead of that, we find the Constitution speaking only to states, except in the territorial clause, which is absolute in its terms, and suggestive of no limitations upon the power of Congress in dealing with them. The states could only delegate to Congress such powers as they themselves possessed, and as they had no power to acquire new territory they had none to delegate in that connection. The logical inference from this is that if Congress had power to acquire new territory, which is conceded, that power was not hampered by the constitutional provisions. If, upon the other hand, we assume [182 U.S. 244, 286] that the territorial clause of the Constitution was not intended to be restricted to such territory as the United States then possessed, there is nothing in the Constitution to indicate that the power of Congress in dealing with them was intended to be restricted by any of the other provisions.

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If those possessions are inhabited by alien races, differing from us in religion, customs, laws, methods of taxation, 2 and modes of thought, the administration of government and justice, according to Anglo-Saxon principles, may for a time be impossible; and the question at once arises whether large concessions ought not to be made for a time, that ultimately our own theories may be carried out, and the blessings of a free government under the Constitution extended to them. We decline to hold that there is anything in the Constitution to forbid such action. We are therefore of opinion that the island of Porto Rico is a territory appurtenant and 6 belonging to the United States, but not a part of the United States[***] within the revenue clauses of the Constitution; that the Foraker act is constitutional, so far as it imposes duties upon imports 8 from such island, and that the plaintiff cannot recover back the duties exacted in this case. [Downes v. Bidwell, 182 U.S. 244 (1901)] 10 The two political jurisdictions/nations within the United States* 11.8.2 11 Another important distinction needs to be made. Definition 1 above refers to the country "United States*", but this country 12 13 is <u>not</u> a "nation", in the sense of international law. This very important point was made clear by the U.S. Supreme Court in 1794 in the case of Chisholm v. Georgia, 2 Dall. (U.S.) 419, 1 L.Ed. 440 (1793), when it said: 14 This is a case of uncommon magnitude. One of the parties to it is a State; certainly respectable, claiming to be 15 sovereign. The question to be determined is, whether this State, so respectable, and whose claim soars so high, 16 17 is amenable to the jurisdiction of the Supreme Court of the United States? This question, important in itself, will depend on others, more important still; and, may, perhaps, be ultimately resolved into one, no less radical 18 than this 'do the people of the United States form a Nation?' 19 A cause so conspicuous and interesting, should be carefully and accurately viewed from every possible point of 20 sight. I shall examine it; 1st. By the principles of general jurisprudence. 2nd. By the laws and practice of 21 particular States and Kingdoms. From the law of nations little or no 22 illustration of this subject can be expected. By that law the 23 several States and Governments spread over our globe, are 24 considered as forming a society, not a NATION. It has only been by a very 25 few comprehensive minds, such as those of Elizabeth and the Fourth Henry, that this last great idea has been 26 even contemplated. 3rdly. and chiefly, I shall examine the important question before us, by the Constitution of the 27 United States, and the legitimate result of that valuable instrument. 28 [Chisholm v. Georgia, <u>2 Dall. (U.S.) 419</u>, 1 L.Ed. 440 (1793)] 29 30 An earlier edition of Black's Law Dictionary further clarifies the distinction between a "nation" and a "society" by clarifying the differences between a *national* government and a *federal* government, and keep in mind that the American government 31 is called "federal government": 32 "NATIONAL GOVERNMENT. The government of a whole nation, as distinguished from that of a local or 33 territorial division of the nation, and also as distinguished from that of a league or confederation. 34 "A national government is a government of the people of a single state or nation, united as a community by what 35 is termed the "social compact,' and possessing complete and perfect supremacy over persons and things, so far 36 37 as they can be made the lawful objects of civil government. A federal government is distinguished from a national government by its being the government of a community of independent and sovereign states, united 38 39 by compact." Piqua Branch Bank v. Knoup, 6 Ohio.St. 393." 40 [Black's Law Dictionary, Revised Fourth Edition, 1968, p. 1176] 41 "FEDERAL GOVERNMENT. The system of government administered in a state formed by the union or 42 confederation of several independent or quasi independent states; also the composite state so formed. 43 44 In strict usage, there is a distinction between a confederation and a federal government. The former term denotes a league or permanent alliance between several states, each of which is fully sovereign and independent, and 45

each of which retains its full dignity, organization, and sovereignty, though yielding to the central authority a

controlling power for a few limited purposes, such as external and diplomatic relations. In this case, the

component states are the units, with respect to the confederation, and the central government acts upon them,

not upon the individual citizens. In a federal government, on the other hand, the allied states form a union,-

not, indeed, to such an extent as to destroy their separate organization or deprive them of quasi sovereignty with respect to the administration of their purely local concerns, but so that the central power is erected into a

true state or nation, possessing sovereignty both external and internal, while the administration of national

affairs is directed, and its effects felt, not by the separate states deliberating as units, but by the people of all.

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in their collective capacity, as citizens of the nation. The distinction is expressed, by the German writers, by the use of the two words "Staatenbund" and "Bundesstaut;" the former denoting a league or confederation of states, and the latter a federal government, or state formed by means of a league or confederation."

[Black's Law Dictionary, Revised Fourth Edition, 1968, p. 740]

So the "United States*" the country is a "society" and a "sovereignty" but not a "nation" under the law of nations, by the Supreme Court's own admission. Because the Supreme Court has ruled on this matter, it is now incumbent upon each of us to always remember it and to apply it in all of our dealings with the Federal Government. If not, we lose our individual Sovereignty by default and the Federal Government assumes jurisdiction over us. So, while a sovereign American will want to be the third type of Citizen, which is a "Citizen of the United States**" and on occasion a "citizen of the United States*", he would never want to be the second, which is a "citizen of the United States**". A human being who is a "citizen" of the second is called a statutory "U.S. citizen" under 8 U.S.C. §1401, and he is treated in law as occupying a place not protected by the Bill of Rights, which is the first ten amendments of the United States Constitution. Below is how the U.S. Supreme Court, in a dissenting opinion, described this "other" United States, which we call the "federal zone":

"I take leave to say that, if the principles thus announced should ever receive the sanction of a majority of this court, a radical and mischievous change in our system of government will result. We will, in that event, pass from the era of constitutional liberty guarded and protected by a written constitution into an era of legislative absolutism...

[...]

"The idea prevails with some, indeed it has found expression in arguments at the bar, that we have in this country substantially two national governments; one to be maintained under the Constitution, with all of its restrictions; the other to be maintained by Congress outside the independently of that instrument, by exercising such powers [of absolutism] as other nations of the earth are accustomed to...

[...]

It will be an evil day for American liberty if the theory of a government outside the supreme law of the land finds lodgment in our constitutional jurisprudence. No higher duty rests upon this court than to exert its full authority to prevent all violation of the principles of the Constitution."

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

11.8.3 "United States" as a corporation and a Legal Person

(C) an instrumentality of the United States.

The second definition of "United States**" above is also a federal corporation. This corporation was formed in 1871. It is described in 28 U.S.C. §3002(15)(A):

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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
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The U.S. Supreme Court, in fact, has admitted that all governments are corporations when it held:

"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 [the Constitution is the corporate charter]. 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."

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If we are acting as a federal "public official" or contractor, then we are representing the "United States** federal corporation". 2 That corporation is a statutory "U.S. citizen" under 8 U.S.C. §1101(a)(22)(A) which is completely subject to all federal law. 3 "A corporation is a citizen, resident, or inhabitant of the state or country by or under the laws of which it was 4 created, and of that state or country only." [19 Corpus Juris Secundum (C.J.S.), Corporations, §886 (2003)]

Federal Rule of Civil Procedure 17(b) says that when we are representing that corporation as "officers" or "employees", we therefore become statutory "U.S. citizens" completely subject to federal territorial law: 8

IV. PARTIES > Rule 17. Rule 17. Parties Plaintiff and Defendant; Capacity 10 (b) Capacity to Sue or be Sued. 11 Capacity to sue or be sued is determined as follows: 12 (1) for an individual who is not acting in a representative capacity, by the law of the individual's domicile; 13 (2) for a corporation, by the law under which it was organized; and 14 (3) for all other parties, by the law of the state where the court is located, except that: 15 16 (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 17 18 laws: and 19 (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. 20

[Federal Rule of Civil Procedure 17(b)]

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Yet on every government (any level) document we sign (e.g. Social Security, Marriage License, Voter Registration, Driver License, BATF 4473, etc.) they either require you to be a "citizen of the United States" or they ask "are you a resident of Illinois?". They are in effect asking you to assume or presume the second definition, the "United States**", when you fill out the form, but they don't want to tell you this because then you would realize they are asking you to commit perjury on a government form under penalty of perjury. They in effect are asking you if you wish to act in the official capacity of a public employee or officer of the federal corporation. The form you are filling out therefore is serving the dual capacity of a federal job application and an application for "benefits". The reason this must be so, is that they are not allowed to pay PUBLIC "benefits" to PRIVATE humans and can only lawfully pay them to public statutory "employees", public officers, and contractors. Any other approach makes the government into a thief. See the article below for details on this scam:

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

If you accept the false and self-serving presumption of your public dis-servants, or you answer "Yes" to the question of whether you are a "citizen of the United States" or a "U.S. citizen" on a federal or state form, usually under penalty of perjury, then you have committed perjury under penalty of perjury and also voluntarily placed yourself under their exclusive/plenary legislative jurisdiction as a public official/"employee" and are therefore unlawfully subject to Federal & State Codes and Regulations (Statutes). The Social Security Number they ask for on the form, in fact, is prima facie evidence that you are a federal statutory employee, in fact. Look at the evidence for yourself, paying particular attention to sections 6.1, 6.2 and 6.6:

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

Most statutes passed by government are, in effect, PRIVATE law only for government. They are private law or contract law that act as the equivalent of a government employment agreement.

> "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

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What the U.S. Supreme Court is saying above is that the government has no authority to tell you how to run your <u>private life</u>. This is contrary to the whole idea of the Internal Revenue Code, whose main purpose is to monitor and control <u>every aspect</u> 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 who are not engaged in a "trade or business" and thus have no income tax liability 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 Subtitle A of the Internal Revenue Code, which would "appear" to regulate the private conduct of <u>all</u> individuals in states of the Union, in fact only applies to "public officials" in the official conduct of their duties while present in the District of Columbia, which <u>4 U.S.C. §72</u> makes the "seat of government". The Internal Revenue Code (I.R.C.) therefore essentially amounts to a part of the job responsibility and the "employment contract" of "public officials". 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

We the People, as the Sovereigns, cannot lawfully become the proper subject to exclusive federal jurisdiction unless and until we surrender our sovereignty by signing a government employment agreement that can take many different forms: IRS Form W-4 and 1040, SSA Form SS-5, etc.

California Civil Code
DIVISION 3. OBLIGATIONS
PART 2. CONTRACTS
TITLE 1. NATURE OF A CONTRACT
CHAPTER 3. CONSENT

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.

[SOURCE:

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 $\underline{http://www.leginfo.ca.gov/cgi-bin/displaycode?section=civ\&group=01001-02000\&file=1565-1590]}$

The IRS Form W-4 is what both we and the government refer to as a federal "election" form and you are the <u>only</u> voter. They are asking you if you want to elect yourself into "public office", and if you say "yes", then you got the job and a cage is reserved for you on the federal plantation:

"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 (public officers) 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 (public officers) 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 (public officers) 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)]

By making you into a DE FACTO "public official" or statutory "employee", they are intentionally destroying the separation of powers that is the main purpose of the Constitution and which was put there to protect your rights.

"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

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1 2 3 4	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)."
5	[New York v. United States, <u>505 U.S. 144</u> (1992)]
6 7 8 9	They are causing you to voluntarily waive sovereign immunity under the Foreign Sovereign Immunities Act (F.S.I.A.), 28 U.S.C. §1601-1611. 28 U.S.C. §1605(a)(2) of the act says that those who conduct "commerce" within the legislative jurisdiction of the "United States" (federal zone), whether as public official or federal benefit recipient, surrender their sovereign immunity.
10 11	<u>TITLE 28</u> > <u>PART IV</u> > <u>CHAPTER 97</u> > § 1605 § 1605. General exceptions to the jurisdictional immunity of a foreign state
12 13	(a) A foreign state shall not be immune from the jurisdiction of courts of the United States or of the States in any case—
14 15 16 17	(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 [employment or federal benefit] 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;
18 19 20 21	They are also destroying the separation of powers by fooling you into declaring yourself to be a <u>statutory</u> "U.S.** citizen" under <u>8 U.S.C. §1401</u> . <u>28 U.S.C. §1603(b)(3)</u> and <u>28 U.S.C. §1332(e)</u> specifically exclude such statutory "U.S. citizens" from being foreign sovereigns who can file under statutory diversity of citizenship. This is also confirmed by the Department of State Website:
22	"Section 1603(b) defines an "agency or instrumentality" of a foreign state as an entity
23	(1) which is a separate legal person, corporate or otherwise, and
24 25	(2) which is an organ of a foreign state or political subdivision thereof, or a majority of whose shares or other ownership interest is owned by a foreign state or political subdivision thereof, and
26 27 28	(3) which is neither a citizen of a state of the United States as defined in Sec. 1332(e) nor created under the laws of any third country." [Department of State Website, http://travel.state.gov/law/info/judicial/judicial_693.html]
29 30 31 32	In effect, they kidnapped your legal identity and made you into a "resident alien federal employee" working in the "king's castle", what Mark Twain called "the District of Criminals", and changed your status from "foreign" to "domestic" by creating false presumptions about citizenship and using the Social Security Number, IRS Form W-4, and SSA Form SS-5 to make you into a "subject citizen" and a "public employee" with no constitutional rights.
33	The nature of most federal law as private/contract law is carefully explained below:
	<u>Requirement for Consent</u> , Form #05.003 <u>http://sedm.org/Forms/FormIndex.htm</u>
34 35 36 37	As you will soon read, the government uses various ways to mislead and trick us into their private/contract laws (outside our Constitutional protections) and make you into the equivalent of their "employee", and thereby commits a great fraud on the American People. It is the purpose of this document to expose the most important aspect of that willful deception, which is the citizenship trap.
38	11.8.4 Why the STATUTORY Geographical "United States" does not include states of the Union
39 40	A common point of confusion is the comparison between STATUTORY and CONSTITUTIONAL contexts for the "United States". Below is a question posed by a reader about this confusion:
41 42 43	Your extensive citizenship materials say that the term "United States" described in 8 U.S.C. §1101(a)(38), (a)(36), and 8 C.F.R. §215.1(f) includes only DC, Puerto Rico, Guam, USVI, and CNMI and excludes all Constitutional Union states. In fact, a significant portion of what your materials say hinges on the interpretation

that the term "United States" per 8 U.S.C. §1101(a)(38) includes only DC, Puerto Rico, Guam, USVI, and CNMI and excludes all Constitutional Union states. Therefore, it is important that your readers are confident that this is the correct interpretation of 8 U.S.C. §1101(a)(38). The problem that most of your readers are going to have is that the text for 8 U.S.C. §1101(a)(38) say the "United States" means continental United States, Alaska, Hawaii. Puerto Rico, Guam, and the Virgin Islands of the United States.

Please explain to me how the term "United States" described in 8 U.S.C. §1101(a)(38), (a)(36), and 8 C.F.R. §215.1(f) can exclude all Constitution Union states when 8 U.S.C. §1101(a)(38) explicitly lists list Alaska and

Please explain to me how the term "United States" described in 8 U.S.C. §1101(a)(38), (a)(36), and 8 C.F.R. §215.1(f) can exclude all Constitution Union states when 8 U.S.C. §1101(a)(38) explicitly lists list Alaska and Hawaii as part of "United States". Alaska and Hawaii were the last two Constitutional states to join the Union and they became Constitutional Union states on August 21, 1959 and January 3, 1959 respectfully. The only possible explanation that I can think of is that the Statutes at Large that 8 U.S.C. §1101(a)(38) is a codification of never got updated after Alaska and Hawaii joined the Union. Do you agree? How can one provide legal proof of this? This proof needs to go into your materials since this is such a key and pivotal issue to understanding your correct political and civil status. It appears that the wording used in 8 U.S.C. §1101(a)(38) is designed to obfuscate and confuse most people into thinking that it is describing United States* when in fact is it describing only a portion of United States** If this section of code is out of date, why has Congress never updated it to remove Alaska and Hawaii from the definition of "United States"?

The definitions that lead to this question are as follows:

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8 U.S.C. §1101(a)(38)

The term "United States", except as otherwise specifically herein provided, when used in a geographical sense, means the continental United States, <u>Alaska, Hawaii</u>, Puerto Rico, Guam, and the Virgin Islands of the United States.

8 U.S.C. §1101(a)(36)

The term "State" includes the District of Columbia, Puerto Rico, Guam, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands.

8 C.F.R. §215.1(f)

The term continental United States means the District of Columbia and the several States, except Alaska and Hawaii.

