

The Federal Zone

Cracking the Code of Internal Revenue

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Introduction

In the late Spring of the year 1990, our small beach town in Northern California was visited by a minor political controversy. A local writer for the weekly newspaper, a man named Kirby Ferris, had a number of neighbors buzzing about his recent sequence of articles challenging the 16th Amendment, the so-called 'income tax' amendment in the U.S. Constitution. It seems that Kirby had come across some huge collection of documents which allegedly proved that the 16th Amendment was never ratified. Instead of obtaining the required approval of 36 State legislatures, the proposed amendment was simply 'declared' ratified on February 25, 1913 by Philander C. Knox, a man who purported to be Secretary of State. Kirby Ferris had, evidently, visited one of the men responsible for assembling this collection of 17,000 State-certified documents and returned entirely convinced that the so-called 16th Amendment was a complete and total fraud. The man he visited was Martin J. 'Red' Beckman, a Montana rancher whose name now appears as co-author with Bill Benson on the cover of *The Law That Never Was*, a book that has already become a classic in American historical literature.

Up to that point in time, I had not been much of a Ferris fan. Too often for me, his style bordered on being too inflammatory and lacking necessary details. After all, Kirby had spent his youth surfing waves, drinking beer, and chasing bikinis. When this little controversy erupted, I made no secret of my bachelor's degree in Political Science from UCLA, and my master's degree from the University of California at Irvine in Public Administration. Trotting out these credentials, of course, was invariably my preface to answering the several questions which friends and neighbors put to me about Kirby's allegations, as if to underscore my obvious qualifications to repudiate Kirby's claims. 'If there's a problem, Congress will just fix it,' I must have said more times than I care to admit.

One day at breakfast in the Parkside Cafe, a favorite hang-out for all the 'locals', the same conversation began again, this time with a Vietnam War veteran by the name of Mike Taylor. Mike is an intense man, with fierce convictions, a booming voice, a few lingering effects of combat shell shock, and a habit of getting right to the point. 'What do you think of Kirby's columns on income tax?' he queried. Again, as if to practice a polished art, I repeated the same old answer one more time, 'Congress will just fix it, if there really is a problem with the 16th Amendment.' The answer had worked in the past; there was no reason why it wouldn't work on Mike too. Wrong! Mike shot right back, 'OK. You're so smart. How is Congress going to fix it?' he retorted. 'They'll pass a law. How else do you think they would fix it?' I answered, somewhat surprised from pride to be challenged so directly. And then Mike lowered the boom, 'Are you telling me that Congress can amend the Constitution by passing a law? Is that what you're telling me?'

My jaw fell, as if to begin my next sentence, but no words came out of my mouth. I knew that he had me. Congress cannot amend the Constitution. Of course, Mike was right. In a feeble attempt to recover, I retreated by admitting that two-thirds of the States were required to amend the Constitution, and that Congress alone did not have the power to do so. Then Mike delivered the knockout punch, 'It takes three-fourths of the States to amend the Constitution, Mitch, not two-thirds.' I was had. All those years in school, all those high school civics classes, all those papers on political theory, and all those months of management science had left me woefully unprepared to spar with Mike when it came to the Supreme Law of our Land. The lesson was a good one, one that I will never forget for the rest of my days.

My embarrassed defeat was a terrific motivation. I went to work ordering books and reading everything I could get my hands on. A purchase order flew up to Red Beckman in Billings, Montana. Within a week I was devouring my own copy of *The Law That Never Was*. I had to repent for my errors, or so my religious training had led me to believe. The book was a turning point, in more ways than one. I knew enough about the rules of evidence to question every page. 'How could this problem have gone undetected for such a very long time?' I asked myself. Here were allegations which appeared to undermine a major source of revenue for the entire federal government of the United States. I needed more proof.

I wrote to Kirby and explained my situation. It had been many years since my college political activism. I was now a senior systems consultant for a major investment bank in San Francisco, with almost 20 years of computer experience under my belt. I was often seen blending in among the 'grey men' of the financial district, not too far from a regional Federal Reserve Bank. If I was going to take this problem very seriously and, in particular, if I was ever going to do anything about the 16th Amendment fraud, then I was going to need something more than a printed book from some Montana rancher I had never met. After all, with enough money, anybody can put ink to paper and put almost anything into circulation these days. I needed something more; I needed material evidence, as they call it in court rooms and in law schools -- material evidence, not hearsay, and certainly not unsubstantiated allegations that a massive fiscal fraud had been perpetrated on the American people for more than two generations.

Kirby rose to the occasion. 'Tell me what you need,' he said. I thought about it and invited him to come over for coffee. If there really were 17,000 documents, all officially certified by the Secretaries of State in the Capitol buildings of 48 of the United States***, there was no point in plowing through such a huge mound of paperwork. Paperwork was something which I put somewhere below a necessary evil. We put our heads together and came up with a plan. The feds have admitted in writing that 6 States did not ratify the 16th Amendment. Since three-fourths of the States were required to ratify it, the amendment could have passed with at most 12 States opposing it. If we could find only 7 additional States which obviously failed to ratify the amendment, that would make a total of 13 NAY's, and we would have defeated the 'income tax'. What a tantalizing thought! Before the night was over, we had our list of 'The Dirty Seven', as Kirby liked to call them.

Kirby Ferris went home to call Red Beckman. Two days later, Kirby left a short note on my front door: Red Beckman had agreed to photocopy all the relevant documents for *The Dirty*

Seven States, and would ship them to us as soon as the copying was done. Within a week, two large cardboard boxes were sitting on my front porch when I returned home from work. There it was, the evidence I needed. It was incontrovertible: the 16th Amendment was never ratified. The act of declaring it ratified was an act of outright fraud by Secretary of State Philander C. Knox, a man who was sworn to obey the Constitution. This was an awesome discovery.

The events which have transpired since that moment have literally changed my life. I have filed formal petitions with two Representatives in the Congress of the United States. A detailed notice of fraud and deception has been served on all the governors of the 50 States. I have requested a Grand Jury investigation into the fraud committed by Secretary of State Philander C. Knox. I have studied and debated and learned everything I could about the laws and regulations which bear on this question. It has been an exhilarating and challenging experience. Almost all of the opposition has come from government personnel, mostly officials of the Internal Revenue Service. That opposition has been most instructive.

For those of you who may not know exactly how and where the U.S. Constitution is relevant to this subject matter, the text of the failed 16th Amendment follows:

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

[Constitution for the United States of America]
[text of so-called 16th Amendment]

From the beginning, the U.S. Constitution has empowered Congress to levy two different kinds of taxes: direct and indirect. These are powers which Congress has always had, with or without the so-called 16th Amendment. The power to levy indirect taxes is authorized by Article 1, Section 8, Clause 1, as follows:

The Congress shall have Power To Lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

[Constitution for the United States of America]
[Article 1, Section 8, Clause 1]

Federal excise taxes on the sale of gasoline and tires are examples of indirect taxes. The

requirement that indirect taxes be uniform throughout the several States is known as the 'uniformity rule'. The power to levy direct taxes is authorized by two separate clauses of the Constitution, as follows:

Representatives and Direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers

[Constitution for the United States of America]
[Article 1, Section 2, Clause 3]

No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration hereinbefore directed to be taken.

[Constitution for the United States of America]
[Article 1, Section 9, Clause 4]

Thus, the requirement that direct taxes be apportioned was considered by the Framers to be so important, it is mentioned twice in the U.S. Constitution. This requirement is known as the 'apportionment rule', and its application is easy to understand. If California has 10 percent of the nation's population, then California's 'portion' would be 10 percent of any direct tax imposed by Congress. A 'capitation' is another word for a direct tax imposed on each 'head' or person (caput is Latin for 'head'). Federal taxes on personal property, or on the income of personal property, are examples of direct taxes. Appendix Q shows the State portions of a lawful direct tax that was levied by Congress in the year 1798.

Chapter 1: The Brushaber Decision

Historically, defensive federal officials have argued that the 16th Amendment is constitutional because the Supreme Court of the United States has said so. In the year 1916, the high court issued a pivotal decision which is identified in the case law as *Brushaber vs. Union Pacific Railroad Company*, 240 U.S. 1. It is important to realize that the evidence impugning the ratification of the 16th Amendment was not published until the year 1985. This evidence was simply not available to plaintiff Frank R. Brushaber when he filed his first complaint on March 13, 1914 in the District Court of the United States for the Southern District of New York. His complaint challenged the constitutionality of the income tax statute which Congress had passed immediately after the 16th Amendment was declared ratified. Specifically, he challenged the constitutionality of the income tax as it applied to a corporation of which he was a shareholder, i.e., the Union Pacific Railroad Company. His challenge went all the way to the Supreme Court, and he lost.

Ever since then, attorneys, judges and other officials of the federal government have been quick to cite the Brushaber case, and others which followed, as undeniable proof that the 16th Amendment is constitutional. With its constitutionality settled by the Brushaber ruling, former Commissioner of Internal Revenue Donald C. Alexander felt free, almost 60 years later, to cite the 16th Amendment as the constitutional authority for the government to tax the income of individuals and corporations. Consider the following statement of his which was published in the official Federal Register of March 29, 1974, in the section entitled 'Department of the Treasury, Internal Revenue Service, Organization and Functions'. His statement reads in part:

(2) Since 1862, the Internal Revenue Service has undergone a period of steady growth as the means for financing Government operations shifted from the levying of import duties to internal taxation. Its expansion received considerable impetus in 1913 with the ratification of the Sixteenth Amendment to the Constitution under which Congress received constitutional authority to levy taxes on the income of individuals and corporations.

[Vol. 39, No. 62, page 11572]

What is not widely known about the Brushaber decision is the essence of the ruling. Contrary to widespread legal opinion which has persisted even until now, the Supreme Court ruled that taxation on income is an indirect tax, not a direct tax. The Supreme Court also ruled that the 16th Amendment did not change or repeal any part of the Constitution, nor did it authorize any direct tax without apportionment. To illustrate the persistence of wrong opinions, on a recent vacation to Montana, I had occasion to visit the federal building in the city of Missoula. On the wall outside the Federal District Court, Room 263, a printed copy of the U.S. Constitution is displayed in text which annotates the 16th Amendment with the following statement:

This amendment modifies Paragraph 3, Section 2, of Article I and Paragraph 4, Section 9, of Article I.

In light of the Brushaber decision, this statement is plainly wrong and totally misleading. The text of the 16th Amendment contains absolutely no references to other sections of the Constitution (unlike the repeal of Prohibition). In his excellent book entitled *The Best Kept Secret*, author Otto Skinner reviews a number of common misunderstandings like this about the 16th Amendment, and provides ample support in subsequent case law for the clarifications he provides. Interested readers are encouraged to order Otto Skinner's work by referring to the Bibliography (Appendix N).

The U.S. Constitution still requires that federal direct taxes must be apportioned among the 50

States of the Union. Thus, if California has 10 percent of the nation's population, then California's 'portion' would be 10 percent of any direct federal tax. In the Brushaber decision, the Supreme Court concluded that income taxes are excises which fall into the category of indirect taxes, not direct taxes. From the beginning, the U.S. Constitution has made an explicit distinction between the two types of taxation authorized to the Congress, with separate limitations for each type: indirect taxes must be uniform across the States; direct taxes must be apportioned. Writing for the majority in one of his clearer passages, Chief Justice Edward Douglass White explained it this way:

[T]he conclusion reached in the Pollock Case did not in any degree involve holding that income taxes generically and necessarily came within the class of direct taxes on property, but on the contrary recognized the fact that taxation on income was in its nature an excise entitled to be enforced as such

[Brushaber vs Union Pacific Railroad Co., 240 U.S. 1 (1916)]

Unfortunately for Justice White, most of the language he chose to write the majority's opinion, and the resulting logic contained therein, are tortuously convoluted and almost totally unintelligible, even to college-educated English majors. In his wonderful tour de force entitled *Tax Scam*, author Alan Stang quips that Justice White:

... turned himself into a pretzel trying to justify the new tax without totally junking the Constitution.

Stang's book is a must, if only because his extraordinary wit is totally rare among the tax books listed in the Bibliography (Appendix N). Other legal scholars and experienced constitutional lawyers have published books which take serious aim at one or more elements of White's ruling. Jeffrey Dickstein's *Judicial Tyranny and Your Income Tax* and Vern Holland's *The Law That Always Was* are two excellent works of this kind. Both authors focus on the constitutional distinctions between direct and indirect taxes, and between the apportionment and uniformity rules.

