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## **I. Just leave me alone! (The reasons why you should allow your peace to be disturbed)**

Nothing upsets me quite as much as the know-it-all who tries to tell me how to live my life, how big a mess the world is, and how I'd better watch out before they take away everything I've got. These Doomsday merchants are a dime a dozen, and I'll bet most of them don't know what they're talking about.

After all, I've got a pretty fair living going on, TV keeps me up to date and reasonably amused, and, after a had day's work; I don't need another load of stress piled on. If the country's in trouble, well, that's what I expect the politicians to take care of- it's their job, not mine. They just voted themselves over \$10,000 a month, so they sure get paid enough to do it right, I'd say.

If these remarks describe your attitude about the troubles of life today, well, that same attitude was shared by our compilers, until just a few short years ago. In fact, we really miss feeling that way, because the way we feel now, we know just too darn much to be able to settle back into such complacency.

You see, some of us, too, are among those people who had them come and lien all that we had. Some of us had to go bankrupt. When that happened, many of us realized what dear targets we were. We knew that it could happen again. And again. After such total loss, we decided to finds ways to avoid becoming exposed to a repetition of the loss.

The only way that we could be protected was to crawl out of our shells and take a look around, to find the why and how all this could and did happen. We needed to see if there were some way to keep it from happening again. In the course of our search, we picked up a lot of pointers. Finally, we learned enough to get away from the problem, to get on with our lives, with some degree of security and peace of mind.

What follows is what we have found out. It was not easy to discover, and some of our information is subject to variances because of rapidly changing circumstances. By and large, though, what we have to tell is solid and usable right now.

For example, you probably feel that the best course to follow is to keep a low profile, and don't attract any attention to yourself. But consider this comment from one of our federal appellate courts:

The cooperative taxpayer fares much worse than the individual who relies upon his constitutional rights.  
x

It probably never entered your mind that you have an absolute right to cut down on what you pay to big government. The fact of the matter is, the highest court in the land has told us:

The legal right of a taxpayer... to altogether avoid (taxes), by any means which the law permits, cannot be doubted.<sup>2</sup>

That very same court has also informed us that our system of taxation is based upon voluntary compliance, not upon distraint.<sup>3</sup> What this really means is that, if you will only pay voluntarily, then the government won't come and force you to pay. To be more precise, here is what Assistant Attorney General (Taxation), Roger M. Olsen told his fellow bureaucrats, back in 1987:

We encourage voluntary compliance by scaring the hell out of you

We hope that you do not confuse love of country and obedience to law with trust in and submission to government. Let's examine the practices of agencies of government and exercise some independent judgment as the basis for our actions. Do you think that you might have been misled by your government? Do you feel that something out there is not quite right? Let us help you find out

United States v. Dickerson (1969), 413 F2d 1111

:Gregory v. Helvering (1934), 239 US 465, 469

<sup>3</sup>Flora v. United States, 362 US 145, 176

something about those rights, something you are not likely to have run into in your ordinary activities, and certainly not by listening to media which are totally controlled by that mysterious body we refer to as The Establishment.

Your rights do not have real meaning unless there are duties. Rights and duties can only exist in a person. @ For the person to have any benefit from a right, other people who might be in a position to infringe on the right must be under a duty not to do SO.

What defines the rights and duties of people is the law. This does not necessarily mean that the law is written down. In fact, when fundamental rights are mentioned, they are attributed to some "higher" authority. They are deemed inherent, unalienable and natural, and are so basic that everyone ought to understand them without any writing. Such rights have been ascribed to the Creator by the Declaration of Independence. Similarly, there are restrictions on conduct which are so manifestly necessary that it is needless to record them. Such restrictions are simply the duties which attach to those fundamental rights. Your right to life imputes a duty not to kill. Your right to property imputes a duty not to steal.

However, not all rights are fundamental, and not all duties are really necessary. To separate these categories of rights and duties you must select a means of classification. For this presentation the classification is three-fold:

1. Higher law: Do what is right.

2. Man's law:

Do what you agree to do.

Do not trespass on me or my property.

3. Vulgar law: Do what I say.

That part of the higher law which has been adopted into the practical laws of society has been merged with man's law. Those parts which deal with moral issues do not belong in the law, unless they also involve real and immediate physical danger. Such laws interfere with your freedom of choice, sometimes called free agency. Usually, as you are well aware, when men try to enforce moral laws by so-called social engineering, they are resorting to the

@Hogans v. Lavine, 415 US 528, 533

vulgar law. The entire field of social welfare legislation belongs to this class, along with the myriad of special-interest laws which plague every aspect of our lives.

Governments exist which purport to protect us in our rights and to compel us in our duties. If we were capable of abiding by the highest principle, that of brotherhood, government would be unnecessary. But, we are not so universally noble; thus we have had to submit to authority in government.

There are two basic types of government. One is a government which has absolute power. The other is a government which is limited by law. Governments may be led by a single person (monarchy, dictatorship), or a select group (oligarchy), or by all of the people (democracy). The democracy usually operates by majority rule.

What is significant is that if a democracy is not limited by law, then it is mob rule. It is mob rule because the same individuals are not the constituents of the majority as to each matter upon which the people must have a rule. By contrast, if a monarch is limited by law, as in a constitutional monarchy, you may have an orderly society even though it has the appearance of aristocracy. In either case, order and freedom will only exist when leaders have rules of law by which their positions are regulated. The highest form we have developed, called a Republic, employs representatives, who are elected by the majority, to administer the power of government in accordance with specified restrictions. The point is that the majority does not rule, it only elects.

The French Revolution espoused the ideas of equality, liberty and fraternity. It tried to operate as a democracy, calling itself a republic. However, there were no specified restrictions, and under the direction of influential but tyrannical leaders, it degenerated into a blood-bath.

In our own country, the Declaration of Independence should have freed the slaves. As actually applied, and as blessed by the Constitution, that Declaration failed to do so. Lincoln thought that the Emancipation Proclamation would do the job. Apparently it did not. Even a Civil War left the blacks as slaves in the South. It was thought that Amendment 13 finally made them free, and that by Amendments 14 and 15 our black brethren finally received their sovereignty, along with the rest of us.

This is a lie. The actual effect of those amendments was to bring the entire country into a kind of bondage, a form of voluntary servitude, recognized as villeinage in Merry Old England. It made us all equal all right - equally unfree. This compilation will show you how this bondage was brought about, how it is maintained, and what you can do about it.

A later chapter is a summary of concepts of law and government which will give you enough understanding of both to enable you to use the information contained herein. You might want to read that part first. Our whole report is put together in such a way that you can read any part you want, in whatever order you wish, and not lose the drift of the whole.

## A. Who says so? (The reliability of what is here written)

Our only qualifications for putting this compilation of information together is the fact that our technical editor practiced law in several state and federal courts for over 33 years. Our motivation to get this right was highly charged with personal interest.

The first reasonable question you might ask is, how can you be sure that we are not like that know-it-all we mentioned? The answer is really very simple. We are the first to admit that we don't know anything, except what we have learned from others. To give you the benefit of independent judgment on their credibility, we will identify who said what, so that you can check it out. Our own opinions are dearly stated. You can take them for whatever you may think they are worth.

The people upon whom we are relying are men like the authors of the Constitution and their contemporaries, various modern public figures, justices of the United States Supreme Court, justices from other courts around the country, and a lot of people who have tried some things which worked and some things which did not work. We quote judicial opinions and decisions a lot, and we try hard not to quote out of context. Just to be sure, we will refer you to the whole case involved, so that you can check us out.

Let us give you some samples of the insights which were presented to us from sources which most people believe are pretty sound. We selected these because the situation in which we find ourselves today seems like the fulfillment of prophesy:

None are so hopelessly enslaved as those who falsely believe they are free.

- Goethe

Men will continue to endure evils as long as the evils are sufferable.

Declaration of Independence

The individual is handicapped by coming face to face with a conspiracy so monstrous he cannot believe it exists.

J. Edgar Hoover

I believe that banking institutions are more dangerous to our liberties than standing armies . . . If the American people ever allow private banks to control the issue of currency... the banks and corporations that will grow up around them will deprive the people of all property until their children will wake up homeless on the continent that their fathers conquered

Thomas Jefferson

TAXES FOR REVENUE ARE OBSOLETE. ·

The second principal purpose of federal taxes is to attain more equality of wealth and of income than would result from economic forces working alone. The taxes which are effective for this purpose are the progressive individual income tax..

Beardsley Ruml Chairman, Federal Reserve Bank of New York

The IRS's disregard of taxpayer's rights confirms the worst fear that the American people have about the IRS. This illegal and offensive activity must stop ....

David Pryor

Chairman, Senate IRS

Oversight Committee

## **II. It's time to get your priorities straight! (How to Beat the System)**

There are three phases to beating the system. The first phase is your estate protection work. You are placing the things which creditors might seize beyond their reach. However, be aware that this effort may be useless if you are already in debt. Transfers without full consideration can be set aside, if you have creditors out there, including the Internal Revenue Service (IRS). You must first deal with those creditors, by settlement or by bankruptcy. Of course, if you sell for full consideration, no one has a right to complain, unless they can somehow show that the purpose of the sale was to hinder or delay creditors. Also, if the proceeds of sale can lawfully find their way beyond the jurisdiction of the courts, there is not much anyone can do about it.

The second phase is to utilize all of the defenses allowed by law to defeat the claims of the IRS. As you will see, most of their enforcement efforts are fraught with defects, and can be defeated by a determined resistance, both before a lawsuit and through the courts. Never hesitate to initiate action against the IRS where they are in the wrong (which is most of the time). Phase two enables you to deal effectively with the efforts of the IRS to entice you back into their clutches. It also will nullify most of their efforts to collect any tax. To reach this enviable position, you must know exactly how to respond to their letters and calls, and you must utilize the procedures which are legally available for your protection. These procedures are set forth in the Uniform Commercial Code (UCC); under the Paperwork Reduction Act (PRA); under the Freedom of Information Act (FOIA); under the Privacy Act (PA); and by reason of the laws relating to delegated authority. Further information on these weak spots is set forth in the following pages.

Finally, if you are not satisfied that the IRS stinger has been sufficiently pulled by your estate protection measures, or if you desire, as a matter of principle, to draw the line against governmental abuse, you may do your reclassification work. This places you beyond the reach of the taxation system which applies to subject citizens, unless you get back into it again by a subsequent consent, waiver, or other form of voluntary action. What you are doing is perfectly legal. You are simply making a public record of your true status, which renders you a non-taxpayer, or at least a payer of very limited taxes. The vital importance of this is that if you are charged with a revenue law offense, you have this reclassification record to establish your legal basis for refusing to file tax returns. Even if the court rejected your reclassification, it would be hard put to convict you of willful failure to file. Your belief in your lack of liability under the law is now a matter of record.

## **A. You Can't Get Blood Out of A Turnip! (How to become comfortably impoverished)**

### **1. Restructuring Your Asset Attitude**

Most of you have developed an attitude about property which tends to disable you when it comes to dealing with your creditors. This is the attitude which says that your success in life is measured by how much you have acquired.

The falsity of this concept is readily apparent when you examine the affairs of those whom we call the super-rich. Upon close examination, you find that such people have access to every conceivable luxury, but they never seem to owe a tax or be in debt. Why is this? Simply because they don't own anything of significant value. Everything they use is owned by some trust, corporation, foundation, or the like. Such people have learned that the enjoyment of wealth, undisturbed by the envious, requires a separation of the user from the ownership of the property. When properly done, the user has the full benefit of unlimited assets, but he is legally unable to control any of them. The property is thereby beyond the reach of creditors, public and private.

Of course, you might worry about being taken care of when you have no control. However, if you handled your paperwork properly in the first place, control would no longer matter. The paperwork does the job. The paperwork commands the managers to do certain things, most of which will

enures to your benefit. What does not, enures to the benefit of those you care about.

There are numerous methods to arrive at the enviable position of being completely insulated against creditors. This program simply mentions a few of them, sufficient to start you on your way. What you select will depend upon what you need and desire.

The point is that estate protection is undertaken not to defeat your creditors. Indeed, this cannot be done, lawfully- If you physically remove money or assets from the jurisdiction, you may actually be committing some crime. However, if you clean up your affairs first, then you can cause the implementation of a program which gives you the benefit of full usage of property, none of which is available to your creditors, public or private. This use can even pass to your family members, with the same insulation against the/r creditors. After all, if you have done your work properly, you have not misled any creditors, not even the IRS. This is neither tax avoidance nor tax evasion; those terms simply do not have application to what you have done (if done properly, and timely).

## **B. Restructuring Your Relationship to Property**

### **1. Clearing the Way**

Many of you will receive the information contained in this presentation at a time when you are significantly in debt, and perhaps already under pressure from the IRS. The existence of these demands, present and impending, requires special legal consideration in re-arranging your financial affairs. A person in debt is not allowed to simply re-situate his assets, then thumb his nose at his creditors. If the transfer is not made for fair value, or if it is made simply to hinder or delay creditors, the transfer will be set aside as a fraudulent conveyance. It will be the same as if no transfer were made in the first place. If the creditor is the IRS, they will not even bother to seek a court evaluation of such a conveyance. The IRS will simply declare the transferee to be your "nominee" or "alter ego." With this label ascribed, seizure will be made, and your transferee will be required to go to court in an effort to prove the validity of the transfer, to recover the asset.

Of course, if your transfer is to an entity in a foreign land, with no branch in the USA subject to local jurisdiction, neither court action nor seizure will be effective against that transferee, unless the foreign jurisdiction is a party to a treaty of some kind allowing American creditors (or our government) to be assisted in debt collection (usually taxes) in that foreign place. Be aware, however, that such a transfer might be punishable as a crime.

To determine whether or not you are open to claims of fraudulent conveyance or alter ego, you must understand the three different classes of creditors: present, future, and potential creditors.

A present creditor is one to whom you now owe money, or some legal duty. As to him, any conveyance for less than fair value, whether or not you intended to hinder or delay collection, will be set aside on demand. The IRS claims this position as to any tax which has been assessed against you.

A future creditor is one with whom you are involved financially, or doing business, wherein a future liability is presently determinable. This may arise where you built a home, subject to some guaranty, and the building is defective. Common sense should be sufficient to tell you whether or not any relationship which you have with another involves a determinable future financial or other obligation. Such a creditor can reach the transferred assets if it can be shown that they were transferred for less than fair value, or with intent to hinder or delay collection or enforcement. The IRS would be in the position of a future creditor as to any income which you have become entitled to receive, for which you have a duty to make a return at any time.

In both of the foregoing situations, the IRS will assert that your transfer was to a nominee, and will proceed with a seizure. If the transferee was a person who conspired with you to conceal assets, that person may become personally liable for your taxes to the extent of the value of assets so concealed. By contrast, if the conveyance of property was to an entity formed with a substantial business purpose, and all of the procedures required for due creation of the new business entity were satisfied, the integrity of the business will be respected-t

@Moline Properties, Inc. v. C. I. R. (1943), 329 US 436; Perr@ R. Bass, 50 TC 59

A potential creditor presents no problem to anyone. You are not required to structure your life to protect everyone who might at some future day extend you credit, or have a claim against you. If it were otherwise, the laws pertaining to gifts would be meaningless. The IRS is a potential creditor as to taxes on income which you have not yet become entitled to receive. Neither the IRS, nor any other potential creditor, will ever have a legal claim on assets which you sell, transfer, give away, or dispose of, no matter to whom or by what means you may do SO.

Also, always look up the local statute of limitations concerning conveyances, because even a fraudulent conveyance may be immune from attack, if done long enough ago.

If you are exposed to the problem of present or future creditor claims, you must be sure that your conveyances are completely valid. If you have sufficient assets to deal with all claims, you are solvent. If the transfers which you contemplate will not make you insolvent, you probably have no problem. However, if transfers might render you insolvent, you cannot make them without regard for the consequences. This means that you must receive fair value, and be acting without intent to hinder or delay collection. The matter of fair value seems quite simple: just sell or trade the asset for money or equivalent value. Unfortunately, many things which are actually of equal value are not so treated, when

the creditor comes calling. A transfer to a trust, in exchange for certificates of interest, or to a corporation, for its shares, are clearly fair value transactions. In fact, even if the certificates or shares are made assignable to a third person, there is fair consideration. The problem is, in the first instance, it might be deemed to be a transfer to hinder or delay creditors; and in the second, the assignment of the consideration is a gift, without fair value to you, and may be treated the same as if no assignment were made. Unless the transferee is outside of the reach of local law, he may be required to return the asset to you (meaning to your creditors).

By this analysis we have reduced the solution of the problem to two obvious steps: get money for the transfer; unless it is to defeat a tax claim, move the money to a jurisdiction where it cannot be seized. If the IRS is involved, you cannot make such a transfer unless it is to purchase some asset for value from a foreign source. However, there seems to be no requirement that the asset be returned to a jurisdiction within reach of the IRS. Just be sure the transaction was not intended solely as a device to defeat collection!

A special warning must be heeded: if the IRS has substantial claims against you, you may find yourself unable to secure a passport to do those "offshore" things you wish to do. Unless you have secured a foreign passport of some kind, you will be locked in until you get your tax problem under control.

#### ***a) Bankruptcy***

An alternative method for clearing the way is to file a bankruptcy. This will bring all of your creditors forward, and settle all claims, once and for all. In the absence of fraud, all taxes owed on returns timely filed over three years ago, or on late returns filed over two years ago, are discharged in a Chapter 7 (liquidation)@ or 11 (reorganization) type of bankruptcy. A discharge will also apply to unfiled returns (for which returns were due more than three years ago) or to late returns filed after the bankruptcy, if you file a Chapter 13 bankruptcy (wage earner plan); even fraud will not prevent discharge of taxes under that Chapter.<sup>2</sup>

Chapter 13 is not available to one who has no regular earnings, or who has debts over \$100,000 (unsecured) or \$350,000 (secured). However, one may file even though the claims of creditors (including the IRS) exceed these sums. He is entitled to dispute the claims. If he prevails against his creditors sufficiently to reduce the tax to the limits permitted, he may proceed with his Plan. For the person with excessive debt, he would file a "Chapter 20" bankruptcy: first a Chapter 7, to reduce the debt to the allowable maximums, then a Chapter 13, to arrange installment settlement of what remains. After filing the bankruptcy, in order to satisfy the government's concept of "good faith," one must file all past due-returns; a home-made return is recommended (explained later herein). However, even if you filed no returns, if the IRS fails to file a claim, demand discharge for taxes which are not

<sup>1</sup>11 USC @507 & 523

211 USC §@507(A)(iii) and 1328(a)

otherwise dischargeable The literal language of the Bankruptcy Act @ not permit discharge of current taxes,<sup>2</sup> but that should not dissuade you from making the effort.

Caution: be sure to wait until 240 days after any tax first becomes assessable (in non-Chapter 13 cases), to insure dischargeability.

The significance of bankruptcy is that, under any form, the old taxes can be discharged, and the current taxes can be paid in installments over a period of three to five years - installments which you determine, not installments imposed upon you by the IRS.

Another blessing of bankruptcy is that the bankrupt can challenge the amount of the tax claim due without first paying that amount? This would apply even to an amount previously adjudicated in the Tax Court (although not where the District Court has made the decision. Then, wait for the time limit to elapse before filing bankruptcy).

By reason of the potential of bankruptcy, you may be able to make a deal with your creditors, fully documented, executed and enforceable, or with the IRS, under their rules concerning compromise. Then you may be able to proceed with your estate protection. You need only be sure that you have made adequate provision to comply with your agreements. If this is not possible, and you are unable to move forward with the debt burden which you have, select the proper form of bankruptcy and get a discharge. Forget about the damage to your credit. If you are really in such a situation, your credit is gone, anyway!

## 2. Estate Options

Five estate entities are worthy of your consideration. Omitted are the statutory trust (a favorite of attorneys), and the general partnership (where you simply involve your friends in all of your problems). In selecting an entity, first decide if it will simply hold, protect, and maintain assets, or if it

tin re Price (1989 CA9), 871 F2d 97 211 USC @507

@11USC@505

will be used for business purposes. If not for a business purpose, the tax consequences are less onerous, but it may not be an entity capable of bankruptcy. If for business purposes, be prepared to handle its records in complete compliance with IRS requirements (unless it is a foreign entity with no jurisdictional exposure). Of course, regardless of tax exposure, the success of any entity depends to a significant degree upon the completeness of the records it maintains. However, remember that those records are private and immune from forced production. All business entities are regarded as privileged activities,<sup>4</sup> and they are subject to taxation, regulation and disclosure of records.

In addition, be sure that the entities are completely independent of each other. If they are not disconnected, they may be bunched together and treated as one entity, or as your alter ego. Separate management (separate from yourself), proper capitalization and complete records are your best protection against this danger. Avoid any claim that the management is a thinly veiled substitute for the debtor.

A common problem with estate protection programs is that the programmer shows negligible sources for his opulent life. Common sense dictates that you have a lifestyle and income which are mutually compatible. Let the records reflect that you are paying for those things which you use. The fact that the payments ultimately benefit a person or entity whose increase pleases you is beside the point. If you haven't the means to pay cash, borrow. Just be sure that your income can support the interest on what you borrow! Ideally, give security on what assets (if any) you retain, to secure what you borrow.

### **a) The Corporation**

A corporation operates on four levels of control. 1) Shareholders have the right to elect the directors. They do not control otherwise. 2) Directors set policy, appoint officers, and may ratify acts of officers. 3) Officers manage the business and hire the workers or contract for work to be done. 4) Hired personnel or independent contractors perform the objectives for which the corporation was formed. There are some states, such as Nevada, where the corporation may have one shareholder, one director,

4Hecht v. Malley, 265 US 155-156

and one officer, which person is hired to work for that corporation!

American corporations are best domiciled in Nevada, Wyoming, or Delaware because of the absence of state income tax, thereby minimizing interchange of information with the IRS. Wyoming has the advantage of allowing a corporation to be the sole director of another corporation. Nevada allows the issuance of bearer shares.

Since the tax reform act of 1986 destroyed individual deductions for most interest expenses, a corporation is desirable where such expenses run high.

If you are going to the trouble to form a corporation, be sure to use it to its full potential and purpose: it should deduct all withholding from payments to officers and employees (let them fight about it with the IRS); every conceivable benefit a corporation can offer to its officers and employees should be provided and deducted; the maximum profit on all business should be secured, with every imaginable deduction taken.

Be aware that the IRS gets double taxes when the corporate form is used (other than an "S" type) -once on profits, and again on dividends paid shareholders. Therefore, structure the affairs of the corporation so that most of the gross income goes into expense deductions. However, it is prudent to show some profit, and pay some tax. This minimizes a red flag, inviting an audit of corporate records -which are not immune under the 5th Amendment.

### **b) The Limited Liability Company**

A limited liability company is an association of members who divide the responsibilities, operations and profits of the company among themselves by contract. It may or may not employ other people, or enter into independent labor contracts. About 17 states have recognized this company form. It permits members to act together in management like partners, yet they enjoy protection against debts and other liabilities of the company (beyond their investment), just like corporate shareholders.

Another virtue of such a company is that it is taxed like a partnership, avoiding the double tax applied to the corporation.

In Utah, such a company may exist with corporate members. This is particularly valuable, since the charter for the company can distribute the profits of the company unequally among the members - according to whatever division they may determine. Thus, if the principal member were a foreign entity, in a country enjoying tax treaty benefits with the USA, most of the profits might go offshore without any nonresident alien withholding! Of course, this same benefit could apply to a corporation with foreign shareholders.

### ***c) The Family Limited Partnership***

A limited partnership is managed by general partners who share profits with limited partners who have no control over the business. The partnership may hire people or let independent contractors, and a limited partner could be hired. The general partners have personal liability for partnership obligations, while the limited partners are only liable to the extent of their ownership interest.

A family limited partnership is simply one where the limited partners are primarily family members. This is a matter of choice, and it would not be unusual for the general partner to be a foreign corporation - domiciled beyond the jurisdiction of the creditors of the partnership.

The special virtue of any partnership is that the personal creditors of a partner cannot seize partnership assets. Their claims and judgments can only be enforced by a charging order, which means that they get the payments or distributions due to the debtor partner, when and if such payments or distributions are declared and paid. There are some courts which permit the interest of the limited partner to be sold to satisfy his creditors. On the other hand, if a creditor gets a charging order, he is treated as an assignee, and can be levied upon for your tax debt.:

### ***d) The Unincorporated Organization***

The common law trust, Massachusetts business trust, pure trust, business trust, or unincorporated

@Crocker National Bank v. Jon R. Parreton@ 208 CA3d 1, 255 CR 794

business organization is best called by the name, "unincorporated organization" (UO). This is the title used in the IRC to designate an entity which is not simply an association which should be taxed like a corporation. If the UO operates a business, it will be called a business trust and it may pay taxes. However, if it is properly formed, it will be taxed as a partnership, not as a corporation.

This is the entity used by the super-rich to cloud their interests. It can exist for the period of lives-in-being plus 21 years, and can be renewed time and again. By its use, like a corporation, probate is avoided. Death of a beneficiary, trustee, or grantor has no effect on its assets, so there is never anything to probate. Ownership is manifested by an attachment listing the beneficiaries, or by certificates of interest. There can be no gift or inheritance or other tax applied to the transfer of a beneficial interest (unless capable of valuation because it was acquired at one fixed value and sold at another). Since one purpose of the entity may be to avoid regulation and to minimize tax exposure, common sense would prevent value-fixing transactions.

While the law generally recognizes the separate existence of the UO as an entity, in bankruptcy the entity has no recognition unless it is actually a business entity.x For this reason, it may be prudent (though unnecessary) to register the UO under the fictitious name laws, and pay for a business license.

The particular virtue of this entity is that it arises by contract, which contract is protected against impairment by Article I, Section 10 of the Constitution. This means that it is not an entity which arises by statute, so it is not taxed on that theory of law<sup>2</sup>. In theory, at least, it is not subject to governmental regulation, as is a partnership or a corporation, or even a statutory trust. Regulation of the UO is a technical violation of the Constitutional prohibition against contract impairment.

Structurally, the UO is in the nature of a trust. It is governed by the laws of contract and agency combined. It comprises three essential parties: the grantor, who conveys assets to the UO (or to the trustee thereof), the trustee who operates the UO in

'@ use §@01(s)(A)(v)

accordance with the terms and conditions of the instrument creating the UO (usually called a "trust indenture"), and the beneficiary, who receives the assets (upon termination of the UO) and interim distributions (if directed by the terms of the trust agreement or determined by the trustee in accordance with his authority).

There is usually only one grantor. The grantor might be an individual or an artificial entity, such as a corporation. The trustee may be one or many, and might be an artificial entity. The beneficiary may be one or many individuals and artificial entities. Obviously, any of the three, or the UO itself, may be a foreign domiciliary.

Because of the possibility that the UO might be taxed as a corporation, it is important to minimize the "badges" of that form. One such badge is an association of individuals. Having a single trustee helps to minimize the appearance of this badge, although a board of trustees does not create an association. Absolutely no direct or indirect management control in the beneficiaries can be allowed; otherwise, there is a merger of interest, an association arises, and the UO effectively disappears.

Another severe problem is that the IRS will always want to pierce the UO and call it your nominee. Exchanging assets for certificates of interest would be deemed to be removing your assets from the reach of your creditors. Since the "grantor trust" arises when there is no trustee with an adverse interest (meaning an ownership interest), it would be impossible for one to create a trust, as a grantor, in which any relative has a beneficial interest! Therefore, any trust you use must be created by someone unrelated to yourself. Also, unless you are completely debt free and tax clear, you must make any transfer a sale for fair value and let the trustee handle the issuance of certificates of interest independently. You must stay out of management or control yourself, or the trust will be treated as your alter ego?

To insure the continuity of a trust, it is prudent to have successor trustees selected by the trustee when he is appointed. Also, if there is any uneasiness in the grantor about the integrity or

2Revenue Ruling 77-137 2Hech 3Mesker v. United States (1966 MO), 261 FS 817, 820-821

n@,-@..@ supra, 152

future performance of the trustee or his successor, the trust agreement should provide for a ',protector" with authority to approve of the trustee's compensation, to move the trust to another · jurisdiction, and to remove any trustee at any time without cause. This protector should not be either the grantor or any beneficiary. Also, the protector must have no power to direct the trustee, or he effectively becomes the trustee himself.

#### ***e) The Sovereign Trust***

Almost unique in America is an entity known as the Sovereign trust. It was specially imported from England in the mid-80's and has begun to be used here.

Basically, it is a common law type of trust. However, it has no domicile, because it is created in a place which is not within the jurisdiction of any particular government. This is done by having it executed in international waters or airspace in a boat or aircraft which has joint ownership by citizens of different nationalities - preferably three or more. Also, the trust may recite that it is governed by the law of three or more nations, simultaneously. The effect is to create a multi-national non-domiciled trust. It incorporates both "Kingdom" law and "Canon" law. It is the form of trust used by English Royalty and by the Vatican. It appears that this form of trust is utterly unassailable in any court. However, so far as is known, no court case has tested this viewpoint.

### **3. Domicile of the Entity**

While it may be essential for your purposes that the estate entity be established outside of the USA, be aware that other jurisdictions may present problems worse than those you fear. Foreign seizure of assets is not uncommon, particularly in Mexico. Treaties with the USA may exist which could defeat your purposes. Your passport to travel may expire and not be renewable. For many purposes, it might be sufficient simply to go outside the country to conclude your transaction, and thereby avoid a sales tax.

Since most states share tax information with the IRS, privacy is impossible for any domestic entity.

Of course, if you have a Sovereign trust, there is no problem of domicile. The only question is whether the trustee of such a trust is found within any particular jurisdiction at any time, and thereby within the authority of the local government.

Jurisdictions which have sufficient independent jurisdiction, are fiscally sound, and are friendly, convenient and compatible include Turks & Caicos Islands, Cayman Islands, Isle of Man, and Channel Islands.

Tax free jurisdictions include Turks & Caicos, Isle of Man, Gibraltar, Monaco, Jersey, Guernsey, Malta, Panama, Bahamas, Cayman, and Montserrat.