In response to this question, we offer the following explanation:

- The U.S. Supreme Court has held that a "national and citizen of the United States at birth" in 8 U.S.C. §1401 does NOT include state citizens under the Fourteenth Amendment. See Rogers v. Bellei, 401 U.S. 815 (1971). Hence, the "United States" they are referring to in 8 U.S.C. §1401 CANNOT include constitutional states of the Union.
- 2. 40 U.S.C. §§3111 and 3112 say that federal jurisdiction does not exist within a state except on land ceded to the national government. Hence, no matter what the geographical definitions are, they do not include anything other than federal territory.
- 3. It is a legal impossibility to have more than one domicile and if you are domiciled in a state of the Union, then you are domiciled OUTSIDE of federal territory and federal civil jurisdiction. See:

<u>Why Domicile and Becoming a "Taxpayer" Require Your Consent,</u> Form #05.002 http://sedm.org/Forms/FormIndex.htm

4. All statutory terms are limited to territory over which Congress has EXCLUSIVE GENERAL (RATHER than subject matter) jurisdiction. All of the statuses indicted in the statutes (including those in 8 U.S.C. §§1401 and 1408) STOP at the border to federal territory and do not apply within states of the Union. One cannot have a status in a place that they are not civilly domiciled, and especially a status that they do NOT consent to and to which rights and obligations attach. Otherwise, the Declaration of Independence is violated because they are subjected to obligations that they didn't consent to and are a slave. This is proven in:

Your Exclusive Right to Declare or Establish Your Civil Status, Form #13.008

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

DIRECT LINK: http://sedm.org/Forms/13-SelfFamilyChurchGovnce/RightToDeclStatus.pdf

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1 2	5.	As the U.S. Supreme Court held, all law is prima facie territorial and confined to the territory of the specific state. The states of the Union are NOT "territory" as legally defined.
3		Volume 86, Corpus Juris Secundum Legal Encyclopedia
4 5		Territories §1. Definitions, Nature, and Distinctions
6		The word 'territory,' when used to designate a political organization has a distinctive, fixed, and legal meaning
7		under the political institutions of the United States[***], and does not necessarily include all the territorial
8		possessions of the United States[**], but may include only the portions thereof which are organized and
9		exercise governmental functions under act of congress."
10		While the term 'territory' is often loosely used, and has even been construed to include municipal subdivisions of
11		a territory, and 'territories of the' United States[**] is sometimes used to refer to the entire domain over which
12		the United States[**] exercises dominion, the word 'territory,' when used to designate a political organization,
13		has a distinctive, fixed, and legal meaning under the political institutions of the United States[$**$], and the term
14		'territory' or 'territories' does not necessarily include only a portion or the portions thereof which are organized
15		and exercise government functions under acts of congress. The term 'territories' has been defined to be political
16		subdivisions of the outlying dominion of the United States[**], and in this sense the term 'territory' is not a
17		description of a definite area of land but of a political unit governing and being governed as such. The question
18		whether a particular subdivision or entity is a territory is not determined by the particular form of government
19		with which it is, more or less temporarily, invested.
20		'Territories' or 'territory' as including 'state' or 'states.'' While the term 'territories of the' United States[**]
21		may, under certain circumstances, include the states of the Union, as used in the federal Constitution and in
22		ordinary acts of congress "territory" does not include a <u>foreign state</u> .
23		As used in this title, the term 'territories' generally refers to the political subdivisions created by congress, and
24		not within the boundaries of any of the several states.
25		[86 Corpus Juris Secundum (C.J.S.), Territories (2003)]
26		Therefore, all of the civil statuses found in Title 8 of the U.S. Code do not extend into or relate to anyone civilly
27		domiciled in a constitutional state, regardless of what the definition of "United States" is and whether it is
28		GEOGRAPHICAL or GOVERNMENT sense.
29		"It is a well established principle of law that all federal regulation applies only within the territorial jurisdiction
30		of the United States unless a contrary intent appears."
31		[Foley Brothers, Inc. v. Filardo, 336 U.S. 281 (1949)]
32		"The laws of Congress in respect to those matters [outside of Constitutionally delegated powers] do not extend
33		into the territorial limits of the states, but have force only in the District of Columbia, and other places that are
34		within the exclusive jurisdiction of the national government.")
35		[Caha v. U.S., 152 U.S. 211 (1894)]
36		"There is a canon of legislative construction which teaches Congress that, unless a contrary intent appears
37		[legislation] is meant to apply only within the territorial jurisdiction of the United States.")
38		[U.S. v. Spelar, 338 U.S. 217 at 222]
39	6.	The U.S. Supreme Court has held that Congress enjoys no legislative jurisdiction within a constitutional state. Hence,
40		those in constitutional states can have no civil "status" under the laws of Congress. There are a few RARE exceptions
		to this, and all of them relate to CONSTITUTIONAL remedies. For instance 42 U.S.C. §1983 implements provisions
41 42		of the Fourteenth Amendment, so "person" in that statute can also include state nationals. See Litigation Tool #08.008
		. 1
43		for details on this exception.
44		"The difficulties arising out of our dual form of government and the opportunities for differing opinions
45		concerning the relative rights of state and national governments are many; but for a very long time this court
46		has steadfastly adhered to the doctrine that the taxing power of Congress does not extend to the states or their
47		political subdivisions. The same basic reasoning which leads to that conclusion, we think, requires like limitation
48		upon the power which springs from the bankruptcy clause. United States v. Butler, supra."
49		[Ashton v. Cameron County Water Improvement District No. 1, 298 U.S. 513, 56 S.Ct. 892 (1936)]
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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."

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12.2. The U.S. Supreme Court has never identified income taxation under 26 U.S.C. Subtitles A and C as an Article 1, Section 8 power related to subject matter jurisdiction. We have also NEVER found any evidence that it is a constitutional power other than the Sixteenth Amendment.

12.3. The Sixteenth Amendment did not grant Congress ANY new taxing power that it didn't already have over any new subject or person:

> "..by the previous ruling it was settled that the provisions of the Sixteenth Amendment conferred no new power of taxation but simply prohibited the previous complete and plenary 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 and being placed in the category of direct taxation subject to apportionment by a consideration of the sources from which the income was derived, that is by testing the tax not by what it was -- a tax on income, but by a mistaken theory deduced from the origin or source of the income taxed. [Stanton v. Baltic Mining Co., 240 U.S. 103 (1916)]

The whole point of Title 8 is confuse state citizens with territorial citizens and to thereby usurp jurisdiction over them and commit criminal identity theft. The tools for usurping that jurisdiction are described in:

Federal Jurisdiction, Form #05.018 http://sedm.org/Forms/FormIndex.htm

A citizen of the District of Columbia is certainly within the meaning of 8 U.S.C. §1401. All you do by trying to confuse THAT citizen with a state citizen is engage in the Stockholm Syndrome and facilitate identity theft of otherwise sovereign state nationals by thieves in the District of Criminals. If you believe that an 8 U.S.C. §1401 "national and citizen of the United States" includes state citizens, then you have the burden of describing WHERE those domiciled in federal territory are described in Title 8, because the U.S. Supreme Court held that these two types of citizens are NOT the same. Where is your proof?

> "The 1st section of the 14th article [Fourteenth Amendment], to which our attention is more specifically invited, opens with a definition of citizenship—not only citizenship of the United States[***], but citizenship of the states. No such definition was previously found in the Constitution, nor had any attempt been made to define it by act of Congress. It had been the occasion of much discussion in the courts, by the executive departments and in the public journals. It had been said by eminent judges that no man was a citizen of the United States[***] except as he was a citizen of one of the states composing the Union. Those therefore, who had been born and resided always in the District of Columbia or in the territories, though within the United States[*], were not citizens. Whether this proposition was sound or not had never been judicially decided. [Slaughter-House Cases, 83 U.S. (16 Wall.) 36, 21 L.Ed. 394 (1873)]

> The Court today holds that the Citizenship Clause of the Fourteenth Amendment has no application to Bellei [an 8 U.S.C. §1401 STATUTORY citizen]. The Court first notes that Afroyim was essentially a case construing the Citizenship Clause of the Fourteenth Amendment. Since the Citizenship Clause declares that: 'All persons born or naturalized in the United States * * * are citizens of the United States * * *.' the Court reasons that the protections against involuntary expatriation declared in Afroyim do not protect all American citizens, but only those 'born or naturalized in the United States.' Afroyim, the argument runs, was naturalized in this country so he was protected by the Citizenship Clause, but Bellei, since he acquired his American citizenship at birth in Italy as a foreignborn child of an American citizen, was neither born nor naturalized in the United States and, hence, falls outside the scope of the Fourteenth Amendment guarantees declared in Afroyim. One could hardly call this a generous reading of the great purposes the Fourteenth Amendment was adopted to bring about. While conceding that Bellei is an American citizen, the majority states: 'He simply is not a Fourteenth-Amendmentfirst-sentence citizen.' Therefore, the majority reasons, the congressional revocation of his citizenship is not barred by the Constitution. I cannot accept the Court's conclusion that the Fourteenth Amendment protects the citizenship of some Americans and not others. [...]

> The Court today puts aside the Fourteenth Amendment as a standard by which to measure congressional action with respect to citizenship, and substitutes in its place the majority's own vague notions of 'fairness.' The majority takes a new step with the recurring theme that the test of constitutionality is the Court's own view of what is 'fair, reasonable, and right.' Despite the concession that Bellei was admittedly an American citizen, and despite the holding in Afroyim that the Fourteenth Amendment has put citizenship, once conferred, beyond the power of Congress to revoke, the majority today upholds the revocation of Bellei's citizenship on the ground that the congressional action was not 'irrational or arbitrary or unfair.' The majority applies the 'shock-theconscience' test to uphold, rather than strike, a federal statute. It is a dangerous concept of constitutional law

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1	that allows the majority to conclude that, because it cannot say the statute is 'irrational or arbitrary or unfair,'
2	the statute must be constitutional.
3	[]
4	Since the Court this Term has already downgraded citizens receiving public welfare, Wyman v. James, 400 U.S.
5	309, 91 S.Ct. 381, 27 L.Ed.2d. 408 (1971), and citizens having the misfortune to be illegitimate, Labine v. Vincent,
6	401 U.S. 532, 91 S.Ct. 1917, 28 L.Ed.2d. 288, I suppose today's decision downgrading citizens born outside the
7	United States should have been expected. Once again, as in James and Labine, the Court's opinion makes evident
8	that its holding is contrary to earlier decisions. Concededly, petitioner was a citizen at birth, not by constitutional
9	right, but only through operation of a federal statute.
0	[Rogers v. Bellei, 401 U.S. 815 (1971)]

In summary, all of the above items cannot simultaneously be true and at the same time, the geographical "United States" including states of the Union within any act of Congress. The truth cannot conflict with itself or it is a LIE. Any attempt to rebut the evidence and resulting conclusions of fact and law within this section must therefore deal with ALL of the issues addressed and not cherry pick the ones that are easy to explain.

Our conclusion is that the United States**, the area over which the EXCLUSIVE sovereignty of the United States government extends, is divided into two areas in which one can establish their domicile:

1. American Samoa and

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2. "United States" as described in 8 U.S.C. §1101(a)(38), (a)(36), and 8 C.F.R. §215.1(f).

This is very clear after looking at 8 U.S.C. §1401 and 8 U.S.C. §1408. The term "United States" described in 8 U.S.C. §1101(a)(38), (a)(36), and 8 C.F.R. §215.1(f) is not the inhabited area of United States**, but rather it is one of the two areas within United States** that one can establish a domicile in. The inhabited areas of the United States** would be "United States" per 8 U.S.C. §1101(a)(38) AND American Samoa. Those born in "United States**" are STATUTORY "citizens of the "United States**", where "United States**" is described in 8 U.S.C. §1101(a)(38). They are also STATUTORY "nationals of United States**" per 8 U.S.C. §1401 and 8 U.S.C. §1101(a)(22).

Those born in American Samoa are "non-citizens of the "United States** at birth", where "United States" is described in 8 U.S.C. §1101(a)(38). United States** is described in 8 U.S.C. §1101(a)(38) and includes American Samoa, Swains Island, all of the uninhabited territories of the U.S., and federal enclaves within the exterior borders of the Constitutional Union states.

For further supporting evidence about the subject of this section, see:

<u>Tax Deposition Questions</u>, Form #03.016, Section 14: Citizenship http://sedm.org/Forms/FormIndex-SinglePg.htm

11.8.5 Why the CONSTITUTIONAL Geographical "United States" does NOT include federal territory

The case of Valmonte v. I.N.S., 136 F.3d. 914 (C.A.2, 1998) very clearly determines that the CONSTITUTIONAL "United States", when used in a GEOGRAPHICAL context, means states of the Union and EXCLUDES federal territories. Below is the text of that holding:

The principal issue in this petition is the territorial scope of the term "the United States" in the Citizenship Clause of the Fourteenth Amendment. U.S. Const. amend. XIV, § 1 ("All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside." (emphasis added)). Petitioner, who was born in the Philippines in 1934 during its status as a United States territory, argues she was "born ... in the United States" and is therefore a United States citizen. 107

Petitioner's argument is relatively novel, having been addressed previously only in the Ninth Circuit. See Rabang v. INS, 35 F.3d 1449, 1452 (9th Cir.1994) ("No court has addressed whether persons born in a United States

EXHIBIT:____

¹⁰⁷ Although this argument was not raised before the immigration judge or on appeal to the BIA, it may be raised for the first time in this petition. See INA, supra, § 106(a)(5), 8 U.S.C. §1105a(a)(5).

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territory are born 'in the United States,' within the meaning of the Fourteenth Amendment."), cert. denied sub nom. Sanidad v. INS, 515 U.S. 1130, 115 S.Ct. 2554, 132 L.Ed.2d. 809 (1995). In a split decision, the Ninth Circuit held that "birth in the Philippines during the territorial period does not constitute birth 'in the United States' under the Citizenship Clause of the Fourteenth Amendment, and thus does not give rise to United States citizenship." Rabang, 35 F.3d at 1452. We agree. 1

Despite the novelty of petitioner's argument, the Supreme Court in the Insular Cases 109 provides authoritative guidance on the territorial scope of the term "the United States" in the Fourteenth Amendment. The Insular Cases were a series of Supreme Court decisions that addressed challenges to duties on goods transported from Puerto Rico to the continental United States. Puerto Rico, like the Philippines, had been recently ceded to the United States. The Court considered the territorial scope of the term "the United States" in the Constitution and held that this term as used in the uniformity clause of the Constitution was territorially limited to the states of the Union. U.S. Const. art. I, § 8 ("[A]ll Duties, Imposts and Excises shall be uniform throughout the United States." (emphasis added)); see Downes v. Bidwell, 182 U.S. 244, 251, 21 S.Ct. 770, 773, 45 L.Ed. 1088 (1901) ("[I]t can nowhere be inferred that the territories were considered a part of the United States. The Constitution was created by the people of the United States, as a union of States, to be governed solely by representatives of the States; ... In short, the Constitution deals with States, their people, and their representatives."); Rabang, 35 F.3d at 1452. Puerto Rico was merely 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, 182 U.S. at 287, 21 S.Ct. at 787.

The Court's conclusion in Downes was derived in part by analyzing the territorial scope of the Thirteenth and Fourteenth Amendments. The Thirteenth Amendment prohibits slavery and involuntary servitude "within the United States, or any place subject to their jurisdiction." U.S. Const. amend. XIII, § 1 (emphasis added). The Fourteenth Amendment states that persons "born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside." U.S. Const. amend XIV, § 1 (emphasis added). The disjunctive "or" in the Thirteenth Amendment demonstrates that "there may be places within the jurisdiction of the United States that are no[t] part of the Union" to which the Thirteenth Amendment would apply. Downes, 182 U.S. at 251, 21 S.Ct. at 773. Citizenship under the Fourteenth Amendment, however, "is not extended to persons born in any place 'subject to [the United States '] jurisdiction,'" but is limited to persons born or naturalized in the states of the Union. Downes, 182 U.S. at 251, 21 S.Ct. at 773 (emphasis added); see also id. at 263, 21 S.Ct. at 777 ("[I]n dealing with foreign sovereignties, the term 'United States' has a broader meaning than when used in the Constitution, and includes all territories subject to the jurisdiction of the Federal government, wherever located."). 110

Following the decisions in the Insular Cases, the Supreme Court confirmed that the Philippines, during its status as a United States territory, was not a part of the United States. See Hooven & Allison Co. v. Evatt, 324 U.S. 652, 678, 65 S.Ct. 870, 883, 89 L.Ed. 1252 (1945) ("As we have seen, [the Philippines] are not a part of the United States in the sense that they are subject to and enjoy the benefits or protection of the Constitution, as do the states which are united by and under it."); see id. at 673-74, 65 S.Ct. at 881 (Philippines "are territories belonging to, but not a part of, the Union of states under the Constitution," and therefore imports "brought from the Philippines into the United States ... are brought from territory, which is not a part of the United States, into the territory of the United States.").

Accordingly, the Supreme Court has observed, without deciding, that persons born in the Philippines prior to its independence in 1946 are not [CONSTITUTIONAL] citizens of the United States. See Barber v. Gonzales, 347 U.S. 637, 639 n. 1, 74 S.Ct. 822, 823 n. 1, 98 L.Ed. 1009 (1954) (stating that although the inhabitants of the Philippines during the territorial period were "nationals" of the United States, they were not "United States citizens"); Rabang v. Boyd, 353 U.S. 427, 432 n. 12, 77 S.Ct. 985, 988 n. 12, 1 L.Ed.2d. 956 (1957) ("The inhabitants of the Islands acquired by the United States during the late war with Spain, not being citizens of

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¹⁰⁸ For the purpose of deciding this petition, we address only the territorial scope of the phrase "the United States" in the Citizenship Clause. We do not consider the distinct issue of whether citizenship is a "fundamental right" that extends by its own force to the inhabitants of the Philippines under the doctrine of territorial incorporation. Dorr v. United States, 195 U.S. 138, 146, 24 S.Ct. 808, 812, 49 L.Ed. 128 (1904) ("Doubtless Congress, in legislating for the Territories would be subject to those fundamental limitations in favor of personal rights which are formulated in the Constitution and its amendments." (citation and internal quotation marks omitted)); Rabang, 35 F.3d at 1453 n. 8 ("We note that the territorial scope of the phrase 'the United States' is a distinct inquiry from whether a constitutional provision should extend to a territory." (citing Downes v. Bidwell, 182 U.S. 244, 249, 21 S.Ct. 770, 772, 45 L.Ed. 1088 (1901))). The phrase "the United States" is an express territorial limitation on the scope of the Citizenship Clause. Because we determine that the phrase "the United States" did not include the Philippines during its status as a United States territory, we need not determine the application of the Citizenship Clause to the Philippines under the doctrine of territorial incorporation. Cf. United States v. Verdugo-Urquidez, 494 U.S. 259, 291 n. 11, 110 S.Ct. 1056, 1074 n. 11, 108 L.Ed.2d 222 (1990) (Brennan, J., dissenting) (arguing that the Fourth Amendment may be applied extraterritorially, in part, because it does not contain an "express territorial limitation[]").

¹⁰⁹ De Lima v. Bidwell, 182 U.S. 1, 21 S.Ct. 743, 45 L.Ed. 1041 (1901); Dooley v. United States, 182 U.S. 222, 21 S.Ct. 762, 45 L.Ed. 1074 (1901); Armstrong v. United States, 182 U.S. 243, 21 S.Ct. 827, 45 L.Ed. 1086 (1901); and Downes v. Bidwell, 182 U.S. 244, 21 S.Ct. 770, 45 L.Ed. 1088 (1901).

¹¹⁰ Congress, under the Act of February 21, 1871, ch. 62, § 34, 16 Stat. 419, 426, expressly extended the Constitution and federal laws to the District of Columbia. See Downes, 182 U.S. at 261, 21 S.Ct. at 777 (stating that the "mere cession of the District of Columbia" from portions of Virginia and Maryland did not "take [the District of Columbia] out of the United States or from under the aegis of the Constitution.").