Dickstein does a masterful job of tracing a century of federal court decisions, with an emphasis on the bias and conflict among federal court definitions of the key word 'income'. He exercises rigorous logic to demonstrate how the Brushaber ruling stands in stark contrast to the important Supreme Court precedents that came before and after it in time. For example, after a meticulous comparison of Pollock with Brushaber, Dickstein is forced to conclude that:

Justice White's indirect attempt to overturn Pollock is wholly unpersuasive; he clearly failed to state a

historical, factual or legal basis for his conclusion that a tax on income is an indirect, excise tax. It is clear that Mr. Brushaber and his attorneys correctly stated the proposition to the Supreme Court that the Sixteenth Amendment relieved the income tax, which was a direct tax, from the requirement of apportionment, and that the Brushaber Court failed miserably in attempting to refute Mr. Brushaber's legal position.

[Judicial Tyranny and Your Income Tax, page 60]

Dickstein also proves that an irreconcilable conflict exists between the Brushaber decision and a subsequent key decision of the Supreme Court, *Eisner vs Macomber*, 252 U.S. 189:

There is an irreconcilable conflict between the Brushaber case, which holds the income tax is an indirect tax not requiring apportionment, and the *Eisner* case, which holds the income tax is a direct tax relieved from apportionment.

[Judicial Tyranny and Your Income Tax]
[footnote on page 141]

Going back even further in American history, Holland argues persuasively that 'income' taxes have always been direct taxes which must be apportioned even today, Brushaber notwithstanding:

It results, therefore: ...

4. That the Sixteenth Amendment did not amend the Constitution. The United States Supreme Court by unanimous decisions determined that the amendment did not grant any new powers of taxation; that a direct tax cannot be relieved from the constitutional mandate of apportionment; and the only effect of the amendment was to overturn the theory advanced in the *Pollock* case which held that a tax on income, was in legal effect, a tax on the sources of the income. ...

6. [T]hat a General Tax on Income levied upon one of the Citizens of the several States, has always been a direct tax and must be apportioned.

There are, however, two additional lessons from the Brushaber decision which have been entirely lost on most, if not all of the authors who have published any analysis of this important ruling. These are the dual issues of status and jurisdiction, issues which it is my intention to elevate to the level of importance which they have always deserved. An understanding of status and jurisdiction places the Brushaber ruling in a new and different light, and solves a number of persistent mysteries and misunderstandings which have grown up around an income tax law which now includes some 2,000 pages of statute and 6,000 pages of regulations. More precisely, the published rules of statutory construction require us to say that the income tax law now includes only 2,000 pages of statute and 6,000 pages of regulations.

Obviously, without a comprehensive paradigm with which to navigate such a vast quantity of legalese, particularly when this legalese is only slightly more intelligible than White's verbal pretzels, it is easy to understand why professors, lawyers, CPA's, judges, prosecutors, defendants and juries consistently fail to fathom its meaning. In the Republic envisioned by the Framers of the Constitution, a sophisticated paradigm should not be necessary for the ordinary layman to understand any law. In and of itself, the need for a sophisticated paradigm is a sufficient ground to nullify the law for being vague and too difficult to understand in the first place. Nevertheless, the remainder of this book will show that status and jurisdiction together provide a comprehensive paradigm with sufficient explanatory power not only to solve the persistent mysteries, but also to provide vast numbers of Americans with the tax relief they so desperately need and deserve.

Chapter 2: Status and Jurisdiction

Understanding the status of the parties to the Brushaber case is essential to understanding both the outcome, and the Treasury Decision which followed soon after the Supreme Court's landmark ruling in the case. Frank R. Brushaber filed his original Bill of Complaint on March 13, 1914, within a year after Philander C. Knox declared the 16th Amendment to be the supreme Law of the Land. Addressing the judges of the District Court of the United States for the Southern District of New York, Brushaber began his complaint as follows:

Frank R. Brushaber, a citizen of the State of New York and a resident of the Borough of Brooklyn, in the City of New York, brings this his bill against Union Pacific Railroad Company, a corporation and citizen of the State of Utah, having its executive office and a place of business in the Borough of Manhattan, in the City of New York, and the Southern District of New York, in his own behalf and on behalf of any and all of the stockholders of the defendant Union Pacific Railroad Company who may join in the

prosecution and contribute to the expenses of this suit.

Right from the beginning, Frank Brushaber made an important statement of fact which remained unchallenged at every level in the federal courts. He identified himself as a citizen of the State of New York and a resident of the Borough of Brooklyn, in the City of New York. He did not identify himself as a 'United States** citizen' or as a 'resident of the United States**'. He indicated that he lived and worked in New York State, outside the District of Columbia and outside any territory, possession or enclave controlled by the Congress of the United States**. 'Enclaves' are areas within the 50 States which are 'ceded' to Congress by the acts of State Legislatures (e.g. military bases).

The federal courts concluded that Brushaber, under the law, was a 'nonresident alien'. He was 'nonresident' because he lived and worked outside the areas of land over which the Congress has exclusive jurisdiction. The authority to have exclusive jurisdiction over this land was granted to Congress by Article 1, Section 8, Clause 17, and Article 4, Section 3, Clause 2 of the Constitution. In this book, I will often refer to these areas of land as 'the federal zone'. Brushaber was an 'alien' because his statement of citizenship was taken as proof that he was not a citizen of the federal zone. He was not a 'United States** citizen', either through birth or naturalization, because the term 'United States**' in this context means only the federal zone. Therefore, he was alien with respect to the District of Columbia and the federal enclaves, territories and possessions over which the Congress has exclusive legislative jurisdiction.

This may sound strange to the casual reader, but the law is not referring to creatures from outer space. The law is referring to the creation of lawyers.

Right from the beginning, Frank Brushaber also made an important error which contributed to his ultimate downfall in the case. He identified his opposition as a corporation chartered by the State of Utah:

Your orator further shows that the defendant Union Pacific Railroad Company is, and at all the times hereinafter mentioned was, a corporation duly organized and existing under and by virtue of the laws of the State of Utah, and a citizen of the State of Utah

[from original Bill of Complaint, filed March 13, 1914]

This was incorrect. The Union Pacific Railroad Company was originally created in the year 1862 by an Act of Congress. The stated purpose of the corporation was to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean. This Act was passed on July 1, 1862 by the Thirty-Seventh Congress, Second Session, as recorded in the

Statutes at Large, (December 5, 1859 to March 3, 1863 at Chapter CXX, page 489). At that time, Utah had not yet been admitted as a State of the Union. It was still a territory, i.e., a 'federal state', over which the Congress had exclusive legislative jurisdiction.

Being a creation of Congress, the Union Pacific Railroad Company was found to be a 'domestic' corporation under the law. This is another term which is very confusing to the casual reader. In common, everyday language, the term 'domestic' is often used to mean 'inside the country'. For example, airports are divided into different areas for domestic and foreign flights, in order to allow Customs agents to inspect the baggage and passports of passengers arriving on flights from foreign countries. However, under federal tax law, the term 'domestic' does not mean 'inside the country'; it means 'inside the federal zone' which is an area that is much smaller than the whole country. Accordingly, a 'foreign' corporation is a corporation which was chartered by a government that is 'outside the federal zone'. The federal zone consists of the enclaves, territories and possessions over which the Congress of the United States** has exclusive legislative jurisdiction. California is outside of the federal zone, for example, and corporations which are chartered in the State of California are foreign corporations with respect to the federal zone. Similarly, corporations chartered in France are likewise foreign corporations with respect to the federal zone. It is simple, once you understand the proper legal definitions of 'foreign' and 'domestic' in the federal tax law.

The status of the two parties in the Brushaber case can, therefore, be summarized as follows:

1. State Citizen Frank R. Brushaber was identified by his court documents as a nonresident alien, as that term is now defined in the Internal Revenue Code.
2. The Union Pacific Railroad Company was identified by court documents as a domestic corporation, as that term is now defined in the Internal Revenue Code.

Government Propaganda

The federal government has tried to confuse the implications of Frank Brushaber's status by asserting that he was a French immigrant. This is government propaganda, pure and simple. This propaganda is designed to make us believe that Brushaber was found to be an alien because he was born in France, not because he declared himself to be a 'citizen of the State of New York'. Accordingly, the federal officials responsible for this propaganda are trying in vain to convince everyone that the 50 States are inside the federal zone, because they want us to conclude that Frank Brushaber would have been a 'U.S.** resident' if he resided in New York, or a 'U.S.** citizen' if he had been born in New York. It is fairly easy (and fun) to defeat this propaganda, because it is only make believe.

First of all, Frank Brushaber declared himself to be a 'resident of the Borough of Brooklyn, in

the City of New York'. If New York State were inside the federal zone, and if Frank Brushaber had been born in France, he most certainly would have been an 'alien', but a 'resident' alien according to the government's own rules. After the Supreme Court's decision, the Treasury Department published a Treasury Decision (T.D. 2313) which clearly identified Frank Brushaber as a nonresident alien (see below, also Appendix C).

Secondly, regardless of whether federal officials place New York State inside or outside the federal zone, their French immigrant theory would place Frank Brushaber in the category of an alien who was lawfully admitted for permanent 'residence'. Congress does have legislative jurisdiction over immigration and naturalization. Being lawfully admitted for permanent residence is also called the 'green card test' (see next chapter). Again, the government's own rules and regulations would have designated Frank Brushaber as a 'resident' alien. As we know, the Treasury Department identified him as a nonresident alien. A native of France would be a nonresident alien if he resided in France; he would be a resident alien if he lawfully immigrated to America under rules established by Congress. But no 'green card' was in evidence to prove that Brushaber was an immigrant, and current 'green cards' exhibit the words RESIDENT ALIEN in bold letters.

Thirdly, if Frank Brushaber had been a French immigrant who applied for, and was granted U.S.** citizenship, quite obviously he would have become a naturalized U.S.** citizen, no longer an alien. Again, Congress does have jurisdiction over immigration and naturalization. The government's own rules and regulations would have designated Frank Brushaber as a U.S.** citizen.

Finally, Frank Brushaber identified himself as a 'citizen of the State of New York'. Although a native of France would also be an 'alien' with respect to the federal zone, this is not how Frank Brushaber identified himself to the federal courts. He identified himself as a 'citizen of the State of New York'. On the basis of this status as presented to the federal courts, those same courts, and the Treasury Department thereafter, concluded that he was a nonresident alien, not a U.S.** citizen and not a U.S.** resident. To argue that he was a French immigrant is to assume facts that were not in evidence. The courts arrived at their decisions on the basis of facts that were in evidence. Author and scholar Lori Jacques addresses the French immigrant theory as follows:

... [I]t appears that a state citizen was identified as a nonresident alien and taxed upon his unearned income deriving from a domestic corporation. This conclusion is possible because there would be no question that a person who, for example, was born and domiciled in France and who owned shares in Union Pacific Railway [sic] Co. would be taxed as a nonresident alien. Only Mr. Brushaber, citizen of New York State and stockholder, was considered in the case decided by the Supreme Court, thus there was no basis for the Secretary extending the decision to those not parties to the action.

[A Ticket to Liberty, November 1990 edition, page 40]

In the final analysis, it doesn't really matter whether Frank Brushaber was a French immigrant or not. The federal courts and the Treasury Department agreed that any person claiming to be citizen and resident of New York was a nonresident alien with respect to the federal zone. This is all we need to know about the plaintiff's status. It is essential to understand that it was the government which determined Frank Brushaber was a nonresident alien for purposes of imposing a federal tax on his dividends. Brushaber did not come into federal court claiming that he was a nonresident alien; he did come into court claiming that he was a New York State Citizen and a resident of Brooklyn. Now you see why the French immigrant theory is really just propaganda. In later chapters, the motive for this propaganda will become crystal clear.

Treasury Decision 2313

Soon after the Brushaber decision, and as a direct result of that decision, the Office of the Commissioner of Internal Revenue published Treasury Decision (T.D.) 2313 to clarify the meaning and consequences of the Supreme Court's ruling. Volume 18 of the Treasury Decisions was published for the period of January to December of 1916 by Secretary of the Treasury W. G. McAdoo. Treasury Decision 2313 was written to clarify the '... taxability of interest from bonds and dividends on stock of domestic corporations owned by nonresident aliens, and the liabilities of nonresident aliens under section 2 of the act of October 3, 1913.'