Cayman and Turks & Caicos have the rare quality of allowing a corporation to issue bearer shares.

Having the entity offshore provides tremendous protection. For one thing, neither an American court nor the government can make enforceable orders against the entity or its offshore assets (so long as there is no domestic branch). For another, if you have borrowed money abroad, and given a security interest in domestic assets, the foreigner can come into our courts and enforce its priority claim over other creditors and the IRS.

Another benefit merits special mention. If you have sold property to one of the entities created for estate protection, you are certainly free to lease the property for fair value. This avoids the IRS claim that the transferee is just a nominee. As for the proceeds of rents paid to the entity, these could be invested in an annuity offered by an offshore entity, payable over 20 years or so. The consideration is dearly fair, the payee is beyond reach, and it has years to play with your money. Only the UO or its successor have any power to enforce the contract of annuity. If it is deferred for a period of years, there is nothing to enforce for that period of time. Also, nothing prevents the annuity payments from being deposited to an offshore account.

Once you have an arrangement of some kind with a foreign entity, it is simple and appropriate for you to move money offshore simply by paying the bills which the domestic entity incurs doing business with

the foreign one. Money can be paid offshore to purchase corporate stock, annuities or insurance policies. These purchased investments can be the source of borrowing money to capitalize a business, domestic or foreign, without a tax consequence.

#### **4. Tax Factors**

Be aware at all times that withholding of amounts up to 30% on income paid to a nonresident alien is required, unless a favorable tax treaty is in force. This rises to 35% on a transfer of a property without paying gains tax on any increased value.@

##### ***a) Tax Reduction Devices***

A device long in use, particularly for actors, doctors, dentists, and other professionals, is that of the service contract. This enables one to perform services for his employer at a fixed rate of compensation, take his pay after all payroll deductions, and pay taxes on the small net received? The employer makes a contract for the services to be performed for the benefit of another company, at a contract price agreed upon. After the employer has satisfied the payroll obligation, the rest goes into the company till, subject to all reductions for company expenses and other write-offs. If the company is foreign, and is domiciled where there is a favorable tax treaty, there is no nonresident alien withholding involved. If the professional cannot contract for services unless the employer has a professional license too, it simply becomes necessary to separate out all functions which do not require a license, and have them performed on a separate contract.

An author can sell his copyright to a foreign publisher, then repurchase the published book at a rate close to retail, sell the book at retail, and pay his tax on the small profit involved. The publisher should have his office in the same place as the service contractor mentioned above, where there is a favorable tax treaty.

If one sells his business for cash, invests the cash in a foreign annuity, and stays under contract with the purchaser as a consultant, he is an independent contractor, and there is no withholding. If he gave a service contract away first, then the compensation goes to his employer, his purchaser still pays no withholding, and what is left gets a minimal rate of tax.

@26 USC §1491

226 CFR §31-3401(d)(1); Revenue Ruling 76-479

If one hired by a business (including a trustee of property) is required to live on company property and maintain it, he derives no taxable income by such rent-free occupancy.<sup>3</sup> Similarly the business may need to provide him with an auto, all auto and other travel expenses, and any number of other needful promotional items, all deductible to the business, but not income to the hired person.

##### ***b) Tax Procedure***

If the UO expends all of its income on expenses and distributions, it has no income to report, and no tax to pay. If it does retain any accumulated profit, it will report it on a Form 1041. The tax rate applicable is that of a married person filing separately? The trustee can deduct medical expenses on trust income both for himself and his entire family.<sup>5</sup> Because it is usually a business entity, the UO should apply to Philadelphia for an ID number, which will commence with the numbers 52. There is no estate tax involved when the UO is used.<sup>6</sup>

### ***c) Special Tax Reporting***

On the dark side, beware of the obligation of an American shareholder, depositor or control person connected with a foreign entity. He may be subject to the accumulated earnings tax. Be aware of your general reporting obligations concerning foreign entities.<sup>7</sup> You are in control if you own 50% or more; you must report ownership of 10% or more (5% if the company is a public corporation). Proxy control is the same as ownership, for control purposes. Other foreign reporting requirements include interest or dividends over \$400, your creation of a foreign trust, and any asset transfer to a foreigner. However, a reportable transfer excludes a sale for full value, unless the transfer is by the creator of a trust to that trust-s Obviously, you do

s26 USC §119

@26 USC @544(a)(1)

526 USC §162

626 USC §6502

726 USC §6048

'26 CH@ §@6.3-@(b)(4)

not want ownership, control or receipts to belong to or to come from yourself, or anyone else who is in a position to have to make these reports. By contrast, you have no duty to report your directorship of any domestic corporation.

If you plan to transport more than \$5000 in cash over the border, be ready to report it. In case you did not know it, your federal reserve notes now have implanted in them a material which is detected at airport security and customs stations.

The IRS now requires every real estate transaction to be reported.<sup>x</sup> To avoid taxable profit on the real estate, it could be transferred at a value equal to its basis to a newly formed corporation, with the price paid by issuance of shares. The shares may then be transferred at that same basis, to an offshore jurisdiction with which there is a favorable tax treaty, where there is no withholding. A subsequent purchaser of the shares could be found, and any profit is not taxable in the United States. Thus, the purchaser takes the shares of the corporation (with the realty as its sole asset) without any tax involved. If the purchaser then sells the same shares to an American, at his cost, it is a transaction with no tax consequences. Furthermore, if the seller is a foreigner, there should be no tax, even if there is a profit, since it is not fixed or determinable income! If the corporation dissolves, the stock basis should become the property basis - a final transaction requiring no special report, and still no tax, because no gain.

Incidentally, there is no reporting requirement for the purchase of gold or silver.

There are many other tax factors relating to your dealings abroad. The foregoing are mentioned simply to impress upon you two things: the hazards involved; the blessings available.

## **5. Banking**

Our wonderful banks are completely under the control of the Federal Reserve, and are monitored by its cousin, FDIC. All of their records are routinely open to the IRS. In other words, by banking, you are publishing all of your financial affairs, in a form presentable as evidence in court, to all branches of your

government. Similarly, the credit bureaus of the country are tied into a network with all government agencies, so that everything in your credit record is also public information. Not only the government, but any private citizen with the price of a membership, can learn anything he wants to know about you. All he needs is your Social Security number.

But, in this fast and complex society, how can this publication of your affairs be avoided? Especially, how can you avoid the problem of facing a money laundering charge, if you deal exclusively in cash, particularly if your transactions involve large sums? Present law<sup>2</sup> requires that a bank report deposits or withdrawals of cash or a cash equivalent and all foreign transfers of \$10,000 or more. There is an effort afoot to reduce this amount to \$3,000. Also, a series of transactions are treated the same as a single transaction. Furthermore, the bank is supposed to report any other "suspicious" transaction to the IRS. Be assured that banks are always suspicious, and they make generous reports (without notice to you). For purposes of money laundering laws, money orders, cashiers' checks, and the like are treated as cash equivalents. In theory these laws exist to control the drug trade. In practice, those prosecuted under them are usually ordinary citizens with nothing remotely to do with the drug business.

To prevent your circumventing their invasion of privacy, the IRS has procured laws requiring you to report all foreign accounts which at any time during the year exceed \$10,000. Failure to so report is felony tax evasion. If you have a foreign account, be sure there is also a corporate account (where you are not a signatory or in control) in the same bank, and a standing instruction to the bank to loan all excess deposits to that corporation on your behalf before the deposits hit your account.

By contrast, most foreign banks make no reports at all to their governments. In addition, banks in Switzerland, Austria, Luxembourg, Liechtenstein and Cayman have secrecy laws which prevent disclosure of the existence of your account to anyone. Most are identified only by number, and you can transact business without a signature card - simply by a letter of instruction or a telephone call using your private code. If it is not your personal account, this power

may be yours as a corporate director. You must remember, however, that while this information cannot be obtained by your government, if you are under a duty to make reports, you are guilty of a felony for falling so to do. Of course, if the bank has a domestic branch, suspension of their domestic charter can be threatened if they withhold information or funds upon government demand.

In order to do banking abroad, you need a bank reference of some kind. In Canada you can secure a number as a registered business with no identification at all. This business can then open a Canadian bank account, with whatever signatory arrangements you have set up for the business. This account in turn is your business reference for the next account, which is the reference for the next, and SO On.

If you choose to do business with a foreign bank, be sure it is AAA rated. If you wish to use a smaller bank for loans and smaller deposits, you may take that risk. If you choose to arrange the formation of a new small (class B) bank, be sure to use it to do legitimate banking business: make loans, take security, accept deposits. Such a bank can be wholly secure. It can simply deposit its funds into another bank, AAA rated, possibly even one of the big ones in New York. It could even use the major bank vaults to store gold or silver bullion, actually belonging to you, acquired to keep your balances down below \$10,000!

If you happen to work for a foreign entity which has a large foreign bank account, you may be able to use its Visa Debit Card. Since it is not your account, no bill ever comes to you. In the Channel Islands an account of \$3@00 or more entitles the depositor to have such a card.

A simpler method of banking often works for you if you open your account or rent a deposit box in an area which enjoys "duty free" status.

Having completed your particular creditor insulation/heir protection process, you are now ready to return to the problem of rapacious taxation.

@26 USC @6045 226 USC @6048

### III. Who do you think you're fooling around with? (You're the one who's in charge)

You have probably heard people say that you 'cannot raise any constitutional defenses concerning your taxes in the courts. This is true with regard to challenging the power to tax, and the validity of the tax laws themselves. The correct inquiry is, does a particular revenue law apply to you? **Your liability to taxation depends upon your correct status under the Constitution.** You cannot assert or defend that status without a full understanding of it. If you don't understand your status, very likely you will continue to surrender the protection it could afford you. Learn who you are! This understanding is one of the keys which this publication is designed to give you, whereby you can unlock the gate to freedom from inapplicable laws of taxation.

#### A. Historical Perspective

In 1776 we had thirteen colonies comprised mostly of European immigrants who were sick and tired of being directed by an English government too far away to be concerned with local problems. It was also too greedy for the wealth of the colonies to leave them alone. The King failed to provide a reasonably adequate supply of currency for trade to be carried on. The colonists developed a kind of Colonial scrip, a debt free currency, which sufficed to allow local commerce. However, the bankers of Europe viewed this development with great alarm. They had worked very hard to create their privately owned central banking systems. The English government was persuaded to outlaw the scrip. In due course this placed a strangle-hold on local colonial trade. The abolition of scrip was one of the major causes of the Revolution.

Obviously, the Revolution succeeded. However, it is critical to recognize that, when the treaty with England which established the peace was made, it did not grant independence; it recognized that it already existed.@ Also significant is that the Declaration of Independence actually recognized the inherent truth that all men are created equal, in an era when inequality was universal, and virtually no one was truly free. Remember, at this time there were thousands of slaves in the colonies. In the slave-holding states, none of them were considered in the declaration of equality of the Declaration of Independence. However, it was recognized that many of the black people were partakers of the benefits of the Revolution and the Constitution which followed:

When the Constitution was adopted free men of color were clothed with the franchise of voting in at least five states, and were pan of the people whose sanction breathed into it the breath of life.2

The colonies were declared to be "free and independent states" (nothing was said about any united states at that point). It was not until two years later, in August of 1778, that an official Confederation was formed, and the states were united. Its Articles specifically recognized state "sovereignty" (Article II), which merely prevented these independent state entities from being swallowed up by the Confederation. (The American concept of "sovereignty in government" will be explained later in this section.)

This Confederation might have continued indefinitely, except that the new states kept charging tolls and trade imposts on each other. Foreigners could use their ports and facilities and deal with them as competitors with impunity. There was no army formed to protect these commercial interests. Without its commerce protected, the new confederation was doomed to collapse unless something was done about it.

A group of businessmen and attorneys from each of the states gathered together, in secret, to draft something to overcome the problems. To pull off this ambitious goal, these men knew that they had to be very careful with the rights of the people and the independence of the states.

To insure public acceptance, the framers acknowledged that the proposed Constitution for the United States of America was to be a document of

*M'Ilvaine v. Coke's Lessee*, 8 US 209

*United States v. Rhodes*, 27 Federal Cases #16,151

*\*We, the People\**, not of the states.: It Was to become a compact which provided for the people to be its beneficiaries in perpetuity. It was 'intended as a compact between the individual citizens, on the one hand, and the people as a whole, acting through their representatives, on the other hand.<sup>2</sup> It was a compact drawn between the people,<sup>@</sup> but effective between the states This compact created a union of states, not a union of people. The people are not members of the union; only the states are members. This is a critical concept: one is a citizen of his state; national citizenship is derived from state citizenship. Implicit in this process is the recognition that the true sovereignty was not with the states, but rather with the people as a whole

There is a proposition before you by some researchers that because all signers of the Constitution are dead, the instrument itself is dead. The proposition ignores the principles of the third-party beneficiary contract, which endows non-parties to the instrument with its benefits. They receive those benefits unless they reject them. This is the essence of a trust. To reject the benefits of the Constitution, one only needs to expatriate. This does not require departure from the American soil; it only places one in a resident (alien) status. (For tax purposes, he may be a nonresident alien, as will be explained.)

By virtue of this compact, three concepts of "United States" came into existence. First, is the concept that the United States is a sovereign nation in the family of nations. This requires foreign governments to deal with the government of the United States of America, rather than with each state or citizen separately. Second, is the idea that the United States is sovereign over its territory. This refers to the sovereignty of the government over that territory which is subject to its exclusive legislation,<sup>6</sup>

*@Martin v. Hunter's Lessee.*, 14 US 304, 324

*2Glas@ v. The Slooo Betse@*, 4 US (4 Dull.) 8

3 Constitution, Preamble

4 Constitution, Article VII

5 *Gaines et al. v. Buford*, 31 KY 481, 500-501 (1841) (Constitution, Article 1/8/17)

6 "The title 'United States' is not a mere name, but it is a political organization, and it is to be understood as such."

7 conceived to be the political jurisdiction of the United States. Third, the term is merely the collective name of the 50 states which are united under the Constitution.<sup>7</sup> As will be shown, federal sovereignty is not sovereignty over We, the People.

8 Patrick Henry was violently opposed to the Constitution. He feared that a central government with any strength would eventually devour the freedom of the people and the independence of the states. He was opposed to giving anything that seemed like "sovereign" power to the central government. Sophisticated observers will confirm that his fears have been substantially realized! Thomas Jefferson recognized this risk, and vigorously warned the framers that the Constitution be drawn so strongly that it would bind the men of government down, as if by chains. He would laugh at the idea that we should teach our children to trust government.

9 In order to understand the intent of the Constitution, we must read its language with the meanings which applied at the time it was drafted, not by modern definitions.

10 Keep in mind that the Constitution is a compact, a son of contract. Everything in our system operates on a contract principle. We give something to government, and get something in return. If there is no return benefit, there is no obligation. It is a basic principle of contract that the contract is not enforceable without consideration (i.e., a form of benefit) enuring to both sides of the agreement. In America, this compact was prepared by a group which sought to establish a national government for thirteen independent states. This group purported to act for the people as a whole. The representatives of the governments of the states executed the document on behalf of the individual people of the states, and for their benefit. By their ratification, it would appear that the authority of the group who prepared the compact to act for the whole body of people was validated. No state and no citizen surrendered any, sovereignty to any government. It was merely agreed that the national government, the state governments, and the people would be bound to obey proper laws made under the authority of that compact. They would suffer penalties if they did not obey. This is a

11 *Hooven v. Eva*, 324 US 652, 671-672

12 common law viewpoint, applicable among free men. It does not make the sovereign people subject to their government. The beneficiaries (the people) and their descendants remain bound because the compacts (state and national) have created governmental entities pertaining to specific territories. If a person lives in the territory, either he obeys the government thereof, or he is an outlaw. Later in this work the basic ideas of government and jurisdiction will be more fully explored.

## **B. Constitutional Format**

13 The Constitution is comprised of seven Articles and twenty-six Amendments. It sets up the three branches of our government, then describes the relationship between that government and the states. The remainder deals with amendment, ratification, old debts to be paid, and oaths. It also provides that

it is the supreme law of the land. It is not important to review the entire document to understand this treatise, although certain portions should be explained.

Article I deals with the structure and powers of Congress. If Congress does not have a power to legislate in some area, then, generally speaking, the other branches have no powers there either. Obviously, if there is no law, there is nothing for the executive to enforce and nothing for the judiciary to interpret. So, the function of Congress is to make our laws, to the extent that the Constitution permits lawmaking. Article I also deprives the states of power to do those things for which the national government was formed.

Our government is a limited government, and this is made dear by the fact that it can only act within those powers which are specifically delegated. These are called enumerated rights.<sup>1</sup> Most are set forth in Article I, Section 8, and Article IV, Section 3, and include:

- Establish lower courts
- Control government property
- Punish certain crimes
- Exclusive legislative jurisdiction

By this enumeration Congress has power to make laws, insofar as they are necessary and proper for the exercise of its power.<sup>2</sup> The power to make laws to carry into execution the enumerated powers is separately listed.

Particularly important is the power given to the government to have exclusive legislative jurisdiction over the seat of government and such other lands as are ceded to the government by the states for its military functions? This is a power limited in its territorial scope, but not otherwise. Because this special power has no constitutional limitation, unlike the other enumerated powers, it is similar to the power of a sovereign. It is called the "political jurisdiction" of the United States<sup>4</sup>. It operates in Washington D.C. and in all areas ceded by the states to the federal government (as enclaves). A similar power operates in the possessions and territories of the United States, but it has its source in a combination of the property powers and the inherent power to acquire territory.<sup>6</sup> The power to acquire territory and the power to govern that territory are not delegated powers. They are deemed to be inherent powers. As will be explained, "sovereign" power, like the admiralty law, is deemed a necessity in those "uncivilized" territories. What is critical to understand, however, is that such sovereign power in our government does not operate within the 50 states (except in those ceded enclaves).

The delegated power over property is a power to protect the assets of the government and to regulate their use. (The control over property was originally intended to apply to owned assets, and did not relate

- Taxing
- Borrowing
- Coining
- Valuation
- Naturalization
- Postal service
- Regulate trade

- Regulate patents, copyrights
- Regulate bankruptcies
- Regulate weights, measures
- Control military, militia
- Declare war

@Constitution, Amendments 9 & 10

2United States v. Bevens (1818), 19 US (3 Wheat) 336, 387

3Constitution, Article I/8/17

4Congressional Quarterly, 1989-90, 693-700

sConstitution, Article IV/3/2

6Dred Scott v. Sandford, 60 US 393

to the government of territory.

7

**When what happened to the slaves after the Civil War is shown, it will be understood how this property power has become a potent weapon, used by the revenue service to enforce the tax laws.**

Constitutional guarantees do not generally apply in the sovereign federal areas, except insofar as Congress chooses to enforce them.<sup>2</sup> Although a fundamental right should still exist, since it is deemed unalienable, Congress can take the position that, since We the People delegated sovereign power, all of the people must be subjects, in those areas, because there cannot be two sovereigns ruling in the same place! Having such power, it was not hard to predict that Congress would try to expand it beyond its proper limitations.

This expansion is manifestly evident in the application of the taxing power. That power is limited by the Constitution: direct taxes must be apportioned, and excise taxes must be uniform. These limitations, however, do not apply where the government has sovereign power. Remember, while the enumerated powers, which operate all over the country, are limited by the Constitution, the sovereign power in territories and areas ceded by the states is not limited by the Constitution. When we examine the revenue laws, it will be seen just how the sovereign power has been used to invade our rights within the 50 states.

Congressional power over federal funds has also been used to expand government authority. This is done by virtue of the practice of the federal government to place conditions on its grants of federal assistance. After all, the sov'n citizen has the right to contract, even with the government! If you sell a right, it's gone (even though "unalienable"). By this process the federal government has invaded every conceivable phase of your life, regardless of the Constitution. Individuals, companies, school districts, and states all have surrendered rights in exchange for money. So, when testing a tax, be sure that you did not accept some form of government handout in exchange for the power to tax you.

The President has only the powers to command the military, to appoint government officers (the bureaucracy and the judges), and to make treaties; he has the duty to adjourn Congress and to execute

all of its laws. Congress is not supposed to give him any power to make new laws. What he does instead is to make regulations! Also, under the guise of emergency powers, Congress has given him about every other power for which he could possibly ask. Those he has not been granted have frequently been seized and assumed, without regard to the limitations of the Constitution.

The Bill of Rights<sup>3</sup> is supposed to be our protection against oppression by the government. It was never designed as a protection against state authority. We look to our state constitutions to see how carefully we have protected our fundamental rights against state oppression.<sup>4</sup>

Supposedly, powers not delegated to government by the Constitution belong to the people, except to the extent that they have been given to the states by the people in their state constitutions. In actual practice, the government has grabbed a lot more power, and the Supreme Court has ratified the seizure. We will find that this often happens simply because, in our ignorance, we consent to the seizure.

As carefully as the Constitution was drafted, it could not protect us from the wiles of men. The Supreme Court, as late as 1856,<sup>5</sup> reiterated the limitations and prohibitions on Congress, specifically declared in Amendments 9 and 10. Undelegated powers were forbidden to Congress. However, Chief Justice John Marshall, back in 1816, had emasculated this doctrine. He ruled that anything not expressly prohibited by the Constitution, and which could be related to an enumerated power in some way, or to constitutional objectives, was a thing authorized to be done, under the power to enact "necessary and proper" laws.<sup>6</sup> Since the Constitution was adopted to promote the general welfare, more recent cases have decided that this includes a power to spend for the

aConstitution, Amendments 1-8

@Dred Scott, supra, at 443; however, some cases have extended

the property power to include power to govern in territories {see -Hooven, supra, 673-674}

2H@...-@ven, supra, 674

4Slaughter-House Cases. 83 US 36, 76-78

sDred Scott, supra °McCulloch v. Maryland, 17 US 316, 418

general welfare.@ (Even this expansion cannot explain away the unconstitutional application of tax laws, or spending for education, social welfare, social security and foreign aid!)

An equally serious problem was generated by the Supreme Court in 1932, when it decided that any law enacted by Congress or the states was not open to challenge by anyone who had received any benefit under such a law, nor could it be invalidated if there were some way to construe or apply such law in a manner not in conflict with constitutional

limitations.<sup>2</sup>

Be aware, however, that whenever either a voluntary act or a questionable law appears to deprive you of an unalienable natural right, if you are not aware that such is the effect of that act or law, you should be able to prevent the deprivation because of the Supreme Court ruling which prevents an unconscious and unintended waiver of any such right? Similarly, when an official violates the Constitution, he is not deemed to be representing the government.<sup>4</sup>

## C. Sovereignty and Citizenship

A sovereign is one in whom supreme power is vested. He can delegate whatever of his total authority he wishes. He can consent to whatever outside authority he may choose, or none at all. However, he cannot be "subject" to outside authority; this would be in contradiction to sovereignty.

The creation of the enumerated powers was done by delegation. This simply means that the power of the sovereign people remained with them,<sup>7</sup>

@Butler v, United States, 297 US 1

but that its exercise on their behalf may be done by the federal government. This relationship was well stated by the Supreme Court as follows:

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?

What it means is that Americans are sovereigns without subjects, because all of us are equal?

The State of California has particularly stressed the retention of sovereignty by its citizens?

It is important to differentiate between sovereign power and unalienable rights. Sovereign power is subject to nothing, except what the sovereign expressly agrees or consents may be done. Unalienable rights are simply those rights which cannot be taken away; but they may be waived. In this context it may be understood how the people may remain sovereign, even in the area where the federal government exercises its sovereign jurisdiction: by consent or by waiver, the people may be without those fundamental rights, as to such areas. At least, it appears that the federal government operates on that premise. So, although there might be some sort of waiver of rights, there is no fiction of law which can convert the natural born (sovereign) citizen of this country into a subject.<sup>L2</sup>

This nation was formed on the basis that it had declared independence from all other authority. At that time there was no place on earth where men were free. Individual sovereignty existed only for

2Ashwander v. T.V.A. (1932), 297 US 288

aBrady v. United States (1937), 397 US 742 4Brookfield Construction Co. v. Stewart, 234 FS 94

sYick Wo, supra, 370

9Chisholm v Georgia (1793), - US (2 Dall.) 419, 1 LEd 440, 455, 471--472

5Black's Law Dictionary, 5th Ed.

6Yick Wo v. Hopkins, 118 US 353; Billings v. Hall, 7 Cal 1; Constitution, Amendment 10

1°California Government Code @54950: The people of this State do not yield their sovereignty to the agencies which serve them,

uHooven, supra, 674

7Gaines, supra, 500-501

x;@VI'llvalne, supra

declared monarchs. However, with the Declaration of Independence one who had been a subject under English law became a sovereign in America.<sup>x</sup> Individual Americans had already delegated some of their authority to their respective states, and each was a species of "sovereign" country, much as the United States is now a "sovereign" nation. When the Constitution was adopted, it was a delegation of authority, and it "formed a more perfect union" of the states.<sup>2</sup> It acknowledged that citizens, both of the states and of the United States, pre-existed its adoption? These citizens ordained and established the Constitution, and the states consented to its adoption. The framers also recognized that the powers of the states had come not from the Constitution, but from the peoples.

There have been complaints by members of our highest court that the application of a concept of sovereignty in the territories has, in effect, given rise to the creation of two national governments: one for the states (which is severely limited), and one for the territories?

Remember that the Supreme Court has declared that, although the sovereign power may be in Congress in the federal territories and enclaves, it also recognized that in the Union States the sovereign power remains with the people? The residual sovereignty of each state is also in the people of such state.<sup>s</sup> Congress is without power to revoke your sovereignty.<sup>9</sup>

@United States v. Lee, 106 US 196, 208 2Constitution, Preamble

3Constitution, Articles VI, 11/4 & IV/2/1 4Constitution, Preamble & Article VII 5Federalist Papers #42, James Madison

6Dowries v. Bidwell, 182 US 244 (dissent) 7DeLima v. Bidwell, 182 US 1, 196 8Chisholm, supra, 419, 471; Bevens, supra, 336, 387 9Perry v. United States (1935), 294 US 330, 353

Decisions comparing our laws to those in England and on the Continent usually omit to declare that all of those European laws apply in nations which have no concept of individual sovereignty, and their citizens have always been subject to either the king, or to the government which has replaced him. None of those nations have ever declared individual sovereignty for their citizens.

Because of the corruption of citizenship which came with the 14th Amendment, it is important here to pause and examine the fundamental character of the sov'n citizen. A citizen is always a natural person. It will be remembered that a person has rights, and with those rights, he has reciprocal duties. When a person is a sovereign, his basic right is the possession of absolute power. He has no superior, except God. However, the connotation of sovereign carries with it an implication that there may be subjects. The duty of the sovereign to those subjects is to protect them. Why? Examine the characteristics of the subject, and the answer becomes obvious. A subject has the duty of allegiance (obedience) to his sovereign; in exchange, he has the right to be protected by that sovereign. Thus, it is understood that the rights and duties between the sovereign and his subjects are absolutely reciprocal: The power (right) of the sovereign is reflected in the obedience (duty) of the subject. The protection (right) of the subject is reflected in the exercise of the sovereign power to protect the subject (duty). So, the subject gives his allegiance in exchange for protection. A sovereign needs no protection, since he has all of the power, and can protect himself. If another sovereign threatens him, the loyal subject has the duty, by his allegiance, to help the sovereign fight battles to protect that sovereign. If he did not do so, the sovereign might lose the ability to protect the subject!

It has been pointed out that the sov'n citizen was basically a sovereign without subjects. We delegated some of our sovereign power, so that our representatives could help us protect ourselves: we gave up the powers to wage war, maintain a navy, and to control our military. In addition, this sovereign body politic, "We, the people", adopted a Bill of Rights which prohibited our government from impairing our rights. These rights are our fundamental civil rights. Our political rights - to vote, hold office, serve on juries - are not mentioned in the Constitution. Political rights are basically covered by our State Constitutions.

Prior to the Civil War, there really was not a true concept of "citizen of the United States". In the strictest sense, everyone was simply a citizen of the state where he lived, and naturalization was a state process.<sup>x</sup> The only subject in this country was the African slave. As we will see below, the amendments which "freed" the slave did not make him a sov'n citizen. He should have become sovereign with the Declaration of Independence. However, white men in most states refused to allow this Declaration to be made applicable to him. The Constitution officially recognized and protected slavery.<sup>2</sup> When the white conscience was aroused to remedy the error, crafty men emasculated the effort, as we will see below.

What is critical here is to recognize that our original citizenship came by virtue of our being state citizens; the Constitution did not create it. Thus, except for those who elect to claim citizenship thereunder, Americans do not look to the Constitution for their citizenship? It is officially recognized that our state citizenship is a thing which is separate and apart from our national citizenship.<sup>4</sup>

So, what is the meaning of national sovereignty? National sovereignty is a fiction. It operates in our relations with other nations, since other nations simply cannot comprehend personal sovereignty, and will only deal with a national entity. Similarly, state sovereignty is an expression used to separate the powers and rights invested in states by delegation from those invested in the nation, as recognized by the Constitution? The only real sovereignty, in this country, is personal sovereignty. Thus, it logically follows that, where any decision declares the powers and immunities of sovereignty which apply to a state or the national government, then a fortiori that declaration ought to apply to a sov'n citizen. Similarly, since there can only be one sovereign authority operative in a specific place at a particular time, the regulations administering the Internal Revenue Code have established that the states are foreign countries, insofar as the provisions thereof apply to "foreign earned income:"

The term "foreign country" when used in a geographical sense includes any territory under the sovereignty of a government other than that of the United States.<sup>7</sup>

As already explained, the sovereignty of the federal government extends only to those areas ceded by the states or acquired as possessions and territories. Our Supreme Court has explained that enclaves within a state are like the territory of a sister state, or a foreign land.<sup>s</sup> Even a national park, such as Yosemite, is deemed to be under a "distinct sovereignty" from that of California.<sup>9</sup> Ergo, each of the 50 states is a foreign country for purposes of the foreign earned income exclusion. However, be cautioned that our federal courts will resist this argument unless presented in irrefutable terms?