Petitioner, notwithstanding this line of Supreme Court authority since the Insular Cases, argues that the Fourteenth Amendment codified English common law principles that birth within the territory or dominion of a sovereign confers citizenship. Because the United States exercised complete sovereignty over the Philippines during its territorial period, petitioner asserts that she is therefore a citizen by virtue of her birth within the territory and dominion of the United States. Petitioner argues that the term "the United States" in the Fourteenth Amendment should be interpreted to mean "within the dominion or territory of the United States." Rabang, 35 F.3d at 1459 (Pregerson, J., dissenting); see United States v. Wong Kim Ark, 169 U.S. 649, 693, 18 S.Ct. 456, 473-74, 42 L.Ed. 890 (1898) (relying on the English common law and holding that the Fourteenth Amendment "affirms the ancient and fundamental rule of citizenship by birth within the territory, in the allegiance and under the protection of the country" (emphasis added)); Inglis v. Sailors' Snug Harbour, 28 U.S. (3 Pet.) 99, 155, 7 L.Ed. 617 (1830) (Story, J., concurring and dissenting) (citizenship is conferred by "birth locally within the dominions of the sovereign; and ... birth within the protection and obedience ... of the sovereign").

We decline petitioner's invitation to construe Wong Kim Ark and Inglis so expansively. Neither case is reliable authority for the citizenship principle petitioner would have us adopt. The issue in Wong Kim Ark was whether a child born to alien parents in the United States was a citizen under the Fourteenth Amendment. That the child was born in San Francisco was undisputed and "it [was therefore] unnecessary to define 'territory' rigorously or decide whether 'territory' in its broader sense (i.e. outlying land subject to the jurisdiction of this country) meant 'in the United States' under the Citizenship Clause." Rabang, 35 F.3d at 1454. Similarly, in Inglis, a pre-Fourteenth Amendment decision, the Court considered whether a person, born in the colonies prior to the Declaration of Independence, whose parents remained loyal to England and left the colonies after independence, was a United States citizen for the purpose of inheriting property in the United States. Because the person's birth within the colonies was undisputed, it was unnecessary in that case to consider the territorial scope of common law citizenship.

The question of the Fourteenth Amendment's territorial scope was not before the Court in Wong Kim Ark or Inglis and we will not construe the Court's statements in either case as establishing the citizenship principle that a person born in the outlying territories of the United States is a United States citizen under the Fourteenth Amendment. See Rabang, 35 F.3d at 1454. "[G]eneral expressions, in every opinion, are to be taken in connection with the case in which those expressions are used. If they go beyond the case, they may be respected, but ought not to control the judgment in a subsequent suit when the very point is presented for decision." Cohens v. Virginia, 19 U.S. (6 Wheat.) 264, 399, 5 L.Ed. 257 (1821) (Marshall, C.J.).

In sum, persons born in the Philippines during its status as a United States territory were not "born ... in the United States" under the Fourteenth Amendment. Rabang, 35 F.3d at 1453 (Fourteenth Amendment has an "express territorial limitation which prevents its extension to every place over which the government exercises its sovereignty."). Petitioner is therefore not a United States citizen by virtue of her birth in the Philippines during its territorial period.

Petitioner makes several additional arguments that we address and dispose of quickly. First, contrary to petitioner's argument, Congress' classification of the inhabitants of the Philippines as "nationals" during the Philippines' territorial period did not violate the Thirteenth Amendment. The Thirteenth Amendment "proscribe[s] conditions of 'enforced compulsory service of one to another.' "Jobson v. Henne, 355 F.2d. 129, 131 (2d Cir.1966) (quoting Hodges v. United States, 203 U.S. 1, 16, 27 S.Ct. 6, 8, 51 L.Ed. 65 (1906)).

Furthermore, contrary to petitioner's argument, Congress had the authority to classify her as a "national" and then reclassify her as an alien to whom the United States immigration laws would apply. Congress' authority to determine petitioner's political and immigration status was derived from three sources. Under the Constitution, Congress has authority to "make all needful Rules and Regulations respecting the Territory ... belonging to the United States," see U.S. Const. art. IV, § 3, cl. 2, and "Itlo establish an uniform Rule of Naturalization," id. art. I, § 8, cl.4. The Treaty of Paris provided that "the civil rights and political status of the native inhabitants ... shall be determined by Congress." Treaty of Paris, supra, art. IX, 30 Stat. at 1759. This authority was confirmed in Downes where the Supreme Court stated that the "power to acquire territory by treaty implies not only the power to govern such territory, but to prescribe upon what terms the United States will receive its inhabitants, and what their status shall be." Downes, 182 U.S. at 279, 21 S.Ct. at 784; see Rabang v. Boyd, 353 U.S. 427, 432, 77 S.Ct. 985, 988, 1 L.Ed.2d. 956 (1957) (rejecting argument that Congress did not have authority to alter the immigration status of persons born in the Philippines).

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¹¹¹ This point is well illustrated by the Court's ambiguous pronouncements on the territorial scope of common law citizenship. See Rabang, 35 F.3d at 1454; compare Wong Kim Ark, 169 U.S. at 658, 18 S.Ct. at 460 (under the English common law, "every child born in England of alien parents was a natural-born subject" (emphasis added)), and id. at 661, 18 S.Ct. at 462 ("Persons who are born in a country are generally deemed citizens and subjects of that country." (citation and internal quotation marks omitted; emphasis added)), with id. at 667, 18 S.Ct. at 464 (citizenship is conferred by "birth within the dominion").

Congress' reclassification of Philippine "nationals" to alien status under the Philippine Independence Act was not tantamount to a "collective denaturalization" as petitioner contends. See Afroyim v. Rusk, 387 U.S. 253, 257, 87 S.Ct. 1660, 1662, 18 L.Ed.2d. 757 (1967) (holding that Congress has no authority to revoke United States citizenship). Philippine "nationals" of the United States were not naturalized United States citizens. See Manlangit v. INS, 488 F.2d. 1073, 1074 (4th Cir.1973) (holding that Afroyim addressed the rights of a naturalized American citizen and therefore does not stand as a bar to Congress' authority to revoke the noncitizen, "national" status of the Philippine inhabitants).

[Valmonte v. I.N.S., 136 F.3d. 914 (C.A.2, 1998)]

11.8.6 Meaning of "United States" in various contexts within the U.S. Code

11.8.6.1 <u>Tabular summary</u>

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Next, we must conclusively determine which "United States" is implicated in various key sections of the U.S. Code and supporting regulations. Below is a tabular list that describes its meaning in various contexts, the reason why we believe that meaning applies, and the authorities that prove it.

Table 14: Meaning of "United States" in various contexts

#	Code section	Term	Meaning	Authorities	Reason
1	8 U.S.C. §1101(a)(38)	Geographical "United States" defined	United States**	8 U.S.C. §1101(a)(36) defines "State" to EXCLUDE constitutional states.	
2	8 U.S.C. §1101(a)(38)	"continental United States"	United States**		
3	8 U.S.C. §1101(a)(22)	"national of the United States" defined	United States**		Allegiance is not territorial, but political.
4	8 U.S.C. §1101(a)(22)(A)	"citizen of the United States" referenced	United States**		Uses the same phrase as 8 U.S.C. §1421 and therefore must be the same.
5	8 U.S.C. §1101(a)(22)(B)	"a person who, though not a citizen of the United States, owes permanent allegiance to the United States"	United States**	Marquez-Almanzar v. INS, 418 F.3d. 210 (2005) Oliver v. INS, 517 F.2d. 426, 427 (2d Cir.1975)	Allegiance is not territorial, but political.
6	8 U.S.C. §1401	"national and citizen of the United States at birth" defined	United States**	Rogers v. Bellei, 401 U.S. 815 (1971)	"citizen" in this section is a revocable privilege. Rights cannot be revoked but privileges can.
7	8 U.S.C. §1408	"non-citizen national of the United States at birth" defined	United States**	Tuaua v. U.S.A, 951 F.Supp.2d. 88 (2013)	
8	8 U.S.C. §1421	"citizens of the United States" referenced	United States***	Eche v. Holder, 694 F.3d. 1026 (2012)	Naturalization is available ONLY in states of the Union or the "United States". Not available in unincorporated territories. Territorial citizens have to travel to constitutional states to be naturalized and become state nationals.
9	8 U.S.C. §1452(a)	"United States citizenship"	United States**	Earley v. Hershey Transit Co., D.C. Pa., 55 F.Supp. 981, 982 Standard Stoker Co. v. Lower, D.C.Md., 46 F.2d. 678, 683	
10	8 U.S.C. §1452(b)	"non-citizen national" referenced	United States**	Black's Law Dictionary, Sixth Edition, p. 517 ("ejusdem generis") Campbell v. Board of Dental Examiners, 53 Cal.App.3d. 283, 125 Cal.Rptr. 694, 696	
11	8 C.F.R. §215.1(e)	"United States" defined for "aliens" ONLY	United States*		Section refers to departing aliens, which Congress has jurisdiction over throughout the country. U.S. Const. Art. 1, Section 8, Clause 4
12	Fourteenth Amendment	"citizen of the United States"	United States***	Downes v. Bidwell, 182 U.S. 244 (1901) O'Donoghue v. United States, 289 U.S. 516, 53 S.Ct. 740 (1933)	Geographical "United States" in the contexts means states of the Union and excludes federal territory. See Why the Fourteenth Amendment is Not a Threat to Your Freedom, Form #08.015
13	26 C.F.R. §1.1-1(c)	"citizen"	United States**	8 U.S.C. §1401	26 C.F.R. §1.1-1(c) says "subject to IT'S jurisdiction" rather than "subject to THE jurisdiction". It also references 8 U.S.C. §1401.
14	26 U.S.C. §7701(a)(30)	"citizen" in the context of Title 26	United States**	26 C.F.R. §1.1-1(c) 26 U.S.C. §7701(a)(9) and (a)(10)	"United States" for the purposes of 26 U.S.C. §7701(a)(9) and (a)(10) and 4 U.S.C. §110(d) do not include constitutional statues. Therefore this citizen is domiciled on federal territory not within a constitutional state.

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11.8.6.2 **Supporting evidence**

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- Below is a list of the content of some of the above authorities showing the meaning of each status:
- Geographical "United States**", 8 U.S.C. §1101(a)(38).

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TITLE 8 > CHAPTER 12 > SUBCHAPTER 1 > Sec. 1101. [Aliens and Nationality]
4
                          Sec. 1101. - Definitions
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(a)(36): State [Aliens and Nationality]

The term "State" includes the District of Columbia, Puerto Rico, Guam, and the Virgin Islands of the United

"continental United States**", 8 U.S.C. §1101(a)(38).

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TITLE 8 > CHAPTER 12 > SUBCHAPTER I > Sec. 1101. [Aliens and Nationality]
Sec. 1101. - Definitions
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(a)(38) The term "United States", except as otherwise specifically herein provided, when used in a geographical sense, means the continental United States, Alaska, Hawaii, Puerto Rico, Guam, and the Virgin Islands of the United States.

"citizen of the United States**", 8 U.S.C. §1101(a)(22)(A).

"Like the constitutional clauses at issue in Rabang and Downes, the Naturalization Clause is expressly limited to the "United States[***]." This limitation "prevents its extension to every place over which the government exercises its sovereignty." Rabang, 35 F.3d. at 1453. Because the Naturalization Clause did not follow the flag to the CNMI when Congress approved the Covenant, the Clause does not require us to apply federal immigration $law\ to\ the\ CNMI\ prior\ to\ the\ CNRA's\ transition\ date.$

The district court correctly granted summary judgment on the merits to the government Defendants. Eche and Lo may, of course, submit new applications for naturalization once they have satisfied the statutory requirements." [Eche v. Holder, 694 F.3d. 1026]

"a person who, though not a citizen of the United States**, owes permanent allegiance to the United States**", 8 U.S.C. §1101(a)(22)(B).

> We have previously indicated that Marquez-Almanzar's construction of § 1101(a)(22)(B) is erroneous, but have not addressed the issue at length. In Oliver v. INS, 517 F.2d. 426, 427 (2d Cir.1975) (per curiam), the petitioner, as a defense to deportation, argued that she qualified as a U.S. [*] national under § 1101(a)(22) (B) because she had resided exclusively in the United States for twenty years, and thus "'owe[d] allegiance" to the United States[*]. Without extensively analyzing the statute, we found that the petitioner could not be "a `national' as that term is understood in our law." Id. We pointed out that the petitioner still owed allegiance to Canada (her country of birth and citizenship) because she had not taken the U.S. naturalization oath, to "`renounce and abjure absolutely and entirely all allegiance and fidelity to any [foreign state of] ... which the petitioner was before a subject or citizen." Id. at 428 (quoting INA \$337(a)(2), 8 U.S.C. \$1448(a)(2)). In making this observation, we did not suggest that the petitioner in Oliver could have qualified as a U.S. [*] national by affirmatively renouncing her allegiance to Canada or otherwise swearing "permanent allegiance" to the United States. In fact, in the following sentence we said that Title III, Chapter 1 of the INA9 "indicates that, with a few exceptions not here pertinent, one can satisfy [8 U.S.C. §1101(a)(22)(B)] only at birth; thereafter the road lies through naturalization, which leads to becoming a citizen and not merely a `national.'"10 Id. at 428.

> Our conclusion in Oliver, which we now reaffirm, is consistent with the clear meaning of 8 U.S.C. \$1101(a)(22)(B), read in the context of the general statutory scheme. The provision is a subsection of 8 U.S.C. §1101(a). Section 1101(a) defines various terms as they are used in our immigration and nationality laws, U.S.Code tit. 8, ch. 12, codified at 8 U.S.C. §§1101-1537. The subsection's placement indicates that it was designed to describe the attributes of a person who has already been deemed a non-citizen national elsewhere in Chapter 12 of the U.S.Code, rather than to establish a means by which one may obtain that status. For example, 8 U.S.C. §1408, the only statute in Chapter 12 expressly conferring "non-citizen national" status on anyone, describes four categories of persons who are "nationals, but not citizens, of the United States[**] at

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birth." All of these categories concern persons who were either born in an "outlying possession" of the United States[**], see 8 U.S.C. §1408(1), or "found" in an "outlying possession" at a young age, see id. § 1408(3), or who are the children of non-citizen nationals, see id. §§ 1408(2) & (4).11 Thus, § 1408 establishes a category of persons who qualify as non-citizen nationals; those who qualify, in turn, are described by § 1101(a)(22)(B) as owing "permanent allegiance" to the United States[*]. In this context the term "permanent allegiance" merely describes the nature of the relationship between non-citizen nationals and the United States, a relationship that has already been created by another statutory provision. See Barber v. Gonzales, 347 U.S. 637, 639, 74 S.Ct. 822, 98 L.Ed. 1009 (1954) ("It is conceded that respondent was born a national of the United States; that as such he owed permanent allegiance to the United States..."); cf. Philippines Independence Act of 1934, § 2(a)(1), Pub.L. No. 73-127, 48 Stat. 456 (requiring the Philippines to establish a constitution providing that "pending the final and complete withdrawal of the sovereignty of the United States[,] ... [a]ll citizens of the Philippine Islands shall owe allegiance to the United States").

Other parts of Chapter 12 indicate, as well, that §1101(a)(22) (B) describes, rather than confers, U.S. [*] nationality. The provision immediately following § 1101(a)(22) defines "naturalization" as "the conferring of nationality of a state upon a person after birth, by any means whatsoever." 8 U.S.C. §1101(a)(23). If Marquez-Almanzar were correct, therefore, one would expect to find "naturalization by a demonstration of permanent allegiance" in that part of the U.S.Code entitled "Nationality Through Naturalization," see INA tit. 8, ch. 12, subch. III, pt. II, codified at 8 U.S.C. §§1421-58. Yet nowhere in this elaborate set of naturalization requirements (which contemplate the filing by the petitioner, and adjudication by the Attorney General, of an application for naturalization, see, e.g., 8 U.S.C. §§1427, 1429), did Congress even remotely indicate that a demonstration of "permanent allegiance" alone would allow, much less require, the Attorney General to confer U.S. national status on an individual.

Finally, the interpretation of the statute underlying our decision in Oliver comports with the historical meaning of the term "national" as it is used in Chapter 12. The term (which as §§ 1101(a)(22)(B))American War, namely the Philippines, Guam, and Puerto Ricoin the early twentieth century, who were not granted U.S. [***] citizenship, yet were deemed to owe "permanent allegiance" to the United States[***] and recognized as members of the national community in a way that distinguished them from aliens. See 7 Charles Gordon et al., Immigration Law and Procedure, §91.01[3] (2005); see also Rabang v. Boyd, 353 U.S. 427, 429-30, 77 S.Ct. 985, 1 L.Ed.2d. 956 (1957) ("The Filipinos, as nationals, owed an obligation of permanent allegiance to this country. . . . In the [Philippine Independence Act of 1934], the Congress granted full and complete independence to [the Philippines], and necessarily severed the obligation of permanent allegiance owed by Filipinos who were nationals of the United States."). The term "non-citizen national" developed within a specific historical context and denotes a particular legal status. The phrase "owes permanent allegiance" in § 1101(a)(22)(B) is thus a term of art that denotes a legal status for which individuals have never been able to qualify by demonstrating permanent allegiance, as that phrase is colloquially understood.12 [Marquez-Almanzar v. INS, 418 F.3d. 210 (2005)]

"national and citizen of the United States** at birth", 8 U.S.C. §1401. See Form #05.006, Section 5.1.

The Court today holds that the Citizenship Clause of the Fourteenth Amendment has no application to Bellei. The Court first notes that Afroyim was essentially a case construing the Citizenship Clause of the Fourteenth Amendment. Since the Citizenship Clause declares that: 'All persons born or naturalized in the United States[***] are citizens of the United States[***].' the Court reasons that the protections against involuntary expatriation declared in Afroyim do not protect all American citizens, but only those 'born or naturalized in the United States.' Afroyim, the argument runs, was naturalized in this country so he was protected by the Citizenship Clause, but Bellei, since he acquired his American citizenship at birth in Italy as a foreignborn child of an American citizen, was neither born nor naturalized in the United States[***] and, hence, falls outside the scope of the Fourteenth Amendment guarantees declared in Afroyim. One could hardly call this a generous reading of the great purposes the Fourteenth Amendment was adopted to bring about.

While conceding that Bellei is an American citizen, the majority states: 'He simply is not a Fourteenth-Amendment-first-sentence citizen.' Therefore, the majority reasons, the congressional revocation of his citizenship is not barred by the Constitution. I cannot accept the Court's conclusion that the Fourteenth Amendment protects the citizenship of some Americans and not others.

[...]