Frank Brushaber had purchased stock in the Union Pacific Railroad Company. He was then paid a dividend on this stock. The Union Pacific Railroad Company acted as a 'withholding agent' and withheld a portion of his dividend to pay the federal income tax that was owed on that dividend. The term 'withholding agent' still has the same meaning in the current Internal Revenue Code. Although he was a nonresident alien, Frank Brushaber received income from a source that was inside, or 'within' the federal zone. The 'source' of his income was a 'domestic' corporation because that corporation had been chartered by Congress.

The net result of his defeat in the Supreme Court was to render as taxable the income from bond interest and stock dividends issued by domestic corporations to nonresident aliens like Frank Brushaber. A key paragraph from Treasury Decision 2313 is the following:

Under the decision of the Supreme Court of the United States in the case of *Brushaber v. Union Pacific Railway Co.* [sic], decided January 24, 1916, it is hereby held that income accruing to nonresident aliens in the form of interest from the bonds and dividends on the stock of domestic corporations is subject to the income tax imposed by the act of October 3, 1913.

This 'withholding agent' must withhold a certain amount from the dividend to cover the federal tax liability of the recipient. The amount withheld is paid to the federal government. T.D. 2313 then went on to explain the use of Form 1040 in this situation:

The liability, under the provisions of the law, to render personal returns ... of annual net income accrued to them from sources within the United States** during the preceding calendar year, attaches to nonresident aliens as in the case of returns required from citizens and resident aliens. Therefore, a return on Form 1040, revised, is required except in cases where the total tax liability has been or is to be satisfied at the source by withholding or has been or is to be satisfied by personal return on Form 1040, revised, rendered in their behalf.

For those of you who are interested, the complete text of Treasury Decision 2313 can be found in Appendix C of this book.

Summary

The dual issues of status and jurisdiction are closely intertwined. The federal government has a limited area over which it exercises exclusive legislative jurisdiction, an area I have called 'the federal zone'. Congress is not limited by the constitutional restrictions on direct and indirect taxation within the federal zone. The birth and residency status of natural persons situate them either inside or outside that jurisdiction. Citizens who were naturalized by federal courts are situated inside that jurisdiction, regardless of where they reside. Both citizens and residents of the federal zone are liable for federal taxes on their worldwide income, no matter where the source of that income. If you are not a citizen, then you are an alien. If you are not a resident, then you are a nonresident. Nonresident aliens pay taxes only on income which is derived from sources that are inside the federal zone. If you work for the federal government, your pay comes from a source that is inside the federal zone.

Likewise, artificial 'persons' like corporations are either foreign or domestic. (It may appear strange at first, but a corporation is also a 'person' as that term is defined in the Internal Revenue Code.) A corporation that is chartered by Congress is domestic with respect to the federal zone. A corporation that is chartered by one of the 50 States of the Union is foreign with respect to the federal zone. A corporation that is chartered by a foreign country like France is likewise foreign with respect to the federal zone. Imagine what a difference it would make if all individuals and corporations knew and asserted their correct status with respect to the exclusive legislative jurisdiction of the federal zone.

Chapter 3: 'The Matrix'

This chapter contains an essential key with the potential to set you free. One of the biggest obstacles to understanding federal tax law is that it never uses diagrams or pictures. If a picture is worth a thousand words, then the Internal Revenue Code (IRC) would certainly lose a lot of weight if it were reduced to pictures; but there would still be a lot of pictures! A careful examination of certain key terms like 'resident' and 'citizen' reveals a certain two-dimensional quality to the statutory relationship among these terms. Specifically, you are an alien if you are not a citizen, and you are a nonresident if you are not a resident. This careful examination led to the following diagram, which I like to call 'The Matrix'. The Matrix is the key that unlocks the whole puzzle of federal income taxation. When you understand The Matrix, you will know exactly where you stand with respect to the federal zone: Matrix Full View (for you lynxers)

	column 1:	column 2:	
	United States**		
	citizen	alien	
resident	X	X	row 1
nonresident	X		row 2

The validity of The Matrix is supported by a large body of evidence, only a small part of which can be covered effectively in a single book. The IRC is not a good place to begin, because Chapter 1 of that Code imposes a tax on the taxable income of 'individuals', a term which the Code simply does not define. The definitions that do exist are found in Chapter 79 and in other places which are spread around the Code like leaves blowing in the wind. The Code of Federal Regulations (CFR) is a much better place to begin a review of the evidence. The regulations in the CFR are considered to be official publications of the federal government because they are 'judicially noticed' (courts must defer to them) and because they are considered by law to be official supplements to The Federal Register. According to the federal regulations which promulgate the Internal Revenue Code, the liability for federal income tax is imposed on all citizens of the United States** and all residents of the United States**, as follows:

In general, all citizens of the United States**, wherever resident, and all resident alien individuals are liable to the income taxes imposed by the Code whether the income is

received from sources within or without the United States**.
... As to tax on nonresident alien individuals, see
sections 871 and 877.

[26 CFR 1.1-1(b)]

Thus, the regulations impose an income tax on all citizens, whether they are resident or nonresident (column 1 in The Matrix), and on all residents, whether they are citizens or aliens (row 1 in The Matrix). These same regulations define a United States** citizen as someone who is either born or naturalized in the United States** and who is subject to the jurisdiction of the United States**, as follows:

Every person born or naturalized in the United States** and
subject to its jurisdiction is a citizen.

[26 CFR 1.1-1(c)]

The official IRS 'Publications' are another excellent source of evidence which supports the validity of The Matrix. These publications can be obtained by ordering them directly from the Internal Revenue Service. For example, Publication number 519, U.S. Tax Guide for Aliens, begins with the following statements:

Introduction

For tax purposes, an alien is an individual who is not a
U.S.** citizen. Aliens are classified as nonresident aliens
and resident aliens. ...

Clearly, an alien is an individual who is not a U.S.** citizen. Aliens are individuals who were born outside of the federal zone, and who never elected to become U.S.** citizens via naturalization. Publication 519 then explains the difference between a resident alien and a nonresident alien, as follows:

Resident or nonresident?

Resident aliens generally are taxed on their worldwide
income, the same as U.S.** citizens. Nonresident aliens
generally are taxed only on their income from sources within
the United States**. ...

Nonresident aliens are taxed on their U.S.** source income (and on certain foreign source income that is effectively connected with a trade or business in the United States**).

How does one become a 'resident' of the United States**? Remember, as used in the Internal Revenue Code and its regulations, the term 'United States**' means the area over which Congress exercises exclusive legislative jurisdiction, that is, the federal zone. The IRC contains a relatively clear definition of the terms 'resident alien' and 'nonresident alien', as follows:

Definition of Resident Alien and Nonresident Alien. --

(1) In General. -- For purposes of this title (other than subtitle B) --

(A) Resident Alien. -- An alien individual shall be treated as a resident of the United States** with respect to any calendar year if (and only if) such individual meets the requirements of clause (i), (ii), or (iii):

(i) Lawfully Admitted for Permanent Residence.
-- Such individual is a lawful permanent resident of the United States** at any time during such calendar year.

(ii) Substantial Presence Test.
-- Such individual makes the election provided in paragraph (3).

(iii) First Year Election.
-- Such individual makes the election provided in paragraph (4).

(B) Nonresident Alien. -- An individual is a nonresident alien if such individual is neither a citizen of the United States** nor a resident of the United States** (within the meaning of subparagraph (A)).

[IRC 7701(b)]

Being lawfully admitted for permanent residence is also called 'the green card test'. IRS Publication 519 explains the green card test as follows:

You are a resident for tax purposes if you are a lawful permanent resident of the United States** at any time during the calendar year. ... This is known as the 'green card' test. You are a lawful permanent resident of the United States** at any time if you have been given the privilege, according to the immigration laws, of residing permanently in the United States** as an immigrant, and this status has not been taken away and has not been administratively or judicially determined to have been abandoned. You have this status if you have been issued an alien registration card, also known as a 'green card,' by the Immigration and Naturalization Service.

American Citizens who were born free in one of the 50 States of the Union are not required to obtain an alien registration card, because their presence in one of the 50 States is not a privilege; on the contrary, it is an unalienable right which is guaranteed to them by the United States Constitution because they were born free and Sovereign. The Constitution refers to these people as 'natural born Citizens' (2:1:5), 'free Persons' (1:2:3) and 'Citizens of a State' (3:2:1 and 4:2:1). On the basis of this criterion alone, the natural born State Citizen enjoys a significant right which is not enjoyed by a person who must apply for residence as a privilege granted by government. (Throughout this book, the terms 'native American Citizen', 'native-born American Citizen' and 'American Citizen' will be synonymous with 'natural born Citizens' as in 2:1:5 of the Constitution, and with 'State Citizens' as in 3:2:1 and 4:2:1 of the Constitution, to avoid problems that do arise solely from terminology.)

Publication 519 explains the 'substantial presence test' using rules which closely parallel those which are actually found in the Internal Revenue Code:

You will be considered a U.S.** resident for tax purposes if you meet the substantial presence test for the calendar year. To meet this test, you must be physically present in the United States** on at least:

- (1) 31 days during the current year, and
- (2) 183 days during the 3-year period that includes the current year and the 2 years immediately before, counting:
 - all the days you were present in the current

year ... , and

- 1/3 of the days you were present in the first year before the current year ... , and
- 1/6 of the days you were present in the second year before the current year ...

Example. You were physically present in the United States** on 120 days in each of the years 1988, 1989, and 1990. To determine if you meet the substantial presence test for 1990, count the full 120 days of presence in 1990, 40 days in 1989 (1/3 of 120), and 20 days in 1988 (1/6 of 100). Since the total for the 3-year period is 180 days, you are not considered a resident under the substantial presence test for 1990.

An individual may elect to be treated as a resident of the United States**. The rules for making this election are found in the statute (IRC Section 7701(b)(4)) and in the regulations which promulgate this statute (26 CFR 1.871 et seq.). Why anyone would want to do this, without actually residing in the United States**, remains a mystery to me. Many Americans have been duped into believing that electing to be treated as a resident is a 'beneficial' thing to do. Subsequent chapters will discuss the so-called 'benefits' of U.S.** residence and U.S.** citizenship by contrasting revocable privileges and unalienable rights.

At last, we arrive at the definition of 'nonresident alien'. We have taken the long way around the mountain, but it is the only way around the mountain (as it turns out) because Chapter 1 of the Internal Revenue Code imposes the tax on undefined 'individuals'. It is in Chapter 79, near the end of the Code, where it states that an individual is a nonresident alien if such individual is neither a citizen of the United States** nor a resident of the United States**. If you were born outside the federal zone, either as a Sovereign Citizen natural born free in one of the 50 States of the Union, or as a native citizen of a foreign country like France, then you are not automatically a 'citizen of the United States**'. You may, of course, obtain 'U.S.** citizenship' by applying for this 'privilege' with the Immigration and Naturalization Service, even if you are a Sovereign State Citizen. You may also relinquish U.S.** citizenship at will, through a process known as 'expatriation'. If you were born inside the federal zone, then you are automatically a 'citizen of the United States**'. The rules for residency have already been reviewed above.

The validity of The Matrix is also reinforced clearly by a man named Roger Foster who, in the year 1915, wrote a forgotten treatise on the Act of 1913, the year the so-called 16th Amendment was declared ratified. Some people argue that these older materials are not relevant because they do not take into account the changes that have occurred in the statute and its regulations. Although changes have indeed occurred, the relevance of these materials lies in their proximity

in time to the origins of income taxation in America, and to the intent of the original statutes. It is a principle of law that the intent of a statute is always decisive. The following excerpt is taken from A Treatise on the Federal Income Tax under the Act of 1913, by Roger Foster of the New York Bar, published by The Lawyers Co-operative Publishing Company, Rochester, New York, in 1915:

Section 35: Incidence of the tax with respect to persons.

Under [the statute] four possible cases arise. Two are of citizens, with reference to their residence or nonresidence, and two are of aliens, with reference likewise to their residence or nonresidence. There is no question as to the first two, that the whole income of every citizen whether residing at home or abroad is taxed; it is so specifically provided in the act. Similarly, it is expressly provided in the act that every person residing in the United States** shall pay a tax upon all his income, from whatever source derived, which without question includes all resident aliens. Whatever, therefore, the power of Congress may be, its intent is clear, that in case of non-resident aliens the only measure of the tax is income derived within the United States**.

With reference to aliens, therefore, it must be determined whether they are resident in which case they must pay the tax on their whole income; or if not resident whether they own property or carry on a business, trade or profession in the United States**.

In the latter case, they are taxable only with reference to income earned or paid in this country. If they are non-resident and do not derive an income from any source within our territory of course they are not taxable at all.