In view of the fact that it is the citizens who are sovereign, we are entitled to wonder where our government ever got the idea that it could claim

<sup>6</sup>Gaines, supra, 500-501

<sup>7</sup>2.6 CFR 1.911-2(h)

@Ex Parte Frank Knowles, 5 Cal 300, 302

2Constitution, Articles I/9/1 & II/2/3

3United States v. Wong Kim Ark. 169 US 649, 676

4Sadat v. Mertes, 615 F2d 1176, 1180; Slaughter-House Cases, supra, 73-74; United States v. Cruikshank. 92 US 542: There is in our political system a government of each of the several states, and a government of the United States; each is distinct from the others, and has citizens of its own ....

sUnited States v. Mississippi Tax Comre. 412 US 363, 375

9Collins v. Yosemite Park & Curry Co, 304 US 518, 538

°Compare 26 USC @865(g)(1)(A)(i)(I) with 26 CFR {}1.911-2(g) & (h): A United States Resident is one with no tax home in a foreign country; and the United States includes any territory under the sovereignty of the United States, while any territory under the sovereignty of a government other than that of the United States is a foreign country. 26 USC

{911(d)(3) explains that a tax home is the base for computing travel expenses (per 26 USC {}162(a)(2))

sConstitution, Amendments 9 and 10

uCochrane v. U. S. (1993 CA9), 985 F2d 1027

sovereign immunity from suit by the citizens. The law was once clearly stated that there is no inherent sovereignty in the government of the United States.t Federal immunity from suit lawfully can only be available as against a citizen who is "subject" to the federal government. That is a type of citizen whom we will study when we examine those Civil War Amendments.

## D. Unalienable Rights

Unalienable rights are those which belong to a man because he is a man. However, before we developed the idea of a sovereign individual, or a sov'n citizen, only monarchs enjoyed such rights. In our nation, they are considered to be so fundamental and basic to humanity that there is no humanity without them. Obviously, in the days of slavery, those who were slaves did not have any rights, unalienable or otherwise. This censure on human nature merely points up man's inhumanity to man; it does not change our history, nor the legal effects of history on our institutions.

The Declaration of Independence characterized life, liberty and the pursuit of happiness to be included among our unalienable rights. Southern white people simply did not consider blacks to be men. They were property. There were many who disagreed, even in those days, but in order to secure unanimous approval of the Constitution, it was necessary to insert compromise provisions, which protected slavery until 1803. However, it took ninety years before the country was ready to recognize the injustice. To rectify it all still remains to be done. Even after the Civil War and the supposed freedom of the black man, federal courts seemed to tacitly recognize that certain citizens were not free, because only "free" citizens were held to have unalienable rights!2

In reading the Constitution, remember that it is We, the People who are doing the delegating and reserving of rights, not the government. This is evident from the Amendments@ which reserved, undelegated powers to the people and the states.

Not all unalienable rights were listed either in the Declaration of Independence or in the Constitution. Only those which had been blatantly abused by governmental authority (in colonial experience) merited special mention. They dealt with such things as administration of justice and personal freedoms.<sup>4</sup> Property rights were protected against seizure without due process of law and just compensation,<sup>5</sup> and contracts were protected against impairment.<sup>6</sup> But the scope and nature of those rights was left for state definition under the general category of fundamental rights.<sup>7</sup> The importance of the distinction arises when it is understood that, although fundamental rights have general constitutional protection, they are recognized in the federal enclaves and territories only to the extent that Congress chooses to recognize them.<sup>8</sup>

The entire Bill of Rights is merely an expression of our intention to be free from the burden of endless political laws which merely restrict and regulate our lives. Constitutions are not made to grant rights; they merely recognize rights and limit the power of government.<sup>9</sup> It was never intended that Congress would be peopled by career politicians who would spend each year dreaming up laws for us. On the contrary, the Constitution contemplated limited lawmaking. To be sure that the legislators would not simply forget their elected duties, they were required to meet in session at least once a year,

<sup>3</sup>Constitution, Amendments 9 & 10

<sup>4</sup>Constitution, Amendments 1-8 (1: Religion, speech, press, assembly, petition; 2: bear arms; 3: no quartering; 4: search, seizure, warrants; 5: grand jury, double jeopardy, self-incrimination, due process, condemnation; 6: speedy trial information, confrontation, subpoena, counsel; 7: jury trial; 8: bail, cruel punishments

<sup>5</sup>Constitution, Amendment 5

<sup>6</sup>Constitution, Article 1/10/1

@Julliard v. Greenman, 110 US 421

<sup>2</sup>United States v. Morris, 125 Fed 322, 331

<sup>7</sup>Slaughter-House Cases, supra, 76

<sup>8</sup>Hooyen, supra, 674 <sup>9</sup>In re Bergcraw, 33 Cal 349; 65 Pac 828

starting on the first Monday in December? However, by 1933 legislation had become big business. Congress managed to obtain an Amendment to have the mandatory session start on January 3 each year.<sup>2</sup>

We must realize that specification of "fundamental" and "unalienable" rights depends on where you live, or in what forum you are asserting such rights. While they are all deemed to be inherent, and to exist independent of any Constitution, Amendment, or law,<sup>3</sup> if your particular state, territory, or court chooses not to acknowledge any such right, you may as well not have it. Fortunately, the rights spelled out in the Bill of Rights seem to be enforced in every type of American court, so long as they are not regarded as 'waived? That protection is rather hollow, however, as a defense against taxation. This is true because the original Constitution (exclusive of the Bill of Rights) protected no fundamental rights against federal invasion. It merely required the states to give equal treatment to citizens, without regard to the state from which they came.<sup>s</sup>

The Bill of Rights purports to limit the federal government in its powers, but only to the extent specifically designated. (Theoretically, our federal government is restricted by all of our fundamental rights; in practice, this protection is invoked only when a court finds it expedient.) The Bill of Rights left the states just where it found them, added nothing to the power of the government, and took no power away from any state. It was strictly a control device against oppression by our central government<sup>6</sup>. In fact, with the exception of two Amendments<sup>7</sup>, none of the Amendments grant anything; they simply prohibit certain types of legislation or conduct.

@Constitution, Article U4/2

2Constitution, Amendment 20

3Hale v. He@-.@el, 201 US 43, 74

4Hale. supra, 74; Sullivan v. United States 15 F2d 809, 812

sConstitution, Article IV/2/1

6United States v. Cruikshank@ 92 US 542, 552; Twitchell v. Commonwealth, 74 US 321

7Constitution, Amendments 14 & 16

Unalienable means not subject to separation. However, we can separate ourselves from an unalienable right simply by waiving that right. The Supreme Court has given us some protection against inadvertent waiver. It has declared that a citizen does not waive an unalienable right unless he does so knowingly, with full appreciation of the circumstances thereof? One who loses his rights is not presumed to have acquiesced in that loss? Certainly, if we have inadvertently done any consenting to the invasion of such rights, we ought to be free to revoke such consent.

While it is true that the original Constitution does not compel states to give us any rights, except for equal privileges and immunities as state citizens and interstate travelers, it does require that we have a Republican form of government? This is enforced for new states, because prior to admission their constitutions are reviewed by Congress. Such a form of government is itself a recognition of the existence of individual sovereignty and unalienable rights. Thus, the popular fraud that the 14th Amendment is our guarantee of rights must give way to the truth that such rights were protected before that Amendment existed. Courts have held that the Bill of Rights was not carried to the states by the 14th Amendment, except to the extent that any such right is independently deemed fundamental.

The inherent contradictions found in the foregoing analyses of "fundamental rights" and their supposed protections arise not from a misunderstanding of the law, but rather from conflicting applications found in the court decisions.

## E. Civil War Amendments

The Civil War did not end slavery, contrary to popular views. It merely separated the slaves from their masters. These four million black people

sBrady v. United States, 397 US 742, 748; Johnson v. ZerbsL 304 US 458, 464; Aetna Ins. Co. v. Kennedy, 301 US 389,393

9Ohio Bell Telephone Co. v. P.U.C., 301 US 292, 307 x°Constitution, Article IV/2

*uSlaughter-House Cases, supra, 69*

continued to be in the status of subjects.<sup>@</sup> They were not even "free" subjects; had they been, no 13th Amendment would have been necessary. Even after the 13th Amendment made them "free" they remained subjects. They were still ineligible for citizenship, as the law was then interpreted.<sup>2</sup> Since the emancipated black man was not a citizen, he became a resident alien - or, more simply, a resident. This resident subject was a species of property, just as was the ancient English serf. The 13th Amendment prohibited slavery and involuntary servitude. Nothing was said about voluntary servitude. Most bond-servants from Europe had been in a state of voluntary servitude, in that they had contracted for a term of service in exchange for some benefit. An apprentice had been in a similar servile state. His voluntary agreement put him there. More whites came to America as voluntarily indentured bond-servants for seven year terms, to work off their passage, than all blacks who came here by force as slaves. After this country was formed, the rules for the enforcement of personal service ended in the concept of personal sovereignty (for white people). However, the black was not a sovereign. After the adoption of the 13th Amendment, he was free as to all of the world, but not as this master. His master was the American sovereign, meaning the American body politic: We, the people.

The people had delegated to the government the power to administer their property.<sup>3</sup> Thus, the power of administration of these subjects was in the government: they were subject to the jurisdiction of the United States. Even those blacks who had been freed by their masters, prior to the Civil War, were not part of the body politic (with rare exceptions). Our Supreme Court had confirmed this discrimination? Furthermore, as of 1787, every southern state had a constitution which prohibited blacks from voting or holding citizenship. Most prohibited land ownership as well.

would "go back" to Africa (even though he had never been there, and was as native to America as any white). Of course, America was his home, and he had no intention or desire to leave. But this left those millions without work, without homes, and without means. They were a threat to the southern economy. The long-nurtured attitude of contempt for black men caused the white legislatures of eleven southern states to pass laws which would guarantee that the free blacks had no rights and no jobs and no property? However, martial law was still in force. The 14th Amendment was prepared, and Congress let the recalcitrant southern states understand that their return to full governmental power was suspended until the Amendment was ratified<sup>6</sup>. This was clearly duress. The Utah Supreme Court has openly declared the invalidity of Amendment 14 as recently as 1968. However, it conceded that we must submit thereto until the Supreme Court invalidates it officially.<sup>7</sup>

The language of the 14th Amendment makes it quite clear that it does not apply to a sov'n citizen. Not one single white person owes his citizenship to Amendment 14,<sup>s</sup> nor did it give the white man any new unalienable rights? The condition for receiving citizenship under the Amendment is that one be subject to the jurisdiction of the United States. It also created a new concept of residence. The subject, who had been a resident alien, now became a resident citizen.

Allegiance is a concept which applies to subjects, but not to sov'n citizens. It is a feudal concept which would not ordinarily apply in this country. In this country, Citizenship is constitutional, while allegiance is personal; citizenship is freedom, but allegiance is servitude; citizenship is a political tie, while allegiance is a territorial tenure? No sov'n citizen owes allegiance to any power on

The effect of emancipation was to enable the black man to go where he chose. It was thought he

t-Chisholm, supra, LEd at 472

2Yan Valkenburg v. Brown, 43 Cal. 43, 47

5Slaughter-House Cases, supra, 70

6Slaughterhouse Cases, 83 US 36, 70-71

7Dyett v. Turner, 439 P2d 266

aVan Valkenburg, supra, at 47

sConstitution, IV13/2

4Dred Scott, supra, 404405, 410-411

9Twining v. New Jersey. 211 US 79, 86

@°see Talbot v. Janson, 3 US (3 Dall.) 133

earth. What we have is a concept of mutual loyalty in supporting our Republic. After the 14th Amendment was adopted, cases discussed allegiance and applied the concept for the purpose of explaining the rules of citizenship by birth) However, it has been pointed out by Daniel Webster that we only perplex ourselves when we attempt to explain our political relationships by reference to European nations. Sovereignty in government is an idea belonging to the other side of the Atlantic.<sup>2</sup>

Sov'n citizens need no protection of unalienable rights; they have civil rights by virtue of their sovereign character. However, as sovereigns they have a duty to protect their subjects. The property power delegated by the Constitution originally authorized Congress to legislate to protect government property. Amendment 14 extended that power, authorizing Congress to enact legislation to "enforce" the restrictions against which the states were prohibited to legislate. Suddenly, we find Congress empowered to enact so-called "civil rights" laws. This used to be a function of the states. Did anyone but the new type of citizen need this "protection?"

One must remember that situs for property is somewhat equivalent to domicile for a natural person. Thus, since the 14th Amendment "subject" citizen is a species of property (since he is subject to the jurisdiction of the United States) he may "reside" (as a person) in a State, but he will always have his situs (as property) at the seat of government: Washington, D.C. (the domicile of his "owner"). Or, one could look at it in a different manner: remember that it is usually the alien who "resides" in a place which is foreign; citizens just "live" in their home state! Under Amendment 14 a new concept of residing arose. It would seem that, as citizens of the United States, all of the new kind of citizens living away from the political jurisdiction of the United States would have continued to be aliens, as to the state in which they "resided." However, the 14th Amendment also made them citizens of that state - but continued to call them "residents" thereof. The Amendment does not apply to the sov'n citizen. Thus, he continues to be alien to 14th Amendment citizenship and to that special residency; he is also nonresident

xUnited States v. Wong Kim Ark, 169 US 649, 665 2American law, Andrews, 164, 169

to the areas of the political jurisdiction of the United States. He has been transformed by the 14th Amendment into a "nonresident alien," since very few sov'n citizens live within the political jurisdiction of the United States.

The importance of the concept of situs, for tax purposes, becomes dear when we consider what the courts say about congressional intent:

We think the language of the statutes clearly demonstrates the intendment (sic) of Congress that the source of income is the situs of the income-producing service.<sup>5</sup>

While it is obvious that the black man got a form of citizenship, and that he did owe a continental concept of allegiance to the federal government, that concept of allegiance would contradict individual sovereignty. The distinction between sov'n citizenship and subject citizenship was better defined by pointing out that the latter citizen was completely subject to the direct and immediate jurisdiction of the United States.<sup>4</sup>

Nothing in the 14th Amendment protected any fundamental rights for the new subject citizen against impairment by the federal government.<sup>5</sup> Also, because the subject citizen has a situs at the Capitol, constitutional limitations on governmental powers have no application to him. Under the Amendment, no rights were created. The Amendment merely prohibited discrimination.<sup>6</sup> This was a restriction on the states, not a restriction on the national government.<sup>7</sup>

By Amendment 14, then, you find that the government has retained the power to regulate the affairs of the black man, and to make any laws it chooses for his "protection". Herein lies the secret of the tax laws. Privileges (called rights) of the subject

3C. I. R. v. Piedras Negras HB Co, 127 F2d 260, 261 4Elk v. Wilkins, 112 US 94, 102

5Cruikshank, supra, at 553-554; Slaughterhouse Cases, supra, at 74, 76-77, 79; Hague v. C.I.O., 307 US 496

6Cruikshank, supra, 555

7Henrick v. Maryland (1914), 235 US 610

citizen under the Constitution are created by law, and are only as unalienable as the law has made them. Anyone who clam rights under the 14th Amendment is volunteering himself into that same status of subjection.<sup>t</sup> No wonder we are told to exercise rights under the 14th Amendment!

The Bill of Rights was not imposed upon the states by the 14th Amendment.<sup>2</sup> In fact, the 14th Amendment gave no benefits to white citizens. Where there is no benefit, there is no duty? Thus, the regulatory laws made for 14th Amendment citizens create no duty in sov'n citizens. It was previously demonstrated how the revenue laws actually place the sov'n citizen living in one of the 50 states in a foreign status.<sup>4</sup> Now we can understand the strained logic of this application. The federal government has avoided the restriction against legislating for the nonresident foreigner (alien) by the simple device of encouraging our 'voluntary compliance' with revenue laws. So long as we sign documents, having the quality of commercial undertakings and promises, we are volunteering to be subject to the entire panoply of laws and controls applicable to the subject citizen. Whenever we do so, we can hardly be heard to complain about such laws. Our own tax returns will be brought into court to demonstrate how we voluntarily assessed ourselves and promised to pay our taxes. If we fail to file, an old return will be produced to show that we "hew our duty" to file. Commercially, those tax forms reveal our prior course of dealing. As will be shown, we have fully complied with procedures set forth in the UCC which render us obligated to pay a tax.

Citizenship did not create any political rights for the new citizens. It was for this reason that another Amendment was adopted, forbidding abridgment of their voting rights.<sup>s</sup>

1Ashwander v. TVA, 297 US 288, 347-348

2B@te v. Illinois, 333 US 640, 657, 659; Palko v. Connecticut, 302 US 319, 325

3U--@ted States v. Rice, 17 US 246; Wong Kim Ark, supra, 683

426 CFR 1.911-2(h)

5Constitution, Amendment 15

Obviously, the black man has been seriously defrauded by the entire process. Whatever might have been the motivations of men in the 1860's, in the 1990's no reasonable person would desire the kind of differentiation which was perpetuated under the Civil War Amendments. Even in 1867 it is doubtful that the public intended there to be this class distinction. It seems to have been the undisclosed idea of certain men in government. Obviously, such bigots were afraid to allow blacks full rights, and hence the language of the 14th Amendment. America had an opportunity to validate the Declaration of Independence for all men. Instead, our government has used the 14th Amendment as a device to make us all equal in fact -equal as slaves. This fate was predicted by Justice Wilson, 200 years ago:

How true it is, that States and Governments were made for man; and, at the same time, how true it is, that his creatures and servants have first deceived, next vilified, and, at last, oppressed their master and maker.<sup>6</sup>

## **F. Corporate Government**

A private corporation has no sovereign rights, and exists only as a governmental privilege. Even a state, in such capacity, loses sovereign immunity from Federal power.

A fundamental precept of law is that when government, state or federal, engages in business, the laws of business apply, as if the government were a mere private corporation?

Our government has imposed upon us the private system known as the Federal Reserve. That system uses commercial paper called Federal Reserve Notes. Constitutional gold and silver has been abandoned as our legal tender. The Federal Tax Lien Act of 1966 acknowledges that commercial law applies, at least in tax lien enforcement. Collectively, these realities make it hard to refute a prevalent claim to the effect that our tax and money systems

6Chisholm, supra

7Clearfield Trust Co. v. United States, 318 US 363; United

States v. Burr, 309 US 242; Bank of the United States v.

Planters Bank, 22 US 904

are governed by the same private laws which governs corporations. Thus, the claim of sovereign immunity by the courts in these areas is constitutionally insupportable, and is utterly ingenuous.

This idea gains substance when one remembers that the political jurisdiction of the United States is actually limited to the enclaves and territories. Congress has created private corporations, and has incorporated Washington, D.C. as a municipality. In fact, it is only under that municipal charter that federal corporations can be created. The Capitol may properly be called the "corporate" United States. It is quite evident, too, that, except for the subject citizen, the tax laws only apply to income derived from the areas under this federal corporate control. Unfortunately, the courts do not seem to understand this viewpoint. This is not surprising, when it is dear

to the Life Insurance Co. of the U.S.A. (1878), -- hid-

that most Americans have voluntarily signed up with the government for tax payments. Those commitments are being enforced against us. It isn't unconstitutional. The Constitution simply does not apply to a person who has volunteered to pay those taxes.

You will find that even our relationship with the United Nations is of a corporate character, in that the UN included the United States as one of the "corporations," and as such, dispensed with the "sovereign" character of the country. In effect, the UN charter declares that our country has given up any powers not set forth therein! One researcher went so far as to declare that in 1938 Congress created an entity called the "Democratic States of the USA, d.b.a. USA, a corporate entity."a

United States v. Blitt, 309 US 242; 22 USC @.,86(e) a John Nelson

## **IV. Where did all that money go? (How the foreign private bankers stole your money)**

### **A. Fractional Banking (How the manipulators create "money" out of thin air-)**

Many years ago an Italian goldsmith had such a fine secure safe that people owning gold would give it to him to keep secure for them. To each of them he gave his receipt. As time passed, the people found it easier to pass these receipts around than to go get the gold to pay for things. The goldsmith also noticed that about 90% of the gold never left his safe. So, he got the bright idea of giving out receipts for gold, ten times more than there was gold in his safe. And he charged interest for these receipts. This system is called fractional banking, because the goldsmith had only a fraction of the gold he pretended to have.

This system didn't work out too well for the goldsmith. Things got tight in the community for awhile, and the owners of the gold came and demanded it back. Also, a lot of people who had received the goldsmith's receipts demanded gold, too. When he couldn't produce the gold, they hanged him.

That was the way with common law in those days.

However, the goldsmith's sons saw that a good thing was getting away from them. So, they invented some new rules. First, they demanded about 200% security for all of their receipts (except from the people with real gold, of course). The borrower had to pledge twice the value of what he got, and he paid interest to boot. Also, the goldsmith's sons insisted that the receipts would not be redeemable except on 90 days notice. Finally, on all the loaned receipts, the goldsmith's sons inserted a right to declare them immediately due, regardless of due date, and payable only in gold. The next time there was a financial crisis, the boys called in all the loans, foreclosed all the security, liquidated it at discount for a profit of 50%, and were able, within the 90 days, to deliver all of the gold demanded.

This process has been wonderfully modernized for today. To begin with, these receipts have become the replacement for money. Notice that such a receipt is actually an acknowledgment of a debt owed by the banker, originally payable in gold. As you will see, that receipt is no longer redeemable in anything, except in another receipt - meaning a debt instrument is used to pay a debt instrument. Next, once the "money" is borrowed (by making an account credit entry on the borrower's ledger), if the borrower then writes his check and it is deposited to some other bank, since that other bank is not the one which made the loan, this check is like new "money," so that the second bank can now pretend it has a deposit, whereby it can lend against it at another 10 to 1 ratio. If he lends by the same process as the first banker, and the loan proceeds find their way back to the first bank, then the first banker has a new deposit, too, and the multiples of 10 to 1 go on again, and again.

This is how money is created out of thin air. The only real value involved is such security as a borrower may put up for a loan. The only reason that these debt instruments, which we call money, are valued at all is that, first, we assume that they have real value (because we have been so taught), and second, the government has decreed that these phony instruments, in the form of Federal Reserve Notes (FRNs), are legal tender. If we refuse to accept an offer of "payment" in this form, the debt is deemed "discharged," anyway, and we can never collect it at all!

In commercial law, one cannot pay a debt by exchanging a debt instrument for the debt. Similarly, a debt instrument is not satisfaction for another debt instrument. Our government has never tried to repeal that law; it just overrides it with the FRN. A check, which is a debt instrument, is "cashed" for the FRN, another debt instrument. Nothing is changed, except the form of the instrument. If you pledge your farm or home for a loan, by executing a mortgage, whether you receive a credit on your bank account, or the FRNs directly, you have received something of no real value in exchange for something of value. There is a growing number of cases today wherein the property owners are having mortgages canceled because they prove that no valid consideration has been paid them to support the mortgage !

## **B. The Central Banking System (How the theft is accomplished)**

Nearly three hundred years ago an Italian scion of the Del Banco family relocated himself in Germany. He took upon himself a new name: Red Shield (Rothschild). This man was Mayer Amschel Rothschild, who was born in 1744. He founded the system of international banking which rules the world today.

In 1804 his son Nathan opened the London branch of the bank. They developed a secret communications system between the various European branches, utilizing pigeons. No one, outside of the family and trusted servants, knew the system. During the war with Napoleon, the Elector of Hesse entrusted the Hessian payroll to Nathan. When Nathan got advance news of the victory at Waterloo, he began selling his government securities, openly, at the London Exchange. The rumor went around London that the war in Europe was lost. In the resulting financial panic, those securities plummeted, and Nathan bought them up for peanuts. Many concluded that he borrowed the Hessian payroll to fund the purchase. When the truth surfaced, the same securities skyrocketed, and Nathan cashed in at a tremendous profit. This windfall accelerated the growth of the Bank of England (a private bank) as the source of finance for the British Empire, and it enabled the House of Rothschild to become the monster which it is today.

The reason this bank could arise in the first place was that a deal was cut between the bankers and the government whereby the bankers agreed to lend to the King and Parliament all the money they wanted

for foreign wars and other pleasantries (at interest, of course), in exchange for protection by the government for the paper the bank would create: the government could always close a bank for as long as it took for a "run" to subside; it could also decree that the bank's paper was "legal tender." Such a bank, with such protection, is called a "central" bank, or a "national" bank. The only thing national is that the credit of the bank depends upon the wealth of the nation (the people, as the tax base, not the government, ultimately must stand behind the bank's paper). The central bank gets the interest. The people must make the debt good. However, when a government can borrow without limit the phony paper it legitimizes, it needs no taxation. Inflation and devaluation accomplish the same thing, wiping out savings, and making prices soar. Thereby, even the business world becomes slave to the bank, in order to pay the costs of business, which are forever on the rise. Those with the power to print money can pay old debts with the inflated currency; the rest of us had to spend it all before the devaluation made it worthless. In such a system, only a central bank can profit, because everyone else borrows its inflated paper just to survive! If the government had any honesty about it, it would own the central bank and print money for itself, interest free. Ordinary taxes on things properly taxable would be ample to secure such money.

### **C. The Federal Reserve (How the federal government legitimized the theft)**

The efforts to create a privately owned "national" bank in the United States, similar to the Bank of England, persisted from the very beginning until it was accomplished in 1913. Thomas Jefferson warned us that such a bank would make paupers of our children. Apparently no one was listening. The original Bank of the United States was a central bank which came into our system around the War of 1812, and stayed until Andrew Jackson rejected renewal of its charter. His farewell speech, at the end of his presidency, is a classic statement of the reasons for his action, and a vivid forecast of exactly what Jefferson feared, and what we have today.

The way the establishment of the modern privately owned and operated Federal Reserve System was accomplished is set forth in excellent detail in a book entitled *The Federal Reserve Bank*.<sup>2</sup> Briefly, after many abortive efforts, J. P. Morgan got it started with a rumor about a competitor bank. This caused a panic and run on that bank. By 1909 people were really nervous about bank failures, so no one balked when Congress sent a high-priced commission to Europe under Senator Aldrich to "study" banking on the continent. What they did was to spend public money and to get wined and dined a lot. They came back with Paul Warburg, a German Rothschild, to help them out. This team met in secret and hatched a scheme, which was submitted as

@Lewis v. United States, 680 F2d 1239

<sup>2</sup>By H. S. Kenan, Noontide Press, 1968

the Aldrich Bill in about 1911. There were too many ] people wise to the dangers of the plan, so it didn't pass. However, two years later, under a different party, the same plan was re-submitted. During a Christmas holiday season, when there weren't enough people around at Congress to put up a fuss, the renamed bill was passed into law. This is the Federal Reserve Act (the Act).

Valuation and coinage is reserved to Congress, under the Constitution. The Act grants a private monopoly on both to the Federal Reserve System. Because of this shift in control, the currency has a floating value, the risk of which is on private industry, not the government. This means you, not them. It

was condemned as unconstitutional by Andrew Jackson over 150 years ago. Observe that the Act was passed at about the same time as the "ratification" of Amendment 16 (Income Tax Amendment), and the original income tax law. At that time the full potential of the Act as a means to finance government without income taxation was not understood by the public (and still is not so understood).

Originally, the Act required that the Federal Reserve Board (called the "Fed") included the Secretary of Treasury and the Comptroller of Currency. The Fed had seven members, to serve 14 years each, and only one could be replaced every two years. The President is the one who selects the members, with Senate approval. So it would take 14 years to replace them all, too long for any one President to do any good. Paul Warburg (the German) was the first chairman of the Fed. There are 12 Regional offices, called the Federal Reserve Banks, established to administer the policies of the Fed (do not confuse the Federal Reserve "banks" with the commercial banks which are merely members of the system. The member banks are highly regulated and absolutely controlled by the Fed, and are fully taxed). These "banks" were initially required to maintain certain reserves.

With its total control over our economy, it was a simple thing, through manipulation of the reserve requirements for member banks, to bring on the Great Depression. Here's how it was done: by allowing a small reserve requirement, banks were encouraged to lend with minimal security; business boomed on the new credit, and prices soared; then, by requiring an increase in the reserve held by the banks, each bank found itself short; loans had to be called, liquid securities were seized, and credit dried up. With no credit, no new business was possible, payrolls could not be met, and contracts went by default. The stock crash was nothing. It was the dosing of businesses and the unlimited layoffs which placed everyone in desperation. The people had to live on savings, or they had to sell assets. Those with substantial assets and cash reserves were in the ideal position to grab up the best of the bargains. Who would they be? Do you suppose they did so?

By 1933 the country was formally bankrupt, and our newly elected President Roosevelt declared a bank holiday. This is how a government protects its friendly banker. He also confiscated all gold from the mints and transferred it to the Federal Reserve "banks." He also required all citizens to surrender their gold, in exchange for the fiat money (FRNs) which the federal government had been printing for the Fed. We were to depend on the national credit. What credit? The government long ago gave up what it owned. What is now used is everything which you own, even your prosperity for untold future generations. We are caught in the inflation/devaluation, depression/starvation grinder. The unrestricted ability to print money does not seem to encourage government to release its citizens from this burden.

The Money will be worth 100 cents on the dollar, because it is backed by the credit of the Nation. It will represent a mortgage on all the homes and other property of all the people in the nation. @

Today there is no longer any membership by any government official on the Fed. There is no reserve requirement for the Federal Reserve "banks". The gold standard has been abandoned. There is no longer any requirement that the currency be issued with any right of redemption in silver or anything else. The Treasury Department prints federal reserve notes, and delivers them to the Federal Reserve "banks" for the cost of printing (about \$23 per 1,000 bills for all denominations). These "banks" then use the free notes, called dollars, to buy government bonds at discount. This means that the government effectively borrows the bills it gives to the Fed, then pays interest for the privilege! The

Congressional Record, P 83, 3/9/33, from a speech by Senator Patman

Fed also sets the discount rates for all currency. American prime interest rates and bank reserve requirements are determined by the Fed. The privately owned Federal Reserve "banks" have even been made exempt from income taxes.<sup>a</sup> The law also relieves the Fed of any liability for the currency. It is *'guaranteed'* by the government, a meaningless guaranty in view of the currency float. Obviously, if the bankers can control the value of the currency, inflation and deflation will protect the government, while private industry writhes in the fluctuation. Whoever controls the Fed completely controls our economy. All of the worst hazards of fractional banking are inherent in the system.