The Court today puts aside the Fourteenth Amendment as a standard by which to measure congressional action with respect to citizenship, and substitutes in its place the majority's own vague notions of 'fairness.' The majority takes a new step with the recurring theme that the test of constitutionality is the Court's own view of what is 'fair, reasonable, and right.' Despite the concession that Bellei was admittedly an American citizen, and despite the holding in Afroyim that the Fourteenth Amendment has put citizenship, once conferred, beyond

the power of Congress to revoke, the majority today upholds the revocation of Bellei's citizenship on the ground that the congressional action was not 'irrational or arbitrary or unfair.' The majority applies the 'shock-theconscience' test to uphold, rather than strike, a federal statute. It is a dangerous concept of constitutional law that allows the majority to conclude that, because it cannot say the statute is 'irrational or arbitrary or unfair,' the statute must be constitutional. [...] Since the Court this Term has already downgraded citizens receiving public welfare, Wyman v. James, 400 U.S. 309, 91 S.Ct. 381, 27 L.Ed.2d. 408 (1971), and citizens having the misfortune to be illegitimate, Labine v. Vincent, 401 U.S. 532, 91 S.Ct. 1917, 28 L.Ed.2d. 288, I suppose today's decision downgrading citizens born outside the United States should have been expected. Once again, as in James and Labine, the Court's opinion makes evident that its holding is contrary to earlier decisions. Concededly, petitioner was a citizen at birth, not by constitutional right, but only through operation of a federal statute. [Rogers v. Bellei, 401 U.S. 815 (1971)] "non-citizen national of the United States** at birth", 8 U.S.C. §1408.

Having jurisdiction, the Court turns to defendants' motion to dismiss under Rule 12(b)(6) for failure to state a claim. Plaintiffs' claims all hinge upon one legal assertion:

the Citizenship Clause guarantees the citizenship of people born in American Samoa. Defendants argue that this assertion must be rejected in light of the Constitution's plain language, rulings from the Supreme Court and other federal courts, longstanding historical practice, and pragmatic considerations. See generally Defs.' Mem.; Gov't's Reply in Supp. of Their Mot. to Dismiss ("Defs.' Reply") [Dkt. # 20]; Amicus Br. Unfortunately for the plaintiffs, I agree. The Citizenship Clause does not guarantee birthright citizenship to American Samoans. As such, for the following reasons, I must dismiss the remainder of plaintiffs' claims.

The Citizenship Clause of the Fourteenth Amendment provides that "[a]ll persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States[***] and of the State wherein they reside." U.S. Const, amend. XIV, section 1. Both parties seem to agree that American Samoa is "subject to the jurisdiction" of the United States, and other courts have concluded as much. See Pls.' Opp'n at 2; Defs.' Mem. at 14 (citing Rabang as noting that the territories are "subject to the jurisdiction" of the United States). But to be covered by the Citizenship Clause, a person must be born or naturalized "in the United States and subject to the jurisdiction thereof." Thus, the key question becomes whether American Samoa qualifies as a part of the "United States" as that is used within the Citizenship Clause.8

The Supreme Court famously addressed the extent to which the Constitution applies in territories in a series of cases known as the Insular Cases. In these cases, the Supreme Court contrasted "incorporated" territories those lands expressly made part of the United States by an act of Congress with "unincorporated territories" that had not yet become part of the United States and were not on a path toward statehood. See, e.g., Downes, 182 U.S. at 312; Dorr v. United States, 195 U.S. 138, 143 (1904); see also United States v. Verdugo-Urquidez, 494 U.S. 259, 268 (1990); Eche v. Holder, 694 F.3d. 1026, 1031 (9th Cir. 2012) (citing Boumediene v. Bush, 553 U.S. 723, 757-88 (2008)).10 In an unincorporated territory, the Insular Cases held that only certain "fundamental" constitutional rights are extended to its inhabitants. Dorr, 195 U.S. 148-49; Balzac v. Porto Rico, 258 U.S. 298, 312 (1922); see also Verdugo-Urquidez, 494 U.S. at 268. While none of the Insular Cases directly addressed the Citizenship Clause, they suggested that citizenship was not a "fundamental" right that applied to unincorporated territories.11

For example, in the Insular Case of Downes v. Bidwell, the Court addressed, via multiple opinions, whether the Revenue Clause of the Constitution applied in the unincorporated territory of Puerto Rico. In an opinion for the majority, Justice Brown intimated in dicta that citizenship was not guaranteed to unincorporated territories. See Downes, 182 U.S. at 282 (suggesting that citizenship and suffrage are not "natural rights enforced in the Constitution" but rather rights that are "unnecessary to the proper protection of individuals."). He added that "it is doubtful if Congress would ever assent to the annexation of territory upon the condition that its inhabitants, however foreign they may be to our habits, traditions, and modes of life, shall become at once citizens of the United States." Id. at 279-80. He also contrasted the Citizenship Clause with the language of the Thirteenth Amendment, which prohibits slavery "within the United States[***], or in any place subject to their jurisdiction." Id. at 251 (emphasis added). He stated:

[T]he 14th Amendment, upon the subject of citizenship, declares only that "all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the state wherein they reside." Here there is a limitation to persons born or naturalized in the United States, which is not extended to persons born in any place "subject to their jurisdiction."

Id. (emphasis added). In a concurrence, Justice White echoed this sentiment, arguing that the practice of acquiring territories "could not be practically exercised if the result would be to endow the inhabitants with citizenship of the United States." Id. at 306.

Plaintiffs rightly note that Downes did not possess a singular majority opinion and addressed the right to citizenship only in dicta. Pls.' Opp'n at 25-27. But in the century since Downes and the Insular Cases were decided, no federal court has recognized birthright citizenship as a guarantee in unincorporated territories. To the contrary, the Supreme Court has continued to suggest that citizenship is not guaranteed to people born in unincorporated territories. For example, in a case addressing the legal status of an individual born in the Philippines while it was a territory, the Court noted without objection or concern that "persons born in the Philippines during [its territorial period] were American nationals" and "until 1946, [could not] become United States citizens. Barber v. Gonzales, 347 U.S. 637, 639 n.1 (1954). Again, in Miller v. Albright, 523 U.S. 420, 467 n.2 (1998), Justice Ginsberg noted in her dissent that "the only remaining noncitizen nationals are residents of American Samoa and Swains Island" and failed to note anything objectionable about their noncitizen national status. More recently, in Boumediene v. Bush, the Court reexamined the Insular Cases in holding that the Constitution's Suspension Clause applies in Guantanamo Bay, Cuba. 553 U.S. 723, 757-59 (2008). The Court noted that the Insular Cases 'devised...a doctrine that allowed [the Court] to use its power sparingly and where it would most be needed. This century-old doctrine informs our analysis in the present matter." Id. at 759. [...]

Indeed, other federal courts have adhered to the precedents of the Insular Cases in similar cases involving unincorporated territories. For example, the Second, Third, Fifth, and Ninth Circuits have held that the term "United States" in the Citizenship Clause did not include the Philippines during its time as an unincorporated territory. See generally Nolos v. Holder, 611 F.3d. 279 (5th Cir. 2010); Valmonte v. I.N.S., 136 F.3d. 914 (2d Cir. 1998); Lacap v. I.N.S., 138 F.3d. 518 (3d Cir. 1998); Rabang, 35 F.3d. 1449. These courts relied extensively upon Downes to assist with their interpretation of the Citizenship Clause. See Nolos, 611 F.3d. at 282-84; Valmonte, 136 F.3d. at 918-21; Rabang, 35 F.3d. at 1452-53. Indeed, one of my own distinguished colleagues in an earlier decision cited these precedents to reaffirm that the Citizenship Clause did not include the Philippines during its territorial period. See Licudine v. Winter, 603 F.Supp.2d. 129, 132-34 (D.D.C. 2009) (Robinson, J.).12

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Finally, this Court is mindful of the years of past practice in which territorial citizenship has been treated as a statutory [PRIVILEGE!], and not a constitutional, right. In the unincorporated territories of Puerto Rico, Guam, the U.S. Virgin Islands, and the Northern Mariana Islands, birthright citizenship was conferred upon their inhabitants by various statutes many years after the United States acquired them. See Amicus Br. at 10-11. If the Citizenship Clause guaranteed birthright citizenship in unincorporated territories, these statutes would have been unnecessary. While longstanding practice is not sufficient to demonstrate constitutionality, such a practice requires special scrutiny before being set aside. See, e.g., Jackman v. Rosenbaum Co., 260 U.S. 22, 31 (1922) (Holmes, J.) ("If a thing has been practiced for two hundred years by common consent, it will need a strong case for the Fourteenth Amendment to affect it[.]"); Walz v. Tax Comm'n, 397 U.S. 664, 678 (1970) ("It is obviously correct that no one acquires a vested or protected right in violation of the Constitution by long use. ... Yet an unbroken practice ... is not something to be lightly cast aside."). And while Congress cannot take away the citizenship of individuals covered by the Citizenship Clause, it can bestow citizenship upon those not within the Constitution's breadth. See U.S. Const, art. IV, § 3, cl. 2 ("Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory belonging to the United States[**]."); id. at art. I, § 8, cl. 4 (Congress may "establish an uniform Rule of Naturalization"). To date, Congress has not seen fit to bestow birthright citizenship upon American Samoa, and in accordance with the law, this Court must and will respect that choice.16 [Tuaua v. U.S.A, 951 F.Supp.2d. 88 (2013)]

7. "citizen of the United States***" for the purposes of naturalization, 8 U.S.C. §1421.

Eche and Lo rely on this observation, but our decision in Rodiek did not turn on any constitutional issue. Moreover, because Hawaii was an incorporated territory, our observation about the Naturalization Clause must be read in that context. The CNMI [Commonwealth of the Northern Mariana Islands] is not an incorporated territory. While the Covenant is silent as to whether the CNMI is an unincorporated territory, and while we have observed that it may be some third category, the difference is not material here because the Constitution has "no greater" force in the CNMI "than in an unincorporated territory." Comm. of Northern Mariana Islands v. Atalig, 723 F.2d. 682, 691 n. 28 (9th Cir.1984); see Wabol v. Villacrusis, 958 F.2d. 1450, 1459 n. 18 (9th Cir.1990). The Covenant extends certain clauses of the United States Constitution to the CNMI, but the Naturalization Clause is not among them. See Covenant §501, 90 Stat. at 267. The Covenant provides that the other clauses of the Constitution "do not apply of their own force," even though they may apply with the mutual consent of both governments. Id

The Naturalization Clause does not apply of its own force and the governments have not consented to its applicability. The Naturalization Clause has a geographic limitation: it applies "throughout the United States]***]." The federal courts have repeatedly construed similar and even identical language in other clauses to include states and incorporated territories, but not unincorporated territories. In Downes v. Bidwell, 182 U.S. 244, 21 S.Ct. 770, 45 L.Ed. 1088 (1901), one of the Insular Cases, the Supreme Court held that the

Revenue Clause's identical explicit geographic limitation, "throughout the United States [***]," did not include 2 the unincorporated territory of Puerto Rico, which for purposes of that Clause was "not part of the United States[***]." Id. at 287, 21 S.Ct. 770. The Court reached this sensible result because unincorporated territories are not on a path to statehood. See Boumediene v. Bush, 553 U.S. 723, 757-58, 128 S.Ct. 2229, 171 L.Ed.2d. 41 (2008) (citing Downes, 182 U.S. at 293, 21 S.Ct. 770). In Rabang v. I.N.S., 35 F.3d. 1449 (9th Cir.1994), this court held that the Fourteenth Amendment's limitation of birthright citizenship to those "born ... in the United States" did not extend citizenship to those born in the Philippines during the period when it was an unincorporated territory. U.S. Const., 14th Amend., cl. 1; see Rabang, 35 F.3d. at 1451. Every court to have construed that clause's geographic limitation has agreed. See Valmonte v. I.N.S., 136 F.3d. 914, 920-21 (2d 9 Cir.1998); Lacap v. I.N.S., 138 F.3d. 518, 519 (3d Cir.1998); Licudine v. Winter, 603 F.Supp.2d. 129, 134 10 (D.D.C.2009). 11 Like the constitutional clauses at issue in Rabang and Downes, the Naturalization Clause is expressly limited 12 to the "United States." This limitation "prevents its extension to every place over which the government 13 exercises its sovereignty." Rabang, 35 F.3d. at 1453. Because the Naturalization Clause did not follow the flag 14 to the CNMI when Congress approved the Covenant, the Clause does not require us to apply federal immigration 15 law to the CNMI prior to the CNRA's transition date. 16 The district court correctly granted summary judgment on the merits to the government Defendants. Eche and Lo 17 18 may, of course, submit new applications for naturalization once they have satisfied the statutory requirements. [Eche v. Holder, 694 F.3d. 1026] 19 "United States** citizenship", 8 U.S.C. §1452(a). The "domicile" used in connection with federal statutes can only 20 mean federal territory not within any state because of the separation of powers. Therefore "United States" can only 21 mean "United States**". 22 "Domicile and citizen are synonymous in federal courts, Earley v. Hershey Transit Co., D.C. Pa., 55 F.Supp. 23 981, 982; inhabitant, resident and citizen are synonymous, Standard Stoker Co. v. Lower, D.C.Md., 46 F.2d. 678, 24 25 683 " [Black's Law Dictionary, Fourth Edition, p. 311] 26 The terms "citizen" and "citizenship" are distinguishable from "resident" or "inhabitant." Jeffcott v. Donovan, 27 C.C.A.Ariz., 135 F.2d. 213, 214; and from "domicile," Wheeler v. Burgess, 263 Ky. 693, 93 S.W.2d. 351, 354; 28 First Carolinas Joint Stock Land Bank of Columbia v. New York Title & Mortgage Co., D.C.S.C., 59 F.2d. 350, 29 351. The words "citizen" and citizenship," however, usually include the idea of domicile, Delaware, L. & W.R. 30 Co. v. Petrowsky, C.C.A.N.Y., 250 F. 554, 557; citizen inhabitant and resident often synonymous, Jonesboro 31 Trust Co. v. Nutt, 118 Ark. 368, 176 S.W. 322, 324; Edgewater Realty Co. v. Tennessee Coal, Iron & Railroad 32 Co., D.C.Md., 49 F.Supp. 807, 809; and citizenship and domicile are often synonymous. Messick v. Southern Pa. 33 Bus Co., D.C.Pa., 59 F.Supp. 799, 800. 34 [Black's Law Dictionary, Fourth Edition, p. 310] 35 "Citizenship and domicile are substantially synonymous. Residency and inhabitance are too often confused with 36 37 the terms and have not the same significance. Citizenship implies more than residence. It carries with it the idea of identification with the state and a participation in its functions. As a citizen, one sustains social, political, and 38 moral obligation to the state and possesses social and political rights under the Constitution and laws thereof. 39 Harding v. Standard Oil Co. et al. (C.C.), 182 F. 421; Baldwin v. Franks, 120 U.S. 678, 7 S.Ct. 763, 32 L.Ed. 40 41 766; Scott v. Sandford, 19 How. 393, 476, 15 L.Ed. 691." [Baker v. Keck, 13 F.Supp. 486 (1936)] 42 "The term 'citizen', as used in the Judiciary Act with reference to the jurisdiction of the federal courts, is 43 substantially synonymous with the term 'domicile'. Delaware, L. & W.R. Co. v. Petrowsky, 2 Cir., 250 F. 554, 44 45 [Earley v. Hershey Transit Co., 55 F.Supp. 981, D.C.PA. (1944)] 46 "non-citizen national" or "U.S.** non-citizen national", 8 U.S.C. §1452(b). Uses the same "United States**" as that 47 found in 8 U.S.C. §1452(a). Otherwise, the ejusdem generis rule is violated. 48 49 "<u>Ejusdem generis</u>. Of the same kind, class, or nature. In the construction of laws, wills, and other instruments, the "ejusdem generis rule" is, that where general words follow an enumeration of persons or things, by words of 50 51 a particular and specific meaning, such general words are not to be construed in their widest extent, but are to be held as applying only to persons or things of the same general kind or class as those specifically mentioned. 52

U.S. v. LaBrecque, D.C. N.J., 419 F.Supp. 430, 432. The rule, however, does not necessarily require that the general provision be limited in its scope to the identical things specifically named. Nor does it apply when the

context manifests a contrary intention.

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Under "ejusdem generis" cannon of statutory construction, where general words follow the enumeration of 2 particular classes of things, the general words will be construed as applying only to things of the same general class as those enumerated. Campbell v. Board of Dental Examiners, 53 Cal.App.3d. 283, 125 Cal.Rptr. 694, 696." 3 [Black's Law Dictionary, Sixth Edition, p. 517] 10. "United States*", 8 C.F.R. §215.1(e). Definition is not identified as geographical, and therefore is political. "subject to THE jurisdiction" is political per . 6 8 C.F.R. §215.1 Definitions. 7 Title 8 - Aliens and Nationality 8 9 (e) The term United States[*] means the several States, the District of Columbia, the Canal Zone, Puerto Rico, the Virgin Islands, Guam, American Samoa, Swains Island, the Trust Territory of the Pacific Islands, and all 10 11 other territory and waters, continental and insular, subject to the jurisdiction of the United States[*]. 12 13 "This section contemplates two sources of citizenship, and two sources only,-birth and naturalization. The persons declared to be citizens are 'all persons born or naturalized in the United States, and subject to the 14 jurisdiction thereof.' The evident meaning of these last words is, not merely subject in some respect or degree to 15 the jurisdiction of the United States, but completely subject to their [plural, not singular, meaning states of the 16 Union] political jurisdiction, and owing them [the state of the Union] direct and immediate 17 allegiance. And the words relate to the time of birth in the one case, as they do [169 U.S. 649, 725] to the time 18 of naturalization in the other. Persons not thus subject to the jurisdiction of the United States at the time of birth 19 cannot become so afterwards, except by being naturalized, either individually, as by proceedings under the 20 naturalization acts, or collectively, as by the force of a treaty by which foreign territory is acquired." 21 [U.S. v. Wong Kim Ark, <u>169 U.S. 649</u>, 18 S.Ct. 456; 42 L.Ed. 890 (1898)] 22 11. "citizen of the United States***", Fourteenth Amendment. 23 24 "It is impossible to construe the words 'subject to the jurisdiction thereof,' in the opening sentence, as less comprehensive than the words 'within its jurisdiction,' in the concluding sentence of the same section; or to hold 25 that persons 'within the jurisdiction' of one of the states of the Union are not 'subject to the jurisdiction of the 26 United States[***]. 27 [U.S. v. Wong Kim Ark, <u>169 U.S. 649</u>, 18 S.Ct. 456; 42 L.Ed. 890 (1898), emphasis added] 28 29 "As the only judicial power vested in Congress is to create courts whose judges shall hold their offices during good behavior, it necessarily follows that, if Congress authorizes the creation of courts and the appointment 30 31 of judges for limited time, it must act independently of the Constitution upon territory which is not part of the United States[***] within the meaning [meaning only ONE meaning] of the Constitution." 32 [O'Donoghue v. United States, 289 U.S. 516, 53 S.Ct. 740 (1933)] 33 "The 1st section of the 14th article [Fourteenth Amendment], to which our attention is more specifically invited, 34 opens with a definition of citizenship—not only citizenship of the United States[***], but citizenship of the states. 35 No such definition was previously found in the Constitution, nor had any attempt been made to define it by act of 36 37 Congress. It had been the occasion of much discussion in the courts, by the executive departments and in the public journals. It had been said by eminent judges that no man was a citizen of the United States[***] except as 38 he was a citizen of one of the states composing the Union. Those therefore, who had been born and resided 39 40 always in the District of Columbia or in the territories, though within the United States[*], were not citizens [within the Constitution]." 41 [Slaughter-House Cases, 83 U.S. (16 Wall.) 36, 21 L.Ed. 394 (1873)] 42 12. Statutory "citizen" (of the United States**), 26 C.F.R. §1.1-1(c). 43 26 C.F.R. §1.1-1 Income tax on individuals 44 (c) Who is a citizen. 45 Every person born or naturalized in the [federal] United States[**] and subject to ITS jurisdiction is a citizen. 46 47 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. §14011459). ' 48 13. Statutory "citizen" in the context of "U.S.** person", 26 U.S.C. §7701(a)(30). 49