[pages 153 to 155]

Note, in particular, that Foster makes reference to 'income earned or paid in this country'. You might be sorely tempted to conclude, therefore, that he meant to define the 'United States' to mean the several States of the Union (then 48) in addition to the federal zone. He did not. This question is squarely settled in another section of his treatise, in which he considers the incidence of the tax with respect to territory:

Section 34: Incidence of the tax with respect to territory and places exempted from the same.

The tax ... is levied in Alaska, the District of Columbia, Porto Rico [sic] and the Philippine Islands. ... The Act expressly directs:

'That the word 'State' or 'United States**' when used in this section shall be construed to include any Territory, Alaska, the District of Columbia, Porto Rico, and the Philippine Islands, when such construction is necessary to carry out its provisions.'

Although there might be ground for argument that the phrase 'any Territory' applies to the Hawaiian Islands, it was the evident intention of Congress that the residents of Hawaii, at least when not citizens of the United States**, are exempt from the tax, for the reason that the Legislature of Hawaii has imposed an Income Tax upon all residents of that territory.

[pages 152 to 153]

It is important to appreciate that Roger Foster was considered by many to be a recognized authority on federal law. In addition to his treatise on the Federal Income Tax Act of 1913, he wrote numerous other treatises and articles, including (but not limited to) 'Commentaries on the Constitution of the United States', 'Federal Judiciary Acts', and 'The Federal Income Tax of 1894'. In the published opinion of author John L. Sasscer, Sr., any doubts about Foster's intentions are completely dissolved by his choice of words for the heading to Section 34: incidence of the tax with respect to territory and places exempted from the same:

If the income tax were levied within the states of the union there is no doubt that he would have so stated. The absence of any mention of the states of the union as being 'territory' where the tax is imposed, shows that Mr. Foster recognized the income tax was imposed in those mentioned areas only, all of which were federal territories in 1913.

['Deciphering The Internal Revenue Code: The Keys Revealed']
[by John L. Sasscer, Sr., in Economic Survival, page 27]

In subsequent chapters, a principle of statutory construction is applied to the IRC to show that the inclusion of one thing is equivalent to the exclusion of all other things not explicitly

mentioned. This principle also applies to persons and to places. Laws are constructed in strict obedience to the rules of formal English; one of these formal rules is that a 'noun' is either a person, a place, or a thing. Both Sasser and Foster evidence their keen awareness of these rules. Notice how Foster mentions the incidence of the tax with respect to persons and to places. The States of the Union are not mentioned anywhere among the places where the tax is imposed.

There you have it! Four possible cases arise for natural born persons like you and me. Go back to The Matrix and to the cover of this book. Focus carefully on the lonely cell found at row 2, column 2. You are a nonresident alien if you are not a citizen of the United States** and you are not a resident of the United States**:

The term 'nonresident alien individual' means an individual whose residence is not within the United States**, and who is not a citizen of the United States**.

[26 CFR 1.871-2]

At this point, you may still be wondering if it is indeed correct to use the term 'nonresident alien' to describe Sovereign State Citizens who were born free in one of the 50 States of the Union, and who also live and work in one of the 50 States of the Union. All that remains to prove it correct is to verify the correct legal meaning of the term 'United States**' in the IRC. This proof requires an overview of the several meanings of the terms 'United States' and 'State' as they are defined in the statute itself, in the case law, and elsewhere.

An exhaustive proof is not necessary here because other capable authors have already completed a massive amount of work on this subject. Interested readers are encouraged to review the Bibliography, found in Appendix N, and to obtain copies of the key publications entitled Good-Bye April 15th! by Boston T. Party, Which One Are You? by The Informer, United States Citizen versus National of the United States and A Ticket to Liberty both by Lori Jacques, The Omnibus by Ralph F. Whittington, and Free At Last -- From the IRS by N. A. 'Doc' Scott. Taken as a group, these authors have published a wealth of irrefutable documentation which proves, beyond any doubt, the true meaning of 'nonresident alien' in the federal income tax statutes. Author Ralph Whittington's book is particularly valuable because its appendices contain true and correct copies of key documents like Roger Foster's treatise and selected Acts of Congress.

The following anecdote summarizes nicely many of the key points which we have covered thus far:

Several years ago in a coffee shop while talking with a friend about 'tax matters,' a man in the adjacent booth overheard our conversation and asked to join us. The conversation continued, and centered mainly on IRS abuses. This gentleman seemed particularly knowledgeable about the

subject and we asked him what he did for a living. He told us his name and that he was an attorney with the Tax Division of the Department of Justice in Washington. Naturally, this put us on guard, but he quickly put us at ease by agreeing in large part with the conclusion we had drawn.

Reluctantly, I asked him this question, 'Why are defendants in federal district court always asked if they are 'citizens of the United States'?' He replied without hesitation, 'So we can determine jurisdiction. In many cases the federal court does not have jurisdiction over a citizen unless they testify they are a citizen of the United States -- meaning a federal citizen under the 14th Amendment.'

My friend innocently asked, 'What's a federal citizen?' The attorney replied, 'That's a person who receives benefits or privileges or is an alien that has been admitted as a citizen of the United States.'

I quickly interjected, 'What if the individual denied being a citizen of the United States and claimed to be a sovereign citizen of Oklahoma?' The attorney bowled me over with, 'We don't get jurisdiction.'

He had to catch a plane.

[Freeman Letter, March 1989, page 6, emphasis added]
[as quoted in 'Brief of Law for Zip Code Implications']
[by Walter C. Updegrave, revised March 28, 1992]

The implications of the 14th Amendment are considered in some detail in Chapter 11 and in Appendix Y. For now, it is best to remember that we have in America a government of the United States**, and a government of each of the several States; moreover, each of these governments is distinct from the others, and each has citizens of its own. In parallel with the federal and State governments, there are federal citizens and there are State Citizens. Federal citizens are the same as 'U.S.** citizens' and 'citizens of the United States**'. If you are not a federal citizen, then you are an 'alien' with respect to the federal government. If you get confused, just recall the familiar distinction between State and federal governments, and then remember that each has citizens of its own. For consistency throughout this book, federal citizens will be spelled with a lower-case 'c' and State Citizens will be spelled with an UPPER-CASE 'C'. Happily for us, this convention is strictly obeyed throughout the Internal Revenue Code (IRC) and throughout the Code of Federal Regulations (CFR) which promulgates the IRC.

Summary

The citizen/alien distinction explains the two columns of The Matrix. By definition, you are an alien with respect to the United States** if you are not a citizen of the United States**. The happy result of The Matrix is the legal and logical equation which exists between most State Citizens and nonresident aliens. A citizen of the United States** is the same thing as a federal citizen. Anyone who is not a federal citizen is an 'alien' with respect to the United States**. Therefore, as long as a State Citizen is not also a federal citizen, then such a State Citizen is an 'alien' as that term is defined in the IRC. State Citizens are free to reside wherever they choose, because their right to travel is an unalienable right. However, the term 'resident' has a very specific meaning in the IRC, whether it is used as an adjective or a noun.

The resident/nonresident distinction explains the two rows of The Matrix. An alien can be either a resident alien, or a nonresident alien. There are three and only three criteria to distinguish resident aliens from nonresident aliens: (1) lawful admission for permanent residence (2) substantial presence test and (3) election to be treated as a resident. All three of these criteria depend for their legal meaning upon the statutory definition of 'United States'. Therefore, if State Citizens are 'residents' of the United States** according to these criteria, then they are resident aliens, by definition. If State Citizens are not 'residents' of the United States** according to these criteria, then they are nonresident aliens, by definition. A deliberately confusing statute is clarified considerably by understanding the legal and logical equation which exists between State Citizens and nonresident aliens (like Frank R. Brushaber). They are one and the same thing, to the extent that State Citizens do not reside in the United States** and to the extent that they are not also federal citizens.

The issue of citizenship in America has been complicated a great deal because the federal government recognizes the legal possibility that one can be a federal citizen and a State citizen at the same time. This possibility exists primarily because of Section 1 of the so-called 14th Amendment. This amendment was carefully worded to recognize a dual citizenship, federal and State, but the State citizenship which it recognized was still a second class of citizenship. That is the reason why the term 'citizens' in the 14th Amendment is spelled with a small 'c'. The mountain of litigation that resulted from this amendment is proof that the issue of citizenship has become unnecessarily complicated in America. There is a logical path through this complexity, however, and a subsequent chapter will delineate this path as clearly and as simply as possible (see Chapter 11: Sovereignty). The main obstacles standing in the way of greater clarity are removed entirely by the all important finding that the 14th Amendment was never properly approved and adopted, just like the 16th Amendment.

Chapter 4: The Three United States

In the previous chapter, a handy matrix was developed to organize the key terms which define the concepts of status and jurisdiction as they apply to federal income taxation. In particular, an alien is any individual who is not a United States** citizen. The term "citizen" has a specific meaning in the regulations which promulgate the Internal Revenue Code (IRC):

Every person born or naturalized in the United States and subject to its jurisdiction is a citizen.

[26 CFR 1.1-1(c), emphasis added]

What, then, is meant by the term "United States" and what is meant by the phrase "its jurisdiction"? In this regulation, is the term "United States" a singular phrase, a plural phrase, or is it both? The astute reader has already noticed that an important clue is given by regulations which utilize the phrase "its jurisdiction". The term "United States" in this regulation must be a singular phrase, otherwise the regulation would need to utilize the phrase "their jurisdiction" or "their jurisdictions" to be grammatically correct.

As early as the year 1820, the U.S. Supreme Court was beginning to recognize that the term "United States" could designate either the whole, or a particular portion, of the American empire. In a case which is valuable, not only for its relevance to federal taxation but also for its terse and discrete logic, Chief Justice Marshall exercised his characteristic brilliance in the following passage:

The power, then, to lay and collect duties, imposts, and excises, may be exercised, and must be exercised throughout the United States. Does this term designate the whole, or any particular portion of the American empire? Certainly this question can admit of but one answer. It is the name given to our great republic, which is composed of states and territories. The District of Columbia, or the territory west of the Missouri, is not less within the United States* than Maryland or Pennsylvania

[Loughborough vs Blake, 15 U.S. (5 Wheat.) 317]
[5 L.Ed. 98 (1820), emphasis added]

By 1945, the year of the first nuclear war on planet Earth, the Supreme Court had come to dispute Marshall's singular definition, but most people were too distracted to notice. The high Court confirmed that the term "United States" can and does mean three completely different things, depending on the context:

The term "United States" may be used in any one of several senses. [1] It may be merely the name of a sovereign* occupying the position analogous to that of other sovereigns in the family of nations. [2] It may designate the territory

over which the sovereignty of the United States** extends, or [3] it may be the collective name of the states*** which are united by and under the Constitution.

[Hooven & Allison Co. vs Evatt, 324 U.S. 652 (1945)]
[brackets, numbers and emphasis added]

This same Court authority is cited by Black's Law Dictionary, Sixth Edition, in its definition of "United States":

United States. This term has several meanings. [1] It may be merely the name of a sovereign occupying the position analogous to that of other sovereigns in family of nations, [2] it may designate territory over which sovereignty of United States extends, or [3] it may be collective name of the states which are united by and under the Constitution. Hooven & Allison Co. v. Evatt, U.S. Ohio, 324 U.S. 652, 65 S.Ct. 870, 880, 89 L.Ed. 1252.

[brackets, numbers and emphasis added]

In the first sense, the term "United States*" can refer to the nation, or the American empire, as Justice Marshall called it. The "United States*" is one member of the United Nations. When you are traveling overseas, you would go to the U.S.* embassy for help with passports and the like. In this instance, you would come under the jurisdiction of the President, through his agents in the U.S.* State Department, where "U.S.*" refers to the sovereign nation. The Informer summarizes Citizenship in this "United States*" as follows:

1. I am a Citizen of the United States* like you are a Citizen of China. Here you have defined yourself as a National from a Nation with regard to another Nation. It is perfectly OK to call yourself a "Citizen of the United States*." This is what everybody thinks the tax statutes are inferring. But notice the capital "C" in Citizen and where it is placed. Please go back to basic English.