The federal reserve notes are only "federal" in the sense that they are printed by the Treasury, there is no "reserve", and they are not "notes,"<sup>a</sup> since they are not redeemable except by themselves - more debt instruments. When we see the metal market fluctuations, we are not seeing the metals values fluctuate; we are seeing floating currency at work. But this is our "legal tender", and we cannot deny that it is income, for tax purposes<sup>3</sup>.

Apart from the control over your property, is there any other danger in the Fed?

Look at history: late in World War I Kaiser Wilhelm sent Lenin back to Russia, secretly, in a sealed boxcar. Why? Did the Kaiser owe any bankers? Shortly after Lenin went to Russia, our New York bankers sent Leon Trotsky to Russia by ship, with \$20 million in gold to help to finance the revolution. Historians report that Englishmen in Russia had cash in hand to pay the Bolsheviks, on a day-to-day basis, to proceed with the overthrow of the efforts of Kerensky to establish a representative form of government. Exactly what was arranged between the Fed, the bankers, and the leaders of the revolution in Russia is not public knowledge. What is obvious, however, is that the type of government which such a revolution produced was totally centralized and totally controlled. This is exactly what the Czar had. However, researchers tell us that

<sup>a</sup>Lewis, *supra*

<sup>2</sup>UCC 3104

<sup>s</sup>Milam v. United States, 524 F2d 629

the Czar would not agree to a privately owned central bank in Russia!

Your government is becoming more centralized. Who controls that government? The money controls it. The money comes from the Fed. Who controls the Fed? Let's take a look and see.

Shortly after our last world war, under the auspices of the UN, the International Monetary Fund arose, and your gold reserves were used (\$150 million) to buy less than 20% of its stock. One-third of that gold was sold to private interests at \$42 per ounce when the world price was \$120 per ounce (today it is about \$400). The economic policies of the Fed are dictated by the Bank of International Settlement, where the Fed has a seat, but the federal government has none. Did you know American financial policy was totally foreign in origin? Mayer Amschel Rothschild once announced that if he could have control of the economy of a nation he did not care who made its laws.

The inevitable is soon to follow. Right now the Act provides that if the Fed is disbanded, the surplus' assets will revert to the Treasury. Who receives the benefit of that reversion under the New World Order? If the New World Order takes over, the I World Bank will absorb the Fed, and Mr. Rothschild's dream will be fulfilled.

It seems that Mr. Hoover of the FBI knew what he was talking about when he described the conspiracy to be so monstrous that you cannot believe it exists. Hoover had considerable insight into the international "communist" conspiracy. Who financed that conspiracy? Does it involve the New World Order?

#### **D. The National Debt (The objective of the theft)**

Not long after Lenin and his friends took over, and while the Fed was in control of our economy, the depression got into full swing. To "help" our starving citizens, President Roosevelt introduced the so-called recovery laws. He used money borrowed from the Fed. He did not issue interest-free United States Notes (that he could have done so was proved by Lincoln back in Civil War days). With this borrowed money Roosevelt created programs which had no constitutional authority whatsoever. He simply declared a national emergency and used the powers of martial law. He started a system of deficit spending and national debt that spawned the horror we face today.

While Mr. Roosevelt was solving our depression problems, Hitler was being financed in his rise to power in Germany by Felix Warburg (brother to our first Fed Chairman, Paul Warburg). Here we had bankers financing both sides of the strife, to be known as World War II! Who did America support and finance during W.W.II? Who made money during that war? Does anyone ever wonder why the bankers will finance both sides of a war, and support a supposedly anti-capitalistic government? Governments pay interest on all those loans. Without big government and central banks, would any government find it easy to be totally involved in reforming the world with war and money? And as long as government can borrow the money, the bank will get the interest, and the game goes on and on.

Once our "leaders" decided that the power to tax was really a power to spend, practices never contemplated or authorized by the Constitution began to get first priority: foreign aid; aid to education; old age security; Medicare; minority financial support; public welfare. All of these functions properly belong to the states, or to the private sector. The whole concept is basically unconstitutional. The financing of the entire scheme came out of our Federal Reserve program, wonderfully manipulated today through foreign corporations under the auspices of the UN.

Isn't it interesting that in most of its doings our government refers to the "federal" this and that, but when the debt is mentioned, it suddenly becomes "national." Perhaps the bureaucrats are letting us know there is a difference between what is theirs (federal) and what is ours (national). Think about it. When the truth is exposed, you will see that the debt is the most federal thing we have. Even if the tax was outlawed tomorrow, we would remain in the same grinder already described. Both the Fed and the IRS must go!

America has been bankrupt since 1933. @ The Secretary of the Treasury is the receiver in that

@12 USC §95(a); Executive Orders 6073, 6102, 6111, 6260

bankruptcy. = He is also the Governor of the International Monetary Fund, by whom he is now paid.<sup>3</sup> Does it follow that he is the agent of a foreign power, collecting the debt for the foreign creditor? If so, are his sub-agents, the IRS, also foreign agents? A foreign agent commits a felony if he does not file as such under Section 64 of Title 22 of the United States Code!<sup>4</sup> It would seem that both the Secretary of the Treasury, as well as the Fed itself, are agents of foreign principals. @

Our national debt was 16 times greater than the combined debt of all 50 states back in 1964.<sup>6</sup> Today we owe more than all other nations in the world combined.<sup>7</sup> The government concedes that we owe about \$4 trillion; another \$6 trillion is guaranteed by the government. The interest alone on this stupendous sum, at less than 10%, must approach a trillion dollars per year. The government says that the interest is only \$200 billion. In truth, the entire amount collected as income taxes is inadequate to pay the interest. Thus, the government must borrow more principal just to pay the interest monetizing the debt"! Beyond this obligation, we have to pay the national budget. Be aware that when a government economist shows you the budget "pie", he is not showing you where your tax money is going. There is none of that left for the budget. All you are seeing is the ratio of expenditures - wholly independent of collected taxes! All of the costs of the budget, as well as the deficit on the interest, are added to the debt each year. The deficit on the budget is 100%. We go into debt on new loans by \$500 billion annually. Add to this the amount in which we fall short on interest.

How is the debt being paid? Not by your taxes. This power of lending and seizure is accomplishing the real purpose of The Establishment: total ownership of everything and everyone. Those who

<sup>2</sup>s use §903

322 USC §286(a) & (b)

418 USC §951

<sup>s</sup>22 USC §286 6An Enemy Hath Done This, Benson

<sup>7</sup>Benson, supra

act for the foreigner bankers have purchased 80% of the world's resources, and are buying up businesses and assets on a daily basis. They are acquiring all of the collateral, through the banks which are under their control. You are all destined to become tenants on property owned by your masters. This is the wonderful goal of international financiers, with their New World Order. You now understand the true meaning of CONSPIRACY!

## **V. I've got your number, now! (The truth about the tax scam)**

### **A. Income Taxes - Do They Apply to You?**

The January, 1946 issue of American Affairs published a paper which had been prepared by Beardsley Ruml for presentation to the American Bar Association. The paper explained that federal taxes are:

To express public policy in subsidizing or in penalizing various industries and economic groups... to attain more equality of wealth and income than would result from economic forces working alone...

Do you wonder what segment of what public it is that has a policy to take money from you in order to give it to someone else? Do you recall any constitutional delegation of authority which indicated that our founding fathers had any such purpose in mind for us?

What matters here is to understand that taxation is not to provide for revenue; the government prints all the money it needs, and makes a deal to borrow it from the Fed, as already explained. Your fair share under such a system is n//. How did this system come into existence? Take another look at history.

Long ago the Supreme Court acknowledged that sovereignty is with the people@ (as the Constitution had confirmed). The constitutions for the nation and each of the states were all made by the authority of the people.<sup>2</sup> Sovereignty rests with the people and is not subject to law? Numerous cases have confirmed that a statute is not deemed to have application to the sovereign, unless the sovereign is specifically named.<sup>4</sup> Such cases have dealt only with the sovereignty of the state, or the national government, not the private citizen. However, in view of the superior status of the sov'n citizen, these rules should protect such a citizen, a fortiori. So, under what circumstances does a tax statute apply to a sov'n citizen? Let's see if the answer can be discovered.

Remember that only limited powers were given to the national government by the enumerated powers; similarly, the states got power only to the extent that it was delegated by their individual constitutions. As already explained, "sovereignty" in government is basically a fiction, here in America. By contrast, there are no limitations on individual sovereignty in this country. Delegation of sovereignty does not diminish sovereignty. This explains how difficult it is to tax a sov'n citizen, lawfully.

The original tax structure of the country was such that there was no plan or need for any income tax. During the Civil War there was a period of income tax imposition upon the rebelling states. Again, dose to the turn of the century, there was an attempt to tax certain forms of income. This was an attempt to tax the wealthy and it was held to be unconstitutional. Insofar as income tax was exacted from rents upon the use of property, our Supreme Court felt that it was tantamount to a tax on the ownership of property (which was the direct tax forbidden by the Constitution, unless apportioned among the states). That decision was not overturned until the adoption of Amendment 16. Cases decided after Amendment 16 have explained that taxation of incomes was always lawful. It is merely a form of excise tax (an indirect tax). Amendment 16 merely corrected the earlier "improper" ruling of the Supreme Court.<sup>6</sup> Under these views, the hot contest challenging proper ratification of Amendment 16 is dealing with an irrelevant issue.

@McCulloch, supra, 404; Yick Wo, supra, 370

<sup>2</sup>Hauenstein v. Lynham, 100 US 483 s.Yick Wo, supra

<sup>5</sup>Constitution, Articles F2 & I/9. Pollock v. Farmers Ins. & Tr. Co.. 157 US 429.

<sup>4</sup>United States v. Cooper, 312 US 600; United States v. Fox, 94

US 315; United States v. Mine Workers, 330 US 258; Will v.

Michigan State Police, 491 US 58, 64

<sup>6</sup>Brushabet v. Union Pac. R. R. Co., 240 US 1, 16; Eisner v.

Macomber@ 252 US 189; Stanton v. Baltic Mining Co., 240

US 103, 112-113; Peck & Co. v. Lowe, 247 US 165, 172

However, the taxing power of the national government over incomes/s one of the enumerated powers; it comes exclusively from the original Constitution.x That power is expressly given to provide for the general welfare, not for redistribution of wealth, not for social welfare. Although the language of Amendment 16 permits taxation of incomes, it creates no new taxing power whatsoever. Nor does it repeal any prior tax authority in the Constitution (the Constitution cannot be in conflict with itself). The

Amendment merely served to clarify what was already the law. Thus, it hardly matters whether or not the Amendment was properly ratified. So, we have yet to discover how the IRS manages to tax the sov'n citizen and get away with it.

With the enactment of Amendment 16, the Supreme Court declared that it was no longer appropriate to decide whether or not a tax on income was considered a tax on its source, since a source is wholly independent of the income which it produces.<sup>2</sup> As will be shown, this small concession has become a significant support for the entire tax fraud on the sov'n citizen.

Constitutional restrictions on the power to tax do not apply to the states (although our unalienable rights limit what the states can do). However, restrictions on the federal government protect only the sov'n citizens. The Amendment 14 citizen has no such protection.

### 1. What Kind Of Taxes Are They?

Notice that income taxes are called federal, not national income taxes.

A direct tax can only be imposed by the government when it is apportioned.<sup>3</sup> A direct tax is a tax on the ownership of property, such as land, autos, inventories, shares of stock. An excise tax can only be assessed by the government if it is uniform.<sup>4</sup> Uniformity refers to geographic uniformity, not to individual uniformity. An excise tax is an indirect tax, imposed upon the performance of an act, or upon the enjoyment of a privilege. Indeed, it has been declared that the terms "excise tax" and "privilege tax" are synonymous. Producing ore, producing oil, producing textiles and other consumables - all are excise-taxable acts. The measure of the tax is the value of what is received in an exchange for the product - what is "realized" in the exchange. For a resale, the resale is an act which is subject to taxation. Resale taxes are measured only by the gain. Under the modern application of the tax law, the IRS treats the sale of any property for more than its "basis" as a sale for profit, on the theory that the property, or the product, became capital when it was purchased by the owner or merchant who now intends to sell it again. On this theory, the act of selling is taxed, measured by the profit on the sale. However, this application is a novel one, as to one's capital assets. It was formerly established that any advance in the value of capital was not deemed income (which is still the applied law); however, under the older view, even when the asset was sold and converted to money, it was still not considered income - it was differentiated from those property transactions which entail annual gains and profits? The receipt of money was held merely to be another form of increase in the capital. This continued to be the law even after the 16th Amendment was adopted.<sup>5</sup> It was generally the view that capital assets could not produce taxable gain, except when sold by one who was a trader in such properties.<sup>9</sup> Unfortunately, in its zeal to collect money the IRS has dropped these interpretations, and the courts have gone along with the IRS.

By this we understand that our Constitution has recognized that property ownership is a fundamental right which cannot be directly taxed. Obviously,

<sup>5</sup>Knowlton v. Moore, 178 US 41, 106

<sup>6</sup>American Airways v. Wallace, 57 F2d 877

<sup>7</sup>Penn. Mut. Indem. Co. v. C.I.R., 32 TC 659; <sup>8</sup>Graves v. New York, 306 US 466, 480

<sup>9</sup>Grag v. Darlington (1867), US (15 Wall) 63, 66, 21 LEd 45

*Lynch v. Turrish*, 247 US 221, 230; 62 LEd 1087, 38 S Ct 537, 539

3 Constitution, Articles I/2/3 & I/9/4 4 Constitution, Article U8/1

9 *Brewster v. Walsh* (DCCorm. 1920). 268 Fed 207, 214, 217 @° *Lynch v. H.F.C.* (1970), 405 US 538

limitations has been watered down considerably. matter of right, under the common law; however, like

Also, the states have abandoned entirely this elementary protection. Nevertheless, the Constitution protects us (in theory) from federal direct taxation on capital assets we have not converted to cash by a sale. And, as explained above, the income tax is an indirect tax placed upon an event or activity. If it were placed on the fruits of the event or activity, we might still be able to call it a direct tax It might require apportionmentx. Despite certain decisions which have declared to the contrary, income taxes are not direct taxes upon sources of income<sup>3</sup>. They are excise taxes upon certain activities,<sup>4</sup> and they are measured by the income (gain) which those activities produce:

The income tax is, therefore, not a tax on income as such It is an excise tax with respect to certain activities and privileges which is measured by reference to the income which they produce. The income is not the subject of the tax; it is the basis for determining the amount of the taxes.

When dealing with owned assets which produce gain, like oil wells and coal mines, they are not considered to produce realized gain until the gain is converted into another form of asset or cash, by reason of an exchange?

Corporations, partnerships, and all licensed activities, operate not by right but by privilege. Privileges are taxable. If you are allowing yourself to be licensed for an activity which is truly a right, you are exposing yourself to unnecessary taxability.<sup>7</sup> Technically, unincorporated organizations exist as a

@. *Tyler v. United States* (1930), 281 US 497, 502.

the sov'n citizen, unless the trustee or management dares to proclaim immunity, taxes will be exacted.

In 1862 Congress passed an income tax on "insurrectionary districts."s Martial law prevailed, and rebels were hardly in a position to challenge laws made in a capitol which they did not recognize. Prior to 1913 there were other income taxes imposed upon corporate activities. Such taxes violated nothing, because what was taxed had no constitutional protection against taxation. In fact, as has been shown, taxes on privileged income-producing activities were always permitted by the Constitution.

The problem has been to correctly define "income." The corruptions of that definition, confusing them with the meaning of "source," have opened the doors to taxation of the sov'n citizen.

## **B. What Is Income?**

The Code does not define "income." It refers to "gross income,"@° but that usage is not for purposes of definition. In fact, one wonders what is the purpose for the reference. It appears to be a listing of sources of income, but the items listed seem to comprise both items of income and specifications of sources, without differentiating which is which.

For a definition of income it is essential to look to the United States Supreme Court It has already told us that not everything which "comes in" is "income."x2 It is said to be gain or profit from labor or capital or both combined@3. As will be seen below, labor is property, just as is capital. This means that

2United States v. Collins (1990, CA9), 920 F2d 619, 631.

aStanton v. Baltic Mining Co., 240 US 103, 112; Brushabet v. Union Pacific R. R. Co., 240 US 1, 12, 18.

4@Evals V. Gore, 253 US 245

sCongressional Record, Vol. 89, Pt. 2, p. 2580, 3/27/43; see also U. S. Glass Co. v. Oak Creek, 247 US 321, 329.

sKeely v. Sanders, 99 US 441, 448

@Ballard v. United States, (1976 CA8), 535 F2d 400, 404. @°26 USC @61(a). uEisner v. Macomber, 252 US 189, 206.

6Merchant's Loan & Trust Co. v. Smietanka, 255 US 509

nSolltheHI Pac. Co. v. Lowe, 247 US 330

7S-pring Val. Water Works v. Barber, 99 Cal. 36, 33 Pac. 735; Sims v. Ahrens, 271 SW 720

xsGoodrich v@ Edwards, 255 US 527; Connet v. United States (1969), 303 FS 1187.

gain from labor usually comes from the work of those you hire, rather than from your own labor) It has been recognized that the capitalist is able to deduct his own labor as a cost, before facing a tax on any capital gain@.

### C. What Is Taxable Income?

Immediately, you must notice that Congress declared two critical facts about the income tax: it referred to activities and it referred to privileges.

Cases establish that there is really no income tax at all unless the activity engaged in is privileged not conducted as a matter of right.<sup>4</sup> Any activity which can be engaged in as a constitutionally recognized right cannot be revenue taxable:<sup>s</sup>

The rights to live and own property are natural rights for the enjoyment of which an excise cannot be imposed.<sup>6</sup>

This was declared early in the history of our income tax system. Our Supreme Court acknowledged that income was the same thing as defined under the Corporate Excise Tax of 1909.<sup>7</sup> This tax in turn has been described as one on the manufacture, sale, or consumption of commodities, or the income of a licensed activity, or otherwise created pursuant to some statute, such as a corporation.<sup>s</sup>

Later cases make in manifestly clear that only the corporation was intended as the subject

1Bowers v. Kerbough-F. rnpire Co., 271 US 170, 174 2Maddox v. Lnternational Paper Corp., 47 FS 829, 830. 3American Airways, supra, 880

4Miller v. United State@. 230 Fed 486, 489. sMurdock v. Pennsylvania (1943), 319 US 105, 113.

6Redfield v. Fisher@ (OR 1930), 292 Pac 813, 819

7.Peck & Co. v. Low@ 247 US 165; Merchants' Loan & Trust

Co. V. Smietanka; 255 US 508; Bowers v. Kerbough-Empire

@ 271 US 170, 174.

a. Flint v. Stone Tracy Co., 220 US 107; .Eliot v. Freeman- 220 US 178, 185 '

of the tax? Even cases which differentiate. d between "income" and "excise" taxes pointed out that the tax was upon the exercise of a some privilege. @o Thus, unless the tax is upon alcohol, firearms, tobacco, drugs, or gaming, it will probably be on a corporation's activities. @ The sovereign is not subject to regulation; therefore, the "person" who is regulated in the United States Code must be a form of juristic (non-natural) person? Notice, also, that the federal government has delegated authority over interstate commerce, and virtually all corporations are engaged therein!n However, under Treasury Decision (TEI) 2313, it seems that only federally chartered corporations are actually taxed.

Understanding that the tax applies to activities only, it becomes clear why a source is not relevant. Also, the tax is never on money, which is a fruit of an activity, and which is also property. It is on the activity which produces the money, measured by the amount of money produced. Thus, when the Code refers to "taxable income," it means the measured gain produced by a revenue taxable activity. You are going to look for activities, then, which are revenue taxable activities. It has been held that an activity is presumed to be untaxable if it is not specified in the Code

## 1. Personal Services

The Constitution is the Supreme Law of the Land. is It is clear that income tax is prohibited by

@Stratton's Independence v. Howbert (1913) 231 US 399, 414:

The act of 2909 (imposed) . . . not an income tax, but an

@ccise tax upon the conduct of business in a corporate capaciC@'

mectsurin& however, the amount of tax by the income of the

corporation ; .Mitchell v. Doyle-.@ 225 Fed. 437: (I)ncome

(conveys)... the idea of gain or increase driving from corporate activities..

@°Hecht v. Malley, 265 US 144, 155-156

@Mitchell supra; .Doyle v. Mitchell Bros. Co. (1918) 247 US 179, 38 Sct 467, 62 LEd 1054..

12See United States v. Fox 94 US 315

@3.U.S. Glass Co. v. Oak Creel 247 US 321, 329. HHioley v. C.I.R., 69 F2d 160, 162-163.

@s.Marbury v. Madison@ 5 US 137, 180

the Constitution if it is directed against compensation paid to a sov'n citizen for his work. Amendment 16 cannot be in conflict with the original Constitution, to impair a right guaranteed thereby)

Your labor is your property.2 It is in fact the foundation for all of your other property? As such, it is not income, and it is not taxable.4 This fundamental right of property combines with the right to contract,

including the right to contract for your services in exchange for money.<sup>5</sup> Such a contract is a contract for the sale of labor.<sup>6</sup> When you contract for the sale of that labor, you are exercising a personal property.<sup>7</sup> Your right to follow a common occupation is an unalienable right?

A further consequence of the application of these judicial definitions is that compensation for personal service is an exchange of values, involving no gain, and therefore no income. For there to be taxable income from the sale of property, the revenue laws proclaim that the property must first be a capital asset. When one disposes of his property, if he is not made whole in the transaction, then he has suffered a loss (his property has been diminished). Conversely, if he receives property of like value in the transaction, he is made whole, without gain. If there is no gain, there is no income, obviously?

Nevertheless, what the IRS and the Code have managed to do is to lay a tax upon what you receive in exchange for your labor: your compensation for personal services. In fact, even this compensation is not what they tax. They tax the activity of rendering personal services, and they measure the tax by the amount which you receive in the exchange. To manage this deceptive practice, agents have relied upon a congressional committee report which declares (wholly without a reasonable theory<sup>8</sup>) that your labor has a "zero" basis. This theory disregards the total expense which one incurs to maintain the engine producing that labor (his body), and gives only nominal consideration (deductions) for the industry expenses (family living costs) incurred in the production of additional labor engines (children - your exemptions)! However, the very acknowledgment that labor has a connotation of 'basis', is a concession that labor and the value for which it is exchanged are assets (property), which cannot be subject to a direct tax without apportionment.

@Murdock v. Penn., 319 US 105, 113; Grosiean v. American

Press Co., 297 US 233; Coppage v. Kansas, 236 US 1, 14;

Redfield v. Fisher, 292 Pac. 813, 819

zButchers' Union Co. v. Crescent City Co., 111 US 746, 757.

sButchers' Union Co, supra, 757

Another inherent flaw in this taxing process is that it ignores the fact that you have an unalienable right to work; working is not a privileged activity. Since the right to earn money is a fundamental right, it cannot be revenue taxable.<sup>2</sup> Cases without number have recognized that the right to receive earnings for labor cannot be the basis for a tax? Cases have acknowledged that compensation for labor cannot be regarded as profit.<sup>4</sup> Also, there is a tacit admission in the Code that 'wages' are not truly income (although it is doubtful that any federal court will concede the admission): section 61(a) does not list 'wages' as an item of "gross income," neither as income nor as source; instead it refers to

4Brewster v. Walsh, 268 Fed ,207-217.

sConpaRe, supra, 14

6Adair v. United States, 208 US 161, 172

7Adair, supra, 172; CormaRe, supra, 14

sAllgeyer v. Louisiana (1897), 165 US 578, 589: "Liberty"... is deemed to embrace the right of the citizen to . . . earn his livelihood by any lawful calling; to pursue any livelihood or avocation .... ; Butchers' Union Co, supra, 762: The right to follow any of the common occupations of life is an unalienable right.

@Bogni v. Perotti (1946, IL), 112 NE 853.

nCRS Rept. for Congress, 89-623A (11/17/89), pp 316-317

@226 USC (1939) §3.21-1: Neither income exempted by statute or fundamental law, nor expenses incurred in connection therewith, other than interest, enter into the computation of net income. . . ; 26 CFR (1939) @9.22(b)-1(1); Treasury Decision 3640 (1924); The Antelope, 23 US 66, 120; Yakus v. United States, 321 US 414, 468

taJack Cole Co. v. MacFarland (Tenn. 1960), 337 SW2d 452, 455-456; Jackson v. Burus (LA), 41 S 40.

9Merchants' Loan@ supra

@Oliver v. Halstead (1955 VA), 82 SE2d 858.

"compensation for services" without disclosing whether it is an item of income or a source. If this seems confusing, don't be alarmed. Clever men have worded the IRC deliberately to be as confusing as possible. Indeed, courts frankly acknowledge that even the attorneys have only "scant knowledge" of the tax laws!@ This is not surprising, when it is considered that the Code is drafted in such a way that only one with 31 years of education can understand it. Any law that confusing should be declared void in its entirety by reason of its vagueness.<sup>2</sup> A statute which is not clear cannot be the basis for a penalty, and it must be construed strictly in favor of the citizen who is charged thereunder? Also, without an implementing regulation, most tax laws are inherently unenforceable, apart from their vagueness - as will be more carefully examined hereinafter. Consider the circumstance in which a citizen finds himself when he has listed as income an item which is really a source, and certified under penalties of perjury that this is true! This is done on virtually every 1040 return. Since ambiguities are supposed to be resolved in favor of the "taxpayer," it would appear that compensation for services must be treated as the source, not the income, bringing back the fact that earnings are not income. Section 63 is no help to the IRS, since it says that "taxable income" is "gross income" minus certain deductions. Back again to a non-definition!

The Tax Court decided that wages were income, after meditating on the issue for 14 months - and then deciding the issue simply because so many people had been calling their wages income on their returns for so long! Our Supreme Court has declared that mere continuance of an erroneous rule

aButsten v. United State-% 395 F2d 976

2.Big Mamma Ral@. Inc. v. United States, 631 F2d 1030; Connally v. Gen. Constr. Co., 269 US 322

sUnited States v. Mersky, 361 US 431, 4 LEd2d 423, 431, 80 SO 459; for Motion to Dismiss for Vagueness, see 7 Federal

Forms, §20:209-212

4United States v. Merriam, 263 US 179; Gould v. Gould, 245

US 151; Spreckles Sugar Refining Co. v. Melaln, 192 US

397, 416; *Busse v. C.I.R.*, 479 F2d 1147, 1151; *American Net & Twine Co. v. Worthington* 141 US 468, 474; *Benzer v. United States*, 192 US 38, 55; *Greyhound Corp. v. Unit* @ @ States, 495 F2d 863; ..*Miller v. Gearing*. 258 Fed 225

of law for a long period of time is an insufficient basis for allowing it to remain uncorrected. Historical acceptance cannot validate an unconstitutional statute? Our courts are supposed to guard against "stealthy encroachments" upon our constitutional rights.<sup>7</sup> However, only when attorneys insist upon presenting the law properly to the courts can we hope that courts will begin to wake up and apply that law. Meanwhile, the people will probably have to rely upon IRS incompetence to gain the protection which the law should otherwise provide.

There is a long string of federal decisions which declare that one who makes the assertion that earnings are not income is making a frivolous claim, which will not be countenanced. A careful review of those cases will reveal that the original arguments were either not in point, or incorrectly presented. However, the later cases relying upon them only recite the conclusion that 'wages are income,' without showing the shaky basis for such conclusions. This report is designed to tell you what is the real law, but the whole truth includes the fact that federal courts are subverting that law. Perhaps the courts can be forgiven, if one realizes that the term 'wages' is actually a medieval word, referring to the compensation paid to an aristocrat by another aristocrat for the services of the first aristocrat's servant performed for the second aristocrat (validated by history, as explained below). In any event, the nation is brain-washed into believing that earnings are income, and that all are taxpayers. It may be impossible to find a court which will apply the law which says otherwise.

## 2. Nonresident Aliens

The revenue laws do not use the term "sovereign citizen." Those laws refer to United States Persons, Resident Aliens and Nonresident Aliens.<sup>9</sup> U.S. persons are defined to include, among other things, *Erie Railroad Co. v. Tompkins* (1938), 308 US 64, 58 S Ct 817, 82 L Ed 1188

<sup>6</sup>*United States v. Woolley*, 726 F2d 1328, 1338

<sup>7</sup>*Boyd v. United States*.% 116 US 616, 635

<sup>s</sup>26 USC 7701(a)(30) 926 USC 7701(b)

citizens and residents (i.e.: resident aliens) of the United States. A nonresident alien is anyone who is neither a citizen nor a resident (alien) of the United States. Since the sovereign citizen is not a "citizen of the United States" under the Code (by virtue of the definition in the regulations), and since he does not fit the definition of a resident alien, by elimination, he must be a nonresident alien!

The Treasury Department has actually confirmed the analysis of the status of a sovereign citizen as being a nonresident alien, for revenue purposes. The confirmation comes from Treasury Decision 2313, issued in 1916. It is based upon the decision of the Supreme Court in a lawsuit brought by a citizen of New York, living in Brooklyn, against the Union Pacific Railway Co., a federally chartered corporation.<sup>2</sup> The purpose of the suit was to prevent the railway company from withholding the 1% tax from the dividends payable to the New Yorker. The state citizen lost that case? In reliance upon that decision, the Treasury

Department referred to the New Yorker as a nonresident alien, and as such was not exempt from the withholding of taxes from dividends payable by a domestic corporation {i.e.: chartered by the federal government)! The fact that TD 2313 called Mr. Brushaber a nonresident alien seems proof enough that citizens of states are nonresident aliens for all purposes of the Code; and if this is true, then a corporation chartered in a state is foreign, while only federally chartered corporations can be domestic. So, anything done in a state is done without the United States.