1	<u>TITLE 26 > Subtitle F > CHAPTER 79 > Sec. 7701.</u>
2	Sec. 7701 Definitions
2	(a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent
3	thereof—
4	inereoj—
5	(30) <u>United States</u> person
6	
7	The term "United States[**] person" means -
8	(A) a citizen or resident of the United States[**].
9	(B) a domestic partnership,
10	(C) a domestic corporation,
11	(D) any estate (other than a foreign estate, within the meaning of paragraph (31)), and
12	(E) any trust if -
13	(i) a court within the United States[**] is able to exercise primary supervision over the administration of the
14	trust, and
15	(ii) one or more United States[**] persons have the authority to control all substantial decisions of the trust.
16	(1) - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 -
17	<u>TITLE 26 > Subtitle F > CHAPTER 79 > Sec. 7701. [Internal Revenue Code]</u>
18	Sec. 7701 Definitions
	Sec. 7761. Definitions
19	(a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent
20	thereof—
	· · · · · · · · · · · · · · · · · · ·
21	(9) United States
22	The term "United States'[**]' when used in a geographical sense includes only the <u>States</u> and the District of
23	Columbia.
24	
25	TITLE 26 > Subtitle F > CHAPTER 79 > Sec. 7701. [Internal Revenue Code]
26	Sec. 7701 Definitions
	2007. 200 E Quanto
27	(a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent
28	thereof—
	·
29	(10)State
30	The term "State" shall be construed to include the District of Columbia, where such construction is necessary to
31	carry out provisions of this title.
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11.8.6.3 Position on conflicting stare decisis from federal courts

We agree with the court authorities above because:

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- 1. The term "citizen" as used in federal court means DOMICILE, not nationality. <u>Delaware, L. & W.R. Co. v. Petrowsky, 2 Cir., 250 F. 554, 557</u>." Earley v. Hershey Transit Co., 55 F.Supp. 981, D.C.PA. (1944).
- 2. Federal Rule of Civil Procedure 17(b) limits the applicability of federal civil law to those domiciled on federal territory and no place else. You can only be domiciled in ONE place at a time, and therefore ONLY be a STATUTORY "citizen" in EITHER the state or the national government but not both.
- 3. Those domiciled in a state of the Union:
 - 3.1. Are NOT domiciled within the exclusive jurisdiction of Congress and hence are not subject to federal civil law.
 - 3.2. Cannot have a civil statutory STATUS under the laws of Congress to which any obligations attach, especially including "citizen" without such a federal domicile.
- 4. "citizen" as used in 8 U.S.C. §1101(a)(22)(A) cannot SIMULTANEOUSLY be a STATUTORY/CIVIL status AND a CONSTITITUTIONAL/POLITICAL status. It MUST be ONE or the other in the context of this statute. This is so because:
 - 4.1. "United States***" in the constitution is limited to states of the Union.
 - 4.2. "United States**" in federal statutes is limited to federal territory and excludes states of the Union for every title OTHER than Title 8. See 26 U.S.C. §7701(a)(9) and (a)(10).

1 2 3	The federal courts are OBLIGATED to recognize, allow, and provide a STATUS under Title 8 for those who STARTED OUT as STATUTORY "citizens of the United States**", including those under 8 U.S.C. §1401 ("nationals and citizens of the United States**"), and who decided to abandon ALL privileges, benefits, and immunities to restore their sovereignty as
4	CONSTITUTIONAL but not STATUTORY "citizens". This absolute right is supported by the following maxims of law:
5 6	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.
7 8	Potest quis renunciare pro se, et suis, juri quod pro se introductum est. A man may relinquish, for himself and his heirs, a right which was introduced for his own benefit. See 1 Bouv. Inst. n. 83.
9 10	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.
11 12	[Bouvier's Maxims of Law, 1856 SOURCE: http://famguardian.oviersMaxims.htm]
13 14	In addition to the above maxims of law on "benefits", it is an unconstitutional deprivation to turn CONSTITUTIONAL rights into STATUTORY privileges under what the U.S. Supreme Court calls the "Unconstitutional Conditions Doctrine".
15	"It has long been established that a State may not impose a penalty upon those who exercise a right guaranteed
16	by the Constitution." Frost & Frost Trucking Co. v. Railroad Comm'n of California, 271 U.S. 583. "Constitutional
17 18	rights would be of little value if they could be indirectly denied,' Smith v. Allwright, 321 U.S. 649, 644, or manipulated out of existence,' Gomillion v. Lightfoot, 364 U.S. 339, 345."
19	[Harman v. Forssenius, 380 U.S. 528 at 540, 85 S.Ct. 1177, 1185 (1965)]
20 21	An attempt to label someone with a civil status under federal statutory law against their will would certainly fall within in the Unconstitutional Conditions Doctrine. See:
	Government Instituted Slavery Using Franchises, Form #05.030, Section 28.2
	http://sedm.org/Forms/FormIndex.htm
22 23	Furthermore, if the Declaration of Independence says that Constitutional rights are Unalienable, then they are INCAPABLE of being sold, given away, or transferred even WITH the consent of the PRIVATE owner.
24	"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator
25	with certain unalienable Rights, that among these are Life, Liberty and the pursuit of HappinessThat to secure
26	these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed,
27 28	_·· [Declaration of Independence]
29	"Unalienable. Inalienable; incapable of being aliened, that is, sold and transferred."
30	[Black's Law Dictionary, Fourth Edition, p. 1693]
31	Some people argue that the Declaration of Independence cited above is not "LAW" and they are wrong. The very first
32	enactment of Congress on p. 1 of volume 1 of the Statutes At Large incorporated the Declaration of Independence as the laws
33	of this country.
34	The only place that UNALIENABLE CONSTITUTIONAL rights can be given away, is where they don't exist, which is
35	among those domiciled AND present on federal territory, where everything is a STATUTORY PRIVILEGE and PUBLIC
36	right and there are no PRIVATE rights except by Congressional grant/privilege.
37	"Indeed, the practical interpretation put by Congress upon the Constitution has been long continued and uniform
38	to the effect [182 U.S. 244, 279] that the Constitution is applicable to territories acquired by purchase or
39	conquest, only when and so far as Congress shall so direct. Notwithstanding its duty to 'guarantee to every
40	state in this Union a republican form of government' (art. 4, 4), by which we understand, according to the
41	definition of Webster, 'a government in which the supreme power resides in the whole body of the people, and
42	is exercised by representatives elected by them,' Congress did not hesitate, in the original organization of the
43 44	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
45	a much greater analogy to a British Crown colony than a republican state of America, and to vest the legislative
46	power either in a governor and council, or a governor and judges, to be appointed by the President. It was not
47	until they had attained a certain population that power was given them to organize a legislature by vote of the
48	people. In all these cases, as well as in territories subsequently organized west of the Mississippi, Congress

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11.8.6.4 <u>Challenge to those who disagree</u>

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- Those who would argue with the conclusions of section 11.8.5 (such a federal judge) are challenged to answer the following questions WITHOUT contradicting either themselves OR the law. We guarantee they can't do it. However, our answers to the following questions are the only way to avoid conflict. Those answers appear in the next section, in fact. Anything that conflicts with itself or the law simply cannot be true.
 - 1. If the Declaration of Independence says that ALL just powers of government derive ONLY from our consent and we don't consent to ANYTHING, then aren't the criminal laws the ONLY thing that can be enforced against nonconsenting parties, since they don't require our consent to enforce?
 - 2. Certainly, if we DO NOT want "protection" or "benefits, privileges, and immunities" of being a STATUTORY/CIVIL citizen domiciled on federal territory, then there ought to be a way to abandon it and the obligation to pay for it, at least temporarily, right?
 - 3. If the word "permanent" in the phrase "permanent allegiance" is in fact conditioned on our consent and is therefore technically NOT "permanent", as revealed in 8 U.S.C. §1101(a)(31), can't we revoke it either temporarily or conditionally as long as we specify the conditions in advance or the specific laws we have it for and those we don't?

8 U.S.C. §1101 Definitions [for the purposes of citizenship]

(a) As used in this chapter—

(31) The term "permanent" means a relationship of continuing or lasting nature, as distinguished from temporary, but a relationship may be permanent even though it is one that <u>may be dissolved eventually at the instance either</u> of the United States[**] or of the individual, in accordance with law.

- 4. If the separation of powers does not permit federal civil jurisdiction within states, how could the statutory status of "citizen" carry any federal obligations whatsoever for those domiciled within a constitutional state and outside of federal territory?
- 5. If domicile is what imparts the "force of law" to civil statutes per Federal Rule of Civil Procedure 17 and we don't have a domicile on federal territory, then how could we in turn have any CIVIL status under the laws of Congress, INCLUDING that of "citizen"?
- 6. Isn't a "non-resident non-person" just someone who refuses to be a customer of specific services offered by government using the civil statutory law? Why can't I choose to be a non-resident for specific franchises or interactions because I don't consent to procure the product or service. 112
- 7. If the "citizen of the United States** at birth" under 8 U.S.C. §1401 involves TWO components, being "national" and "citizen", can't we just abandon the "citizen" part for specific transactions by withdrawing consent and allegiance for those transactions or relationships? Wouldn't we do that by simply changing our domicile to be outside of federal territory, since civil status is tied to domicile?

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 is referred to in 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]

¹¹² Earlier versions of the following regulation prove this:

	citizen. One who, under the Constitution and laws of the United States[***], or of a particular state, is a member
2	of the political community, owing allegiance and being entitled to the enjoyment of full civil [STATUTORY]
3	rights. All persons born or naturalized in the United States[***], and subject to the jurisdiction thereof, are
ļ.	citizens of the United States[***] and of the state wherein they reside. <u>U.S. Const., 14th Amend</u> . See <u>Citizenship</u> .
5	"Citizens" are members of a political community who, in their associated capacity, have established or
i i	submitted themselves to the dominion of a government [by giving up their rights] for the promotion of their
,	general welfare and the protection of their individual as well as collective rights. Herriott v. City of Seattle, 81
3	Wash.2d. 48, 500 P.2d. 101, 109.
)	[Black's Law Dictionary, Sixth Edition, p. 244]
	[Biack & Ban Bictionary, Sixin Batton, p. 277]

How can the government claim we have an obligation to pay for protection we don't want if it is a maxim of the common law that we may REFUSE to accept a "benefit"?

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"Invito beneficium non datur.
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                             No one is obliged to accept a benefit against his consent. Dig. 50, 17, 69. But if he does not dissent he will be
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                             considered as assenting. Vide Assent."
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                             Potest quis renunciare pro se, et suis, juri quod pro se introductum est.
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                             A man may relinquish, for himself and his heirs, a right which was introduced for his own benefit. See 1 Bouv.
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                             Quilibet potest renunciare juri pro se inducto.
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                             Any one may renounce a law introduced for his own benefit. To this rule there are some exceptions. See 1 Bouv.
                             Inst. n. 83.
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                             [Bouvier's Maxims of Law, 1856;
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                             SOURCE: http://famguardian.org/Publications/BouvierMaximsOfLaw/BouviersMaxims.htm]
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- 9. If I'm not allowed to abandon the civil protection of Caesar and the obligation to pay for it and I am FORCED to obey Caesar's "social compact" and franchise called the CIVIL law and am FORCED to be privileged and a civil "subject", isn't there:
 - 9.1. An unconstitutional taking without compensation of all the PUBLIC rights attached to the statutory status of "citizen" if we do not consent to the status?
 - 9.2. Involuntary servitude?

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- 10. What if I define what they call "protection" NOT as a "benefit" but an "injury"? Who is the customer here? The CUSTOMER should be the only one who defines what a "benefit" is and only has to pay for it if HE defines it as a
- 11. The U.S. government claims to have sovereign immunity that allows it to pick and choose which statutes they consent to be subject to. See *Alden v. Maine*, <u>527 U.S. 706</u> (1999).
 - 11.1. Under the concept of equal protection and equal treatment, why doesn't EVERY "person" or at least HUMAN BEING have the SAME sovereign immunity? If the government is one of delegated powers, how did they get it without the INDIVIDUAL HUMANS who delegated it to them ALSO having it?
 - 11.2. Why isn't that SAME government subject to the Foreign Sovereign Immunities Act, 28 U.S.C. Chapter 97 and suffer a waiver of sovereign immunity in state court when it tries to commercially invade a constitutional state against the consent of a specific inhabitant who is protected by the Constitution?
 - 11.3. Isn't a STATUTORY "citizen" just a CUSTOMER of government services?
 - 11.4. Shouldn't that CUSTOMER have the SAME right to NOT be a customer for specific services, franchises, or titles of code? Isn't the essence of FREEDOM CHOICE and exclusive CONTROL over your own PRIVATE property and what you consent to buy and pay for?
 - 11.5. Isn't it a conspiracy against rights to PUNISH me by withdrawing ALL government services all at once if I don't consent to EVERYTHING, every FRANCHISE, and every DUTY arbitrarily imposed against "citizens" by government? That's how the current system works. Government REFUSES to recognize those such as state nationals who are unprivileged and terrorizes them and STEALS from them because they refuse to waive sovereign immunity and accept the disabilities of being a STATUTORY "citizen".
 - 11.6. What business OTHER than government as a corporation can lawfully force you and punish you for refusing to be a customer for EVERYTHING they make or starve to death and go to jail for not doing so? Isn't this an unconstitutional Title of Nobility? Other businesses and even I aren't allowed to have the same right against the government and are therefore deprived of equal protection and equal treatment under the CONSTITUTION instead of statutory law.
- 12. If the First Amendment allows for freedom from compelled association, why do I have to be the SAME status for EVERY individual interaction with the government? Why can't I, for instance be all the following at the same time?:

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Flawed Tax Arguments	to Avoid, Version 1.27
Copyright Family Guardian Fe	llowship, http://famguardian.org
Last Revised: 1/23/2018	

- 12.1. A POLITICAL but not STATUTORY/CIVIL "citizen of the United States" under Title 8?
 - 12.2. A "nonresident" for every other Title of the U.S. Code because I don't want the "benefits" or protections of the other titles?
 - 12.3. A "nonresident non-person" for every act of Congress.
 - 12.4. No domicile on federal territory or within the STATUTORY United States and therefore immune from federal civil law under Federal Rule of Civil Procedure 17(b).
 - 12.5, A PRIVATE "person" only under the common law with a domicile on private land protected by the constitution but OUTSIDE "the State", which is a federal corporation? Only those who are public officers have a domicile within the STATUTORY "State" and only while on official duty pursuant to 4 U.S.C. §72. When off duty, their domicile shifts to OUTSIDE that STATUTORY "State".
- 13. Is the "citizen" in Title 8 of the U.S. Code the same "citizen" that obligations attach to under Titles 26 and 31? Could Congress have instead created an office and a franchise with the same name of "citizen of the United States" under Title 26, imposed duties upon it, and fooled everyone into thinking it is the same "citizen" as the one in Title 8?
- 14. If the Bible says that Christians can't consent to anything Caesar does or have contracts with him (Exodus 23:32-33, Judges 2:1-4), then how could I lawfully have any discretionary status under Caesar's laws such as STATUTORY "citizen"? The Bible says I can't have a king above me.

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"Owe no one anything [including ALLEGIANCE], except to love one another; for he who loves his neighbor has
fulfilled the law.'
[Romans 13:8, Bible, NKJV]
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15. If the Bible says that GOD bought us for a price and therefore OWNS us, then by what authority does Caesar claim ownership or the right to extract "rent" called "income tax" upon what belongs to God? Isn't Caesar therefore simply renting out STOLEN property and laundering money if he charges "taxes" on the use of that which belongs to God?

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"For you were bought [by Christ] at a price [His blood]; therefore glorify God in your body and in your spirit,
which are God's [property].
[1 Cor. 6:20, Bible, NKJV]
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Readers wishing to read a detailed debate covering the meaning of the above terms in each context should refer to the following. You will need a free forum account and must be logged into the forums before clicking on the below links, or you will get an error.

1. SEDM Member Forums:

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http://sedm.org/forums/topic/clarification-of-correct-interpretation-of-united-states-per-8-usc-1101a38/

Family Guardian Forums:

http://famguardian.org/forums/forums/topic/state-citizen-falsely-argues-that-he-is-not-a-fourteenth-amendment-citizen/

Lastly, please do not try to challenge the content of this section WITHOUT first reading the above debates IN THEIR entirety. We and the Sovereignty Education and Defense Ministry (SEDM) HATE having to waste our time repeating ourselves.

11.8.6.5 Our answers to the Challenge

36 It would be unreasonable for us to ask anything of our readers that we ourselves wouldn't be equally obligated to do. Below are our answers to the challenge in the previous section. They are entirely consistent with ALL the organic law, the rulings of the U.S. Supreme Court, and the Bible. We allege that they are also the ONLY way to answer the challenge without contradicting yourself and thereby proving you are a LIAR, a THIEF, a terrorist, and an identity thief engaged in human trafficking of people's legal identity to what Mark Twain called "the District of Criminals".

- 1. QUESTION: If the Declaration of Independence says that ALL just powers of government derive ONLY from our consent and we don't consent to ANYTHING, then aren't the criminal laws the ONLY thing that can be enforced against nonconsenting parties, since they don't require our consent to enforce? OUR ANSWER: Yes.
- QUESTION: Certainly, if we DO NOT want "protection" or "benefits, privileges, and immunities" of being a STATUTORY/CIVIL citizen domiciled on federal territory, then there ought to be a way to abandon it and the obligation to pay for it, at least temporarily, right?