[Which One Are You?, page 11, emphasis added]

Secondly, the term "United States***" can also refer to "the federal zone", which is a separate nation-state over which the Congress has exclusive legislative jurisdiction. (See Appendix Y for

a brief history describing how this second meaning evolved.) In this sense, the term "United States**" is a singular phrase. It would be proper, for example, to say, "The United States** is ..." or "Its jurisdiction is ..." and so on. The Informer describes citizenship in this United States** as follows:

2. I am a United States** citizen. Here you have defined yourself as a person residing in the District of Columbia, one of its Territories, or Federal enclaves (area within a Union State) or living abroad, which could be in one of the States of the Union or a foreign country. Therefore you are possessed by the entity United States** (Congress) because citizen is small case. Again go back to basic english [sic]. This is the "United States**" the tax statutes are referring to. Unless stated otherwise, such as 26 USC 6103(b)(5).

[Which One Are You?, page 11, emphasis added]

Thirdly, the term "United States***" can refer to the 50 sovereign States which are united under the Constitution for the United States of America. In this third sense, the term "United States***" does not include the federal zone, because the Congress does not have exclusive legislative authority over any of the 50 sovereign States of the Union. In this sense, the term "United States***" is a plural, collective term. It would be proper therefore to say, "These United States***" or "The United States*** are ..." and so on. The Informer completes the trio by describing Citizenship in these "United States***" as follows:

3. I am a Citizen of these United States***. Here you have defined yourself as a Citizen of all the 50 States united by and under the Constitution. You are not possessed by the Congress (United States**). In this way you have a national domicile, not a State or United States** domicile and are not subject to any instrumentality or subdivision of corporate governmental entities.

[Which One Are You?, pages 11-12, emphasis added]

Author and scholar Lori Jacques summarizes these three separate governmental jurisdictions in the same sequence, as follows:

It is noticeable that Possessions of the United States** and sovereign states of the United States*** of America are NOT

joined under the title of "United States." The president represents the sovereign United States* in foreign affairs through treaties, Congress represents the sovereign United States** in Territories and Possessions with Rules and Regulations, and the state citizens are the sovereignty of the United States*** united by and under the Constitution After becoming familiar with these historical facts, it becomes clear that in the Internal Revenue Code, Section 7701(a)(9), the term "United States**" is defined in the second of these senses as stated by the Supreme Court: it designates the territory over which the sovereignty of the United States** extends.

[A Ticket to Liberty, Nov. 1990, pages 22-23]
[emphasis added, italics in original]

It is very important to note the careful use of the word "sovereign" by Chief Justice Stone in the *Hooven* case. Of the three different meanings of "United States" which he articulates, the United States is "sovereign" in only two of those three meanings. This is not a grammatical oversight on the part of Justice Stone. Sovereignty is not a term to be used lightly, or without careful consideration. In fact, it is the foundation for all governmental authority in America, because it is always delegated downwards from the true source of sovereignty, the People themselves. This is the entire basis of our Constitutional Republic. Sovereignty is so very important, an entire chapter of this book is later dedicated to this one subject (see Chapter 11 *infra*).

The federal zone over which the sovereignty of the United States** extends is the District of Columbia, the territories and possessions belonging to Congress, and a limited amount of land within the States of the Union, called federal "enclaves".

The Secretary of the Treasury can only claim exclusive jurisdiction over this federal zone and citizens of this zone. In particular, the federal enclaves within the 50 States can only come under the exclusive jurisdiction of Congress if they consist of land which has been properly "ceded" to Congress by the act of a State Legislature. A good example of a federal enclave is a "ceded" military base. The authority to exercise exclusive legislative jurisdiction over the District of Columbia and the federal enclaves originates in Article 1, Section 8, Clause 17 (1:8:17) of the U.S. Constitution. By virtue of the exclusive authority that is vested in Congress by this clause, Congress shall have the power:

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United

States**, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;

[Constitution for the United States of America]
[Article 1, Section 8, Clause 17]
[emphasis added]

The power of Congress to exercise exclusive legislative authority over its territories and possessions, as distinct from the District of Columbia and the federal enclaves, is given by a different authority in the U.S. Constitution. This authority is Article 4, Section 3, Clause 2 (4:3:2), as follows:

The Congress shall have Power to dispose of and make all needed Rules and Regulations respecting the Territory or other Property belonging to the United States**;

[Constitution for the United States of America]
[Article 4, Section 3, Clause 2]
[emphasis added]

Within these areas, it is essential to understand that the Congress is not subject to the same constitutional limitations which restrict its power in the areas of land over which the 50 States exercise their respective sovereign authorities:

... [T]he United States** may acquire territory by conquest or by treaty, and may govern it through the exercise of the power of Congress conferred by Section 3 of Article IV of the Constitution In exercising this power, Congress is not subject to the same constitutional limitations, as when it is legislating for the United States***. ... And in general the guaranties [sic] of the Constitution, save as they are limitations upon the exercise of executive and legislative power when exerted for or over our insular possessions, extend to them only as Congress, in the exercise of its legislative power over territory belonging to the United States**, has made those guaranties [sic] applicable.

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

In other words, the guarantees of the Constitution extend to the federal zone only as Congress makes those guarantees applicable, either to the territory or to the citizens of that zone, or both. Remember, this is the same Hooven case which officially defined three separate and distinct meanings of the term "United States". The Supreme Court ruled that this case would be the last time it would address official definitions of the term "United States". Therefore, the Hooven case must be judicially noticed by the entire American legal community. See Appendix W for other rulings and for citations to important essays published in the Harvard Law Review on the controversy that surrounds the meaning of "United States" even today. In particular, author Langdell's article "The Status of Our New Territories" is a key historical footing for the three Hooven definitions. To avoid confusion, be careful to note that Langdell arranges the three "United States" in a sequence that is different from that of Hooven:

Thirdly. -- ... [T]he term "United States" has often been used to designate all territory over which the sovereignty of the United States** extended. [a tautology]

The conclusion, therefore, is that, while the term "United States" has three meanings, only the first and second of these are known to the Constitution; and that is equivalent to saying that the Constitution of the United States*** as such does not extend beyond the limits of the States which are united by and under it, -- a proposition the truth of which will, it is believed, be placed beyond doubt by an examination of the instances in which the term "United States" is used in the Constitution.

[Langdell, "The Status of Our New Territories"]
[12 Harvard Law Review 365, 371, emphasis added]

Note carefully that Langdell's third definition and Hooven's second definition both exhibit subtle tautologies, that is, they use the word they are defining in the definitions of the word defined. A careful reading of his article reveals that Langdell's third definition of "United States" actually implies the whole American "empire", namely, the States and the federal zone combined, making it identical to Justice Marshall's definition (see above). Therefore, because it contains a provable tautology, the second Hooven definition is clearly ambiguous too; it can be interpreted in at least two completely different ways: (1) as the federal zone only, or (2) as the 50 States and the federal zone combined (i.e., the whole "empire").

So now, what is "sovereignty" in this context? The definitive solution to this nagging

ambiguity is found in the constitutional meaning of the word "exclusive". Strictly speaking, the federal government is "sovereign" over the 50 States only when it exercises one of a very limited set of powers enumerated for it in Article 1, Section 8 of the Constitution. In this sense, the federal government does NOT exercise exclusive jurisdiction inside the 50 States of the Union; it does, however, exercise exclusive jurisdiction inside the federal zone. This exclusive authority originates from 1:8:17 and 4:3:2 in the U.S. Constitution, as quoted above. Now, apply sections 1:8:17 and 4:3:2 to the jurisdictional claims of the Secretary of the Treasury for the "internal" revenue laws, as follows:

The term "United States**" when used in a geographical sense includes any territory under the sovereignty of the United States**. It includes the states, the District of Columbia, the possessions and territories of the United States**, the territorial waters of the United States**, the air space over the United States**, and the seabed and subsoil of those submarine areas which are adjacent to the territorial waters of the United States** and over which the United States** has exclusive rights, in accordance with international law, with respect to the exploration and exploitation of natural resources.

[26 CFR 1.911-2(g), emphasis added]

[note the tautology again]

Here's the tautology, in case you missed it:

"United States" includes any territory under the sovereignty of the United States and over which the United States has exclusive rights.

This is very much like saying:

A potato is a plant that grows in a potato field.

[Speech of Vice President Dan Quayle]

[1992 Campaign Spelling Bee]

Notice also the singular form of the phrase "the United States** has ..."; notice also the pivotal term "exclusive rights". When this regulation says that the jurisdiction "includes the States", it cannot mean all the land areas enclosed within the boundaries of the 50 States, because Congress does not have exclusive jurisdiction over the 50 States. Within the 50 States, Congress only has exclusive jurisdiction over the federal enclaves inside the boundaries of the 50 States. These enclaves must have been officially "ceded" to Congress by an explicit act of the State Legislatures involved. Without a clear act of "cession" by one of the State legislatures, the 50

States retain their own exclusive, sovereign jurisdiction inside their borders, and Congress cannot lawfully take any of their own sovereign jurisdiction away from the States. This separation of powers is one of the key reasons why we have a "federal government" as opposed to a "national government"; its powers are limited to the set specifically enumerated for it by the Constitution.

Technically speaking, the 50 States are "foreign countries" with respect to each other and with respect to the federal zone. A key authority on this question is the case of *Hanley vs Donoghue*, in which the U.S. Supreme Court defined separate bodies of State law as being "foreign" with respect to each other:

No court is to be charged with the knowledge of foreign laws; but they are well understood to be facts which must, like other facts, be proved before they can be received in a court of justice. [cites omitted] It is equally well settled that the several states of the Union are to be considered as in this respect foreign to each other, and that the courts of one state are not presumed to know, and therefore not bound to take judicial notice of, the laws of another state.

[*Hanley vs Donoghue*, 116 U.S. 1, 29 L. Ed. 535]
[6 S.Ct. 242, 244 (1885), emphasis added]

Another key Supreme Court authority on this question is the case of *In re Merriam's Estate*, 36 NE 505 (1894). Before you get the idea that this meaning of "foreign" is now totally antiquated, consider the current edition of *Black's Law Dictionary*, Sixth Edition, which defines "foreign state" very clearly, as follows:

The several United States*** are considered "foreign" to each other except as regards their relations as common members of the Union. ... The term "foreign nations," as used in a statement of the rule that the laws of foreign nations should be proved in a certain manner, should be construed to mean all nations and states other than that in which the action is brought; and hence one state of the Union is foreign to another, in the sense of that rule.

[emphasis added]

And a recent federal statute proves that Congress still refers to the 50 States as "countries". When a State court in Alaska needed a federal judge to handle a case overload, Congress

amended Title 28 to make that possible. In its reference to the 50 States, the statute is titled the "Assignment of Judges to courts of the freely associated compact states". Then, Congress refers to these freely associated compact states as "countries":

(b) The Congress consents to the acceptance and retention by any judge so authorized of reimbursement from the countries referred to in subsection (a) [!!!]

[28 U.S.C. 297, 11/19/88, emphasis added]

Indeed, international law is divided roughly into two groups: (1) public international law and (2) private international law. As it turns out, citizenship is a term of private international law (also known as municipal law) in which the terms "state", "nation" and "country" are all synonymous:

Private international law assumes a more important aspect in the United States than elsewhere, for the reason that the several states, although united under the same sovereign authority and governed by the same laws for all national purposes embraced by the Federal Constitution, are otherwise, at least so far as private international law is concerned, in the same relation as foreign countries. The great majority of questions of private international law are therefore subject to the same rules when they arise between two states of the Union as when they arise between two foreign countries, and in the ensuing pages the words "state," "nation," and "country" are used synonymously and interchangeably, there being no intention to distinguish between the several states of the Union and foreign countries by the use of varying terminology.

[16 Am Jur 2d, Conflict of Laws, Sec. 2, emphasis added]

This foreign relationship between the 50 States and the federal zone is also recognized in the definition of a "foreign country" that is found in the Instructions for Form 2555, entitled "Foreign Earned Income", as follows:

Foreign Country. A foreign country is any territory (including the air space, territorial waters, seabed, and subsoil) under the sovereignty of a government other than

the United States**. It does not include U.S.** possessions or territories.

[Instructions for Form 2555: Foreign Earned Income]
[Department of the Treasury, Internal Revenue Service]
[emphasis added]

Notice that a "foreign country" does NOT include U.S.** possessions or territories. U.S.** possessions and territories are not "foreign" with respect to the federal zone; they are "domestic" with respect to the federal zone because they are inside the federal zone. This relationship is also confirmed by the Treasury Secretary's official definition of a "foreign country" that is published in the Code of Federal Regulations:

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**. It includes the territorial waters of the foreign country (determined in accordance with the laws of the United States**), the air space over the foreign country, and the seabed and subsoil of those submarine areas which are adjacent to the territorial waters of the foreign country and over which the foreign country has exclusive rights, in accordance with international law, with respect to the exploration and exploitation of natural resources.