The term "alien" must apply to the sov'n citizen, because he is alien to the status of subject citizen, and he does not fit the special definition of resident found in the 14th Amendment. It may also be said that, since the sovereign person does not live within the political jurisdiction of the United States, he is nonresident thereto. Thus, he can be nonresident to the place, as well as nonresident and alien to the status of subject citizen.

Under the language of the Code, as interpreted by the tax regulations, the sov'n citizen may be

@26 CFR §1.1-1©

2Chartered by 37th Congress, 2nd Session, Statues at Law, December- March 1863, Ch. 120, p 489

sBrushaber, supra

liable for the tax applicable to the nonresident alien. The Code subjects nonresident aliens to taxes upon income which is received either from a trade or business "effectively connected with the United States,"<sup>4</sup> or from a source 'within' the United States? Do not assume that this means some place as foreign as France or Japan. It appears to refer to the 50 states, just as dearly as did TD 2313.

Explaining taxability of nonresident alien income, in order for such income of the nonresident alien to be taxable, it will have to emanate from sources within sovereign federal areas, or from an activity which is effectively connected with the political jurisdiction of the United States, by reason of the ATF laws, patents, copyrights, federally created entities, etc. If it emanates from any of the 50 states, and is not "connected" with those federally controlled activities, such income is not taxable to the sov'n citizen. Once again, the problem is to find a court which will apply this truth. To do this, one must show to the court that an activity in one of the 50 states is 'without' the United States. To do this, it is suggested that a standard form subpoena, as issued by the clerk of any United States District Court, be marked as an exhibit. Point to the return of service, which states that it is signed "under penalties of perjury pursuant to the laws of the United States of America." Then attach it to a motion which cites 28 USC §1746(1). This statute defines that form of verification is applicable only 'Without' the United States! Also cite 28 USC §297, showing that the 50 "freely associated compact states" are referred to as "countries." This is the statute which enables your judge to sit in judgment of certain state cases and be paid for his services, over and above his usual salary Combined with the Brushaber case and TD 2313, one would make it hard for the court to deny that income from within the 50 states is without the United States. Of course, the harder problem is to persuade the court you are a nonresident alien in the first place. Courts are not inclined to accept this analysis, clear as it is.

The tax regulations provide that no tax is imposed upon a nonresident alien for the profit on a sale of personal property, because it is not fixed and determinable income. Since labor is property, it

426 USC 871Co) 526 usc 871(a)

would seem that the "wage" thereon, if it involves profit, must be exempt, since the regulations say it is not fixed and determinable. There are express provisions in the regulations which exclude from taxation the earnings of nonresident aliens, acquired from sources "without" the United States.<sup>2</sup>

In commercial law, it may be said that to be a resident is to be living in an area within the tax jurisdiction of the forum. If the commercial terminology is applied, the term "forum" actually means the contract, to which you are an alien (stranger) if you are not a party. We may claim some support for this position under the 1966 Federal Tax Lien law, which requires IRS to comply with the commercial law in order to enforce liens? However, be aware that courts have ruled that an assessment is the consideration for a tax claim. Such a ruling defeats the defense that a tax claim cannot be enforced without the production of a signed agreement.

If you do live in a sovereign federal area, you are going to be subject to the tax laws, regardless of your status - just as you would be subject to the tax laws of France if you lived in France. Forget about all sovereign and unalienable rights, as far as taxes are concerned, if you reside within the political jurisdiction of the United States. Even though you are still a sov'n citizen with unalienable rights, the federal government will not consider that they concern your taxes. It need not do so, because of the exclusive nature of the jurisdiction which We, the People delegated to Congress there. Taxes levied in Washington D. C. and the territories are strictly local (municipal) taxes, not imposed for the common welfare of the country. They arise under the power of exclusive legislation,<sup>5</sup> or under international law.<sup>6</sup> The soundest explanation for the usurpation of taxing authority is that the IRS and the courts simply

@26 CFR §1.1441-2(a)(3)

@26 CFR @1.1441-3(a), 1.6015(i)-1, 31.3401(a)(6)-l(b)

@26 USC @6338(b)

4Paschal v. Blieden@ 127 F2d 398

sConstitution, Article U8/17 6DeLima, supra,<sup>7</sup> 99~100

extended the local taxes to encompass all of the 50 states. When one volunteers, he validates the extension.

Similarly, if you are working on any kind of government payroll, the compensation may not really be income, by definition, but it is surely subject to contractual control by the government, and clearly is "connected" with a federal activity. That compensation originates in Washington, D.C., and is subject to reduction in amount under any label, including the "tax@" label. You agree thereto by accepting the job or position.

Remember, we are discussing taxability under the revenue code, not what Congress might be able to do if it ever elects to exercise its full powers.<sup>7</sup> The problem for the IRS is that, if it drafted tax laws which openly acknowledged that a feudal status is imposed upon some citizens, for purposes of some taxes, then imposed lawful taxes upon sov'n citizens as well, the government would lose most of the money coming from labor exchanged for compensation, as well as its control over sov'n citizens! What is worse, if the subject citizens detected the difference, their reaction would require the politicians to grant equal rights to everyone, the fraud would be exposed, and all volunteering would end! As long as the tax laws do not openly acknowledge the two different categories of citizens, they can continue to get tax receipts

from both classes, one because he is a feudal subject, and the other because he insists upon the same treatment, or because the courts subvert the law.

A careful examination of the 1939 version of the Code (never repealed) and regulations, Treasury Decisions, IRS publications and tax cases reveal that the sovereign is not taxed, unless he volunteers to be taxed. IRS publication 21, back in 1982, warned the taxpayer: "You must decide whether the law requires you to file a return". The 1040 Form published in 1986 advised, at page 3: "First, be sure you need to file a tax return". What it all boils down to is that, in the most literal sense of the word, filing returns and paying taxes are voluntary acts (for a sov'n citizen). It has been succinctly stated that by filing a tax return and declaring that you have taxable

7Bevan% supra, 389

income, you have become a "taxpayer? By filing that tax return, you have announced that you are .content" to be liable for the tax Unfortunately, our courts won't let us un-volunteer.

Let us summarize this position by re-iterating the fact that courts are blind to the claim that a state citizen is a nonresident alien. Therefore, rather than simply give up to this wanton abuse of judicial power, simply shift to another line of defense. Utilize the procedural shortcomings of the IRS, and the absence

of implementing regulations, and show that there is no tax due, for lack of a valid assessment, and no enforcement possible, for lack of implementing regulations. We examine these points later in this material.

### 3. Nontaxpayers

The Code does not apply to nontaxpayers? The courts have acknowledged that the term "taxpayee" is not one which can be applied to a person at the whim of an IRS agent; before there can be any tax seizure, a person is entitled to have an adjudication that he is in fact a taxpayer.<sup>4</sup> The significance of this point is that a nontaxpayer is not controlled by the Code. If money is taken from him by withholding, he does not claim a refund under the Code; he sues to recover what was improperly taken. The two-year statute of limitations would not apply to such a suit.

Similarly, the prohibition against an injunction action brought by a taxpayer does not apply when the litigant is not the taxpayer himself.<sup>6</sup>

You might claim that you are not a taxpayer because you are engaged in no revenue taxable activity. This may be true, because your earnings are

@Morse v. United States, 494 F2d 876, 880

2Lyndon & Co. v. United Sta@ 158 FS 951, 953

@Bona v. Scanlo@ (1961), 288 F2d 504, 507; Economy

Plumbing & Heating v. United States (1972), 470 F2d 585,  
589.

4Botta v. Scanlon 288 F2d 504 s26 USC @7421.

@TomYmson v. Smith 128 F2d 808.

not taxable. It would be appropriate to make an information request for a disclosure of documents revealing just what revenue taxable activity it is in which the IRS thinks you are engaged, as defined by Congress? Of course, federal courts uniformly ignore the law which establishes that this is true.

Your next claim will be based on the fact that no tax law applies to you. The Code has defined wages as remuneration for services performed by an employee. The Code is not self-executing, but requires regulations to implement the tax laws? Those regulations do not pertain to you, if you are a sov'n citizen. The Code, as implemented by the regulations, imposes taxes upon citizens and residents subject to the jurisdiction of the United States. @° This is simply an ellipse, duplicating the language of the 14th Amendment. This definition excludes the sovereign, since he is not subject to the direct and immediate jurisdiction of the United States, as previously explained. It excludes the state corporation because it is not a citizen, and it does not "reside" in those sovereign federal areas. This is additional law which is perfectly sound, to which our courts are blind.

The 14th Amendment person gets hit with a tax on his "wages" for two reasons. First, his situs is Washington D.C. Such a person is either a resident, or a subject citizen. Either as a resident, or as one with a situs at Washington D.C., he is within that sovereign jurisdiction. As a subject citizen, he is in a feudal relationship to the federal government, very like the old feudal servant. He is treated as property, and, remember, property always has its situs at the domicile of its owner. The government is that owner. So, no matter where the subject citizen lives, his situs is Washington D.C. Second, as a feudal creature, a subject, his wages are owned by the government. When you understand that the feudal definition of "wage" refers only to the compensation paid to a lord for the use of his servant

@Congressional Record (House), March 27, 1943, p 2584

s26 USC 53401(a) @26 USC @7805; United States v. \$200,000 (1984), 590 FS 866

@°26 CFR §1.1-1(a) and ©

by another, @ you understand that the references to taxable wages are merely confirmations of the status of the subject citizen: he is completely subject to the government (his "lord"). So, the government can be generous and allow its subjects to retain whatever portion of the wage (owned by the government) which it chooses to allow. These amounts are carefully set forth in Subtitle A of the Code for all the subject citizens. And notice that when the subjects don't pay up, the penalties and interest are likely to result in the government keeping 100% of those wages, which it owned in the first place. If confirmation of this analysis is needed, the tax regulations specifically exempt personal services performed by a nonresident alien "without" the United States from the definition of wages.<sup>2</sup>

As has been shown, the sov'n citizen can only be classified as a nonresident alien, and anything outside of the corporate (political) jurisdiction of the United States is considered to be outside of the United States, for purposes of the revenue laws! This is another completely sound position which your federal court will disregard and call "frivolous?"

The courts have acknowledged that the term "taxpayer" is not one which can be applied to a person at the whim of an IRS agent; before there can be any tax seizure, a person is entitled to have an adjudication that he is in fact a taxpayer.<sup>4</sup>

#### 4. What is "included?"

The most tortured words in the Code are "include," "includes," and "including." Innumerable people are filing documents with the IRS which proclaim that they are not taxpayers, because of the usage of these terms. It is proclaimed that the various definitions of the United States always are limited by what is "included" in any given definition.

1Institutes of the Laws of England, Coke, (1832 Ed.) L,2 C. 22, Sect. 172 117.a] (note)

226 CFR §§1.6015(i)-1, 31.3401(a)(6)-l(b)

sSee Cooper v. Commissioner, 805 F2d 902, 905 and United States v. Collins (1990 CA10), 920 F2d 619, 633.

4Botta, supra, at 507; Economy Plumbing & Heating, supra, at

589

The merit to this position is found in the fact that there are only two places in the Code where the 50 states are specifically designated to be within the meaning of United States? Neither section concerns a tax- The Code declares that these words do not exclude 'what the term otherwise means.'"<sup>6</sup> However, in the usage of "United States" and "State", since the many definitions use various territories and the Capitol itself, it is reasonable to assume that in every case where either term is used, all such territories and the Capitol must not be excluded - which would make the entire Code even more contradictory. Yet, if the expression "United States" otherwise means the 50 states, then to spell it out in the two mentioned sections is in itself superfluous. Another problem arises when it is considered that Amendment 16 refers to the income tax as being lawful for the "several states." "Several" is a term which is normally limited to seven or less. The only "seven" states would be the seven federal territories, with the Capitol, which are specially mentioned throughout the Code.

The significance of this usage is that, if the terms are used as terms of limitation or of definition, then wages can only be earned by an employee; an employee can only be one hired by government, a corporate officer, or a government appointee. Indeed, it is said that the term "employee" was borrowed from the French, and only applied to persons working for government.

These are conclusions drawn for the reasons set forth above. Do not expect any federal court to endorse them. The courts, in applying definitions for what is "included," are uniform (in tax cases) in using it as a term of enlargement, unless it is otherwise clearly limited.<sup>7</sup> In consequence, criminal convictions have been handed down against citizens who relied upon the concept of limited application of the term, such as where it was believed that earnings from private employment could not be "included" in the definition of wages. The safer argument arises from the view that earnings are not income, or, even if they were, that they arose from the exercise of the non-taxable right to work and earn a living. In other

s26 USC §@612 and 6103 626 USC @7701©

7United States v. Graham, 309 F2d 210, 212

words, always find some other reason for exemption from tax-

The "included" confusion probably exists only in order to enable a court to use the ambiguity as an

excuse to save various invalid taxing statutes under, the Ashwander rule: to proclaim that such statutes only included those who volunteered, or were 14th Amendment citizens.

## **VI. Take Your Best Shot (Why the IRS can't collect your money)**

### **A. The Steps Of Enforcement (What they have to do)**

The IRS has been unjustifiably successful in the courts. Despite the plethora of well reasoned cases which sustain the validity of one's citizenship status, as presented in this document, federal judges seem to go deaf, blind and dumb when such law is presented to them as a defense against incorrectly applied tax laws. Explanations for this improper treatment are many, and none of them are satisfactory. However, the only sensible approach to the problem is to realize where one stands and to make the most of the situation.

Thus, as a practical matter, if one chooses to assert his true status as a sov'n citizen, and to conduct himself accordingly, he is either going to be filing no tax returns at all, or he is going to be filing home-made returns which declare his status, tender no taxes, and submit information to the IRS under protest.

In either case, one must anticipate that, sooner or later, the IRS may seek some kind of enforcement. Occasionally, this enforcement may be in a criminal context (criminal charges are probably avoided if the home-made return is used). Otherwise, since good faith is a complete defense to most criminal charges under the revenue laws, one who has relied on the law presented in this compilation is in an excellent position to avoid conviction. (Criminal defense points are covered below.)

The more common attack comes in the form of efforts to secure returns and to collect money. Against this attack one's defenses are impressive, and are the very defenses which courts will recognize, if adequately prepared and presented. The only negative aspect is that the IRS may label you as a "tax protester," or an "illegal tax protester." If the IRS is thereby able to focus upon your status claim, instead of upon the real issues of administrative non-compliance, it may put you before a hostile court. As a matter of fact, if this tactic is used, you should be able to insist upon a separate trial, wherein the tax-protester label must be proven by evidence.@ In any case, you are required to be extremely circumspect and exact in presenting procedural defenses.

Remember: the tax laws are not intended to collect money, to get you to pay your "fair sham." Your fair share is nothing in a system which is intended only to re-distribute the wealth, and to invade your privacy. The system exists simply to enable a runaway government to have more intense means to control your life. Therefore, when you defy the IRS, you defy the big-government scheme, the support of which is maintained by every bureaucrat and judge.

This chapter discusses the specific steps which the IRS must take to be successful in exacting tribute from you. It virtually never follows all of the procedures required for each of these steps. Yet, when you establish that even one of these procedures was omitted, you have stopped the IRS. At first the stop may be only temporary; however, if you persist, either the IRS will surrender, or you will prevail. Since the IRS works on a cost-efficiency basis, unless you place yourself in an extremely high profile with them, and compel them to try to make an example of you, it is likely you will be left alone, for "easier pickin's."

These are the steps which the IRS must take, and which are loaded with administrative problems for the agents:

1. Request your return.
2. Request your records/summons you to appear.
3. Propose an adjustment/notice a deficiency.
4. Send a notice of assessment and demand for payment.
5. File a notice of lien.

@Joint Anti-Fascist Refugee Coma. v. McGruth, 341 US 123

Send a notice of levy/seize your compensation, funds.

Send a notice of seizure/seize your property. Send a notice of sale/sell your property.

## **B. Lack of Authority**

### **1. Implementing Regulations Are Missing**

Well established in federal law is the proposition that Congress makes the laws and the executive branch enforces them. Frequently, Congress makes general declarations of law, and directs the executive agency charged with enforcement to generate specific regulations to implement the law. This is the situation with the Internal Revenue Code. The Secretary of the Treasury is specifically charged with the duty to make all needful[ rules and regulations to carry out the general provisions of that Code-  
x

The relevance of this arrangement is this: in many critical areas there are no regulations which implement the law, such as for charging interest on late tax payments, penalties on "frivolous@" returns, or for the penalty statutes concerning non-fliers and fraudulent returns. Regulations enforcing most of the tax laws are only implemented for the enforcement of excise taxes, concerning alcohol, tobacco, or drugs, and do not actually affect the ordinary citizen. The effect of these two curiosities is that those tactics of the IRS which most effectively discomfort the citizen are actually being undertaken without lawful authority. It is well established that, without an implementing regulation, the IRS is without authority to act. Even the government has conceded that only by violations of regulations can one incur either civil or criminal penalties? It can be argued that, without a clarifying regulation, one is

'26 USC §7805(a)

226 USC @,@6702-6703

3California Bankers Assn. v. Schultz, 416 US 21, 26

deprived of due process, in that he has not received, ..... fair notice of exactly what it is that is illegal-4

Since income taxes are really privilege taxes, except where addressed to the 14th Amendment citizen, it should not be surprising to discover that enforcement provisions are limited in the regulations to privileged excise-taxable activities.

Government attorneys attempt to subvert the rule requiring implementing regulations by pointing out that regulations which are merely directive are not mandatory.<sup>5</sup> Thus, they claim, they are not binding upon the government. This defense can be minimized by pointing out that, even as to directive regulations, substantial compliance is required.<sup>6</sup> More often, however, the regulation is either necessary to implement the law, or it creates a substantive right. In such a case strict compliance by the government is mandatory - it becomes an essential element of due process of law.<sup>7</sup>

Once you have found that there is an applicable regulation, examine the conduct of the IRS compared to what that regulation requires. IRS commonly deviates from what those regulations provide, rendering their action illegal.<sup>8</sup>

## 2. Absent Delegations of Authority

In recent years, many citizens, attempting to defeat the rapacious invasions of the IRS, have resorted to the claim that agents have no delegations of authority to enforce the tax laws. There is substantial merit to this position, although recent rulings have watered down its general application. It is a fact that, unless a government official is working in the District of Columbia, he is without authority to take any official action against anyone without an

<sup>4</sup>United States v. Batchelder. (1979), 442 US 114, 99 S Ct 2198, 2203, LEd2d

<sup>5</sup>United States v. Merski, 361 US 431, 438, 80 S Ct 459, 4 LEd2d 423, 429

<sup>6</sup>Lipp v. Commissioner. (1980), 74 TC 458, 468, 474

<sup>7</sup>Curie v. United States (DCNY 1942), 791 FS 52, 55; -Tipps, supra

<sup>8</sup>Lipp v. United States (1967), 181 CtCl 355; United States v. Coleman (CA9 1973), 478 F2cl 1371

, express provision of law or a proper delegation of authority order (DAO). The United States Code restricts his powers to D.C. However, be aware that considerable authority exists for action outside of the Capitol.

The Code is full of express provisions of law, and among them are provisions authorizing the Secretary of the Treasury to enforce the Code. Whenever the expression "Secretary of the Treasury" is used, only the Secretary of the Treasury can do the thing authorized; however, if the term "Secretary" is used, then the authority can be exercised by a delegate of the Secretary.<sup>2</sup> Regulations implementing the Code also contain specific delegations of authority. However, in all other cases, to be a proper delegate, there must be a written delegation of authority; if there is a re-delegation, that must also be in writing, all the way down to the one actually doing the thing authorized.<sup>3</sup> The written authority most commonly relied upon will be that which is set forth in the regulations which are promulgated by the Secretary of the Treasury. However, most of the authority actually exercised is by agents who must rely upon a re-delegation from someone already authorized by some regulation or DAO. This is where the system breaks down, because most agency action is taken by agents who do not actually have properly delegated authority. Most evidence of delegation fails under scrutiny, either because it is not signed by an authorized person, or it does not cover the action being taken by the agent.

If an official lacks proper authority, no punishment exists for one who ignores him.<sup>4</sup> In such a case the official is actually impersonating an officer, which is a crime; also, he is liable for civil penalties. Unless the official is a uniformed officer, he is supposed to carry a copy of his DAO on his person whenever

acting officially. This is not his badge or ID. It is a document which spells out exactly what he is authorized to do. In other words, be sure not only that he has a DAO, but also that it covers the activity he is attempting to pursue against

14 USC §§71, 72

226 USC §7701(a)(1)(B)

326 USC §7701(a)(12)(A)(i)

4Panama Refining Co. v. Ryan; 293 US 388

you. If there is no such DAO, then that action is improper. Any letter he sends is unauthorized. Even if he went back and got a nice new DAO, it would not have retroactive effect!

DAO's must be in a complete chain from the highest authority to the acting official, by a series of re-delegations? Each one must cover the activity or power claimed by the official. If any link is missing, the official has no authority. IRS agents are well aware of this requirement. It is in their Manual 1100 at Section 11(16)1.1.

Apart from a DAO, the official should have taken and signed the prescribed oath in the full and proper form. Most do not, and, without the oath of office, there is no authority to act. A copy of that oath must be in his personnel file.

A word of caution: do not simply ignore any order or letter; always take the steps essential to prove lack of authority, and demand retraction or nullification of the agent's action. Once again, the courts are likely to assume that the agent has authority, and you must be prepared to prove your case in court, not simply by your letters demanding compliance with the law. Even the courts are inclined to look at no-authority arguments as mere "tax-protester" claims,<sup>6</sup> so be sure that your attack is fully documented.

To properly document your claim, present the following points:

First, if you assume that an official has authority, and obey his demands, you may subject yourself to needless requirements. You are personally responsible for verification of the authority.<sup>7</sup> This is all the justification you will ever need for demanding proof of authority.

Next, establish that the authority claimed by an agent is under Commissioner's Delegation Order (CDO) #4. This authority, with its many revisions, depends upon Treasury Delegation Order (TDO) 150-10, derived from TDO 150-37. The defect in

<sup>6</sup>75 USC §7701(a)(11)

<sup>6</sup>Lonsdale v. United States (1990 CA10), 919 F2d 1440

<sup>7</sup>Federal Crop Ins. Corp. v. Merrill; 332 US 380, 384

these particular orders is that they do not pertain to the functions which the agents try to exercise. For example, TDO 150-10 relates to activities in "insular possessions and territories", not to the states. This demonstrates that the government recognizes its limitations under the law. Obviously, such an order does not apply to us. Nevertheless, it is part of the chain of authority which the agent will cite for his "right" to issue a summons.

Curiously, even if the agent had authority to issue a summons, it is an authority which is meaningless, since one cannot be compelled to disclose that he has any records!x TDO 150-2 has been cited by courts as a general grant of authority by the Secretary of the Treasury to the Commissioner. However, there must be the complete linkage of re-delegations down to the agent harassing you.2

### C. Publication Deficiencies

A proper reading of the Federal Register Act would require that all DAO's which are not specifically found in the regulations must be independently published. However, courts have ruled that the publication requirement does not apply, saying that such orders are not "Executive" orders!4 These decisions supplant earlier ones recognizing the necessity of publication of any DAO.s However, many other documents must be published.

#### 1. Government Forms

The Office of Management and Budget (OMB)6 is charged with the responsibility of over-seeing all examines and approves all regulations and manuals which call for the production of any information from more than 10 members of the public. It was enacted in 1980, with the objective of reforming the system which had previously permitted endless demands for information from the public. The IRS initially got an exemption from the system, but in 1988 the Paperwork Reduction Act (PRA)7 was made fully applicable to them.

Every form of information request is covered by the PRA, including tax returns. To satisfy the PRA a regulation must have an OMB number; also there is an expiration date for the approval, within four years. For any form to be enforceable against the public, it must show the OMB number in the upper right hand corner, together with the expiration date? Also, the number, approval and expiration date must be published in the Federal Register.9 If any of these demands are not satisfied, the regulation cannot be used to procure information, and any form created under such regulation may be ignored with impunity - it is called a 'bootleg' form? The regulations explicitly permit one to ignore an information request which does not have an OMB number which is currently valid.xx

However, once again, be aware of the exception: Any form which is fundamentally used as part of an agency investigation against an individual need not be published - and this includes most assessment and collection forms.x2 This means that the OMB defense, and the publication defense, is cut way back. The best use of the OMB is simply to show the manner in which IRS formally interprets the Code. If IRS says a tax applies only to foreign earned

@Hale v. Henkel, 201 US 43, 74

2Haleher v. United State% 733 FS 218, 220-221; Stamos v. Commissioner@ 95 TC 624, 631; 26 USC §7701(a)(12)(A)(i)

344 USC §1501, et seq.

4Lonsdale v. United States (1990 CA10), 919 F2d 1440, 1446;

United States v. Saunders (1991 CA9), 951 F2d 1065, 1068;

Tweedy v. United States, 70 AFTR2d 92-6062

sHaleher, supra, at 220-221

6Mailing address: Executive Office Building 726 Jackson Place NW, Washington, D.C. 20503.

744 USC @501 et seq

sUnited States v. Smith, 866 F2d 1082, 1089; Senate Report 96-930, USCCAN, 6242.

@5 USC @551-559

@°44 USC §3512; Smith, supra

n5 CFR §1320.5(a)(1)

n44 USC @518©(1)(B)(ii); Cameron v. ms (NDInd 1984), 593 FS 1540; United States v. Particle Data, Inc. (ND Ill

1986), 634 FS 272

income (as in the case of the regulation for individual income tax<sup>1</sup> why should you not take advantage of their position?

If one has actual knowledge of a regulation or document, he will be bound thereby, published or not.<sup>2</sup> Therefore, remember to include, in any information request, your demand that they produce their regulation, authority, or whatever you are demanding under FOIA, and do not send them a copy or recital of the contents.

Apart from the requirement that the OMB numbers appear on the forms, the forms themselves must be published in the Federal Register.<sup>a</sup> This is independent of the law requiring regulations to be so published. Form 1040 has never been published.

An examination of tax forms issued pursuant to the Code shows that none have an expiration date, so all are bootleg! However, some federal courts have ignored the expiration date requirement, claiming it is based upon a Congressional Report, and is not specifically stated in the statutes which make up

The complete list of OMB numbers is found in the tax regulations.<sup>s</sup> An examination of those numbers discloses further significant information. For instance, the OMB number for form 1040 is 0074. This number, according to the OMB number list, only refers to deductions and exemptions, not to any specific taxpayer. The Treasury List of Active Reports indicated that this number pertains to Gain from the Disposition of Certain Natural Resource Recapture Property (the subject citizen, a human resource). Similarly, the only OMB number (0067) operative for the regulation pertaining to taxation of citizens of the United States<sup>6</sup> is on the form for

126 CFR 1.1-1

244 USC §1501; Hateher, supra, at 221

35 USC 9552(a)(1)(A)-©

4United States v. Collins, 920 F2d 619, 631. 526 CFR ,9502

626 CFR §1.1-1

reporting foreign earned income.<sup>7</sup> Translating these anomalies into dear English, it shows that the 1040 form is correctly designed for 14th Amendment citizen, who is not living in an area "under the sovereignty of the United States." As already explained, none of the 50 states is under that sovereignty. In such a case, he is, technically, "living abroad". This is consistent with the concept of TD 2313, which held that New York citizen Frank Brushaber, then living in New York, was a nonresident alien. Thus, it would appear that form 1040 is inappropriate for any sov'n citizen. Be advised, however, that there are people in jail today who relied upon this concept; it was not explained clearly to judge or jury.

The OMB numbers used for tax regulations must be checked to see if they are still current. They are normally valid for only four years. Since the official forms are usually bootleg, one could hardly be penalized for ignoring them. Also, use of homemade forms has been held perfectly lawful, where there is a genuine endeavor by the taxpayer to comply with the law? This rule is useful when the employee wishes to advise his employer of his exemption from the withholding law.<sup>9</sup> There should be a form W4E, but none is published. So, we can create our own. There is already an OMB number assigned for this purpose: 1545-0010. Similarly, this ruling will enable one to prepare his own statement, in lieu of a return, without assessing himself a tax. This will put it on the government to do so, under penalties of perjury?

Which brings you to the official W4 form. The OMB number on this form refers to a regulation concerning railroad employees, so it is another bootleg.

If you get a summons, which is an information request, you should be able to ignore it: the OMB # (1545-0795) reflects back to a regulation which

726 USC §2555

*s*Zellerbach Paper Co. v. Helverin<sup>R</sup> (1934), 293 US 172; *Denman v. Motter*, 44 F2d 648

926 USC §3402(n)(2); *Zellerbach, supra*; *Denman, supra* @°26 USC §6065.

applies only to nonresident aliens.<sup>n</sup> Of course, if the IRS wishes to admit that such is your status, fine and dandy, because they just conceded your case! On the other hand, courts take a dim view of one who flaunts the IRS administrative summons, as explained below.

If you need any tax form and can't find it, call 919-724 3978, and it will be mailed to you.

## **2) Interpretations, Determinations, Procedures**

whereas under FOIA the forms themselves must be published.

Another source of useful information comes from the requirement that agencies also publish their tables of organization. If you don't know who is in charge of something, or who is responsible for maintaining a certain file or record, you can demand to know the custodian and where his identity is published. The lack of publication may not help you, but the table itself will facilitate your recovery of information and evidence.

The Freedom of Information Act (FOIA)<sup>2</sup> contains other publication requirements. Agencies of the government are required to index, make available, or publish any opinion, interpretation, staff manual, instruction, or final order which affects a member of the public.<sup>3</sup> This is a dynamite provision, since every time the IRS calls you a taxpayer, they are expressing an opinion or making an interpretation of

something. You are entitled to demand a copy of that something, and also to demand its published source or basis. Be sure to demand it from the right agency, however.