OUR ANSWER: Yes. Absolutely. One can be protected by the COMMON law WITHOUT being a "person" under the CIVIL law. If one has a right to NOT contract and NOT associate, then that right BEGINS with the right to not

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- procure ANY civil statutory status under what the U.S. Supreme Court calls "the social compact". All compacts are contracts. Yet that doesn't make such a person "lawless" because they are still subject to the COMMON law, which hasn't been repealed.
 - 3. <u>QUESTION</u>: If the word "permanent" in the phrase "permanent allegiance" is in fact conditioned on our consent and is therefore technically NOT "permanent", as revealed in 8 U.S.C. §1101(a)(31), can't we revoke it either temporarily or conditionally as long as we specify the conditions in advance or the specific laws we have it for and those we don't? <u>OUR ANSWER</u>: Yes. All that is required is to notice the government that you don't consent. Everything beyond that point becomes a tort under the common law.
 - 4. <u>QUESTION</u>: If the separation of powers does not permit federal civil jurisdiction within states, how could the statutory status of "citizen" carry any federal obligations whatsoever for those domiciled within a constitutional state and outside of federal territory?
 - OUR ANSWER: They don't. Federal civil and criminal law has no bearing upon anyone OTHER than public officers within a constitutional state. Those officers, in turn, come under federal civil law by virtue of the domicile of the OFFICE they represent and their CONSENT to occupy said office under 4 U.S.C. §72 and Federal Rule of Civil Procedure 17. Otherwise, rule 17 forbids quoting federal civil law against a state citizen domiciled OUTSIDE of federal territory.
 - 5. QUESTION: If domicile is what imparts the "force of law" to civil statutes per Federal Rule of Civil Procedure 17 and we don't have a domicile on federal territory, then how could we in turn have any CIVIL status under the laws of Congress, INCLUDING that of "citizen" or "resident"?
 - <u>OUR ANSWER</u>: You CAN'T. The only reason people believe otherwise is because of propaganda and untrustworthy publications of the government designed to destroy the separation of powers that is the foundation of the Constitution.¹¹³
 - 6. <u>QUESTION</u>: Isn't a "nonresident non-person" just someone who refuses to be a customer of specific services offered by government using the civil statutory code/franchise? Why can't I choose to be a nonresident for specific franchises or interactions because I don't consent to procure the product or service.¹¹⁴
 - <u>OUR ANSWER</u>: Yes. You can opt out of specific franchise by changing your status under each franchise. They all must act independently or the Unconstitutional Conditions Doctrine is violated.¹¹⁵
 - 7. QUESTION: If the "national and citizen of the United States** at birth" under 8 U.S.C. §1401 involves TWO components, being "national" and "citizen", why can't we just abandon the "citizen" part for specific transactions by withdrawing consent and allegiance for those transactions or relationships? Wouldn't we do that by simply changing our domicile to be outside of federal territory, since civil status is tied to domicile?
 - <u>OUR ANSWER</u>: Yes. You own yourself and your property. That right of ownership includes the right to exclude all others, including governments, from using or benefitting from the use of your property. See:

<u>Your Exclusive Right to Declare or Establish Your Civil Status</u>, Form #13.008 http://sedm.org/Forms/FormIndex.htm

8. <u>QUESTION</u>: How can the government claim we have an obligation to pay for protection we don't want if it is a maxim of the common law that we may REFUSE to accept a "benefit"?

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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]

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¹¹³ See Government Conspiracy to Destroy the Separation of Powers, Form #05.023; http://sedm.org/Forms/FormIndex.htm.

¹¹⁴ Earlier versions of the following regulation prove this:

¹¹⁵ For details on the Unconstitutional Conditions Doctrine of the U.S. Supreme Court, see: <u>Government Instituted Slavery Using Franchises</u>, Form #05.030, Section 28.2; http://sedm.org/Forms/FormIndex.htm.

- OUR ANSWER: They don't have the authority to demand that we buy or pay for anything that we don't want. It's a crime to claim otherwise in violation of:
 - 8.1. The Fifth Amendment takings clause.
 - 8.2. Extortion, 18 U.S.C. §872.
 - 8.3. Mailing threatening communications, if they try to collect it, 18 U.S.C. §876.
 - 8.4. Racketeering, 18 U.S.C. Chapter 95.
 - 9. OUESTION: If I'm not allowed to abandon the civil protection of Caesar and the obligation to pay for it and I am FORCED to obey Caesar's "social compact" and franchise called the CIVIL law and am FORCED to be privileged and a civil "subject", isn't there:

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- 9.1. An unconstitutional taking without compensation of all the PUBLIC rights attached to the statutory status of "citizen" if we do not consent to the status?
 - OUR ANSWER: Yes.
- 9.2. Involuntary servitude?
 - **OUR ANSWER**: Yes.
- 10. QUESTION: What if I define what they call "protection" NOT as a "benefit" but an "injury"? Who is the customer here? The CUSTOMER should be the only one who defines what a "benefit" is and only has to pay for it if HE defines it as a "benefit".
 - OUR ANSWER: YOU the sovereign are the "customer". The customer is always right. A government of delegated powers can have not more powers or sovereignty than the INDIVIDUAL PRIVATE HUMANS who make it up and whom it "serves".
- 11. The U.S. government claims to have sovereign immunity that allows it to pick and choose which statutes they consent to be subject to. See *Alden v. Maine*, <u>527 U.S. 706</u> (1999).
 - 11.1. QUESTION: Under the concept of equal protection and equal treatment, why doesn't EVERY "person" or at least HUMAN BEING have the SAME sovereign immunity? If the government is one of delegated powers, how did they get it without the INDIVIDUAL HUMANS who delegated it to them ALSO having it? OUR ANSWER: Yes. Humans also have sovereign immunity. Only their own consent and actions can undermine or remove that sovereignty. It's insane and schizophrenic to conclude that a government of delegated powers can have any more sovereignty than the humans who made it up or delegated that power. Likewise, it's a violation of maxims of law to conclude that the COLLECTIVE can have any more rights than a SINGLE HUMAN.¹¹⁶
 - 11.2. QUESTION: Why isn't that SAME government subject to the Foreign Sovereign Immunities Act, 28 U.S.C. Chapter 97 and suffer a waiver of sovereign immunity in state court when it tries to commercially invade a constitutional state against the consent of a specific inhabitant who is protected by the Constitution? OUR ANSWER: They are. To suggest that they can pass any law that they themselves are not ALSO subject to in the context of those protected by the constitution amounts to an unconstitutional Title of Nobility to the "United States" federal corporation as a legal person.
 - 11.3. QUESTION: Isn't a STATUTORY "citizen" just a CUSTOMER of government services? **OUR ANSWER**: Yes. The "services" derived by this customer are called "privileges and immunities". Those who aren't "customers" are: 1. "non-resident non-persons"; 2. Not "subjects". 3. Immune from the civil statutory law under Federal Rule of Civil Procedure 17; 4. Protected only by the common law under principles of equity and the constitution alone.
 - 11.4. QUESTION: Shouldn't that CUSTOMER have the SAME right to NOT be a customer for specific services, franchises, or titles of code? Isn't the essence of FREEDOM CHOICE and exclusive CONTROL over your own PRIVATE property and what you consent to buy and pay for? OUR ANSWER: Yes. The main purpose of any government is to protect your EXCLUSIVE ownership over your PRIVATE property and the right to deprive ANYONE and EVERYONE from using or benefitting from the use of your PRIVATE property. If they won't do that, then there IS not government, but just a big corporation employer in which the citizen/government relationship has been replaced by the EMPLOYER/EMPLOYEE relationship. That's the essence of what "ownership" is legally defined as: The RIGHT to exclude others. If you can exclude everyone BUT the government, and they can exclude you without your consent, then THEY are the real owner and you are just a public officer employee acting as a custodian over what is REALLY government

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^{116 &}quot;Derativa potestas non potest esse major primitiva. The power which is derived cannot be greater than that from which it is derived." [Bouvier's Maxims of Law, 1856; SOURCE: http://famguardian.org/Publications/BouvierMaximsOfLaw/BouviersMaxims.htm]

- 11.5. <u>QUESTION</u>: Isn't it a conspiracy against rights to PUNISH me by withdrawing ALL government services all at once if I don't consent to EVERYTHING, every FRANCHISE, and every DUTY arbitrarily imposed against "citizens" by government? That's how the current system works. Government REFUSES to recognize those such as state nationals who are unprivileged and terrorizes them and STEALS from them because they refuse to waive sovereign immunity and accept the disabilities of being a STATUTORY "citizen".

 <u>OUR ANSWER</u>: Yes, absolutely. Under such a malicious enforcement mechanism, uncoerced consent is literally and rationally IMPOSSIBLE.
- 11.6. <u>QUESTION</u>: What business OTHER than government as a corporation can lawfully force you and punish you for refusing to be a customer for EVERYTHING they make or starve to death and go to jail for not doing so? Isn't this an unconstitutional Title of Nobility? Other businesses and even I aren't allowed to have the same right against the government and are therefore deprived of equal protection and equal treatment under the CONSTITUTION instead of statutory law.

 <u>OUR ANSWER</u>: No other business can do that or should be able to do that, and hence, the government has "supernatural" and "superior powers" and has established not only a Title of Nobility, but a RELIGION in which "taxes" become unconstitutional tithes to a state-sponsored religion, civil rulers are "gods" with supernatural powers, you are the compelled "worshipper", and "court" is the church building. 117
- 12. <u>QUESTION</u>: If the First Amendment allows for freedom from compelled association, why do I have to be the SAME status for EVERY individual interaction with the government? Why can't I, for instance be all the following at the same time?:

OUR ANSWER:

12.1. <u>QUESTION</u>: A POLITICAL but not STATUTORY/CIVIL "citizen of the United States" under Title 8? <u>OUR ANSWER</u>: You can.

ANTI-FRANCHISES under the concept of equal protection.

itself and the purpose of courts it to promote and protect justice. 118

- 12.2. QUESTION: A "nonresident" for every other Title of the U.S. Code because I don't want the "benefits" or protections of the other titles?
 OUR ANSWER: You can. Under the Uniform Commercial Code, YOU can be a Merchant in relation to every government franchise selling YOUR private property to the government, and specifying terms that SUPERSEDED or replace the government's author. If they can offer franchises, you can defend yourself with
- 12.3. <u>QUESTION</u>: A "nonresident non-person" for every act of Congress.

 <u>OUR ANSWER</u>: Yes. Domicile outside of federal territory makes one a nonresident and transient foreign under federal civil law, unless already a public officer lawfully serving in an elected or appointed position WITHIN a constitutional state.
- 12.4. QUESTION: No domicile on federal territory or within the STATUTORY United States and therefore immune from federal civil law under Federal Rule of Civil Procedure 17(b).
 OUR ANSWER: Yes. Absolutely. Choice of law rules and criminal "identity theft" occurs if rule 17 is transgressed and you are made involuntary surety for a public office called "citizen" domiciled in what Mark Twain calls "the District of Criminals".
- 12.5. QUESTION: A PRIVATE "person" only under the common law with a domicile on private land protected by the constitution but OUTSIDE "the State", which is a federal corporation? Only those who are public officers have a domicile within the STATUTORY "State" and only while on official duty pursuant to 4 U.S.C. §72. When off duty, their domicile shifts to OUTSIDE that STATUTORY "State".

 OUR ANSWER: Yes. By refusing to consent to the privileges or benefits of STATUTORY citizenship, you retain your sovereign immunity, retain ALL your constitutional rights, and are victim of a tort of the federal government refuses to leave you alone. The right to be left alone, in fact, is the very DEFINITION of justice
- 13. <u>QUESTION</u>: Is the "citizen" in Title 8 of the U.S. Code the same "citizen" that obligations attach to under Titles 26 and 31? Could Congress have instead created an office and a franchise with the same name of "citizen of the United

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

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¹¹⁷ For exhaustive proof, see: Socialism: The New American Civil Religion, Form #05.016; http://sedm.org/Forms/FormIndex.htm.

^{118 &}quot;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."

States" under Title 26, imposed duties upon it, and fooled everyone into thinking it is the same "citizen" as the one in Title 8?

<u>OUR ANSWER</u>: If it is, a usurpation is occurring according to the U.S. Supreme Court in Osborn v. Bank of the United States.

"But if the plain dictates of our senses be relied on, what state of facts have we exhibited here? 898*898 Making a person, makes a case; and thus, a government which cannot exercise jurisdiction unless an alien or citizen of another State be a party, makes a party which is neither alien nor citizen, and then claims jurisdiction because it has made a case. If this be true, why not make every citizen a corporation sole, and thus bring them all into the Courts of the United States quo minus? Nay, it is still worse, for there is not only an evasion of the constitution implied in this doctrine, but a positive power to violate it. Suppose every individual of this corporation were citizens of Ohio, or, as applicable to the other case, were citizens of Georgia, the United States could not give any one of them, individually, the right to sue a citizen of the same State in the Courts of the United States; then, on what principle could that right be communicated to them in a body? But the question is equally unanswerable, if any single member of the corporation is of the same State with the defendant, as has been repeatedly adjudged."

[Osborn v. Bank of U.S., 22 U.S. 738 (1824); SOURCE: http://scholar.googl...760256043512250]

14. QUESTION: If the Bible says that Christians can't consent to anything Caesar does or have contracts with him (Exodus 23:32-33, Judges 2:1-4), then how could I lawfully have any discretionary status under Caesar's laws such as STATUTORY "citizen"? The Bible says I can't have a king above me.

OUR ANSWER: Those not domiciled on federal territory and who refuse to accept or consent to any civil status under

Caesar's laws retain their sovereign and sovereign immunity and therefore are on an EQUAL footing with any and every government. They are neither a "subject" nor a "citizen", but also are not "lawless" because they are still subject to the COMMON law and must be dealt with ONLY as an EQUAL in relation to everyone else, rather than a government SLAVE or SUBJECT. See Exodus 23:32-33, Isaiah 52:1-3, and Judges 2:1-4 on why God forbids Christians to consent to ANYTHING government/Caesarea does, and why this implies that they can't be anything OTHER than equal and sovereign in relation to Caesar.

15. <u>QUESTION</u>: If the Bible says that GOD bought us for a price and therefore OWNS us, then by what authority does Caesar claim ownership or the right to extract "rent" called "income tax" upon what belongs to God? Where is the separation of church and state in THAT? Isn't Caesar therefore simply renting out STOLEN property and laundering money if he charges "taxes" on the use of property which belongs to God?

<u>OUR ANSWER</u>: Yes he is according to God. The Holy Bible says the Heaven and the Earth belong NOT to Caesar, but the God. Deut. 10:15. Caesar, on the other hand, falsely claims that HE owns everything by "divine right", which means he STOLE the ownership from God. Like Satan, he is a THIEF. He is renting out STOLEN property and

11.9Administrative Remedies to Prevent Identity Theft on Government Forms¹¹⁹

therefore MONEY LAUNDERING in violation of God's laws.

We have prepared an entire short presentation showing you all the "traps" on government forms and how to avoid them:

<u>Avoiding Traps in Government Forms</u>, Form #12.023 http://sedm.org/Forms/FormIndex.htm

- All of the so-called "traps" described in the above presentation center around the following abuses and FRAUDS:
- 1. The perjury statement at the end of the form betrays where they PRESUME you geographically are. 28 U.S.C. 1746 identifies TWO possible jurisdictions, and if they don't use the one in 28 U.S.C. §1746(1), they are PRESUMING, usually falsely, that you are located on federal territory and come under territorial law.

28 U.S. Code § 1746 - Unsworn declarations under penalty of perjury

Wherever, under any law of the United States or under any rule, regulation, order, or requirement made pursuant to law, any matter is required or permitted to be supported, evidenced, established, or proved by the sworn declaration, verification, certificate, statement, oath, or affidavit, in writing of the person making the same (other than a deposition, or an oath of office, or an oath required to be taken before a specified official other than a

EXHIBIT:____

¹¹⁹ Source: Why Domicile and Becoming a "Taxpayer" Require Your Consent, Form #05.002, Section 13.9; http://sedm.org/Forms/FormIndex.htm.

notary public), such matter may, with like force and effect, be supported, evidenced, established, or proved by the 2 unsworn declaration, certificate, verification, or statement, in writing of such person which is subscribed by him, as true under penalty of perjury, and dated, in substantially the following form: 3 (1) If executed without the United States [federal territory or the government]: "I declare (or certify, verify, or 4 state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). 6 (Signature)". 7 (2) If executed within the United States [federal territory or the government], its territories, possessions, or 8 commonwealths: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). 10 (Signature)". 11

- Telling you when you submit the form that the terms on the form have their ordinary, PRIVATE, non-statutory 12 meaning but after they RECEIVE the form, INTERPRETING all terms in their PUBLIC and STATUTORY context. 13 This is bait and switch, deception, and FRAUD. 14
 - Confusing the CONSTITUTIONAL context with the STATUTORY context for geographical words of art such as "United States" and "State".
 - 4. Confusing CONSTITUTIONAL "Citizens" or "citizens of the United States" in the Fourteenth Amendment with STATUTORY "U.S. citizen", or "nationals and citizens of the United states at birth" under 8 U.S.C. §1401.
- Confusing CONSTITUTIONAL "persons" or "people" with STATUTORY "persons" or "individuals". 19 CONSTITUTIONAL "persons" are all MEN OR WOMEN AND NOT ARTIFICIAL entities or offices, while civil 20 STATUTORY persons are all PUBLIC offices and fictions of law created by Congress. 21
 - Connecting you with a civil status found in civil statutory law, which is a public office. The form itself does this:
 - 6.1. In the "status" block. It either doesn't offer a STATUTORY "non-resident non-person" status in the form or they don't offer ANY form for STATUTORY "non-resident non-persons".
 - 6.2. The Title of the form. The upper left corner of the 1040 identifies the applicant as a "U.S. individual", meaning a public office domiciled on federal territory.
 - 6.3. Underneath the signature, which usually identifies the civil status of the applicant, such as "taxpayer".
- The remedy for the above types of deception and fraud is the following: 28
- Avoid filling out any and every government form. 29

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- If FORCED to fill out a government form, ALWAYS attach a MANDATORY attachment that defines all geographical, citizenship, and status terms the form with precise definitions and betray whether the meaning is STATUTORY or CONSTITUTION. It CANNOT be both. If you think it is both, you are practicing a logical fallacy called "equivocation". State on the form you are attaching to that the form is "Not valid, false, and fraudulent if not accompanied by the following attachment: ". The attachments on our site are good for this.
- Tell the recipient that if they don't rebut the definitions you provide within a specified time limit, then they agree and 35 are estopped from later challenging it. 36
- Specify that none of the terms on the form submitted have the meaning found in any state or federal statutory code. 37 Instead they imply only the common meaning. 38
- There are many forms on our site you can attach to standard forms provided by the IRS, state revenue agencies, financial 39 institutions, and employers that satisfy the above to ensure that your correct status is reflected in their records. Below are the 40 most important ones. 41
 - Affidavit of Citizenship, Domicile, and Tax Status, Form #02.001 http://sedm.org/Forms/FormIndex.htm
- Tax Form Attachment, Form #04.201 2. 44 45
 - http://sedm.org/Forms/FormIndex.htm
- USA Passport Application Attachment, Form #06.007 46 http://sedm.org/Forms/FormIndex.htm 47
- Voter Registration Attachment, Form #06.003 48 http://sedm.org/Forms/FormIndex.htm 49
 - Affidavit of Domicile: Probate, Form #04.223

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

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The language after the line below is language derived from Form #04.223 above. The language included is very instructive and helpful to our readers in identifying HOW the identity theft happens. We strongly suggest reusing this language in the administrative record of any entity who claims you are a statutory "taxpayer", "person", or "individual" under the Internal Revenue Code or state revenue code.