[26 CFR 1.911-2(h), emphasis added]
[note the subtle tautology again]

If this regulation were to be interpreted any other way, except that which is permitted by the U.S. Constitution, then the sovereign jurisdiction of the federal government would stand in direct opposition to the sovereign jurisdiction of the 50 States of the Union. In other words, such an interpretation would be reduced to absurd consequences (in Latin, *reductio ad absurdum*). Sovereignty is the key. It is indivisible. There cannot be two sovereign governmental authorities over any one area of land. Sovereignty is the authority to which there is politically no superior. Sovereignty is vested in one or the other sovereign entity, such as a governmental body or a natural born Person (like you and me).

This issue of jurisdiction as it relates to Sovereignty is a major key to understanding our system under our Constitution.

[The Omnibus, Addendum II, page 11]

In reviewing numerous acts of Congress, author and scholar Lori Jacques has come to the inescapable conclusion that there are at least two classes of citizenship in America: one for persons born outside the territorial jurisdiction of the United States**, and one for persons born inside the territorial jurisdiction of the United States**. This territorial jurisdiction is the area of land over which the United States** is sovereign and over which it exercises exclusive legislative jurisdiction, as stated in the Hooven case and the many others which have preceded it, and followed it:

When reading the various acts of Congress which had declared various people to be "citizens of the United States", it is immediately apparent that many are simply declared "citizens of the United States***" while others are declared to be "citizens of the United States**, subject to the jurisdiction of the United States**." The difference is that the first class of citizen arises when that person is born out of the territorial jurisdiction of the United States** Government. 3A Am Jur 1420, Aliens and Citizens, explains: "A Person is born subject to the jurisdiction of the United States**, for purposes of acquiring citizenship at birth, if his birth occurs in territory over which the United States** is sovereign ..." [!]

[A Ticket to Liberty, Nov. 1990, page 32]
[emphasis added]

The above quotation from American Jurisprudence is a key that has definitive importance in the context of sovereignty (see discussion of "The Key" in Appendix P). Note the pivotal word "sovereign", which controls the entire meaning of this passage. A person is born "subject to its jurisdiction", as opposed to "their jurisdictions", if his birth occurs in territory over which the "United States**" is sovereign. Therefore, a person is born subject to the jurisdiction of the "United States**" if his birth occurs inside the federal zone. Conversely, a natural born person is born a Sovereign if his birth occurs outside the federal zone and inside the 50 States. This is *ius soli*, the law of the soil, whereby citizenship is usually determined by laws governing the soil on which one is born.

Sovereignty is a principle that is so important and fundamental, a subsequent chapter of this book is dedicated entirely to discussing its separate implications for political authorities and for sovereign individuals. It is also important to keep the concept of sovereignty uppermost in your thoughts, where it belongs, as we begin our descent into the dense jungle called statutory construction. (This is your Captain speaking.) So, fasten your seat belts. The Hooven decision sets the stage for a critical examination of key definitions that are found in the IRC itself.

One of the many statutory definitions of the term "United States" is found in chapter 79 of the IRC, where the definitions are located:

When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof-- ...

(9) United States. -- The term "United States" when used in a geographical sense includes only the States and the District of Columbia.

[<http://www.law.cornell.edu/uscode/26/7701.html>]">IRC

7701(a)(9)]

[emphasis added]

Setting aside for the moment the intended meaning of the phrase "in a geographical sense", it is obvious that the District of Columbia and the "States" are essential components in the IRC definition of the "United States". There is no debate about the meaning of "the District of Columbia", but what are "the States"? The same question can be asked about a different definition of "United States" that is found in another section of the IRC:

For purposes of this chapter --

(2) United States. -- The term "United States" when used in a geographical sense includes the States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

[IRC 3306(j)(2), emphasis added]

Again, there is no apparent debate about the meanings of the terms "the Commonwealth of Puerto Rico" and "the Virgin Islands". But what are "the States"? Are they the 50 States of the Union? Are they the federal states which together constitute the federal zone? Determining the correct meaning of "the States" is therefore pivotal to understanding the statutory definition of "United States" in the Internal Revenue Code. The next chapter explores this question in some detail.

In addition to keeping sovereignty uppermost in your thoughts, keep your eyes fixed on the broad expanse of the dense jungle you are about to enter. This jungle was planted and watered by a political body with a dual, or split personality. On the one hand, Congress is empowered to enact public laws for the 50 States, subject to certain written restrictions. On the other hand, it is also empowered to enact "municipal" statutes for the federal zone, subject to a different set of restrictions. Therefore, think of Congress as "City Hall" for the federal zone. In 1820, Justice

Marshall described it this way:

... [Counsel] has contended, that Congress must be considered in two distinct characters. In one character as legislating for the states; in the other, as a local legislature for the district [of Columbia]. In the latter character, it is admitted, the power of levying direct taxes may be exercised; but, it is contended, for district purposes only, in like manner as the legislature of a state may tax the people of a state for state purposes. Without inquiring at present into the soundness of this distinction, its possible influence on the application in this district of the first article of the constitution, and of several of the amendments, may not be altogether unworthy of consideration.

[Loughborough vs Blake, 15 U.S. (5 Wheat.) 317]
[5 L.Ed. 98 (1820), emphasis added]

The problem thus becomes one of deciding which of these "two distinct characters" is doing the talking. The language used to express the meaning of "States" in the IRC is arguably the best place to undertake a careful diagnosis of this split personality. (Therapy comes later.)

Chapter 5: What State Are You In?

Answer: Mostly liquid, some solid, and occasional gas!

This answer is only partially facetious. In something as important as a Congressional statute, one would think that key terms like "State" would be defined so clearly as to leave no doubt about their meaning. Alas, this is not the case in the Internal Revenue Code (IRC) brought to you by Congress. The term "State" has been deliberately defined so as to confuse the casual reader into believing that it means one of the 50 States of the Union, even though it doesn't say "50 States" in so many words. For the sake of comparison, we begin by crafting a definition which is deliberately designed to create absolutely no doubt or ambiguity about its meaning:

For the sole purpose of establishing a benchmark of clarity, the term "State" means any one of the 50 States of the Union, the District of Columbia, the territories and possessions belonging to the Congress, and the federal enclaves lawfully ceded to the Congress by any of the 50 States of the Union.

Now, compare this benchmark with the various definitions of the word "State" that are found in Black's Law Dictionary and in the Internal Revenue Code. Black's is a good place to start, because it clearly defines two different kinds of "states". The first kind defines a member of the Union, i.e., one of the 50 States which are united by and under the Constitution:

The section of territory occupied by one of the United States***. One of the component commonwealths or states of the United States of America.

[emphasis added]

The second kind defines a federal state, which is entirely different from a member of the Union:

Any state of the United States**, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States. Uniform Probate Code, Section 1-201(40).

[emphasis added]

Notice carefully that a member of the Union is not defined as being "subject to the legislative authority of the United States". Also, be aware that there are also several different definitions of "State" in the IRC, depending on the context. One of the most important of these is found in a chapter specifically dedicated to providing definitions, that is, Chapter 79 (not exactly the front of the book). In this chapter of definitions, we find the following:

When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof-- ...

(10) State. -- The term "State" shall be construed to include the District of Columbia, where such construction is necessary to carry out provisions of this title.

[IRC 7701(a)(10)]

[emphasis added]

Already, it is obvious that this definition leaves much to be debated because it is ambiguous

and it is not nearly as clear as our "established benchmark of clarity" (which will be engraved in marble a week from Tuesday). Does the definition restrict the term "State" to mean only the District of Columbia? Or does it expand the term "State" to mean the District of Columbia in addition to the 50 States of the Union? And how do we decide?

Even some harsh critics of federal income taxes, like Otto Skinner, have argued that ambiguities like this are best resolved by interpreting the word "include" in an expansive sense, rather than a restrictive sense. To support his argument, Skinner cites the definitions of "includes" and "including" that are actually found in the Internal Revenue Code:

Includes and Including. -- The terms "includes" and "including" when used in a definition contained in this title shall not be deemed to exclude other things otherwise within the meaning of the term defined.

[IRC 7701(c)]
[emphasis added]

Skinner reasons that the Internal Revenue Code provides for an expanded definition of the term "includes" when used in other definitions contained in that Code. Using his logic, then, the definition of "State" at IRC Sec. 7701(a)(10) must be interpreted to mean the District of Columbia, in addition to other things. But what other things? Are the 50 States to be included also? What about the territories and possessions? And what about the federal enclaves ceded to Congress by the 50 States? If the definition itself does not specify any of these things, then where, pray tell, are these other things "distinctly expressed" in the Code? If these other things are distinctly expressed elsewhere in the Code, is their expression in the Code manifestly compatible with the intent of that Code? Should we include also a state of confusion to our understanding of the statute?

Quite apart from the meaning of "includes" and "including", defining the term "include" in an expansive sense leads to an absurd result that is manifestly incompatible with the Constitution. If the expansion results in defining the term "State" to mean the District of Columbia in addition to the 50 States of the Union, then these 50 States must be situated within the federal zone. Remember, the federal zone is the area of land over which the Congress has unrestricted, exclusive legislative jurisdiction. But, the Congress does not have unrestricted, exclusive legislative jurisdiction over any of the 50 States. It is bound by the chains of the Constitution in this other zone, to paraphrase Thomas Jefferson. Specifically, Congress is required to apportion direct taxes which it levies within the 50 States. This is a key limitation on the power of Congress. It has never been explicitly repealed (as Prohibition was repealed).

Unlike the Brushaber case, other federal cases can be cited to support the conclusions that taxes on income are direct taxes, and that the 16th Amendment actually removed this apportionment rule from direct taxes laid on "income". Sorry, but the Supreme Court is not always consistent in this area, and the Appellate Courts are even less consistent. These other

cases are highly significant, if only because they provide essential evidence of other attempts by federal courts to isolate the exact effects of a ratified 16th Amendment. The following ruling by the Sixth Circuit Court of Appeals is unique, among all the relevant federal cases, for its clarity and conciseness on this question:

The constitutional limitation upon direct taxation was modified by the Sixteenth Amendment insofar as taxation of income was concerned, but the amendment was restricted to income, leaving in effect the limitation upon direct taxation of principal.

[Richardson vs United States, 294 F.2d 593, 596 (1961)]
[emphasis added]

The constitutional limitation upon direct taxes is apportionment. It is not difficult to find Supreme Court decisions which arrived at the very same conclusion about the 16th Amendment, long before the Richardson case:

... [I]t does not extend the taxing power to new or excepted subjects, but merely removed all occasion, which otherwise might exist, for an apportionment among the states of taxes laid on income, whether it be derived from one source or another.

[Peck & Co. vs Lowe, 247 U.S. 165 (1918)]
[emphasis added]

And, in what is arguably one of the most significant Supreme Court decisions to define the precise meaning of "income", the Eisner Court simply paraphrased the Peck decision when it attributed the exact same effect to the 16th Amendment, namely, income taxes had become direct taxes relieved of apportionment:

As repeatedly held, this did not extend the taxing power to new subjects, but merely removed the necessity which otherwise might exist for an apportionment among the States of taxes laid on income. ...

A proper regard for its genesis, as well as its very clear language, requires also that this Amendment shall not be extended by loose construction, so as to repeal or modify,

except as applied to income, those provisions of the Constitution that require an apportionment according to population for direct taxes upon property, real and personal.

[Eisner vs Macomber, 252 U.S. 189, 205-206 (1919)]
[emphasis added]

Contrary to statements about it in the Brushaber decision, the earlier Pollock case, without any doubt, defined income taxes as direct taxes. It also overturned an Act of Congress precisely because that Act levied a direct tax without apportionment:

First. We adhere to the opinion already announced, that, taxes on real estate being indisputably direct taxes, taxes on the rents or income of real estate are equally direct taxes.

Second. We are of the opinion that taxes on personal property, or on the income of personal property, are likewise direct taxes.

[Pollock vs Farmers' Loan & Trust Co.]
[158 U.S. 601 (1895), emphasis added]

Another Supreme Court decision is worthy of note, not only because it appears to attribute the exact same effect to the 16th Amendment, but also because it fails to clarify which meaning of the term "United States" is being used:

No doubt is suggested (the former requirement of apportionment having been removed by constitutional amendment) as to the power of Congress thus to impose taxes upon incomes produced within the borders of the United States [?] or arising from sources located therein, even though the income accrues to a non-resident alien.