The right agency to ask about an opinion is the agency rendering the opinion. The right agency for any publication is the Federal Register.<sup>4</sup> Also, ask the agency for whom the regulation was made to send copies of the documentation requesting publication of the regulation, or opinion, or interpretation, or the like.

FOIA also requires publication of the rules of procedure and all forms used by any agency? If any regulation calls for information from you, you can demand the form relating to the regulation, and see if it is published. This is important, because the PRA only requires publication of the regulations,

The IRS makes certain determinations which are required to be kept available to the public at reading rooms at the National Office or the regional offices? A FOIA request would require IRS to indicate where any applicable determination can be found.

## **D. Special Procedural Matters**

### **1. Records**

Virtually every American maintains personal records of his financial affairs. For a person who is liable for taxes, a "taxpayer", this is a requirement of the law.<sup>7</sup> Most believe that this requirement applies to everyone. As a sovereign, however, unless you receive a specific requirement from the IRS that you maintain records, such record keeping is voluntary? The significance of this point is that, unless you admit to maintaining those voluntary records, their production for IRS inspection cannot be compelled.<sup>9</sup> You cannot be compelled to admit or deny, since a denial that you keep records could lead to a charge of violating the records keeping requirement; similarly, to compel production would violate your right to privacy and your right against self-incrimination under the Constitution? A citizen has

@26 CFR §301.7605-1

25 USC §552 et seq

35 USC §552(a)(2)(i)-(ii)

4Send to: Technical Publications Writer-Editor (Legal), Office  
of the Federal Register, National Archives, Washington, D.

C. 20408

s5 USC §552(a)(1)(A)-©

626 CFR ,9501.702(b)(3)(ii)

726 USC @F@6001, 6011; 26 CFR §1.6001-1

s26 CFR §l.6001-1(d)

9United States v. Doe (1984), 465 US 605, 79 LEd 552, 104 SCt 1233, 1241

@°Constitution, Amendment IV and V; see Hale, supra, 74; Doe, supra, 1242, 1244

an absolute right to refuse disclosure of his private records without a court order. @ In court one can still refuse, on constitutional grounds, as already explained. Courts have observed that most taxpayers are ignorant of their right to refuse to show those records.<sup>2</sup>

Do not confuse a summons to appear with a requirement to turn over private papers. If you receive a summons, and if you ignore it, the court will order you to appear with your records, and admonish you for ignoring the administrative summons? However, you are entitled to refuse to actually disclose the records.<sup>4</sup>

If your bank or your accountant, or anyone else having records concerning yourself, receives a summons for those records, hasten to move to quash the summons. Such a summons has no regulation, except as to ATF activities; and is without enforcement authority. This can be confirmed simply by looking at 26 CFR to verify that there is no regulation there for the summons; then look at 27 CFR, pertaining to Alcohol, Tobacco and Firearms, and there you will find authority - authority not applicable to most citizens.

## 2. Verification

The Code specifically requires that every document which is required under any of its provisions shall be verified under penalties of perjury? Nothing exempts the IRS itself from this requirement? Taken literally, then, every substitute return,<sup>7</sup> assessment, notification, lien, levy, and the

:. *Sherat v. Cullen* (CA9 1973), 481 F2d 945, 948; *Interstate Commerce Commission v. Brimson* (1893), US 447, 479

<sup>2</sup>*United States v. Dickerson*, 413 F2d 1111 sHutchef supra,, 220-221

<sup>4</sup>Hale, supra

<sup>s</sup>26 USC @6065.

<sup>s</sup>see generally *Olrastead v. United States*, 277 US 438, 485, holding that laws apply equally to citizens and government.

<sup>7</sup>26 USC @6201(a)(1), 602003).

like must be verified. Each is a mandatory form in order to effect collection of a tax. When you examine your record of assessment, or any other notice, assessments or document which you receive from the IRS, you will see that none of them are verified. Many are not even signed.

Keep in mind that, if you do not honestly believe that you owe any tax, then to sign a 1040 return, under penalties of perjury, showing a tax due, would be perjury. For this reason, if you @e a return because some court orders you to do ,so, you must file that return with a disclaimer to the effect that the verification is compelled, not voluntary.

## 3. Returns

When one files a tax return, his entries on that return are deemed to be voluntary, not forced.<sup>s</sup> For this reason the information can be used in a criminal prosecution.<sup>9</sup> In that rare case where the fact of filing alone constitutes some kind of incriminating statement one can refuse to file a return<sup>10</sup>

The virtue of filing a return is to secure a commencement of the running of the statute of limitations. Without a filing, the statute of limitations will not run, and the IRS can assess, re-assess, and harass. However, remember that, in a Chapter 13 bankruptcy, an unfiled return, or a return filed after the petition, may enable one to discharge the taxes concerned.

The dedicated nontaxpayer is understandably reluctant to file a return and surrender to the system. There is a way to avoid the problem. First, consider your right to withhold any information which you might consider incriminating, like admitting that you have received compensation, the disclosure of which could open you to a charge of obstructing the enforcement of the tax laws. You could simply leave the return blank, or use zero's, or "none," explaining that any other entry would violate your Amendment

sGarner v. United States, 424 US 647, 656 9Sullivan v., United States, 15 F2d 809, 812 l°Marchetti v. United States, 390 US 39, 51-52 uPerlman v. United States, 490 F2d 928, 933

5 rights-x Such a return has been held sufficient to staff the time fanning against the IRS-z

A better system would be to file a home-made statement. It has been decided that a home-made statement made in a good faith attempt to comply with the law can be used instead of a government provided form? Such a return would contain all information concerning your receipts, along with all details which you might wish to declare which would entitle a taxpayer (which you are not) to exemptions and deductions. You would not compute any tax. The statement would contain all of your disclaimers concerning tax liability, and it must be verified. You should photocopy all records of receipts and disbursements, for instant transmission upon a demand to see such records. This procedure places the IRS under obligation to compute and assess your tax.<sup>4</sup> This must be done under penalties of perjury!<sup>s</sup> A substitute return would be improper, because you have actually filed a return. However, if the IRS elects to file a substitute return<sup>6</sup> anyway, failure to use the information you have provided as its foundation material could be shown to be arbitrary. The IRS is required to base its assessment upon some foundation - it cannot make a naked assessment.<sup>7</sup> If the taxpayer shows that the assessment was arbitrary and erroneous, any presumption of correctness in the tax bill vanishes, and the burden of proof shifts to the IRS.<sup>s</sup> Also, the IRS agent who prepares the return should be required to swear on oath to the legal conclusions essential to any claim that receipts shown on the return were income; and he would also have to swear

@Sullivan, supra

2Lon v. Commissioner (1980 CA9), 618 F2d 74; contrary view: Smith v. Commissioner (1980 CAS), 618 F2cl 280.

sZellerbach, supra; Denman, supra 426 USC @6020(a)

526 USC @6065

626 USC §602003)

7United States v. Jarvis (1976), 428 US 433, 442, 96 Sct 3021, 3026, 79 LE2a 1046; Poxtillo v. United States (1993 CA5), 988 F2d 27, 29.

sPortillo v. C.I.R. (1991 CA5), 932 F2d 1128, 1133.

to the accuracy of all of his computations!9 Only' then would IRS be able to assess and bill you for the' tax and a late payment penalty. The problem is that such a deficiency would be impossible to find: a' deficiency would be an error in the return, already sworn by the agent to be accurate!

#### 4. Deficiency

If you fail to pay with the return, an assessment will be made, and you will get a Notice of Assessment and Demand for Payment. This is the official form of a tax bill. However, if you compute no tax, or compute less tax than the IRS might claim is due, or if you fail to file at all, then it is necessary for the IRS to find a "deficiency.@' Do not confuse a deficiency with an assessment. The IRS must determine, and notice, a deficiency before there can be any assessment

The IRS is required to provide some statement showing that they have examined a return and found a deficiency-n This deficiency must be determined by someone? No deficiency can be lawfully determined on a dummy return? But, our Supreme Court has said that, if there is no return filed, then the deficiency is the amount of the tax due.ts In practice, there is no pretense that a lawful return of any kind was examined. Rather, a figure is derived from whatever records IRS decides to utilize, and entered as the "tax imposed", coincident with the definition of deficiency? Then, since there is no return, there is no "amount shown as the tax" on such a return. "Zero" is used in computing what would have been

@26 USC @6065

@°26 USC @6212

uEstate of Gcetz v. United States, 286 FS 128, 131; United States v. Dubuque PackinR Co@, 233 F2d 453.

i2Abrams v. C.I.R; (1986 CA4), 787 F2d 939, 941 @Scar v. C.I.R. (1987 CA9), 814 F2d 1363, 1366

@'Phillips v. Commissioner, 86 TC 433, 437-438

@sl aing v. United States, 423 US 161, 174

1626 USC @6212

shown on the non-existent return. The courts have validated this means to determine the deficiency.:

Nevertheless, while a return may be technically needless for purposes of a deficiency determination, a lawful return is mandatory for a valid assessment.2

#### 5. Assessment

If you file a return, compute your own tax, and pay that amount with the return, the matter is dosed, then and there. There is no need to assess if payment is made. If you file, but don't pay, you will be assessed and billed. You do not owe any tax unless a tax has been assessed? Even penalties must be assessed,4 and, unlike the ordinary tax assessment, the IRS has the burden of proof that the penalty is appropriate? Assessments must be made within three years of the tax return due date, or two years of the filing date (whichever is later), unless there is an understatement of more than 2.5% of the tax due (extending time to 6 years)6

If you file a tax return, that will be the basis for the assessment.7 If you do not, there can be no assessment unless the government files a substitute return for you.s However, in the usual case, the IRS

simply prepares a "dummy" return, a document which is wholly inadequate as the basis for an assessment.<sup>9</sup>

xRoat v. C. I. R., 847 F2d 1379 226 USC @6201(a)(1)

226 CFR @301.6203-1; In re Western Trading Co., 340 FS 1130; @ United States (1990 CA.S), 908 F2d 218, 221

426 USC @6201; 26 CFR 301.6203-1; Stallard v. United States (1992 TX), 806 FS 152, 158

s26 USC @6703(a)

626 USC @6501

726 USC @6020(a).

s26 USC @6020(b).

926 USC @6201(b)(1); Phillips v. Commissioner, 86 TC 433m 437438. However, certain Tax Court decisions have ruled that no return is necessary to collect a tax. What they mean is that no assessment is necessary for the government to sue to determine and collect a tax.

To prove this procedural lapse the taxpayer may demand to see the record of assessment The assessing official must be properly appointed. The record should also be under oath,:: and the UCC would require the signature to be in pen and ink.n

Ordinarily, the assessment cannot be made until 90 days after you have received a Notice of Deficiency? This limitation does not apply to a tax one has assessed himself on his return, nor where he has filed a bankruptcy.:4

Once again, be aware of the need for an enabling regulation. In the case of assessment, the Code is especially explicit in requiring the assessment procedure to be defined by rules and regulations There is a general regulation for that purpose;@6 however, there is none specifically relating to Subtitle A (income taxes). This same deficiency applies to the substitute return<sup>17</sup> This should be sufficient basis to ignore both the substitute return (if any), and the assessment.

These deficiencies will not prevent IRS from purporting to make an assessment. However, after the assessment is made, and within 60 days, the IRS must mail a Notice of Assessment and a Demand for Payment<sup>18s</sup> The only official authorized to send the notice is the Collection Branch Chief (not the District Director).

Because this country's income tax system is based on voluntary self-assessment, rather than distraint. . . the Service may assess the tax

:°26 USC @6203; Afford v. United States (1991), 934 F2d 226 u26 USC @6065

:2UCC 3401

:s26 USC @6213(a)

:426 USC @6871

:s26 USC @6203

@626 CFR 301..6203-1

@726 USC @301.6020-1

@s26 USC @6303; Chila v. United State-@. 871 F2d 1015

only in certain circumstances and in conformity with proper procedures x

A typical non-conformity is a deficient compliance with deficiency or assessment procedures or notices.

Be aware that if the IRS does prepare a substitute return for you, it can satisfy the requirement of supporting documents upon which to base your "income" by rather exotic means. The common method is to use your bank records and W-2s and 1099s. However, if these seem inadequate, resort can be made to your apparent net worth, or the standard of living which appears to apply in your neighborhood, coupled with certain Bureau of Labor statistics, or to your old returns, adjusted by concepts of interest, inflation, or other statistics.<sup>2</sup> Your defense against these methods will be to require the IRS to produce computations and show that all exemptions "indicated" by the evidence were credited? Obviously, if you filed your home-made statement with all pertinent information, you have prevented resort to these questionable criteria by the IRS.<sup>4</sup>

The assessment is actually made by execution of a Summary Record of Assessment (Form 23C). This document covers all assessments in the district for the day involved, and does not identify any individual taxpayer or tax. However, to be complete, it must be accompanied by its supporting documents, showing the identification of the taxpayer, the character of liability, the tax period, and the amount of tax.<sup>5</sup>

## **E. Liens and Levies**

If you get a notice of lien, and if the procedures preceding that lien were deficient, the lien itself is void.<sup>6</sup> Under their manual IRS also concedes that a non-compliance penalty cannot be enforced without a lawsuit.<sup>7</sup>

A notice of levy is not a levy or a claim. A levy is imperfect without a seizure? However, the Code recognizes an exception: where the person is employed by the government. In such a case, mere notice of levy is sufficient to secure the funds from the government employer? Since the government already has the money, it is simple to have it shifted from one government account to another. However, with a private employee, there is absolutely no regulation which implements a seizure pursuant to a levy, except for ATF activities. There is a statute which purports to immunize third parties from suit when they surrender your assets Be not alarmed by this law. It applies to actual levies and demands, not simply to notices of levy. Thus, if your employer, or your bank, or anyone else surrenders your property without a warrant from a court, you can sue them for giving away your property without lawful authority This is what you will have to do, since, once IRS has the money, you will only get it back by a lawsuit claiming procedural disobedience. So, the obvious course is to immediately advise your boss or bank that, if they release you property, they will get sued - and give them a clear statement of the reasons. Alternatively, a court action could be brought against IRS in the first place to quash the notice of levy - pointing out that such a procedure is not available except as to a government employee. The public is uneducated and believes that a notice of levy is the same as a seizure. It is not. And a mere notice without a seizure

is meaningless, except as already explained, unless the uninformed recipient of the notice acts on it before he is tipped off.

If you get a notice of lien, and if the procedures preceding that lien were deficient, the lien itself is

6Thatcher v. Poxveil, 19 US 54, 56; Margloria v. District Court, 214 F2d 518

:-Bothke v. Flow Eng'rs & Contr'rs, Inc., 713 F2d 1405, 1414

21RM 4235, Ch. 600; MT (32) Ch 800; MT (32)-5(11)3(12). (13)3(13).

sMT (32)-(11)3(14).

4Holland v. United States, 384 US 121, 125 s26 CFR @301.6203-1

'IRM Pt4, Ch 5400 @5450, 545(19)(1)Co)2 sIn re Holdsworth (1953 NJ), 113 FS 878

926 USC @5331

:s26 USC@6332(e)

uGM Leasing v. United States, 429 US 338, 354; O'Brien v. Harrington, 233 F2d 17; United States v. O'Dell (1947 CA6),

160 F2d 304; In re Brokol (1965 A3), 221 F2d 640, 646;

Givan v. Cripe (1957 CA7), 187 F2d 225

In any case of assessment, lien, levy, seizure or sale, go through the IRS action list' to see what has been omitted. In addition to the basic lack of an implementing regulation, the other obvious omissions might be:

1. Notice of Deficiency (90 days prior to assessment<sup>2</sup>)
2. Notice of Assessment (within 60 days after assessment)
3. Notice of Intent to levy (at least 10 days prior to levy, plus lawsuit if non-government holder of the asset<sup>4</sup>)
4. Notice of Intent to garnish wages (requires a lawsuit<sup>6</sup>)
5. Notice of Seizure<sup>7</sup>
6. Warrant of Distraint (any seizure from private party, especially if not signed personally by district directors)
7. Proper address used (due diligence requirement<sup>@</sup>)
8. Notice of Sale (mall, post in 3 places, and publish<sup>x°</sup>)
9. Notice of Redemption Rights<sup>xx</sup>

xIRM 5600-33, Collection Field Techniques, Exhibit 5600-24 226 USC fi6213(a)

326 USC @6303

426 USC §6331(d)

sUnited States v. Bennan, 825 F2d 1053, 1055; 26 USC §6331(d)(1)

6Sniadach v. Family Finance Corp. of Bay View (1969), 395 US

337

726 USC @6335(a) and 6502(h); Goodwin v. United States, 935 US 1061; Afford, supra

sSee footnote 2, above

9Cyclone Drilling v. Kelley, 769 F2d 662; Mall v. Kelly, 564 FS 371, 373

@26 USC @6335(d) n26 USC @6337(b)

10. Response to Request for Record of Assessmentn (Form 23C)

11. Response to Request for Record of Sale

It is assumed that all other information requests suggested below have also been submitted. And don't forget to check the statute of limitations, either 6 years, for pre-1985 cases, and 10 years since then (watch for tolling facts).

If you find a defect in the proceedings prior to the lien or levy, the notice is invalid,<sup>3</sup> and you are entitled to a release?

If you bring suit against your employer, bank or other bailee of your property, for improper surrender, you may get additional damages as well. This suit belongs in a state court, and the IRS will not bother to protect either the bank or your boss.

If you are faced with a seizure and sale, immediately send to IRS a demand for abatement of their action, on the grounds of lack of an implementing regulation, plus the invalidity of the assessment, based upon all other procedural grounds stated above Agents face serious personal penalties for willful refusal to abate when a lawful demand is made? Chances are the property will be released and any scheduled sale vacated. If this remedy fails, do not hesitate to file a suit to quash the notice, or, if all else fails, to put yourself into a bankruptcy to stop the seizure process. You are entitled to a full examination into the validity of the tax, both as to amount and as to procedure, in bankruptcy.<sup>17</sup>

@2Arford, supra; 26 USC @6203

@United States v. Sourapas, 515 F2d 295; United States v; Heffner, 420 F2d 809, 811-812

1426 CFR §20.6325-1, et seq.

as26 USC 6325, 6326 16Bothke, supra

1711 USC @505

## **F. Injunctions – Challenging the Amount Of Tax**

The Revenue Code says that you cannot enjoin the collection of taxes.@ This only means that you cannot challenge the substance of the tax in the federal courts. Any such challenge must precede

assessment, based upon a notice of deficiency, and is heard in the Tax Court - unless there is a jeopardy or penalty assessment. In that case, you may have a review in the District Court, not the Tax Court<sup>2</sup>. However, the rule forbidding injunction does not apply in several situations:

Where the collection is attempted against someone other than the taxpayer."

Recently, the Supreme Court has taken another look at the conduct of the IRS in its summary seizure practices and reversed its prior position, which held that due process was fully served if, subsequent to the seizure, there could be a full hearing to determine the liability. Now, validity can be decided prior to the seizure, and an injunction can be secured against improper seizure<sup>2</sup>

a)

b)

c)

d)

e) Where the tax is clearly illegal.<sup>3</sup>

Where you have filed a bankruptcy?

Where IRS brings the suit to enforce the assessment.<sup>4</sup>

Where the tax law is being unconstitutionally applied to you.<sup>5</sup>

Where the IRS has not followed its own procedures.<sup>6</sup> This is an express exception to the anti-injunction Act.<sup>7</sup> In that case, no tax is due. Since nothing is due, you aren't preventing any collection! Or, if seizure has already taken place, one action for damages, and another one to quiet title, should be filed.<sup>9</sup>

## G. Quiet Title Actions

A quiet title action is brought in the state court, using state procedures. Similar to the action against your employer, the IRS will not defend any action to quiet title which you commence against the one who buys the property at a tax foreclosure sale. The purchaser takes the title subject to any defects or irregularities. The IRS deed is valid only if the proceedings leading to the sale were "substantially" in accordance with law<sup>3</sup>.

A common defect in any sale may be that the sale was not conducted in the county where the property is situated. But any of the defects noted above will be sufficient to invalidate the sale.<sup>4</sup>

<sup>1</sup>26USC@7421

Also, the IRS manual requires notice of a sale be given to all transferees and "nominees" of the owner.<sup>x</sup> This becomes important when the IRS goes

226 USC 7425 all USC @505

<sup>@</sup>National Foundry Co. v. Director, 229 F2d 149, 151; Horman Manufactnrin<sup>@</sup> Co. v. Long, 242 F2d 645, 653

4. United States v. Ahrens, 530 F2d 781, 787

528 USC 1252; United States v. American Friends Service Comm., 419 US 7, 9 (n. 4)  
 Elias v. Connett, 908 F2d 521, 527; Laing, supra 726 USC §6213(a) & Co)(2) and 7421(a)  
 Goodwin, supra; Mitsukiyi Yoshimura v. Alsup, 167 F2d 104; Horman Mft. Co. v. Long, 242 F2d 645  
 28 USC 1340 & 2410; Agua Bar & Lounge Inc. v. United States, 442 F2d 1221, 1223  
 Raffaele v. Granger, 196 F2d 620, 622  
 Fuentes v. Shevin, 407 US 67, 92 S Ct 1983, 32 L Ed2d 556;  
 United States v. Good (1993), -- US @ -- S Ct .-. , 126  
 L Ed2d 490, 514  
 26 USC ,95339(b)(2).  
 Goodwin, supra; Kulaway v. United States, 917 F2d 729;  
 Elias v. Connett, 908 F2d 521,527; Thatchef v. Powell, supra;  
 Reece v. Scoggins (1975 CAS), 5065 F2d 967; In re Dunne  
 Trucking co (1993 IO), 32 BR 182, 187  
 5IRM 56(13)7.1(1),(2)

after your transferee, such as a corporation or a trust to which the property was conveyed. Be aware in such a case that the IRS usually proceeds under state law, and if a fraudulent conveyance is claimed, you will be able to defeat the IRS if the time for such a claim is passed - as it is in most cases.

## H. Information Requests

The essential virtue of FOIA, and the Privacy Act (PA) (which concerns those personal records of yours which are not available to the public), is that you can force the IRS to answer up to its own deficiencies, and force them to comply with your demands in court, at their expense and with a penalty!2 Also, when you find an error in the records, the PA empowers you to secure a correction?

The PA requires the bureaucrats to set forth on their information requests their specific authority for requesting any information? If this notice is missing, you can ignore the request.

Using FOIA, PA, and 26 USC 6203, you can debase an IRS demand quickly by requesting:

a)

A copy of the document or determination which identifies your "taxable class," as defined by law.s

b)

A copy of the substitute return they filed for you (they usually file a "dummy" return, which does not satisfy the law).

c) The Form 23C assessment record (without which the assessment is not valid).

d) Proof of service of all required notices (they will rely on your Individual Master File,

a5 USC @552a, et seq.

25 USC @552(a)(4)(B), © & (D)

35 USC g552a(d)

45 USC g552a(e)(3)

5United States v. Bull (1935), 55 SCt 695, 699; White v. Hopkins (1931) 51 F2d 159, 163

which is legally insufficient as evidence to prove mailing or receipt).

e)

Evidence of their court ordered warrant of distraint (they never get one), writ of entry, or order for summons (rarely secured, and never adequate against your fifth amendment rights).

f)

Delegation of authority orders for all of the above (which will never cover what is going on, or will not be published).

You will always make a request (pertaining to any year for which you have a complaint) for your Individual Master File (IMF) and for the system of records called Treasury Department/IRS 42.0008, Audit Information Management Systems (AIMS), together a decoding manual or a translation of coded material for either system.

You will not win any friends by this process, but many dedicated citizens have persisted until they got a letter indicating that, "upon further investigation," no further response was required from them, or it was not necessary to file the return which was demanded.

You can also simply ask legal questions about your tax position.<sup>6</sup> If the IRS refuses to respond to a letter in which you have stated your position and asked them to explain where it is in error, you may place them in a position where they cannot complain. Similarly, a petition of grievances, under Amendment 1 of the Constitution, could do the same thing. In such a case, the silence might be viewed as intentionally misleading, excusing your reliance thereupon.<sup>7</sup>

When you have sent a series of letters for information without response, apart from your appeal rights, try sending a summary letter, enclosing all prior letters which were not answered, which will have the effect of suggesting that their lack of response is an acknowledgment of no merit to their position. This will be evidence in a suit for improper

6IRM Admin. MT 6810-192, Ch (21)00

7United States v. Prudden (1971 CA5), 424 F2d 1021, 1032

collection action.\* tract is glaring enough, don't hesitate to write to the U. S. Attorney to request prosecution for oppressive collection procedures.<sup>2</sup>

## I. Frustrating the Internal Revenue Service

Now that you know how weak the IRS really you can proceed to disable its agents. To do so effectively, you need to have a rigid procedure for yourself, and you must follow it strictly. Here are the steps:

1. Date and tab (exhibit #) every document for date of receipt or sending.
2. Respond immediately. to every letter.
  - a) Deny everything you can: the status they assign you, your duty to respond or to file anything.
  - b) Accuse them of any impropriety you identify: failure to give notice, lack of authority, failure to respond to something you sent.
  - c) Question everything: authority, applicability.
  - d) Demand everything: proof of authority, applicability, liability.
  - e) Give a deadline for action or response.
  - f) Declare your intention: file suit, write to higher authority.
  - g) Set forth the legal/factual basis for your position.
- 3) Make a copy of everything and keep it in a marked file for quick retrieval..
- 4) Send related exhibits with every letter.

126 USC {}7433

226 USC @7214(a)

- 5) Have a witness for your @se@'@io@"@Hi@ envelope, acknowledged on your file copy.
- 6) Send everything registered mail with a return receipt.

Apart from the obvious value of having your evidence at hand when needed, you are causing the agents to act with extreme caution in dealing with you, hopefully encouraging them simply to leave you be. You are just too much trouble for too little money.

You must now follow through by gathering the evidence to stop the IRS. You examine theft correspondence to find everything which might pertain to a lack of an OMB number, or which involves any interpretation of a law or regulation, or the things which require authority for the IRS action involved. Send a request under FOIA for the documents. Request a Technical Determination of your tax status from the District Director? File a Petition for Redress of Grievances.<sup>4</sup>

The Revenue Code imposes penalties upon government agents for improper disclosure of tax information? An improper assessment gives rise to an invalid lien, which is a publication of confidential information. You should threaten to sue for this, also.<sup>6</sup> Similarly, agents are liable for damages when they willfully disregard the provisions of the Code which protect the taxpayer? The government cannot refuse to disclose the identity of their personnel who are violating the rights of citizens? If an IRS agent uses extorsive or oppressive measures on a citizen, he can be prosecuted and fined \$10,000, or get 5 years, or both?

3MT 1218-196 (P)-(11)-23

4Constitution, Amendment 1

526 USC 7431(a)(1) & (b)

6Rorex v. Traynor, 771 F2d 383, 386 726 USC 7433 (a) and (b)

8Bivens v. Six Unknown Federal Narcotics Agents, 403 US 338 926 USC 7214(a)(1)

## **VII. You can't do this to me! (How to avoid any concern about criminal charges)**

There is a fundamental problem about federal criminal laws. Technically, unless the authority to convict arises directly under the Constitution, there can be no such laws. Thus, the United States Code expressly limits the scope of federal criminal laws to the so-called sovereign areas and territories.<sup>1</sup> Nevertheless, Congress has been able to enact penalty provisions with criminal sanctions which apply to many other areas, including internal revenue "offenses." These are uniformly enforced in the 50 states. For the 14th Amendment citizen, this is not hard to understand; for the sov'n citizen it is incomprehensible (but applied).

It is futile to claim non-compliance with the PRA, or absence of OMB numbers on forms, in a criminal case. Courts hold that tax crimes arise by statute, not by regulation.<sup>2</sup> However, there can be no violation of any revenue law which has no enabling regulation? This defense requires careful research and pleading. When an indictment is handed down which cites only the penalty statute in the Code, without mentioning the particular performance section violated, the defendant must require by Bill of Particulars a production of the statute, performance of which was allegedly absent. <sup>3</sup> Then search for an enabling regulation. Chances are there won't be one, or it will be under ATF enforcement regulations.

If you are charged with tax evasion,<sup>5</sup> look for an assessment. Without an assessment, there is no tax, so no evasion of a tax.<sup>6</sup> Similarly, there can be no concealment of assets prior to an assessment.<sup>7</sup>

In all such cases, a motion to dismiss may be in order, for lack of an assessment or an applicable enabling regulation? The motion must set forth prejudice to the defendant in order to succeed? In other words, explain how, but for the lack of an explanatory regulation, or an awareness of an actual tax, you could hardly be expected to have sufficient knowledge or reason not to do those things with which you are charged.

If that motion fails, examine the following techniques:

### **A. Willfulness**

Conviction of a criminal offense under the Code requires that the offender act 'willfully.' Generally, this means that he must know that he is violating the law - that he understands that the law applies to himself. If a person does not believe that the law so applies or that it applies to the conduct in which he engaged, he cannot be convicted.

For example, one who relies upon the decision of a judicial officer in doing the challenged act is not willfully breaking the law<sup>8</sup>. This is obviously applicable to decisions of the Supreme Court?

If you find yourself in court, the IRS attorneys will intimidate you with case decisions that seem to wipe you out. Don't be fooled. Those decisions won't apply to you, unless you fail to present your

@See 18 USC §451(3)

2United States v. Hicks. 947 F2d 1356, 1359

sUnited States v. Murphy, 809 F2d 214; Lyeth v. Hooey, 305 US 188; California Bankers Assn. v. Schultz, 416 US 25, 26,

44; United States v. Reinis, 794 F2d 506, 508; 26 USC

§7805(a)

4Steiner v. United StatesJ 229 F2d 745, 747-749 s26 USC §7201

6United States v. Lloyd (1992) F2d

7United States v. Swarthout, 420 F2d 831

sRussell v. United States, 369 US 749, 770: A Bill of Particulars cannot cure a defective indictment

9Rule §7©(3)

@°United States v. Barker (1976), 546 F2d 940.

uUnited States v. Bishop (1972), 412 US 346, 360-361.