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7	AFFIDVAVIT REGARDING ESTATE OF
8	<i>DECEDENT:</i>

I certify that the following facts are true under penalty of perjury under the criminal perjury laws of the state I am in but NOT under any OTHER of the civil statutory codes. I am not under any other civil codes as a civil non-resident non-person. The content of this form defines all geographical, citizenship, and domicile terms used on any and all forms to which this estate settlement relates for all parties concerned.

- Civil status and domicile of decedent: Decedent at the time of his death was:
 - 1.1. A CONSTITUTIONAL "Citizen" or "citizen of the United States" as defined in the Fourteenth Amendment.
 - 1.2. NOT a STATUTORY "U.S. citizen" or "national and citizen of the United States at birth" under 8 U.S.C. §1401, 26 C.F.R. \$1.1-1(c), or 26 U.S.C. \$3121(e). 26 C.F.R. \$1.1-1(c) identifies an 8 U.S.C. \$1401 "U.S. citizen" as the ONLY type of "citizen" subject to the Internal Revenue Code. All such "U.S. citizens" are territorial citizens born within and domiciled within federal territory and NOT a CONSTITUTIONAL "State".
 - 1.3. Domiciled in the CONSTITUTIONAL "United States" and CONSTITUTIONAL State at the time of his death.

"...the Supreme Court in the Insular Cases 120 provides authoritative guidance on the territorial scope of the term "the United States" in the Fourteenth Amendment. The Insular Cases were a series of Supreme Court decisions that addressed challenges to duties on goods transported from Puerto Rico to the continental United States. Puerto Rico, like the Philippines, had been recently ceded to the United States. The Court considered the territorial scope of the term "the United States" in the Constitution and held that this term as used in the uniformity clause of the Constitution was territorially limited to the states of the Union. U.S. Const. art. I, § 8 ("[A]ll Duties, Imposts and Excises shall be uniform throughout the United States." (emphasis added)); see Downes v. Bidwell, 182 U.S. 244, 251, 21 S.Ct. 770, 773, 45 L.Ed. 1088 (1901) ("[I]t can nowhere be inferred that the territories were considered a part of the United States. The Constitution was created by the people of the United States, as a union of States, to be governed solely by representatives of the States; ... In short, the Constitution deals with States, their people, and their representatives."); Rabang, 35 F.3d at 1452. Puerto Rico was merely 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, 182 U.S. at 287, 21 S.Ct. at 787.

The Court's conclusion in Downes was derived in part by analyzing the territorial scope of the Thirteenth and Fourteenth Amendments. The Thirteenth Amendment prohibits slavery and involuntary servitude "within the United States, or any place subject to their jurisdiction." U.S. Const. amend. XIII, § 1 (emphasis added). The Fourteenth Amendment states that persons "born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside." U.S. Const. amend XIV, § 1 (emphasis added). The disjunctive "or" in the Thirteenth Amendment demonstrates that "there may be places within the jurisdiction of the United States that are no[t] part of the Union" to which the Thirteenth Amendment would apply. Downes, 182 U.S. at 251, 21 S.Ct. at 773. Citizenship under the Fourteenth Amendment, however, "is not extended to persons born in any place 'subject to [the United States '] jurisdiction," but is limited to persons born or naturalized in the states of the Union. Downes, 182 U.S. at 251, 21 S.Ct. at 773 (emphasis added); see also id. at 263, 21 S.Ct. at 777 ("[In dealing with foreign sovereignties, the term 'United States' has a broader meaning than when used in the Constitution, and includes all territories subject to the jurisdiction of the Federal government, wherever located."). 121 [Valmonte v. I.N.S., 136 F.3d. 914 (C.A.2, 1998)]

¹²⁰ De Lima v. Bidwell, 182 U.S. 1, 21 S.Ct. 743, 45 L.Ed. 1041 (1901); Dooley v. United States, 182 U.S. 222, 21 S.Ct. 762, 45 L.Ed. 1074 (1901); Armstrong v. United States, 182 U.S. 243, 21 S.Ct. 827, 45 L.Ed. 1086 (1901); and Downes v. Bidwell, 182 U.S. 244, 21 S.Ct. 770, 45 L.Ed. 1088 (1901).

¹²¹ Congress, under the Act of February 21, 1871, ch. 62, § 34, 16 Stat. 419, 426, expressly extended the Constitution and federal laws to the District of Columbia. See Downes, 182 U.S. at 261, 21 S.Ct. at 777 (stating that the "mere cession of the District of Columbia" from portions of Virginia and Maryland did not "take [the District of Columbia] out of the United States or from under the aegis of the Constitution.").

- 1.4. NOT domiciled in the STATUTORY "United States" or "State" as that term is defined in 26 U.S.C. §7701(a)(9) and (a)(10) or 4 U.S.C. §110(d) or the state revenue codes. These areas are federal territory not within the exclusive jurisdiction of a state of the Union.
- 1.5. NOT a STATUTORY "U.S. person" as that term is defined in 26 U.S.C. §7701(a)(30), because it relies on the definition of "United States" found in 26 U.S.C. §7701(a)(9) and (a)(10) or 4 U.S.C. §110(d) or the state revenue codes.
- 1.6. An "individual" in an ordinary or CONSTITUTIONAL sense. By this we mean he was a PRIVATE man or woman protected by the CONSTITUTION and the COMMON LAW and NOT subject to the jurisdiction of the STATUTORY civil law.
- 1.7. NOT an "individual" in a STATUTORY sense or as used in any revenue code. 26 C.F.R. §1.1441-1(c)(3) indicates that "individuals" are "aliens" by default and are both "foreign persons" and "aliens". Therefore the decedent could not possibly be an "individual" as that term is used in the Internal Revenue Code.

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

(c) Definitions

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(3) Individual.

(i) Alien individual.

The term alien individual means an individual who is not a citizen or a national of the United States. See Sec.

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

(c) Definitions

(3) Individual.

(ii) Nonresident alien individual.

The term nonresident alien individual means persons described in section 7701(b)(1)(B), alien individuals who are treated as nonresident aliens pursuant to § 301.7701(b)-7 of this chapter for purposes of computing their U.S. tax liability, or an alien individual who is a resident of Puerto Rico, Guam, the Commonwealth of Northern Mariana Islands, the U.S. Virgin Islands, or American Samoa as determined under § 301.7701(b)-1(d) of this <u>chapter</u>. An alien individual who has made an <u>election</u> under section 6013(g) or (h) to be treated as a resident of the <u>United States</u> is nevertheless treated as a <u>nonresident alien</u> individual for <u>purposes</u> of <u>withholding</u> under chapter 3 of the Code and the regulations thereunder.

- Warning NOT to confuse STATUTORY and CONSTITUTIONAL contexts for geographical or citizenship terms:
 - 2.1. Recipient of this form is cautioned NOT to PRESUME that the STATUTORY and CONSTITUTIONAL contexts of geographical, citizenship, or domicile terms are equivalent. They are NOT and are mutually exclusive.
 - 2.2. One CANNOT lawfully have a domicile in two different places that are legislatively "foreign" and a "foreign estate" in relation to each other. This is what George Orwell called DOUBLETHINK and the result is CRIMINAL IDENTITY THEFT.
 - 2.3. The U.S. Supreme Court held in Rogers v. Bellei, 401 U.S. 815 (1971) that an 8 U.S.C. §1401 STATUTORY "U.S. citizen" is NOT a CONSTITUTIONAL "citizen of the United States" under the Fourteenth Amendment. See also Valmonte v. I.N.S., 136 F.3d. 914 (C.A.2, 1998) earlier. Therefore, it is my firm understanding that the decedent:
 - 2.3.1. Was NOT domiciled in the STATUTORY "United States" or "State" defined in 26 U.S.C. §7701(a)(9) and (a)(10) or 4 U.S.C. §110(d) or the state revenue codes. These areas are federal territory under the exclusive jurisdiction of the national government.
 - 2.3.2. Was NOT a STATUTORY "U.S. citizen" under 8 U.S.C. §1401, which is the ONLY type of "citizen" mentioned anywhere in the Internal Revenue Code. These are territorial citizens domiciled on federal territory, and the decedent was NOT so domiciled.
- "Intention" of the Decedent:

The transaction to which this submission relates requires the affiant to provide legal evidence of the "domicile" of the decedent for the purposes of settling the estate. This requires that he/she make a "legal determination" about someone who he/she had a blood relationship with. "Domicile" is a legal term which includes both PHYSICAL presence in a place COMBINED with consent AND intent to dwell there permanently.

> "domicile. A person's legal home. That place where a man has his true, fixed, and permanent home and principal establishment, and to which whenever he is absent he has the intention of returning. Smith v. Smith, 206 Pa.Super. 310, 213 A.2d. 94. Generally, physical presence within a state and the intention to make it one's home are the requisites of establishing a "domicile" therein. The permanent residence of a person or the place

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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

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1			partnership is to be regarded as resident or nonresident is not determined by the nationality or residence of its
2			members or by the place in which it was created or organized.
3			[Amended by T.D. 8813, Federal Register: February 2, 1999 (Volume 64, Number 21), Page 4967-4975]
4			[IMPORTANT NOTE!: Whether a "person" is a "resident" or "nonresident" has NOTHING to do with the
			nationality or physical location, but with whether it is engaged in a "trade or business", which is defined in 26
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6			U.S.C. §7701(a)(26) as "the functions of a public office. None of the heirs or the estate are engaging in a public
7			office and cannot lawfully do so without a lawful political election or political appointment from OTHER than
8			themselves]
9		5.5.	The purpose of the definitions in this section (Section 5) is to ensure then neither the Decedent, nor Personal Representative,
10			nor the Heirs are treated as if they are the recipients of any statutory "benefit" or privilege in connection with any government
11			that they are acting entirely in a PRIVATE capacity, and that they are exercising rightful common law ownership and control
12			over the property in question to exclude the government from receiving any commercial benefit or control over the estate by
			virtue of this proceeding. Any attempt to undermine this right TO EXCLUDE the government is a denial of an absolute
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14			property right and shall constitute a "purposeful availment" of commerce in a foreign jurisdiction and a waiver of official,
15			judicial, and sovereign immunity by all those so abrogating the very purpose of establishing government itself, which is to
16			protect PRIVATE property and PRIVATE rights.
17 18			Potest quis renunciare pro se, et suis, juri quod pro se introductum est. A man may relinquish, for himself and his heirs, a right which was introduced for his own benefit. See 1 Bouv. Inst. n. 83.
19			Invito beneficium non datur. No one is obliged to accept a benefit against his consent. Dig. 50, 17, 69. But if he
20			does not dissent he will be considered as assenting. Vide Assent.
21			Quilibet potest renunciare juri pro se inducto. Any one may renounce a law introduced for his own benefit. To
22			this rule there are some exceptions. See 1 Bouv. Inst. n. 83.
23			Quod meum est sine me auferri non potest. What is mine cannot be taken away without my consent. Jenk. Cent.
24			251. Sed vide Eminent Domain.
25			[Bouvier's Maxims of Law, 1856; SOURCE:
26			http://famguardian.org/Publications/BouvierMaximsOfLaw/BouviersMaxims.htm]
27	6.	The	estate and all affiants are a STATUTORY "foreign estate" per 26 U.S.C. §7701(a)(31) because:
28 29			TITLE 26 > Subtitle F > CHAPTER 79 > Sec. 7701. [Internal Revenue Code] Sec. 7701. – Definitions
30 31			(a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof—
32			(31)Foreign estate or trust
33			(A)Foreign estate
34			The term "foreign estate" means an estate the income of which, from sources without the United States which
35			is not effectively connected with the conduct of a trade or business within the United States, is not includible
36			in gross income under subtitle A.
37			(B)Foreign trust
38			The term "foreign trust" means any trust other than a trust described in subparagraph (E) of paragraph (30).
39		6.1.	WITHOUT the STATUTORY "United States".
40 41			TITLE 26 > Subtitle F > CHAPTER 79 > Sec. 7701. [Internal Revenue Code] Sec. 7701. – Definitions
42 43			(a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof—
14			(9) United States
15			The term "United States" when used in a geographical sense includes only the States and the District of Columbia

1		(10) State
2		The term "State" shall be construed to include the District of Columbia, where such construction is necessary to
3		carry out provisions of this title.
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5		TITLE 4 - FLAG AND SEAL, SEAT OF GOVERNMENT, AND THE STATES
6		CHAPTER 4 - <u>THE STATES</u>
7		Sec. 110. Same; definitions
8		(d) The term "State" includes any Territory or possession of the United States.
9	6.2	WITHIN the CONSTITUTIONAL "United States", meaning states of the CONSTITUTIONAL union of states.
10		NOT WITHIN the STATUTORY "State" or STATUTORY "United States" under the state revenue codes. It may be within
11	0.5.	these things in OTHER titles of the state codes, because other titles use different definitions for "State" and "United States".
12		REVENUE AND TAXATION CODE – RTC
13		DIVISION 2. OTHER TAXES [6001 - 60709] (Heading of Division 2 amended by Stats. 1968, Ch. 279.)
14		PART 10. PERSONAL INCOME TAX [17001 - 18181] (Part 10 added by Stats. 1943, Ch. 659.)
15		CHAPTER 1. General Provisions and Definitions [17001 - 17039.2] (Chapter 1 repealed and added by Stats.
16		1955, Ch. 939.)
17		17017 "United States," when used in a geographical sense, includes the states, the District of Columbia, and
18		the possessions of the United States.
19		(Amended by Stats. 1961, Ch. 537.)
20		17018. "State" includes the District of Columbia, and the possessions of the United States.
20 21		(Amended by Stats. 1961, Ch. 537.)
22	6.4.	Not connected with a STATUTORY "trade or business" within the STATUTORY "United States" as defined in 26 U.S.C.
23		§7701(a)(26). Decedent was NOT engaged in a public office within the national but not state government.
24		26 U.S.C. §7701
25 26		(a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof—
27		(26) trade or business
28		"The term 'trade or business' includes the performance of the functions of a public office."
29		NOTE: The U.S. Supreme Court held in the License Tax Cases that Congress CANNOT establish the above "trade or
30		business" in a state in order to tax it.
31 32		"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)]
32		[License 1th Cases, <u>72 U.S. 402</u> , 16 L.La. 477, 3 wan. 402, 2 A.P.1.A. 2224 (1000)]
33		Keep in mind that the "license" they are talking about is the constructive license represented by the Social Security Number
34		and Taxpayer Identification Number, which are only required for those ENGAGING in a STATUTORY "trade or business"
35		per 26 C.F.R. §301.6109-1. The number therefore behaves as the equivalent of what the Federal Trade Commission (FTC)
36		calls a "franchise mark".
37		"A franchise entails the right to operate a business that is "identified or associated with the franchisor's
38		trademark, or to offer, sell, or distribute goods, services, or commodities that are identified or associated with
39		the franchisor's trademark." The term "trademark" is intended to be read broadly to cover not only trademarks,
40		but any service mark, trade name, or other advertising or commercial symbol. This is generally referred to as the
41		"trademark" or "mark" element.
42		The franchisor [the government] need not own the mark itself, but at the very least must have the right to
43		license the use of the mark to others. Indeed, the right to use the franchisor's mark in the operation of the
44		business - either by selling goods or performing services identified with the mark or by using the mark, in
45		whole or in part, in the business' name - is an integral part of franchising. In fact, a supplier can avoid Rule
46 47		coverage of a particular distribution arrangement by expressly prohibiting the distributor from using its mark." [FTC Franchise Rule Compliance Guide, May 2008;
48		SOURCE: http://business.ftc.gov/documents/bus70-franchise-rule-compliance-guide]

The above definitions of geographical and citizenship terms are NOT definitions as legally defined if they do not include all things or classes of things which are EXPRESSLY included. Furthermore, the rules of statutory construction require that anything and 2 everything that is NOT EXPRESSLY INCLUDED in the above definitions is PURPOSEFULLY EXCLUDED: 3 4 "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, 5 170 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] 10 NOTE: Judges and even government administrators are NOT legislators and cannot by fiat or presumption add ANYTHING they 11 want to the definition of statutory terms. If they do, they are violating the separation of powers and conducting a commercial 12 invasion of the states in violation of Article 4, Section 4 of the United States Constitution. Furthermore, according the creator 13 of our three branch system of government, there is NO FREEDOM AT ALL and liberty is IMPOSSIBLE when the 14 executive and LEGISLATIVE functions are united under a single person: 15 "When the legislative and executive powers are united in the same person, or in the same body of magistrates, 16 there can be no liberty; because apprehensions may arise, lest the same monarch or senate should enact 17 tyrannical laws, to execute them in a tyrannical manner. 18 Again, there is no liberty, if the judiciary power be not separated from the legislative and executive. Were it 19 joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control; for the judge 20 would be then the legislator. Were it joined to the executive power, the judge might behave with violence and 21 oppression [sound familiar?]. 22 There would be an end of everything, were the same man or the same body, whether of the nobles or of the 23 people, to exercise those three powers, that of enacting laws, that of executing the public resolutions, and of 24 trying the causes of individuals. 25 [...] 26 27 In what a situation must the poor subject be in those republics! The same body of magistrates are possessed, as executors of the laws, of the whole power they have given themselves in quality of legislators. They may 28 plunder the state by their general determinations; and as they have likewise the judiciary power in their hands, 29 every private citizen may be ruined by their particular decisions. 30 31 [The Spirit of Laws, Charles de Montesquieu, Book XI, Section 6, 1758; SOURCE: http://famguardian.org\Publications\SpiritOfLaws\sol_11.htm] 32 It is FRAUD to presume that the use of the word "includes" in any definition gives unlimited license to anyone to add whatever they 33 want to a statutory definition. This is covered in: 34 Legal Deception, Propaganda, and Fraud, Form #05.014 http://sedm.org/Forms/05-MemLaw/LegalDecPropFraud.pdf. The recipient of this form is NOT AUTHORIZED to add anything to the above definitions or PRESUME anything is included that 35 does not EXPRESSLY APPEAR in said definitions of the STATUTORY "United States" or "State". Even the U.S. Supreme Court 36 admits that it CANNOT lawfully do that. 37 "It is axiomatic that the statutory definition of the term excludes unstated meanings of that term. Colautti v. 38 Franklin, 439 U.S. 379, 392, and n. 10 (1979). Congress' use of the term "propaganda" in this statute, as indeed 39 in other legislation, has no pejorative connotation. As judges, it is our duty to [481 U.S. 485] construe legislation 40 as it is written, not as it might be read by a layman, or as it might be understood by someone who has not even 41 read it." 42 43 [Meese v. Keene, 481 U.S. 465, 484 (1987)] "When a statute includes an explicit definition, we must follow that definition, even if it varies from that term's 44 ordinary meaning. Meese v. Keene, 481 U.S. 465, 484-485 (1987) ("It is axiomatic that the statutory definition 45 of the term excludes unstated meanings of that term"); Colautti v. Franklin, 439 U.S. at 392-393, n. 10 ("As a 46 rule, `a definition which declares what a term "means" ... excludes any meaning that is not stated"); Western 47 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 48 (1935) (Cardozo, J.); see also 2A N. Singer, Sutherland on Statutes and Statutory Construction § 47.07, p. 152, 49 and n. 10 (5th ed. 1992) (collecting cases). That is to say, the statute, read "as a whole," post at 998 [530 U.S. 50 51 943] (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." 52