[Shaffer vs Carter, 252 U.S. 37]
[emphasis and question mark added]

In the Shaffer decision, it is obvious that Justice Pitney again attributed the same effect to the 16th Amendment. However, if he defined "United States" to mean the federal zone, then he must

have believed that Congress also had to apportion direct taxes within that zone before the 16th Amendment was "declared" ratified. Such a belief contradicts the exclusive legislative authority which Congress exercises over the federal zone:

In exercising this power [to make all needful rules and regulations respecting territory or other property belonging to the United States**], Congress is not subject to the same constitutional limitations, as when it is legislating for the United States***.

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

On the other hand, if Justice Pitney defined "United States" to mean the several States of the Union, he as much admits that the Constitution needed amending to authorize an unapportioned direct tax on income produced or arising from sources within the borders of those States. Unfortunately for us, Justice Pitney did not clearly specify which meaning he was using, and we are stuck trying to make sense of Supreme Court decisions which contradict each other. For example, compare the rulings in Peck, Eisner, Pollock and Shaffer (as quoted above) with the rulings in Brushaber and Stanton vs Baltic Mining Co., and also with the ruling In re Becraft (a recent Appellate case). To illustrate, the Stanton court ruled as follows:

... [T]he Sixteenth Amendment conferred no new power of taxation but simply prohibited the previous complete and plenary power of income taxation possessed by Congress from the beginning from being taken out of the category of indirect taxation to which it inherently belonged

[Stanton vs Baltic Mining Company, 240 U.S. 103 (1916)]
[emphasis added]

Now, contrast the Stanton decision with a relatively recent decision of the Ninth Circuit Court of Appeals in San Francisco. In re Becraft is classic because that Court sanctioned a seasoned defense attorney \$2,500 for raising issues which the Court called "patently absurd and frivolous", sending a strong message to any licensed attorney who gets too close to breaking the "Code". First, the Court reduced attorney Lowell Becraft's position to "one elemental proposition", namely, that the 16th Amendment does not authorize a direct non-apportioned income tax on resident United States** citizens and thus such citizens are not subject to the federal income tax laws. Then the 9th Circuit dispatched Becraft's entire argument with exemplary double-talk, as follows:

For over 75 years, the Supreme Court and the lower federal courts have both implicitly and explicitly recognized the Sixteenth Amendment's authorization of a non-apportioned direct income tax on United States** citizens residing in the United States*** and thus the validity of the federal income tax laws as applied to such citizens. See, e.g., Brushaber [M]uch of Becraft's reply is also devoted to a discussion of the limitations of federal jurisdiction to United States** territories and the District of Columbia and thus the inapplicability of the federal income tax laws to a resident of one of the states*** [from footnote 2].

[In re Becraft, 885 F.2d 547, 548 (1989), emphasis added]

Here, the 9th Circuit credits the 16th Amendment with authorizing a non-apportioned direct tax, completely contrary to Brushaber. Then the term "United States" is used two different ways in the same sentence; we know this to be true because a footnote refers to "one of the [50] states". The Court also uses the term "resident" to mean something different from the statutory meaning of "resident" and "nonresident", thus exposing another key facet of their fraud (see Chapter 3). Be sure to recognize what's missing here, namely, any mention whatsoever of State Citizens.

For the lay person, doing this type of comparison is a daunting if not impossible task, and demonstrates yet another reason why federal tax law should be nullified for vagueness, if nothing else. If Appellate and Supreme Court judges cannot be clear and consistent on something as fundamental as a constitutional amendment, then nobody can. And their titles are Justice. Are you in the State of Confusion yet?

When it comes to federal income taxes, we are thus forced to admit the existence of separate groups of Supreme Court decisions that flatly contradict each other. One group puts income taxes into the class of indirect taxes; another group puts them into the class of direct taxes. One group argues that a ratified 16th Amendment did not change or repeal any other clause of the Constitution; another group argues that it relieved income taxes from the apportionment rule. Even experts disagree. To illustrate the range of disagreement on such fundamental constitutional issues, consider once again the conclusion of legal scholar Vern Holland, quoted in a previous chapter:

[T]he Sixteenth Amendment did not amend the Constitution. The United States Supreme Court by unanimous decisions determined that the amendment did not grant any new powers of taxation; that a direct tax cannot be relieved from the constitutional mandate of apportionment; and the only

effect of the amendment was to overturn the theory advanced in the Pollock case which held that a tax on income, was in legal effect, a tax on the sources of the income.

[The Law That Always Was, page 220, emphasis added]

Now consider an opposing view of another competent scholar. After much research and much litigation, author and attorney Jeffrey A. Dickstein offers the following concise clarification:

A tax imposed on all of a person's annual gross receipts is a direct tax on personal property that must be apportioned. A tax imposed on the "income" derived from those gross receipts is also a direct tax on property, but as a result of the Sixteenth Amendment, Congress no longer has to enact legislation calling for the apportionment of a tax on that income.

[Judicial Tyranny and Your Income Tax, pages 60-61]

Recall now that 17,000 State-certified documents have been assembled to prove that the 16th Amendment was never ratified. As a consistent group, the Pollock, Peck, Eisner and Richardson decisions leave absolutely no doubt about the consequences of the failed ratification: the necessity still exists for an apportionment among the 50 States of all direct taxes, and income taxes are direct taxes. Using common sense as our guide, an expansive definition of "include" results in defining the term "State" to mean the District of Columbia in addition to the 50 States. This expansive definition puts the 50 States inside the federal zone, where Congress has no restrictions on its exclusive legislative jurisdiction. But, just a few sentences back, we proved that the rule of apportionment still restrains Congress inside the 50 States. This is an absurd result: it is not possible for the restriction to exist, and not exist, at the same time, in the same place, for the same group of people, for the same laws, within the same jurisdiction. Congress cannot have its cake and eat it too, as much as it would like to! Absurd results are manifestly incompatible with the intent of the IRC (or so I am told).

Other problems arise from Skinner's reasoning. First of all, like so much of the IRC, the definitions of "includes" and "including" are outright deceptions in their own right. A grammatical approach can be used to demonstrate that these definitions are thinly disguised tautologies. Note, in particular, where the Code states that these terms "shall not be deemed to exclude other things". This is a double negative. Two negatives make a positive. This phrase, then, is equivalent to saying that the terms "shall be deemed to include other things". Continuing with this line of reasoning, the definition of "includes" includes "include", resulting in an obvious tautology. (I just couldn't resist.) Forgive them, for they know not what they do.

The definitions of "includes" and "including" can now be rewritten so as to "include other

things otherwise within the meaning of the term defined". So, what things are otherwise within the meaning of the term "State", if those things are not distinctly expressed in the original definition? You may be dying to put the 50 States of the Union among those things that are "otherwise within the meaning of the term", but you are using common sense. The Internal Revenue Code was not written with common sense in mind; it was written with deception in mind. The rules of statutory construction apply a completely different standard. Author Ralph Whittington has this to say about the special definitions that are exploited by lawyers and lawmakers:

The Legislature means what it says. If the definition section states that whenever the term "white" is used (within that particular section or the entire code), the term includes "black," it means that "white" is "black" and you are not allowed to make additions or deletions at your convenience. You must follow the directions of the Legislature, NO MORE -- NO LESS.

[Omnibus, Addendum II, p. 2]

Unfortunately for Otto Skinner and others who try valiantly to argue the expansive meaning of "includes" and "including", Treasury Decision No. 3980, Vol. 29, January-December 1927, and some 80 court cases have adopted the restrictive meaning of these terms:

The supreme Court of the State ... also considered that the word "including" was used as a word of enlargement, the learned court being of the opinion that such was its ordinary sense. With this we cannot concur. It is its exceptional sense, as the dictionaries and cases indicate.

[Montello Salt Co. vs State of Utah, 221 U.S. 452 (1911)]
[emphasis added]

An historical approach yields similar results. Without tracing the myriad of income tax statutes which Congress has enacted over the years, it is instructive to examine the terminology found in a revenue statute from the Civil War era. The definition of "State" is almost identical to the one quoted from the current IRC at the start of this chapter. On June 30, 1864, Congress enacted legislation which contained the following definition:

The word "State," when used in this Title, shall be construed to include the Territories and the District of

Columbia, where such construction is necessary to carry out its provisions.

[Title 35, Internal Revenue, Chapter 1, page 601]

[Revised Statutes of the United States**]

[43rd Congress, 1st Session, 1873-74]

Aside from adding "the Territories", the two definitions are nearly identical. The Territories at this point in time were Washington, Utah, Dakota, Nebraska, Colorado, New Mexico, and the Indian Territory.

One of the most fruitful and conclusive methods for establishing the meaning of the term "State" in the IRC is to trace the history of changes to the United States Codes which occurred when Alaska and Hawaii were admitted to the Union. Because other authors have already done an exhaustive job on this history, there is no point in re-inventing their wheels here. It is instructive to illustrate these Code changes as they occurred in the IRC definition of "State" found at the start of this chapter. The first Code amendment became effective on January 3, 1959, when Alaska was admitted to the Union:

Amended 1954 Code Sec. 7701(a)(10) by striking out "Territories", and by substituting "Territory of Hawaii".

[IRC 7701(a)(10)]

The second Code amendment became effective on August 21, 1959, when Hawaii was admitted to the Union:

Amended 1954 Code Sec. 7701(a)(10) by striking out "the Territory of Hawaii and" immediately after the word "include".

[IRC 7701(a)(10)]

Applying these code changes in reverse order, we can reconstruct the IRC definitions of "State" by using any word processor and simple "textual substitution" as follows:

Time 1: Alaska is a U.S.** Territory

Hawaii is a U.S.** Territory

7701(a)(10): The term "State" shall be construed to include the Territories and the District of Columbia, where such construction is necessary to carry out provisions of this title.

Alaska joins the Union. Strike out "Territories" and substitute "Territory of Hawaii":

Time 2: Alaska is a State of the Union
Hawaii is a U.S.** Territory

7701(a)(10): The term "State" shall be construed to include the Territory of Hawaii and the District of Columbia, where such construction is necessary to carry out provisions of this title.

Hawaii joins the Union. Strike out "the Territory of Hawaii and" immediately after the word "include":

Time 3: Alaska is a State of the Union
Hawaii is a State of the Union

7701(a)(10): The term "State" shall be construed to include the District of Columbia, where such construction is necessary to carry out provisions of this title.

Author Lori Jacques has therefore concluded that the term "State" now includes only the District of Columbia, because the former Territories of Alaska and Hawaii have been admitted to the Union, Puerto Rico has been granted the status of a Commonwealth, and the Philippine Islands have been granted their independence (see United States Citizen versus National of the United States, page 9, paragraph 5). It is easy to see how author Lori Jacques could have overlooked the following reference to Puerto Rico, found in the IRC itself:

Commonwealth of Puerto Rico. -- Where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, references in this title to possessions of the United States** shall be treated as also referring to the Commonwealth of Puerto Rico.

[IRC 7701(d)]

In order to conform to the requirements of the Social Security scheme, a completely different definition of "State" is found in the those sections of the IRC that deal with Social Security. This definition was also amended on separate occasions when Alaska and Hawaii were admitted to the Union. The first Code amendment became effective on January 3, 1959, when Alaska was admitted:

Amended 1954 Code Sec. 3121(e)(1), as it appears in the amendment note for P.L. 86-778, by striking out "Alaska," where it appeared following "includes".

[IRC 3121(e)(1)]

The second Code amendment became effective on August 21, 1959, when Hawaii was admitted:

Amended 1954 Code Sec. 3121(e)(1), as it appears in the amendment note for P.L. 86-778, by striking out "Hawaii," where it appeared following "includes".

[IRC 3121(e)(1)]

Applying these code changes in reverse order, we can reconstruct the definitions of "State" in this Section of the IRC as follows:

Time 1: Alaska is a U.S.** Territory
Hawaii is a U.S.** Territory

3121(e)(1): The term "State" includes Alaska, Hawaii, the District of Columbia, Puerto Rico, and the Virgin Islands.

Alaska joins the Union. Strike out "Alaska," where it appeared following "includes":

Time 2: Alaska is a State of the Union

Hawaii is a U.S.** Territory

3121(e)(1): The term "State" includes Hawaii, the District of Columbia, Puerto Rico, and the Virgin Islands.

Hawaii joins the Union. Strike out "Hawaii," where it appeared following "includes":

Time 3: Alaska is a State of the Union
Hawaii is a State of the Union

3121(e)(1): The term "State" includes the District of Columbia, Puerto Rico, and the Virgin Islands.