[]

position and status fully and accurately. To do so, be sure that you have exercised all of your rights to secure information about your taxes (discussed hereinabove). Commence a civil suit, if necessary; insist upon full discovery; don't allow a summary judgment against yourself without it. You are entitled to determine whether or not the IRS has been both diligent and thorough.@ Demand admissions of facts which you know will help you. If the government fails to respond, they are deemed to have conceded the point.2 Then, in the criminal case, insist upon securing the minutes of the Grand Jury? Also, be aware that there can be no grand jury indictment unless there has been a Special Agent's Report, a Criminal Referral Letter, and 6 authorizations on form 9131.4 As proceedings commence, if you don't challenge the jurisdiction of the court over your case, jurisdiction will be presumed? If you have relied upon forms which you prepared yourself, the court will question them.6 In that case, point out the inapplicability of any forms which the IRS says that you should have filed. Most of their forms are bootleg.

Also, you can defend on the basis that you relied upon professional advice? However, your claim that the law is not valid is no defense,x° and non-ratification of Amendment 16 is not considered a good faith defense.u Also, if you ever filed a return, the court will say you knew your duty to file.x2 That "duty" can be overcome by reclassification.

Basically, in a criminal trial, there are five key points which you should raise in your defense:

1) Taxes are voluntary

- 2) A sov'n citizen is not a taxpayer named in the regulations
- 3) Your earnings are exempt under the foreign-earned income exclusion
- 4) You are a nonresident alien without reportable/taxable income
- 5) Earnings are not income

You won't go to jail just because you don't file a return. If your failure was based upon a good faith belief that you weren't required to file, there is no crime.<sup>7</sup> It is no longer necessary to establish that your belief was based upon objectively reasonable standards, as was formerly the law. You are permitted to introduce the cases, laws, and legal materials upon which you based your belief that the law did not apply to you?

If you do get convicted, don't hesitate to appeal. Never assume that the trial court will be upheld on appeal. If you are tried a second time, in the absence of new criminal conduct proved against you subsequent to your first conviction, you cannot be sentenced more severely than in the first trial?

@Cool Fuel Inc. v. Connett, 685 F2d 309, 313

2-Fredson v. CIR, 65 TC 333, 338

3.D. ennis v. United States, 384 US 855

4Internal Revenue Manual, 9200

sBurkes v. Laskar@ 41 US 471 6United States v. Ferguson, 793 F2d 828, 831

7-Cheek v. United States, 498 US 192; United States v. Powell, 936 F2d 1056

8Powell. supra

@United States v. Davenport, 824 F2d 1511 a°Cheek, supra uUnited States v. Burton, 575 FS 1320, 1324 nUnited States v. Schmitz, 542 F2d 782 lsCliffie v. Goldsmith, 906 F2d 385, 390-391

## **VIII. What do you mean by that? (How to bring all those legal concepts down to earth)**

### **A. Law**

#### **1. Rights and Duties**

#### **2. Common Law**

Not every person has the same rights which are protected. A man may have a right protected in one place, but not in another place. The concept of jurisdiction, when understood, helps us to see who, when and where a given person is entitled to protection of a certain right. The right to exist, called the right to "life", is uniformly recognized. However, the right to "liberty" is not so generously applied. It normally includes freedom of movement, freedom of thought, freedom of choice, the right of contract, the right to work, privacy, and personal security; properly, it should also include equality under the law. You have seen how unequal our opportunities and protections really are.

Neither a right nor a duty exists in the abstract. They must belong to a person (possibly an artificial person). "Pursuit of happiness" is a right which primarily relates to your ownership and enjoyment of property. The very word property imputes the right, not the item or thing you hold, touch, or own. The right of property goes with the person, while the thing to which it attaches may never move at all. You may call the land your property, but the land does not move. Where it is located is called its situs. By contrast, your right therein goes where you go. So, the land has a situs, but the property right goes with you. If you transfer that land, you deliver a deed which passes the right to another. Still, the land never moves. Other property (called personal property, or chattels) is quite movable. But, unlike land, personal property always has its situs at the domicile of its owner. Situs for property is like domicile for a person. If your property is a car, you may let another drive it, but the car is still yours and the right thereto stays with you wherever you may choose to live. If you sign over a bill of sale, you may still be driving the car, but the property is with the one who got your bill of sale. The car may not have moved, but its situs did.

*Hogans v. Lavine*, 415 US 528, 533

During the Dark Ages men were pretty much left to their own devices so long as they paid tribute to whomever had enough power to exact it from them. The idea of government didn't occur to them. Mostly they just wanted to live and be left alone. When they had differences, rather than fight about them, they would call upon some third person, whom they trusted, to settle the dispute. Over a period of time people would record these decisions. They became precedents for the next time a similar dispute would arise. The precedents which came from the first principle (do what you agree) are the bases of the law of contract. Those which came from the second principle (don't trespass) are the bases of the laws of crimes and torts. The remedy for contract and tort problems was usually payment of damages (money). For most crimes you got executed. Today, if you are faced with a legal situation where you seek damages, you are looking at a common law remedy.

### 3. Equity

The limited remedy afforded by the common law (damages) failed to give satisfaction in every case. If I wanted a particular piece of land, and you broke your agreement to sell it to me, damages were not adequate as a remedy. Also, if you kept beating me up, or breaking my property, or killing my prize stallions, money was hardly adequate. So, since I had no adequate remedy at law, I needed an arbiter of morals, not just a wise and trusted man. This was usually a clergyman. He would either order you to do specifically what you agreed to do; or he would command you to desist from your offensive conduct.

Today, if you are faced with a legal situation where you are going to want specific performance, or an injunction, you are looking at an equitable right and remedy. A mandate to do or not to do something is usually an equitable remedy.

We pause here to look at what we had in common law and equity. Notice that neither required any kind of government. They operated on a local basis. If a person refused to pay the damages or to obey the mandate, he was an outcast from the

era, an "outlaw". He lost all protection from the system. Anyone coming into contact with him could do as he wished, even kill him. Obviously, an outlaw would either remove himself from the area or mend his ways.

Your average colonial American was quite familiar with the principles of the common law and equity. In 1776 it is reported that almost every colonist had a copy of Blackstone's Commentaries, and was something of a lawyer. It is not surprising that such a society gave rise to the system which our forefathers rounded in our country. In those days the title "lawyer" did not have the odium so justifiably attached to it today.

#### 4. Vulgar Law

The specific natures of vulgar law are not easily recognized. This is particularly true because laws of this sort are interwoven with the proper laws of common usage and necessity. The lawmakers are dedicated to convincing us that all of the/r laws are necessary, too. Because all of the diverse systems are mixed together in our modern laws, it is essential to examine each system briefly. When the differences are understood, then the citizen can recognize what is happening when an unfair law is applied to' himself.

##### a) Feudal Law

In its essence, feudal law is despotism, or tyranny. It goes too far back into history to trace. However, an examination of English history will help to show how it came into being in the British Isles.

Prior to the Norman Conquest in 1066, the British Isles were inhabited by a loosely affiliated group called Anglo-Saxons. These men had come over from the continent and generally wiped out the ancient Picts. Because these Saxons came from a society which believed that men were individually free, when they divided up the land, they established a leadership just to operate generalized facilities and services. It was basically a common law system. There was no central government, as we understand it today.

When William the Conqueror arrived, he brought with him the feudal law system. He did not wipe out the Saxons. He simply took over their land and distributed its use among his followers, complete with Saxons attached. The feudal system was superimposed upon the common law system of the Saxons. Among and between themselves, the common law was operable for the conquered people. As between them and the Normans, the Saxons were subject to the King, and to his assigned peers and lords. But the King was not subject to any law, without his consent.

What we had here was an absolute monarchy. William ruled without restriction. His government was unlimited. He had his military leaders, among 180 of whom the territory was divided up. Each of them gave William an oath of fealty. They pledged their goods and their bodies to his service, in exchange for their land allotments. Despite their lordly status, they were in a vassal status as to the King. Their "rights" to their land absolutely depended upon their compliance with the obligations which the oaths of fealty involved. Below these men were various degrees of "free" men, in the sense that they were not in servitude like the conquered Anglo-Saxons. But even freemen were pledged to their lords by oaths of fealty.

On the lowest level was the conquered Anglo-Saxon, the serf. His proper title was "villein". The villein might pledge nothing. He owned nothing. He occupied property which belonged to his lord. He had only the right to life itself. He had the necessity of working the land of the lord. The lord would assign the villein a portion of the land to work for himself. He got a few animals and other essentials for personal survival. The villein even got a few privileges. A copy of these benefits were written on the rolls of the manorial court. The villein was a "copyholder".

What is interesting is that everyone, even the villein, was a free man, except as to his lord. But everyone, other than the King himself, was subject to someone. Only the King was sovereign.

Any contentions which arose were settled in the court of the lord, called the manorial court, or baron's court. The lord could not be sued in his own court. If there were a question as to whether a serf was a serf, or to whom he belonged, it went to the curia regis, the court of the King. The King could not be sued in any court. One of the principal characteristics of the feudal system was that, while under the common law every man had a right to go to court, under feudal law only those whom the lord

or the King decreed could go to court. Another distinction is that at common law the power of the court was in the people; in the feudal system the power was in the magistrate.

Gradually, as more men acquired a species of free status, the applicability of the common law system grew, and its scope also grew. For ordinary functions among the subjects of the King, common law substantially replaced the feudal law. However, for the treatment of royal prerogatives, and among merchants, the feudal law persisted.

In due course, the lords became powerful enough to want some independent control over their own lives. This gave rise to the Magna Carta in 1215, forced upon King John. With the Magna Carta began the English concept of government by law. What the Magna Carta did was to take the prerogative from the King and hand it over to a body called a jury. In other words, before anything the King said became law, a jury had to pass on it. Another innovation was that, for the first time, the King became bound by the law. By signing the Magna Carta, the King John consented to be so bound.

When the jury concept originated, it was intended as a device to determine whether or not a law should be ratified and approved. This was the insulation which King John's nobles imposed upon him in the Magna Carta.

The jurors decided what were the facts of the case; they also decided whether the law proposed by the advocates in the courtroom was the law they would apply to those facts. The judge was mostly there to keep order and administer the case. It was not only unnecessary for the judge to be a lawyer; it was a distinct handicap. The advocates would offer their views of the applicable law, and the jury would decide that question along with the facts of the case.@

The right of trial by jury has undergone serious change since it was originally conceived. It has been completely corrupted. While it is still legally correct that a jury can ignore the law and make a decision

@Georgia v. Brailsford, 3 US (3 Dall.) 1, 4; Sparf v. United States, 156 US 51, 80

opposed to law,2 a party is forbidden to have an instruction informing the jury of this power? The only state in which the free jury still operates is Maryland?

So, we have judges telling juries what the law is and commanding them to comply with it. In a civil case, this instruction, if ignored, is a basis for reversal on appeal. However, in a criminal case, an acquittal is an acquittal. The prosecution cannot appeal no matter how contrary to facts and law the verdict may be.

### ***b) Law Merchant***

The law merchant arose out of commercial necessity. It probably began as early as did the feudal law. Theories on its origins include the likelihood that it came into existence during the early feudal era. Traders were outsiders, and in order to convince local authorities that their promises to perform were reliable, they had to pledge everything they owned, and their bodies as well. As long as they performed, all was well. But, if they defaulted, their pledge was forfeit. This system only operated among merchants, of course. They developed practices whereby it was not necessary to put everything in written form, or have dual signatures. It became customary for them to simply say what they intended to sell or buy, and if the other party did not disagree, then the declaration of intent, or recital of what was thought to be the agreement, was the binding agreement in fact. If you did not promptly disagree, you were bound as though you had agreed. Since the merchant secured the contract by pledging his goods and his body, he exposed himself to the remedies of the feudal law. His commitment was voluntary, but once agreed, application of that law was mandatory. If the merchant defaulted, his creditor could grab whatever he owned. If that was not enough, then he could grab the merchant himself and put him in prison. There he would stay until someone would produce his hidden assets, or until some friend came along with enough concern to buy him out of prison. The power to seize property or person without any

2Horning v. District of Columbia, 245 US 135, 138

aUnited States v. DougherW, 473 F2d 1113, 1130, 1132, 1133 4Wyley v. Warden, 372 F2d 742, 745

r

hearing was the nine as the absolute power of a lord

over his subject.

In our country we believe that we are too modern and civilized to allow such outlandish and arbitrary practices. After all, can we really think a sov'n citizen should lose his assets without trial when his taxes are in default? Is it really proper for a sov'n citizen to be put in jail when he doesn't file a tax return, or report every cent he makes? Something is fundamentally wrong about this.

Taxation is basically plunder. The remedies under the tax law don't exist under common law. They are the feudal principles which operated under the law merchant. However well they fitted into that ancient system, employment of such remedies today is the result of vulgar law. Much of the law merchant is codified as the UCC. But the very worst of it is found in our Internal Revenue Code.

### ***c) Admiralty Law***

Admiralty law is the law which applies to piracies and prizes, to abandoned or lost vessels, and to the authority of a captain of a ship at sea. It is a form of international law. The power of a captain is absolute, simply because of the need for instant obedience to the experienced leader, to avert the many sudden threats of disaster which arise in the isolation of the sea. In this country, admiralty is also the form of absolute law which operates in our acquired possessions and territories. @ This is allowed because they are considered too wild and hazardous -with or without indigenous habitants - to operate under the sophisticated laws which work for civilized men. It is similar to the situation on the lonely sea. In such areas our government operates with sovereign authority.2

Many people trying to find ways to escape the pressures of excessive taxation have discovered that there is a misapplication of laws similar to admiralty law by the federal government within the 50 states today.

@18 USC 7(3)

2Hoove.----.@, supra, 674

#### **d) Martial Law**

It is a time-honored tradition, in times of war or national emergency, domestic or foreign, for the head man to have absolute power. Again, like the power of the ship captain, it arises from necessity. The leader can do whatever is needful, for as long as necessary, to bring back normalcy. Theoretically, he will exercise only the least amount of power for the shortest amount of time in such an emergency. In actual practice, it takes a very small crisis to get a proclamation of a national emergency, and too much time to cancel the powers of martial law.

Many citizens today have discovered that we are under a system which utilizes aspects of martial law. It exists because Congress has delegated extraordinary "emergency" powers to the President. Also, several Presidents have assumed and acted upon powers which they do not truly have. Back in 1973 Congress prepared a report wherein it was acknowledged that, since 1933, our Presidents have been legally able to operate under declarations of national emergency, enlarging and expanding as several subsequent "emergencies" (real and contrived) have been declared. So far as can be found, these emergencies, and their attendant powers, have never been terminated by Congress - even after the 1973 report was publicized! Some researchers even insist that the 1861 (Civil War) emergency has never been terminated officially.

It is unlawful for Congress to delegate legislative powers to the President<sup>2</sup> This prohibition is now essentially ignored. Beyond the plethora of regulations promulgated by agencies created under the executive branch, the President does about what he wants, and makes executive rulings, tantamount to law, without restriction. Congress has actually endorsed this prohibited practice, and the courts have consented? He has been given the power to operate under martial law under the Federal Emergency Management Act (FEMA), not to mention the infamous "Omnibus Crime Act"? This act suspends habeas corpus, creates special confinement facilities around the nation to house the

\$Field v. Clark, 143 US 649, 692

4Arkins v. United States, 556 F2d 1028, 1069

sHR337 1

rebellious (already built), and authorizes employment of foreign troops to enforce order on American soil. We already have a federally controlled interstate linkup of law enforcement agencies, state and federal. Our states have fully cooperated in this conspiracy to dilute our individual sovereignty and to destroy our fundamental and unalienable rights. Many states have deleted their state boundaries from their state constitutions, and state militias are a thing of the past - we now have National Guard units instead.

These must all be the "sufferable" evils contemplated by the Declaration of Independence.

### *e) Statutory Law (The Codes)*

For the most part, the laws which we have examined originated in the proceedings of courts and other tribunals. These have rendered decisions which are the precedents forming the basis of those laws. They were never created by any lawmaking body, such as a senate, legislature, parliament, or diet.

When a lawmaking body enacts something into law, this law is called a statute, and is written in a book. When these books of laws are organized in such a way that ordinary folks can look them up, they are called codes. Most states have their own codes. For the United States there is a set of codes called the United States Code (USC).

Many people today confuse the concept of a code with the usurpation of the common law. This is not a valid assignment. What is a valid complaint is that codes combine proper laws with vulgar law, so that a citizen can hardly segregate the proper from the vulgar.

There is an inherent difficulty with statutory laws. Most of them are laws that emanate from big government, trying to do everything for everyone. This is the essence of vulgar law, as will be shown when we study the idea of government. The fact is that our legislators are really not examining the laws they are passing. They can't do it. In Congress, every year, about 3,000 new laws are passed. Each law (called a bill, before passage) contains from 50 to 600 pages. On an average basis of 250 pages each, there are 750,000 pages of proposed legislation passed each year. This does not include the many bills that don't get passed. Figure it out. For your representatives to review these bills, they would have to read a minimum of over 200 pages a day every day for 365 days each year. Then there are probably another 200 pages a day for the bills they do not pass. Add in the time for arguing about the bills, writing to the constituents, keeping up the public relations needed to stay in office, doing all that committee work, trying to find out what is going on at home, keeping up with world events, on and on. .. Does your Congressman read all those bills? Of course not. What he does is to rely upon his staff members to read them and tell him what they say. Did you know that your laws are all approved by unelected staff men, not by your elected representatives?

We have not mentioned the problem of drafting bills which may become our laws. Who does drafting? Other unelected people. Most laws, including all of the revenue laws, emanate from the executive departments. These departments draft whatever laws that they want. Then, they get someone in Congress to introduce them as bills. This will explain how the revenue laws, created by the IRS itself, became the law of the land. Special interest bills are drafted by the promoters thereof, and are submitted to the representatives who have relied on those special interest groups for their elections.

How does your Congressman decide when to vote yes and when to vote no? Well, it is called the marker system. If he has a bill that he wants passed, he persuades as many Congressmen as he needs to vote for it, if he can. When one agrees, he owes them one, and they have a marker on him. So later on, when one of them has his own pet bill to be passed, he can call on that marker to get it passed. Unless he has a lot of pressure from his home constituency, or from a pressure group he wants to please, he's going to redeem that marker. If he doesn't, how can he ever get any of his noble statesmanlike work done?

Before passing on, it should be pointed out that the USC is merely a re-write of laws passed by Congress. Some titles in USC have been separately enacted by Congress in the code form. Such approved titles are called "positive law". Title 26 of the USC does not reflect that it has ever been so approved, and thus it may not be positive law. However, do not assume that Title 26 can be ignored. Title 26 embraces the

Internal Revenue Code. If that title is found to apply to you, before you ignore it you'd better be sure it does not conform to the statutes upon which it is based.

#### **f) Regulations**

Regulations are not laws. Do you have to obey them? You bet you do. A regulation is created by an agency or department of government. The agency is supposed to be a part of the executive branch of government, which is charged with the execution of the laws. The laws will usually authorize the creation of an agency, and authorize it to make rules and regulations to interpret and carry into execution the laws themselves. So long as the regulation is consistent with the enabling statute, is reasonably necessary, and does not conflict with governmental policy or other statutes, then it is enforceable like any "real" law.

#### **g) Colorable Law**

Let there be no doubt, colorable law is not law at all. This is the kind of law which a public official says he is acting under but which either does not exist, or doesn't authorize what he says it does.

We cannot guess to what extent we are actually ruled by colorable law. If you are not a person subject to the Internal Revenue Code, but your friendly agent says you are, chances are you are going to believe him. He's the expert, isn't he? You're supposed to trust your government, aren't you? He wouldn't lie, would he? In an opinion delivered by the Supreme Court it was clearly recognized that most people do tend to obey colorable laws, simply because some officials have told them that they ought to. @

As we have already seen, even though a law is only colorable, or does not have any application to you, you may put yourself into a position where you are bound by that law simply because you agreed; you volunteered to obey it.

### **B. Jurisdiction**

The exercise of governmental powers is called the exercise of federal jurisdiction. To see how this

@Mincker v. United States, 350 US 179, 182

operates, particularly as it relates to the imposition and collection of taxes, we must understand jurisdiction.

Jurisdiction is the term used to define the extent of the authority of a governmental entity, such as a nation, a state, or a court. Jurisdiction is a concept of power, not a concept of place. A place does not have jurisdiction; a place is simply the territory in which the power is to be exercised. However, jurisdiction is limited by territory.<sup>2</sup> The jurisdiction of a state does not normally extend beyond the territorial boundaries of the state. This rule has been set forth in many court decisions: a state has jurisdiction over persons, property and businesses within its territorial limits? By contrast, federal jurisdiction is more severely limited-<sup>4</sup> It is exercised in two different ways. First, there are its enumerated powers, which were set forth above. For such powers, the government has jurisdiction to act in any part of the country, whether the area is a state, territory, or government enclave<sup>5</sup> Since the Constitution is the "Supreme Law of the Land", states cannot make laws which conflict with any of the laws made under these enumerated powers. Second, there is the power of exclusive legislative jurisdiction.<sup>6</sup> However, this plenary power is limited in territory to federal enclaves and territories. The power was originally created to enable the government to perform its functions free of improper

influences by any state. Thus, inside of Washington, D.C., federal forts, arsenals, and such places as Puerto Rico, the federal government has at least as much jurisdiction as a state, and probably a great deal more besides.

Where the state has ceded land and ceded jurisdiction to the government, that land is no longer within the state, for jurisdictional purposes.

2Sandberg v. McDonald, 248 US 185, 195-196; American @aanana Co. v. United Fruit Co., 213 US 347, 357

3pennoyer v. Neff, 95 U 714, 722

@Kansas v. Colorado, 206 US 46, 81-82

5Tennessee v. Davi% 100 US 257, 263

6Constitution, Article 1/8/17

The significance of the concept of exclusive jurisdiction is this: in a state, the sovereign power is with the people; but in a federal territory, the sovereign power is in Congress.@ This "sovereign" power of Congress cannot be exercised in any state. To operate within a state, an act of Congress must be done under one of the enumerated powers. In this sense, then, it might be said that any act of Congress done under its sovereign power (rather than an enumerated power) is 'without" (beyond or outside of) the territorial jurisdiction of any of the 50 states. In that sense it is a foreign law. By contrast, an act done under an enumerated power confers jurisdiction on the federal government to act within the 50 states. However, within a state, or its territorial waters, primary jurisdiction remains with the state; the mere authority to legislate, given to the federal government, never overrides the general jurisdiction of the state.2 It is merely a specific power given to the federal government to act concerning the specific thing legislated upon. As to such action, the jurisdiction may be either exclusive or concurrent, depending upon whether or not the federal law "pre-empts" the field. The point is that, whatever the federal power may be, it does not bring the state 'within" the jurisdiction of the United States.

Exclusive federal jurisdiction is subdivided into two types. First, the Constitution gives jurisdiction over the District of Columbia, to forts and arsenals, and to lands which the states have ceded to the federal government? Second, jurisdiction arises when the government acquires new territory. The distinction between granted and inherent powers of exclusive jurisdiction was explained by the Supreme Court in 1857.4 It was pointed out that, in acquiring new foreign territory, the government is always acting as a trustee for the people,s and acquires only with a

%DeLima v. Bidwell, 182 US 1

zUnited States v. Bevans, 16 US (3 Wheat) 336, 387 @Constitution, Article F8/17

4Dred Sco@ supra, at 443; see also: Dowries v. Bidwell, 182 US 244, 250; American Ocean Insurance v. Canter@ 26 US 511

sUnlied States v. Trinidad Coal Co., 137 US 160, 170

view to future statehood for the territory. It has no power to own land, like a king might own it.6

When the government acquires foreign territory, it will usually apply an international law rule, which means that until the government enacts new laws, the laws in force at the time of the acquisition will continue in force. In such a case, the old laws are actually enforceable federal laws, not state laws, even though they may have been enacted by the state originally. This rule applies wherever jurisdiction has been ceded to the government by a state, and also where the territory was foreign to begin with (like Puerto Rico). So, while an old state law may be in force in a federal enclave, the state notary public is without authority there.

The concept of Personal jurisdiction makes some inroads on the territorial limitations of jurisdiction. When a person is subject to the jurisdiction of governmental authority, that authority follows him wherever he goes.<sup>7</sup> Also, any person to whom a law is made to apply under an enumerated power must obey that law in any place where he is found. He may be reached in any area or territory where he can be found, if that territory is either state or federal. However, in a foreign nation he is unreachable without an extradition treaty. But within the continental limits of the United States, or any territory, any person bound by a particular law can be reached by federal enforcement procedures.

Although We, the People delegated exclusive legislative jurisdiction over vast territories to the federal government, it has been held that a citizen living within that jurisdiction, is not deprived of his unalienable rights.<sup>s</sup> Even though this position may be recognized from time to time, those rights seem to be limited in practice to those set forth in the Bill of Rights. In any case, the question will arise, which citizens have those unalienable rights which are considered fundamental? A sov'n citizen might have those rights, unless he waives them. A 14th Amendment citizen has his fundamental rights protected only in the 50 states, and only as against

Wan Brocklin v. United States, 117 US 151, 158 @Blackmer v. United States, 284 US 421, 437438

sCollan v. Wilson, 127 US 540; O'Donoghue v. United States, 289 US 516

state deprivation, not as against federal deprivation, (This was explained above, when the Civil War Amendments were examined.)

Jurisdiction of a court is invoked whenever one files a lawsuit. Ordinarily, one cannot compel a court to exercise its criminal jurisdiction unless he is an attorney affiliated with an enforcement agency, such as an attorney general, district attorney, county attorney, or the like. However, in a civil proceeding, if one can draw up a complaint which accurately sets forth a claim within the jurisdiction of the court, the court must proceed to act on that complaint. To refuse to do so would violate the function of the court, and would in fact be treason.<sup>t</sup>

## C. Government

Government is in three basic forms:

- Monarchy: One man rules
- Oligarchy: A select group rules
- Democracy: All men rule (majority or representatives)

In your schools they told you that governments arose because men realized that they had to get together and work out some system to establish order. Thus, you were led to the idea that government

is a desirable thing which keeps everything nice and peaceful. Actually, nothing could be further from the truth. The greatest havoc and destruction the world has seen has come because governments create conflict. The sensible course is to recognize that government is basically force, and not to trust it at all:

Government is not mason; it is not eloquence; it is force, and like rite, it is a dangerous servant and a fearful master. (George Washington)

The real way that governments arose explains why force is their basis.

Men living under the concepts of common law and equity had little need for government. However, @Cohen v. Virolni@ (1821), 6 Wheat 264, 5 LEd 257

oppression. They had their own sense of fairness and justice and this took care of them pretty well. Remember, though, that the outlaws were out there, somewhere. Get enough outlaws, band them together, and you have a gang - men with no respect for rights and justice. Such men will not work and are socially inept. To get what they want they must kill, rape and steal. When they band together to do this, a secret combination will arise, led by some boss or chief. If the gang is strong enough, it may invade your little system and carry away what you worked hard to get. Historically, we know that this was the situation with the Mongols, the Huns, and the Vandals. They raided and they ran away. However, in some cases they stayed and took over.

The reason for the takeover was that it dawned on the gang that it didn't really need to keep going back and forth to rape and steal. It realized that it could just come and stay. Of course, since it expected you to keep up the good work, it had to give you something in return. Also, it had to be ready to keep every other gang from moving in. So, out of what was taken away from you, you got roads, mails, and other public services which you needed. Some of you may have been paid to keep order and put out fires. Others joined the army (controlled by the gang) to help keep the other gangs away. As the system grew bigger, the gang set up programs for the old folks, the children, the disabled. You got some pensions, schools, and charity of sorts. You thought a favor was being done for you. You didn't understand that this kind of a gang knew all about the value of taxation, a central bank, and an interest system, to rip you off more subtly.

These are the methods which the gang used in order to live without working. Now, what you have is called "government"-

This same system has been imposed from within, by the use of stolen funds to subvert the representatives of the people. This system of financing elections, paying honorariums, arranging for plush jobs after retirement, and other forms of bribery are now undermining our Republic and convening it into a democracy (a special form of corrupt government).

Once a gang owns the government, by whatever method, it is a simple thing to grow by a devise called warfare. This has been demonstrated by the

Empires of Egypt, Persia, Greece, Rome, the Soviet Union, and Nazi Germany, to name a few. In short, every government on earth, so far as can be seen, except our own, arose by the foregoing methods. In America, the subversion of the Republic is all but complete. Once we go under the United Nations, or the New World Order, we will have completed our merger with the criminal governments of the World.

George Washington told us to avoid entangling alliances. Do you suppose he foresaw this problem?

In some cases the people were able to reform their monarchies. In France, this was done by a revolution. Its effects were to create a democracy. What became of it?

In England, the peerage was able to pressure King John into signing the Magna Carta, as already mentioned. This later gave rise to a Parliament, and this has finally come to replace virtually all of the power of the monarchy in England. From an absolute monarchy it has become a sort of constitutional monarchy, a form of democracy. In actuality, the sovereignty of the King merely passed to the government, not to the people.

## 1. Democracy

According to Thomas Jefferson, a democracy is the vilest form of government on earth. Why is this? Simply because under majority rule, injustice to the minority is inevitable. For instance, in a population of three, any two could vote to hang the third and the hanging would be "lawful". In addition, no one is ever satisfied in the democracy, simply because each person is in a minority as to some dictate of the majority. In every case the vote of the majority will be controlled by false publicity which is financed by the group in power, whether it be the recognized government, or the secret combination which controls the government through bribery. This is a part of the conspiracy described earlier. The motives of the duped majority may sound great. What are the motives of the controllers?

If government is limited by law, you may control your leaders to some extent. Without effective controls, you have another variety of tyranny.

In an uncontrolled democracy the representatives are elected by those who can afford to finance elections. Once they hold office, they will pass any law which their sponsors require, and do whatever else will seduce the public into a re-election. The representative is motivated by the desire to stay in office, not by statesmanship. He becomes a part of the gang, already described. He tries to please every special interest group which has the apparent capability to influence the constituency upon which his election depends.