[Stenberg v. Carhart, 530 U.S. 914 (2000)]

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How NOT to respond to this submission: In responding to this submission, please DO NOT:

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- 9.1. Tell the affiant what to put or NOT to put in his/her paperwork. That would be practicing law on affiant's behalf, which I do not consent to.
- 9.2. Try to censor this addition or submission. That would be criminal subornation of perjury. This affidavit and the attached paperwork are signed under penalty of perjury and therefore constitute "testimony of a witness". Any attempt to influence that witness or restrict his or her testimony is criminal subornation of perjury.
- Threaten to withhold service or in some way punish the affiant for submitting or insisting on including this mandatory affidavit. All such efforts constitute criminal witness tampering.
- 9.4. Communicate emotions or opinions about this correspondence. The ONLY thing requested in response is FACTS and LAW admissible as evidence in court and immediately relevant and "material" to the issues raised herein. Opinions, beliefs, or presumptions are not admissible as evidence in court under the rules of evidence and I don't consent or stipulate to admit them. Furthermore, even FACTS or LAW are not admissible as evidence unless and until they are communicated by a competent IDENTIFIED witness who signs under penalty of perjury. The identification required must include the full legal name, email address, phone number, and workplace address of the witness. Otherwise, the evidence is without foundation and will be excluded. All attempts to respond emotionally, with opinions, beliefs, or presumptions shall constitute malicious abuse of legal process per 18 U.S.C. §1589 and the equivalent state statutes.
- 9.5. Cite or try to enforce any company policy that might override or supersede what is requested here. Any company policy which promotes, condones, or protects the commission of CRIMINAL activity clearly is unenforceable and non-binding on anyone it is alleged to pertain to, including the recipient of this form and the submitter as a man or woman.
- 10. Invitation and time limit to rebut by recipient of this form: If the recipient disagrees about the civil status, domicile, or location of the estate of the decedent, you are required to provide court admissible evidence proving EXACTLY where the term "U.S. citizen", "United States", and "State" as you used it in your communication includes CONSTITUTIONAL states of the Union or CONSTITUTIONAL "citizens" under the Fourteenth Amendment before the transaction that is related to this submission is completed. If you do not rebut the definitions appearing in this affidavit with court admissible evidence, then:
 - 10.1. You constructively consent and stipulate to the definitions provided here both between us and between you and other parties who might be involved in this transaction. 10.2. You are equitably estopped and subject to laches in all future proceedings from contradicting the definitions herein provided.
- 11. Franchise agreement protecting commercial uses or abuses of this submission or any attachments: Any attempt to do any of the following shall constitute constructive irrevocable consent to the following franchise agreement by those accepting this submission or any of the attached forms or those third parties who use such information as legal evidence in any legal proceeding:

Injury Defense Franchise and Agreement, Form #06.027; http://sedm.org/Forms/06-AvoidingFranch/SovereigntyFranchise.pdf

- 11.1. Commercially or financially benefit anyone OTHER than the affiant and his/her immediate blood relatives.
- 11.2. PRESUME any thing or class of thing is included in the STATUTORY definitions of "State", "United States", "U.S. citizen", or "national and citizen of the United States at birth" in 8 U.S.C. §1401.
- 11.3. Enforce any portion of the Internal Revenue Code or state revenue code against this FOREIGN estate. This includes any type of withholding, reporting, or compliance to these revenue codes using any information about or provided by the affiant or anyone associated with this transaction. Any attempt to do otherwise shall be treated as a criminal offense.
- 12. Violations of this affidavit and agreement: Any attempt to enforce any civil status of the decedent or affiant against the affiant is a criminal offense described in the following:

Affidavit of Duress: Illegal Tax Enforcement by De Facto Officers, Form #02.005 http://sedm.org/Forms/02-Affidavits/AffOfDuress-Tax.pdf.

Signatures:	
Executor #1:	<u> </u>
	Date

11.10 Applicability of IRS Presumption Rules in 26 C.F.R. §1.1441-1(b)(3)

- IRS Presumption Rules found in 26 C.F.R. §1.1441-1(b)(3) do NOT apply unless and until the government satisfies the 41 burden of proving the following: 42
 - 1. The owner of the property is a statutory "alien", and therefore "individual" (26 C.F.R. §1.1441-1(c)(3)) and "person" (26 U.S.C. §7701(a)(1)). You cannot be a "payee" who has ANY duty a "withholding agent" to prove ANYTHING WITHOUT FIRST being a statutory "person" and therefore an "alien".

Title 26 > Chapter I > Subchapter A > Part 1 > Section 1.1441-1 26 CFR 1.1441-1 - Requirement for the deduction and withholding of tax on payments to foreign persons.

§ 1.1441-1 Requirement for the deduction and withholding of tax on payments to foreign persons.

(b) General rules of withholding-

1	(2) Determination of payee and payee's status-
2	(i) In general.
3	[] "a payee is the person to whom a payment is made, regardless of whether such person is the beneficial
4	owner of the amount (as defined in paragraph (c)(6) of this section)."
5	
6	26 C.F.R. §1.1441-1 Requirement for the deduction and withholding of tax on payments to foreign persons.
7	(c) Definitions
8	(3) Individual.
9	(i) Alien individual.
10 11	The term alien individual means an individual who is not a citizen or a national of the United States. See Sec. 1.1-1(c).
12	
13	26 C.F.R. §1.1441-1T Requirement for the deduction and withholding of tax on payments to foreign persons.
14	(c) Definitions
15	(3) Individual.
16	(ii) Nonresident alien individual.
17	The term nonresident alien individual means persons described in section 7701(b)(1)(B), alien individuals who
18	are treated as nonresident aliens pursuant to § 301.7701(b)-7 of this chapter for purposes of computing their U.S.
19	tax liability, or an alien individual who is a resident of Puerto Rico, Guam, the Commonwealth of Northern
20	Mariana Islands, the U.S. Virgin Islands, or American Samoa as determined under <u>§ 301.7701(b)-1(d)</u> of this
21	chapter. An alien individual who has made an election under section 6013(g) or (h) to be treated as a resident of
22	the <u>United States</u> is nevertheless treated as a <u>nonresident alien</u> individual for <u>purposes</u> of <u>withholding</u> under
23	chapter 3 of the Code and the regulations thereunder.
24 25	ty subject to tax was lawfully converted from PRIVATE to PUBLIC ownership or control by satisfying the roof identified below and in the <u>Separation Between Public and Private Course</u> , Form #12.025.
26	SEDM Disclaimer
27	4. Meaning of Words
10	The word "private" when it appears in front of other entity names such as "person", "individual", "business",
28 29	"employee", "employer", etc. shall imply that the entity is:
30	1. In possession of absolute, exclusive ownership and control over their own labor, body, and all their
31	property. In Roman Law this was called "d <u>ominium</u> ".
32	2. On an EQUAL rather than inferior relationship to government in court. This means that they have no
33	obligations to any government OTHER than possibly the duty to serve on jury and vote upon voluntary
34	acceptance of the obligations of the civil status of "citizen" (and the <u>DOMICILE</u> that creates it). Otherwise,
35	they are entirely free and unregulated unless and until they INJURE the equal rights of another under the
36	common law.
37	3. A "nonresident" in relation to the state and federal government.
38	4. Not a PUBLIC entity defined within any state or federal statutory law. This includes but is not limited to
39	statutory "person", "individual", "taxpayer", "driver", "spouse" under any under any civil statute or
40 41	franchise. 5. Not engaged in a public office or "trade or business" (per 26 U.S.C. §7701(a)(26)). Such offices include but
+1 42	are not limited to statutory "person", "individual", "taxpayer", "driver", "spouse" under any civil statute or
43	franchise.
14	6. Not consenting to contract with or acquire any public status, public privilege, or public right under any
45	state or federal franchise. For instance, the phrase "private employee" means a common law worker that is

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2	NOT the statutory "employe" defined within 26 U.S.C. $\S3401(c)$ or 26 C.F.R. $\S301.3401(c)$ -1 or any other federal or state law or statute.
3	7. Not sharing ownership or control of their body or property with anyone, and especially a government. In
4	other words, ownership is not "qualified" but "absolute".
5	8. Not subject to civil enforcement or regulation of any kind, except AFTER an injury to the equal rights of
6	others has occurred. Preventive rather than corrective regulation is an unlawful taking of property
7	according to the Fifth Amendment takings clause.
8	Every attempt by anyone in government to alienate rights that the Declaration of Independence says are
9	UNALIENABLE shall also be treated as "PRIVATE BUSINESS ACTIVITY" that cannot be protected by sovereign,
10	official, or judicial immunity. So called "government" cannot make a profitable business or franchise out of
11	alienating inalienable rights without ceasing to be a classical/de jure government and instead becoming in effect
12	an economic terrorist and de facto government in violation of Article 4, Section 4.
13	"No servant [or government or biological person] can serve two masters; for either he
14	will hate the one and love the other, or else he will be loyal to the one and despise the
15	other. You cannot serve God and mammon [government]."
16	[Luke 16:13, Bible, NKJV]
	<u> </u>
	GERM Disabilities Continued Managing of Woods COURCE Ages // a large // a lar
17	[SEDM Disclaimer, Section 4: Meaning of Words; SOURCE: http://sedm.org/disclaimer.htm]
18	3. The owner of the property was acting as a public officer on official business and therefore was subject to regulations
19	and supervision. The reason for this is explained in:
	Why Your Government is Either a Thief or You are a "Public Officer" for Income Tax Purposes, Form #05.008
	https://sedm.org/Forms/FormIndex.htm
	https://sedm.org/10/ms/10/mmdex.ndm
20	The above is consistent with the following holding by the LLS. Supreme Court, in referencing "congressionally created
20	The above is consistent with the following holding by the U.S. Supreme Court, in referencing "congressionally created
20 21	The above is consistent with the following holding by the U.S. Supreme Court, in referencing "congressionally created rights", meaning statutory privileges:
21	rights", meaning statutory privileges:
21 22	rights", meaning statutory privileges: "The distinction between public rights and private rights has not been definitively explained in our precedents. 122
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21 22 22 23 24 25 26 27 28 29 30 31 31 32 33 34 35 36 37 38 39 40	rights", meaning statutory privileges: "The distinction between public rights and private rights has not been definitively explained in our precedents. 122 Nor is it necessary to do so in the present cases, for it suffices to observe that a matter of public rights must at a minimum arise "between the government and others." Ex parte Bakelite Corp., supra, at 451, 49 S.Ct., at 413. 123 In contrast, "the liability of one individual to another under the law as defined," Crowell v. Benson, supra, at 51, 52 S.Ct., at 292, is a matter of private rights. Our precedents clearly establish that only controversies in the former category may be removed from Art. III courts and delegated to legislative courts or administrative agencies for their determination. See Atlas Roofing Co. v. Occupational Safety and Health Review Commin, 430 U.S. 442, 450, n. 7, 97 S.Ct. 1261, 1266, n. 7, 51 L.Ed.2d. 464 (1977); Crowell v. Benson, supra, 285 U.S., at 50-51, 52 S.Ct., at 292. See also Katz, Federal Legislative Courts, 43 Harv.L.Rev. 894, 917-918 (1930). FN24 Private-rights disputes, on the other hand, lie at the core of the historically recognized judicial power." [] Although Crowell and Raddatz do not explicitly distinguish between rights created by Congress and other rights, such a distinction underlies in part Crowell's and Raddatz' recognition of a critical difference between rights created by federal statute and rights recognized by the Constitution. Moreover, such a distinction seems to us to be necessary in light of the delicate accommodations required by the principle of separation of powers reflected in Art. III. The constitutional system of checks and balances is designed to guard against "encroachment or aggrandizement" by Congress at the expense of the other branches of government. Buckley v. Valeo, 424 U.S., at 122, 96 S.Ct., at 683. But when Congress creates a statutory right la "privilege" in this case, such as a "trade"

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¹²² Crowell v. Benson, 285 U.S. 22, 52 S.Ct. 285, 76 L.Ed. 598 (1932), attempted to catalog some of the matters that fall within the public-rights doctrine:

[&]quot;Familiar illustrations of administrative agencies created for the determination of such matters are found in connection with the exercise of the congressional power as to interstate and foreign commerce, taxation, immigration, the public lands, public health, the facilities of the post office, pensions and payments to veterans." <u>Id.</u>, at 51, 52 S.Ct., at 292 (footnote omitted).

¹²³ Congress cannot "withdraw from [Art. III] judicial cognizance any matter which, from its nature, is the subject of a suit at the common law, or in equity, or admiralty." Murray's Lessee v. Hoboken Land & Improvement Co., 18 How. 272, 284 (1856) (emphasis added). It is thus clear that the presence of the United States as a proper party to the proceeding is a necessary but not sufficient means of distinguishing "private rights" from "public rights." And it is also clear that even with respect to matters that arguably fall within the scope of the "public rights" doctrine, the presumption is in favor of Art. III courts. See Glidden Co. v. Zdanok, 370 U.S., at 548-549, and n. 21, 82 S.Ct., at 1471-1472, and n. 21 (opinion of Harlan, J.). See also Currie, The Federal Courts and the American Law Institute, Part 1, 36 U.Chi.L.Rev. 1, 13-14, n. 67 (1968). Moreover, when Congress assigns these matters to administrative agencies, or to legislative courts, it has generally provided, and we have suggested that it may be required to provide, for Art. III judicial review. See Atlas Roofing Co. v. Occupational Safety and Health Review Comm'n, 430 U.S., at 455, n. 13, 97 S.Ct., at 1269, n. 13.

particularized tribunals created to perform the specialized adjudicative tasks related to that right, FN35_Such provisions do, in a sense, affect the exercise of judicial power, but they are also incidental to Congress' power to define the right that it has created. No comparable justification exists, however, when the right being adjudicated is not of congressional creation. In such a situation, substantial inroads into functions that have traditionally been performed by the Judiciary cannot be characterized merely as incidental extensions of Congress' power to define rights that it has created. Rather, such inroads suggest unwarranted encroachments upon the judicial power of the United States, which our Constitution reserves for Art. III courts.

[Northern Pipeline Const. Co. v. Marathon Pipe Line Co., 458 U.S. 50, 102 S.Ct. 2858 (1983)]

9 For more on the IRS Presumption Rules, see:

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

12. Resources for Further Reading, Rebuttal, and Research

- A number of additional resources are available for those who wish to further investigate federal jurisdiction and taxation as discussed in this pamphlet:
- 13 1. <u>Taxation Topic Page, Family Guardian Fellowship</u>. Thorough treatment of tax law http://famguardian.org/Subjects/Taxes/taxes.htm
- 2. <u>Great IRS Hoax</u>, Form #11.302,-Family Guardian Fellowship. Exhaustively analyzes the Income Tax Fraud. http://sedm.org/Forms/FormIndex.htm
- 3. Why the Federal Income Tax is Limited to Federal Territory, Possessions, Enclaves, Offices, and Other Property, Form #04.404
- http://sedm.org/Forms/FormIndex.htm
- 4. Rebutted Version of the IRS pamphlet "The Truth About Frivolous Tax Arguments", Form #08.005 -written by Family
 Guardian Fellowship
 http://sedm.org/Forms/FormIndex.htm
- 23 5. Rebutted Version of the Congressional Research Service Report 97-59A entitled "Frequently Asked Questions
 24 Concerning the Federal Income Tax", Form #08.006-written by Family Guardian Fellowship
 25 http://sedm.org/Forms/FormIndex.htm
- 6. <u>Rebutted Version of Dan Evan's Tax Resister FAQ</u>, Form #08.007-Family Guardian Fellowship http://sedm.org/Forms/FormIndex.htm
- 7. *Policy Document: UCC Redemption*, Form #08.002. Many of the false beliefs espoused by the redemption community and described in section 9.30 are also rebutted here.

 http://sedm.org/Forms/FormIndex.htm
- 8. <u>Policy Document: Who's Who in the Freedom Community</u>, Form #08.009 http://sedm.org/Forms/FormIndex.htm
- 9. <u>Federal Jurisdiction</u>, Form #05.018 http://sedm.org/Forms/FormIndex.htm
- 10. <u>Federal Enforcement Authority Within States of the Union</u>, Form #05.032 http://sedm.org/Forms/FormIndex.htm
- 11. <u>Federal Jurisdiction</u>, Family Guardian Fellowship
 http://famguardian.org/Subjects/LawAndGovt/Articles/FedJurisdiction/FedJuris.htm
- 12. <u>Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction</u>, Form #05.017 http://sedm.org/Forms/FormIndex.htm
- 13. Family Guardian Forums, Forum 6.2, Federal Jurisdiction Topic: Family Guardian Discussion Forums

 http://famguardian.org/forums/forum/6-issue-and-research-debates-anyone-can-read-only-members-can-post/62-federal-jurisdiction/
- 14. *Jurisdiction over Federal Areas within the States*, Form #11.203-- U.S. government report, 1954 http://sedm.org/Forms/FormIndex.htm