It isn't hard to forecast the outcome of the system. Without limiting laws, endless rules and programs are introduced in an effort to please everyone, anything that is wanted, just so long as the terms of the representatives can be perpetuated. It degenerates into a "pork barrel" government. The enactment of laws and rules goes on, until education, press, and the economy are under government control. Even family life is regulated. This system keeps the government borrowing and paying interest, enabling the international bankers to keep the economy under their thumb through the central banks.

We could vote them all out, couldn't we? But, we don't. Partly it is because we are misled by the media; partly because we are educated to believe that we have the best government on Earth; partly because we can still endure the evils of the system. But mostly it is because we just don't believe we can do anything about it any more, so we don't even try. We aren't about to join any radical revolutionary cult, and try to overthrow the government. After all, it's not that bad, is it?

Social welfare states are founded upon the principle of the gangs mentioned above. They give you everything which seems necessary to stay in power. Such systems don't bother to point out that a government big enough to give you everything you want is big enough to take everything you've got. They don't advise you that everything that the government has to give away it had to take away from

you in the first place. When state legislators scheme to enlarge their share of the public trough, they overlook the fact that the trough must be refilled from the state and its citizens. If it isn't done by taxation, it is done by economic manipulation.

The vote does have the potential of avoiding the abuses of unlimited government. But it is a potential which is never realized. Why? Because big government controls the schools, the media, and the economy. The people are brain-washed from birth to believe that they have everything and should be happy- They are fed a constant diet of half-truths. If they become balky and unmanageable, government will tighten up the economy. The struggle to eat will overcome any concern about "rights". If the situation gets too shaky the people will find themselves embroiled in some civil unrest, for distraction. If it gets really rough, like back in 1935-41, they will be pushed into a war.

Thomas Jefferson tried to warn the people how critical it was to bind government down by the chains of a constitution. He knew, as did most men in those days, that we must never trust government. This is why he and other framers tried to give us a republic.

inconvenience, when operated on an individual basis. vu .....

Very little lawmaking power is needed in a republic. The leaders are given just exactly as much authority as they need to supervise and carry into execution the common functions, and absolutely no more.

With the expansion of the social system it will become necessary to allow the representatives to make decisions on their own, either because of the distances involved, communication problems, or the sheer numbers of sov'n citizens to be consulted. In such a case, the sov'n citizens are inclined to give the representatives greater latitude. Limiting guidelines will be given them, within which they may make specific rules for the activities of the leader. The guidelines are usually in the form of a constitution.

## 2. Republic

The concept of a republic is grounded in the idea that a man is a free and sovereign being. His fundamental rights are inherent, and he is only limited by the existence of the sovereign rights of other men, upon which he must not infringe. The legal system of a republic is fundamentally the common law and equity system. The government is placed under the control of a system of immutable restrictions, usually a constitution. The idea is that, when the republic is working properly, these immutable restrictions limit the power of the government to enact laws; it cannot enact just any law which it may desire. The final arbiter of the law is the jury.

This concept of a jury is central to the concept of a republic. However, if the jury is not free, its value in the system is dubious. As we have seen, our juries are only allowed to determine who is telling the truth; once they decide the facts, they are commanded to apply the law as the court directs. This has destroyed the essence of the American Republic.

In a true republic, the majority does not rule. The majority only elects. When all men are sovereign, the leaders are chosen simply to oversee those areas of life which are outside of the scope of individual endeavor. Such things addressed are roads, and other facilities, created for common use because of their prohibitive expense or

Notice that the leader never makes rules; a leader only carries out rules.

When the American Colonies broke away from England, they set up a government under the Anglo-Saxon common law, and threw off all the trappings of common law as distorted by monarchy? This was explained by one of the first Justices of the Supreme Court, James Wilson. They set up a republican form of government, with special provisions. They also introduced a unique new idea: individual sovereignty. All men were declared to have been created equal, and that simply meant that no one, not even a King, was in a superior position. All men became sovereign, just like a King!

One of the departments in the American Republic is the judiciary, which exists primarily to define exactly what did the sovereign people mean by one or another of the specific grants of authority given to their representatives. Human nature being what it is, government is bound to pick up a scoundrel now and then. So, three independent branches were set up in order to play one of them against the others - a balance-of-power concept. It was hoped that thereby, in the long run, good and virtue would prevail. No one really believed that we could drift into unrestricted democracy, the kind which nearly destroyed revolutionary France during the generation following our own revolution.

xWorks of James Wilson, Andrews

## IX. Reclassification

The information and procedures which we have discussed hereinabove should place you in such a position that the depredations of the IRS will become minimal and bearable in your life. However, if you wish to act on principle and justice, and if you are willing to beard the lion in his den, then you will want to **proclaim your correct citizenship status** and insist that you are taxed accordingly - probably not taxed at all.

As a sov'n citizen, you are probably not liable for any tax. If you are a non-taxpayer under the code, then the code does not apply to you. As a sov'n citizen you are not a taxpayer unless you have income which comes from a source within, or from some activity effectively connected with, the areas of sovereign federal jurisdiction.<sup>2</sup> These are the income types which are liable to taxation, when received by a nonresident alien. If you do reside in such a federal area, forget about reclassification and pay all of those taxes, regardless of your status (unless you are prepared to go to war because of the procedural defenses).

Being reclassified does not change your citizenship status; if it did, you could become subject to penalties for expatriation? Reclassification is simply to establish your correct status. You do this by preparing a declaration setting forth your true citizenship and an explanation thereof, rescinding your signature to all documents which purported to make you a citizen of the United States per Amendment 14, or otherwise submitting you to a taxable status. It means that you are giving notice thereof where and how such a notice should be given.

What is your correct status? You are a sov'n citizen of the United States of America. You are an American Citizen. If that were all there was to it, reclassification would be quite simple, and you could forget all about the revenue laws.

It is not that simple. Just because you are alien to subject citizen status does not excuse you from carefully examining the tax laws to find your personal responsibility thereunder. As is carefully explained above, you might be obligated for taxes as a nonresident alien.<sup>4</sup> Does this sound offensive to you?

Consider: you are a nonresident alien to most places on earth, like Japan and France. You are outside of their territory, and they have no personal claims on you. Similarly, the Internal Revenue Code does not apply to you, unless you can be described as an alien and as a nonresident. This is the only other taxable status designated in the revenue laws. By recognizing your amenability to this status, you are proving your willingness to abide by the law, obscure as it is.

If you don't reside in a federally controlled area, and you are not getting such carefully defined income, you are beyond the reach of the income tax unless you elect to be subject to tax.<sup>5</sup> Of course, one who understands the tax laws would not likely make such an election and submit to a slave status. But beware of the Form 1040. If you file it, you have volunteered and offered to pay the tax which you assess yourself. It has exactly the same effect as if you made a formal election. When you file a 1040 return, you are in effect rejecting your sovereign status; you are giving the IRS an elaborate promise to pay the tax. You are a voluntary slave, subject to the powers of the government if you fail to pay the tax.

References in the Code do not specify, in terms which clearly include any citizen, who is a taxpayer. There is an indication that an individual might be under obligation for certain taxes.<sup>6</sup> However, an individual appears to be a citizen of the United States, or a resident alien] This would omit the sov'n citizen. In other respects, the code refers to "persons made liable", and persons with incomes

@Long v. Rasmussen, 281 F 236, 238; Economy Humbling & Heating v. United States, 470 F2d 585, 589

4Brushaber: supra, as explained by TD 2313, making a citizen of one of the 50 states a nonresident alien  
s26 USC §871(d)

226 USC 871(a) and (b) 326 USC 877

626 USC §1(a) & © 75 USC @552(a)(2)

equal to or in em of the "exemption amount'@. By contrast, sections imposing taxes related to withholding taxes, or other excise-taxable activities, such as gambling, alcohol, tobacco, or firearms, are explicit and specific in naming the taxpayer.<sup>2</sup>

While the Code speaks only of "persons made liable", the regulations have defined a taxpayer so as to exclude the sov'n citizen? Some who protest tax laws have taken that as an excuse for ignoring them all. Reclassifiers will not take this evasive tactic. Good faith requires that you be sure of your non-liability for taxes. So, when you reclassify, openly acknowledge your potential for tax liability. Remember, Congress could have enacted many tax laws which would have applied to the sov'n citizen- Be grateful that it did not, and pay what you ought to pay! Just be careful not to volunteer to pay the taxes which don't apply to you!

Your IRS agents are employed by your government, which owes you a duty of truthfulness. If they failed to inform you of your correct status, either they were uninformed, or they lied. If they were uninformed, the mistake as to status is mutual, and is rescindable under commercial law. If they lied, this is fraud; fraud vitiates (invalidates) all contracts and commitments.<sup>4</sup>

## A. Social Security

Most of you did your volunteering when you applied for your Social Security number (SSN), when you applied for a Taxpayer ID number, gave your W4 to your employer, or signed an application and

signature card to open your bank account. Your individual master file (IMF), maintained by IRS, probably recites that you were born in some territory, or that you are engaged in some taxable trade or business within a federally controlled area, since those records must be made consistent with a taxable status.

x26 USC @1, 1313(b), 6001, 6011, 6012, 7701(a)(14)

226 USC @701, 1461, 2002, 3403, 4401, 4374, 4401(1), 5005, 5043, 5061, 5505, 5703(a)

326 CFR §1.1-1©

4UCC 3305(2)(b) & ©; United States v. Throckmorton, 98 US 1, 65-66;

Social Security is entirely voluntary; no law requires you to participate. It was originally designed as a program for government employees. Only later was it distorted and applied to all citizens. Even today no law declares that it is mandatory, except for those persons wanting benefits under Social Security.<sup>5</sup> Officials of Social Security (SSA) have acknowledged this fact.<sup>6</sup> However, more recently officials are likely to tell you that the Supreme Court has made Social Security mandatory. They will cite *Helvering v. Davis*<sup>7</sup> (which merely declared that Social Security is legal, not mandatory) and *United States v. Lees* (in which the court cited no statutory basis for a mandatory Social Security, but merely commented in an aside - dicta - that it was mandatory). Yet, since everyone seems to believe that a Social Security number is required by law, employers always demand one. The Social Security Administration may also tell you that it is the IRS which requires you to have a Social Security Number. In fact, there is neither a statute nor a regulation in the Code which mandates a taxpayer identification number (which is always the SSN). Most states, and a lot of federal laws, have provisions calling for disclosure of your SSN. It is used as a general identification device. As long as no one protests, it will probably continue to be part of the colorable law with which people comply.

Actually, it is a felony to compel disclosure of a SSN in violation of the laws of the United States.<sup>9</sup> Furthermore, the Privacy Act (1974), at 88 Statutes 1986, Section 7(a)(1) says:

It shall be unlawful for any Federal, State, or local government agency to deny to any individual any right, benefit, or privilege provided by law because of such individual

542 USC 301433

<sup>6</sup>See letters concerning SSA, attached at end of book

7301 US 619 a455 US 252

942 USC @408(a)(8)

refusal to disclose his Social Security Account Number.

Section 7(b) states:

Any Federal, State, or local government agency which requests an individual to disclose his Social Security Account Number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it.

No one is required to accede to the unauthorized demands of an official; but, if you comply, you have volunteered, and thereby assumed duties which did not otherwise exist.<sup>@</sup> However, be aware that

recent law has allowed the states to demand your Social Security number for purposes of declaring a homestead, or obtaining a driver's license?

You have not been paying "premium" to SSA; you have been paying taxes! However, if you have

@Guardian T & D Co. v. Fisher, 200 US 57, 59

242 USC @405

received benefits from SSA, watch out for the Ashwander rule. You will recall that this rule denied your right to protest the validity of any law under which you have accepted a benefit. Reclassification, as well as your procedural defenses, should keep you from ever getting to court where such an argument might be made against you. But if reclassification fails to keep you out of court, use the Brady rule: if you didn't know you were waiving your rights the waiver is not effective?

Some people who have paid to SSA all their lives will be upset at the idea of giving up their "right" to get Medicare and other SSA benefits. Such people need simply to compare their tax exposure to the value of the benefits and select their course of action accordingly. Some people have concluded that they should get what they have already paid for, or get a refund from SSA. It may be worth a try, after you declare your status. The Code overrides<sup>4</sup> the tax exemption<sup>5</sup> on Social Security, but it does allow an exemption concerning supplemental payments

<sup>3</sup>Brady, supra; .Johnson, supra

@26 USC @6334©

s42 USC @407(a) 626 USC @6224(a)(II)(A)

You may implement the concepts which have been disclosed in this presentation at any level which profile and to minimize the amount of tax for which they appear liable. The estate protection techniques will help accomplish this modest goal. Others will want to fight the IRS, but without an open declaration of war. It is for this purpose that the procedural defenses are described. These procedural defenses can leave the government employee handed, if properly presented. For those of you are bent upon principle, who refuse to join the colony of modern American slaves, reclassification is available. There is no guaranty that any court or federal agency will honor your status. They are carefully schooled on how to ignore your claims, how to deny your rights. However, many citizens have eluded improper collection by this means. It certainly establishes the legal basis of your position, and it avoids the stigma of criminality in your conduct.

You are invited to enter at whatever level you may find comfortable.

## **X. Afterword**

Some of you who have examined the material presented in this compilation will want to know how to make a practical use of the information it contains. The most practical use which the compilers can suggest is that you affiliate yourself with the Status Society, which is a foreign trust, situated in the Turks & Caicos Islands.

If you are a member of that society, then you are eligible to transact business with the companies and affiliates with which the Society maintains ongoing business relationships. These companies and affiliates are established solely for the purpose of acquiring your businesses, real estate and other assets. These acquisitions take place under carefully controlled conditions which result in your having a new relationship to those businesses, a tenancy in those real properties, utilization access to the other assets, and new money and banking arrangements which obviate any necessity for you to maintain those traditional accounts with financial institutions which make your entire fiscal life a matter of public information.

For details in securing membership in the Society, write to Status Society, Membership Forwarding Service, 369 East 900 South, Suite 307, Salt Lake City, Utah 84111

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## **XII. Letter**

Secretary of the Treasury

United States Department of the Treasury

1500 Pennsylvania Avenue, NW

Washington, D.C. 20224

Re: Statement pursuant to 26 USC §6011(a)

Dear Sir:

You will please note the attached Statement which I have prepared in accordance with the provisions of 26 USC §6011(a). I have also enclosed a copy of a Declaration of Exemption, which sets forth my citizenship status, insofar as I have been able to determine the same by research into the law. @

I have not filed a standard form 1040 tax return, or any of its variations, for the year 1993. The reason for not doing so is that I do not believe that I have received any gross income for that year. This is based upon an examination of all records which I have concerning my affairs. These records do not show:

- a) Any evidence upon which I can make a determination that I am a citizen or resident of the United States, as that term is used in the 14th Amendment to the Constitution, and at 26 CFR §1.1(a)-©.
- b) Any evidence of gross income from a source within, or from a trade or business which is effectively connected with the United States.
- c) Any evidence which indicates that I have made any determination for said year that I am legally obligated to any tax not mandated upon me by Congress.

In reviewing 26 USC §§6001-6012, the implementing regulations, and the relevant OMB numbers, I am unable to identify any form which applies to me. I cannot determine that I have any obligation to file a return. The OMB numbers in 26 CFR §602 indicate that the 1040 form concerns 26 USC §911, which applies to citizens living abroad with foreign earned income. The cross-reference indexes reflect that assessment and enforcement statutes are implemented under 27 CFR §50, et seq. These provisions in the regulations concern persons involved in licensed activities, relating to alcohol, tobacco, firearms, and the like. The Supreme Court has declared that the income which is taxed is that income which was taxed under the Corporate Excise Tax of 1909 (*Bowers v. Kerbough-Empire*

271 US 170, 174). This tax was applied only to dealings in commodities, or licensed activities, such as a corporation, or those matters regulated under 27 CFR.

Under all of these circumstances, I am requesting that you inform me, as is provided at 26 CFR Secretary of the Treasury Page two

§1.6011-1(b), of the appropriate form which I am required to use, if any, to report my financial affairs for the subject year. In the alternative, I invite you, under that same regulation, to compute the restitution duty of the United States, or any tax obligation imposed upon me, as the case may be, for said year. Please insure that the person undertaking this function signs the form under penalties of perjury, as required by 26 USC §6065. If the procedure under 26 CFR §1.6011(b) is a different procedure than that which is described in 26 USC 6020(a), please use the more appropriate procedure (if either is appropriate).

I am concurrently sending copies of all enclosures to the Assistant Commissioner, International Operations, at Philadelphia, to my local Regional Service Center, and to my local District Director. If my directing this letter to you was incorrect, please forward it to the proper office for response.

Done with the express reservation of all my rights in law, equity and all other natures of law this \*\*\*\*\* day of \*\*\*\*\* , 199'.

STATEMENT PER 26 USC §6011(a)

THIS STATEMENT CONCERNS THE TIME PERIOD JANUARY 1, 199- THROUGH DECEMBER 31, 199-

NOTE: This statement is prepared pursuant to the provisions of 26 USC §6011(a), with full reservation of all of the rights of declarant in law, equity and all other natures of law. A Declaration of Exemption accompanies this Statement. Declarant submits the information hereinafter set forth only to avoid any sanction which might arise as a consequence of any determination or claim to the effect that dclarant is required by law to make a return or statement. It is not a concession or admission of any tax payment obligation. It is not a waiver of any right. It is submitted in a good faith effort to supply all information which may be deemed relevant to the procurement of full restitution of moneys had and received by the United States from declarant, after deduction of monies lawfully owed, if any, by declarant. It is not intended in any way, and should not be construed, as a self-assessment. Since declarant is unaware of any official form which is properly addressed to the foregoing purposes, this unofficial form is submitted in accordance with the provisions of 26 CFR §1.6011-1(b), and is made pursuant to the rulings of court in Zellerbach Paper Co. v. Helvcring, 293 US 1.72, and Denman v. Motter., 44 F2d 648.

Full Name of Declarant Habitat of Declarant

Number Assigned by the Social Security Administration to Identify Declarant

Declarant is a (single)(married) person, filing this statement on behalf of declarant. Declarant has the following additional persons dependent upon declarant for support:

Names Ages Relationships

Encl.

I, , do hereby declare, under penalty of perjury, pursuant to the

laws of the United States of America, that I have examined the preceding statement and the schedules and declarations annexed hereto, and, to the best of my knowledge, understanding and belief, they are true, correct, and complete.

Signed: Date:

NOTE: THIS IS NOT AN OFFICIAL U. S. GOVERNMENT FORM

DECLARATION OF EXEMPTION FROM INAPPLICABLE LIENS

This declaration is made in order to claim all exemptions to which I am entitled by law, and to clarify my classification as a citizen. I do not hereby waive my sovereign immunity to the effects of any law to which I have not consented.

DEFINITIONS

As used in this declaration, the following terms shall have the meanings ascribed to them in this section.

Domicile: a place of permanent habitation for a sovereign. A sovereign with a domicile is not a resident as that term is used in the 14th Amendment.

Government: the collection of elected, appointed and hired persons who occupy positions within the branches or departments established by a constitution for a republic.

People: all persons who comprise the Citizens of the States, and who by virtue of such citizenship are derivative United States (American) Citizens.

Person: a human being of any race or nationality.

Political Jurisdiction: the areas over which the Congress of the United States exercises exclusive legislation, as defined in the Constitution.

State: any one of the fifty States for which the Constitution is intended to form a more perfect union.

United States: the political entity which is recognized as a nation under international law, distinguished from the territory over which it has political jurisdiction, and from the name designation which describes the fifty States united.

1. \*\*\*\*\* is my domicile and my. State of citizenship.

2. I was born in \*\*\*\*\*, a child of parents whose ancestors had migrated to the United States from Europe. The Constitution acknowledges my citizenship and my right to change it as I move from one of the States to another.x

1U. S. Constitution Article IV, Section2: The Citizens of each State shall be entitled to all Privileges and immunities of the Citizens of

3. I am a citizen of the United States. By this I mean what was meant in the Constitution as originally drafted. The United States did not give me my citizenship. I possess it as a derivative right by virtue of my place of birth. As a Citizen, both the territory and the government of the United States belong to me as comprising a portion of the body known as "the people."

4. I reject any implication that I am a foreigner in \*\*\*\*\* State, although I believe that I am a nonresident alien to the political jurisdiction of the United States, as explained in paragraph (15) hereinbelow.

5. The Declaration of Independence declared that all men are created equal. However, the Constitution recognized a type of person who was held to service,<sup>2</sup> and its 14th Amendment purported to create a class of citizen who is subject to the jurisdiction of the United States.

6. Persons who accept citizenship under Amendment 14 have citizenship of an entirely different class from my own and they do not have my constitutional immunity. My citizenship is mine as an inherent and unalienable right which preceded the adoption of the Constitution? Their citizenship was acknowledged and defined by the terms of the Constitution. Mine cannot be modified or controlled by the federal government. Theirs is. totally subject to the jurisdiction and control of that government. A sov'n citizen is any person who is a citizen of the United States under the provisions of the Declaration of Independence.<sup>4</sup>

7. The Declaration of Independence and the Bill

the several States

2U. S. Constitution. Article IV, Section 2: .... No Person held to Service or Labor in one State, under the Laws thereof. Escaping into another, shall in Consequence of any Law or Regulation therein, be discharged from such Service or Labor, but shall be delivered up on Claim of the Party to whom such

Service or Labor may be due. (It was considered that the black person was not a "manu, as the term was used in those days; see Scott v. Sandford, 60 US 393, 405).

3. U. S. Constitution. Article I, Sections 1 and 4; Article IV, Section 2; Van Valkenburg v. Brown, 43 Cal. 158

4 Declaration of Independence, Paragraph 2: 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 ....

of Rights generally recognize the unalienable nature of my rights to liberty and property. My rights to work and to earn and to own are unalienable properly rights,<sup>5</sup> as are my labor and the value for which I exchange it.<sup>6</sup> There being no gain, it is not income, and is not taxable as such. Income is defined as gain or profit from capital, labor, or both combined.<sup>7</sup> Congress cannot make up new definitions for income<sup>8</sup> Since my labor is also my property, it cannot be directly taxed.

8. It would be unconstitutional for these protected activities to be taxed without a delegation of my sovereign authority. Except by a delegation of power to levy an apportioned direct tax, no such authority exists. A law cannot impair or diminish, without my consent, any of my unalienable rights. It would be inconsistent with the provisions of the Constitution. It would also conflict with my Status as a sovereign for the tax laws to be made applicable to me without my consent.

9. I am not obliged to pay any direct tax except insofar as it may be assessed against me by the lawful exercise of State power. The federal government could lay a direct and apportioned tax against the States which might ultimately affect me through State taxation.<sup>9</sup> It cannot assess such a tax against me personally, As for an excise tax, the federal government may be able to assess me personally, but only so long as it does so uniformly among the States<sup>10</sup> It is constitutionally impossible to tax me contrary to the limitations of the Constitution.<sup>11</sup>

10. Federal Income Taxes are indirect taxes, in the nature of excise taxes.<sup>n</sup> As such, they are actually taxes imposed upon the conduct of certain activities which are subject to regulation, and which are pursued only as a

5. Butchers' Union Slaughterhouse Co. v. Crescent City Livestock Landing Co. 111 US 746. Alleyer v. Louisiana, 165 US 578, 589.

6. Coppage v. Kansas. 36 US 1, 14; Adair v. United States, 208 US 161, 172

privilege,<sup>13</sup> not as a right. Those are known as revenue taxable activities,<sup>14</sup> because they are not exempt by law, and the tax is measured by the income such an activity produces<sup>15</sup>

11. The Internal Revenue Code, as interpreted by federal regulations, applies to citizens of the United States, subject to the jurisdiction thereof. <sup>16</sup> This obviously refers to persons receiving citizenship under Amendment 14. A sovereign, such as myself, is never subject to any law, although I may be bound to obey a law enacted under the delegated powers of the Constitution.

12. Income tax is based upon voluntary assessment not upon distraint.<sup>17</sup> Distraint provisions do exist in the Internal Revenue Code? Such provisions cannot apply to sovereigns, such as myself. A person to

whom the Internal Revenue Code applies may be subject to compulsion if he does not voluntarily file a return.

13. I would have no current tax liability whatsoever, except for my having signed various documents and filed various IRS Form 1040 returns, wherein I unwittingly volunteered to pay income taxes and assessed myself. Since all of these documents were prepared without my awareness that my compensation for services was immune from taxation, and that I was not required by any law applicable to myself to prepare or file returns, or that such returns would constitute a waiver of my right to refuse to give evidence against myself, or that the verification of such a return was inappropriate for one such as myself who is without the United States, I am entitled to be protected against the consequences of my misunderstanding.<sup>19</sup> The mistake may have been mutual as between myself and the federal government. I believed I was a person subject to the tax when I originally applied for my Social Security number. By declaring myself to be a citizen of the United States years ago, when I was unaware that there were different classes of citizenship in the United States, and on innumerable legal forms since that date, I may have caused various government officials to make the same mistake as to my proper classification.

7. *Goodrich v. Edwards*, 255 US 527

8. *Eisner v. Macomber*, 252 US 189, 206

9. U. S. Constitution Article I, Sections 2 and 9

10. U. S. Constitution, Article I, Section 8

11. The 16th Amendment to the Constitution cannot impair the rights guaranteed by the Constitution (*Grosjean v. American Press Co.*, 297 US 233; *Murdock v. Pennsylvania*, 319 US 105, 113).

12. *Graves v. New York*, 306 US 466, 480.

13. *Hecht v. Malley*, 265 US 144, 155-156

14. *Higley v. C.I.R.*, 69 F.2d 160, 162-163.

15. *U. S. Glass Co. v. Oak Creek*, 247 US 321, 329

16. 26 CFR §1.1(a)-©

17. *Flora v. United States*, 362 US 145, 176

18. 26 USC §§6331-6344

19. UCC §3305(2)(a) and ©.

14. If any government officials, or their superiors, knew of my mistakes, such officials, or their superiors, had a fiduciary duty, as my trusted servants, to inform me thereof. Their failure to do so would have been fraudulent. On the basis of fraud, any such agreements as I have made would be vitiated.

15. Since I am alien to the status of a 14th Amendment citizen or resident, and since my domicile is outside of areas where the federal government exercises exclusive legislative jurisdiction, I assume that the Code references to the nonresident alien could actually refer to me.

16. The Code provides for taxation of that income of nonresident aliens which is derived from sources within or activities effectively connected with the United States?°

17. To be from a source within or to be from an activity effectively connected with the United States, income would have to come from an activity conducted in an area under the political jurisdiction of the federal government,2@ or from a federally licensed activity, such as dealings in alcohol, tobacco, or firearms, or arise by virtue of some privilege granted by the federal government, or derive from sane federal government contract or employment.

18. Let all to whom this declaration is sent be aware that I am NONE of the following:

a. A citizen or resident of Washington, D. C., any enclave, territory, or insular possession of the United States, or of the United States as those terms are used in the 14th Amendments, the Internal Revenue Code, or the Regulations

b. An immigrant to America

c. A naturalized citizen of any country

d. A person who is subject to the jurisdiction of the United States

e. A person held to service or otherwise in any position of villeinage

f. A natural resource or other form of property of the United States

0. 26 USC §871(a) and (o).

21. U. S. Constitution, Article I, Section 3, Clause 17

g. A taxpayer

h. A person subject to any tax described in the Internal Revenue Code

i. A person indebted on any outstanding tax obligation to the United States

j. An employee, officer or agent of the United States or of any State

k. A fiduciary agent of a nonresident alien

l. A person engaged in, or receiving income from any trade or business subject to regulation by the United States, or from any government contract

m. A citizen of the United States who is living abroad and receiving foreign earned income

n. A person with an Internal Revenue Account

o. A person with a Social Security Account or Number, any number the government connects with me under such designation is the property of the government, not of myself.

p. A knowing, willing, and intentional volunteer into either the Social Security System or the Internal Revenue Tax System

q. A participant in the Social Security System (my purported enrollment therein was inadvertent and is hereinbelow canceled, rescinded and revoked)

19. I do hereby declare the exemption of all of my real property, and other assets and possessions, from any and all claims of government, whether federal, state, or local, based upon any purported tax claims, demands, liabilities, penalties, interest, liens, levies, or other encumbrances of similar import, which have no application to me, and I do hereby assert all of the Exemptions to which I am entitled under the Constitution and Laws of\*\*\*\*\* State, the Constitution and Laws of the United States, and by reason of all other applicable laws and principles, whether arising by common law, statute, precedent, or otherwise, and I do further assert and claim all other Rights and Exemptions appertaining to me by reason of my Status as a \*\*\*\*\* State citizen, specifically including the Rights and Status more particularly set forth hereinabove. I do also hereby withdraw from the Social Security System. I do also hereby cancel, rescind and revoke all of those documents, signatures and actions which through inadvertence, fraud,<sup>22</sup> or mistake<sup>23</sup> have placed me in that system and otherwise subject to tax liabilities not applicable to Citizens of my Status (to wit: a sovereign) as hereinabove set forth.

20. This declaration is prepared, sent and submitted for the additional purpose of mending and correcting any records in possession of, or maintained by, any governmental authority, which is inconsistent herewith, in accordance with 26 USC §552a, and I demand that any government employee, agent, representative, or official to whom this declaration is directed shah state any rebuttal, opposition or challenge to the foregoing declaration within 30 days of receipt hereof, or he shall be estopped so to do by the maxim that he who remains silent consents.

21. I do solemnly declare, upon my oath, that the foregoing statements of fact are within my personal knowledge, and are in fact true and correct.

STATE OF \*\*\*\*\* )

) ss.

COUNTY OF \*\*\*\*\* )

On \*\*\*\*\* , 199', before me, personally appeared \*\*\*\*\* , known to me (or proved to me, on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument. Said person was sworn upon oath to the truth of the allegations of said instrument, and \*he further executed the same in my presence.

Notary Public My commission expires:

22United States v. Throckmorton,. 98 US 1, 65, 66. 2'3UCC §3305.