Puerto Rico becomes a Commonwealth. For services performed after 1960, Guam and American Samoa are added to the definition:

Time 4: Puerto Rico becomes a Commonwealth
Guam and American Samoa join Social Security

3121(e)(1): The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

Notice carefully how Alaska and Hawaii only fit these definitions of "State" before they joined the Union. It is most revealing that these Territories became States when they were admitted to the Union, and yet the United States Codes had to be changed because Alaska and Hawaii were defined in those Codes as "States" before admission to the Union, but not afterwards. This apparent anomaly is perfectly clear, once the legal and deliberately misleading definition of "State" is understood. The precise history of changes to the Internal Revenue Code is detailed in Appendix B of this book. The changes made to the United States Codes when Alaska joined the Union were assembled in the Alaska Omnibus Act. The changes made to the federal Codes when Hawaii joined the Union were assembled in the Hawaii Omnibus Act. The following table summarizes the sections of the IRC that were affected by these two Acts:

IRC Section	Alaska	Hawaii
changed:	joins:	joins:
-----	-----	-----

2202	X	X
3121(e)(1)	X	X
3306(j)	X	X
4221(d)(4)	X	X
4233(b)	X	X
4262(c)(1)	X	X
4502(5)	X	X
4774	X	X
7621(b)	X	(-- Note
7653(d)	X	X
7701(a)(9)	X	X
7701(a)(10)	X	X

Section 7621(b) sticks out like a sore thumb when the changes are arrayed in this fashion. The Alaska Omnibus Act modified this section of the IRC, but the Hawaii Omnibus Act did not. Let's take a close look at this section and see if it reveals any important clues:

Sec. 7621. Internal Revenue Districts.

(a) Establishment and Alteration. -- The President shall establish convenient internal revenue districts for the purpose of administering the internal revenue laws. The President may from time to time alter such districts.

[IRC 7621(a)]

Now witness the chronology of amendments to IRC Section 7621(b), entitled "Boundaries", as follows:

Time 1: Alaska is a U.S.** Territory.
 {1/3/59 Hawaii is a U.S.** Territory. ("{" means "before")

7621(b): Boundaries. -- For the purpose mentioned in subsection (a), the President may subdivide any State, Territory, or the District of Columbia, or may unite two or more States or Territories into one district.

Time 2: Alaska is a State of the Union.
1/3/59 Hawaii is a U.S.** Territory.

7621(b): Boundaries. -- For the purpose mentioned in subsection (a), the President may subdivide any State, Territory, or the District of Columbia, or may unite into one District two or more States or a Territory and one or more States.

Time 3: Alaska is a State of the Union.
2/1/77 Hawaii is a State of the Union.

7621(b): Boundaries. -- For the purpose mentioned in subsection (a), the President may subdivide any State or the District of Columbia, or may unite into one district two or more States.

The reason why the Hawaii Omnibus Act did not change section 7621(b) is not apparent from reading the statute, nor has time permitted the research necessary to determine why this section was changed in 1977 and not in 1959. After Alaska joined the Union, Hawaii was technically the only remaining Territory. This may explain why the term "Territories" was changed to "Territory" at Time 2 above. However, this is a relatively minor matter, when compared to the constitutional issue that is involved here. There is an absolute constitutional restriction against subdividing or joining any of the 50 States, or any parts thereof, without the consent of Congress and of the Legislatures of the States affected. This restriction is very much like the restriction against direct taxes within the 50 States without apportionment:

New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

[Constitution for the United States of America]
[Article 4, Section 3, Clause 1]
[emphasis added]

This point about new States caught the keen eye of author and scholar Eustace Mullins. In his controversial and heart-breaking book entitled A Writ for Martyrs, Mullins establishes the

all-important link between the Internal Revenue Service and the Federal Reserve System, and does so by charging that Internal Revenue Districts are "new states" which have been established within the jurisdiction of legal States of the Union, as follows:

The income tax amendment and the Federal Reserve Act were passed in the same year, 1913, because they function as an essential team, and were planned to do so. The Federal Reserve districts and the Internal Revenue Districts are "new states," which have been established within the jurisdiction of legal states of the Union.

[see Appendix "I", emphasis added]

Remember, the federal zone is the area of land over which the Congress exercises an unrestricted, exclusive legislative jurisdiction. The Congress does not have unrestricted, exclusive legislative jurisdiction over any of the 50 States. It is bound by the chains of the Constitution. This point is so very important, it bears repeating throughout the remaining chapters of this book. As in the apportionment rule for direct taxes and the uniformity rule for indirect taxes, Congress cannot join or divide any of the 50 States without the explicit approval of the Legislatures of the State(s) involved. This means that Congress cannot unilaterally delegate such a power to the President. Congress cannot lawfully exercise (nor delegate) a power which it simply does not have.

How, then, is it possible for section 7621(b) of the Internal Revenue Code to give this power to the President? The answer is simple: the territorial scope of the Internal Revenue Code is the federal zone. The IRC only applies to the land that is internal to that zone. If the territorial scope of the IRC were the 50 States of the Union, then section 7621(b) would, all by itself, render the entire statute unconstitutional for violating clause 4:3:1 of the Constitution (see above). Numerous other constitutional violations would also occur if the territorial scope of the IRC were the 50 States. A clear and unambiguous definition of "State" must be known before status and jurisdiction can be decided with certainty. After seeing and verifying all of the evidence discussed above, the editors of a bulletin published by the Monetary Realist Society wrote the following long comment about the obvious problems it raises:

A serious reader could come to the conclusion that Missouri, for example, is not one of the United States referred to in the code. This conclusion is encouraged by finding that the code refers to Hawaii and Alaska as states of the United States before their admission to the union! Is the IRS telling us that the only states over which it has jurisdiction are Guam, Washington D.C., Puerto Rico, the Virgin Islands, etc.? Well, why not write and find out?

Don't expect an answer, though. Your editor has asked this question and sought to have both of his Senators and one Congresswoman prod the IRS for a reply when none was forthcoming. Nothing.

And isn't that strange? It would be so simple for the service to reply, "Of course Missouri is one of the United States referred to in the code" if that were, indeed, the case. What can one conclude from the government's refusal to deal with this simple question except that the government cannot admit the truth about United States citizenship? I admit that the question sounds silly. Everybody knows that Missouri is one of the United States, right? Sure, like everybody knows what a dollar is! But the IRS deals with "silly" questions every day, often at great length. After all, the code occupies many feet of shelf space, and covers almost any conceivable situation. It just doesn't seem to be able to cope with the simplest questions!

["Some Thoughts on the Income Tax"]
[The Bulletin of the Monetary Realist Society]
[March 1993, Number 152, page 2]

Although this book was originally intended to focus on the Internal Revenue Code, the other 49 U.S. Codes contain a wealth of additional proof that the term "State" does not always refer to one of the 50 States of the Union. Just to illustrate, the following statutory definition of the term "State" was found in Title 8, the Immigration and Nationality Act, as late as 1987:

(36) The term "State" includes (except as used in section 310(a) of title III [8 USCS Section 1421(a)]) the District of Columbia, Puerto Rico, Guam, and the Virgin Islands of the United States.

[8 USC 1101(a)(36), circa 1987, emphasis added]

The "exception" cited in this statute tells the whole story here. In section 1421, Congress needed to refer to courts of the 50 States, because their constitutions and laws granted to those courts the requisite jurisdiction to naturalize. For this reason, Congress made an explicit exception to the standard, federal definition of "State" quoted above. The following is the paragraph in section 1421 which contained the exceptional uses of the term "State" (i.e. Union State, not federal state):

1421. Jurisdiction to naturalize

(a) Exclusive jurisdiction to naturalize persons as citizens of the United States** is hereby conferred upon the following specified courts: District courts of the United States now existing, or which may hereafter be established by Congress in any State ... also all courts of record in any State or Territory now existing, or which may hereafter be created, having a seal, a clerk, and jurisdiction in actions at law or equity, or law and equity, in which the amount in controversy is unlimited.

[8 USC 1421(a), circa 1987, emphasis added]

In a section entitled "State Courts", the interpretive notes and decisions for this statute contain clear proof that the phrase "in any State" refers to any State of the Union (e.g. New York):

Under 8 USCS Section 1421, jurisdiction to naturalize was conferred upon New York State Supreme Court by virtue of its being court of record and having jurisdiction in actions at law and equity. *Re Reilly* (1973) 73 Misc 2d 1073, 344 NYS2d 531.

[8 USCS 1421, Interpretive Notes and Decisions]
[Section II. State Courts, emphasis added]

Subsequently, Congress removed the reference to this exception in the amended definition of "State", as follows:

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

[8 USC 1101(a)(36), circa 1992]

Two final definitions prove, without any doubt, that the IRC can also define the terms "State" and "United States" to mean the 50 States as well as the other federal states. The very existence of multiple definitions provides convincing proof that the IRC is intentionally vague, particularly in the section dedicated to general definitions (IRC 7701(a)). The following definition is taken from Subtitle D, Miscellaneous Excise Taxes, Subchapter A, Tax on Petroleum (which we all pay taxes at the pump to use):

(A) In General. -- The term "United States" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, any possession of the United States, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. [!!]

[IRC 4612(a)(4)(A)]
[emphasis added]

Notice that this definition uses the term "means". Why is this definition so clear, in stark contrast to other IRC definitions of the "United States"? Author Ralph Whittington provides the simple, if not obvious, answer:

The preceding is a true Import Tax, as allowed by the Constitution; it contains all the indicia of being Uniform, and therefore passes the Constitutionality test and can operate within the 50 Sovereign States. The language of this Revenue Act is simple, specific and definitive, and it would be impossible to attach the "Void for Vagueness Doctrine" to it.

[The Omnibus, page 83, emphasis added]

The following definition of "State" is required only for those Code sections that deal with the sharing of tax return information between the federal government and the 50 States of the Union. In this case, the 50 States need to be included in the definition. So, the lawmakers can do it when they need to (and not do it, in order to put the rest of us into a state of confusion):

(5) State -- The term "State" means -- [!!]

(A) any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

[IRC 6103(b)(5), emphasis added]

It is noteworthy [!!] that these sections of the IRC also utilize the term "means" instead of the terms "includes" and "including", and instead of the phrase "shall be construed to include". It is certainly not impossible to be clear. If it were impossible to be clear, then just laws would not be

possible at all, and the Constitution could never have come into existence anywhere on this planet. Authors like The Informer (as he calls himself) consider the very existence of multiple definitions of "State" and "United States" to be highly significant proof of fluctuating statutory intent, even though a definition of "intent" is nowhere to be found in the statute itself. Together with evidence from the Omnibus Acts, these fluctuating definitions also expose perhaps the greatest fiscal fraud that has ever been perpetrated upon any people at any time in the history of the world.

Having researched all facets of the law in depth for more than ten full years, The Informer summarizes what we have learned thus far with a precision that was unique for its time:

The term "States" in 26 USC 7701(a)(9) is referring to the federal states of Guam, Virgin Islands, Etc., and NOT the 50 States of the Union. Congress cannot write a municipal law to apply to the individual nonresident alien inhabiting the States of the Union. Yes, the IRS can go into the States of the Union by Treasury Decision Order, to seek out those "taxpayers" who are subject to the tax, be they a class of individuals that are United States** citizens, or resident aliens. They also can go after nonresident aliens that are under the regulatory corporate jurisdiction of the United States**, when they are effectively connected with a trade or business with the United States** or have made income from a source within the United States**

[Which One Are You?, page 98, emphasis added]

Nevertheless, despite a clarity that was rare, author Lori Jacques has found good reasons to dispute even this statement. In a private communication, she explained that the Office of the Federal Register has issued a statement indicating that Treasury Department Orders 150-10 and 150-37 (regarding taxation) were not published in the Federal Register. Evidently, there are still no published orders from the Secretary of the Treasury giving the Commissioner of Internal Revenue the requisite authority to enforce the Internal Revenue Code within the 50 States of the Union. Furthermore, under Title 3, Section 103, the President of the United States, by means of Presidential Executive Order, has not delegated authority to enforce the IRC within the 50 States of the Union. Treasury Department Order No. 150-10 can be found in Commerce Clearinghouse Publication 6585 (an unofficial publication). Section 5 reads as follows:

U.S. Territories and Insular Possessions. The Commissioner shall, to the extent of authority otherwise vested in him, provide for the administration of the United States internal revenue laws in the U.S. Territories and insular possessions

and other authorized areas of the world.

Thus, the available evidence indicates that the only authority delegated to the Internal Revenue Service is to enforce tax treaties with foreign territories, U.S. territories and possessions, and Puerto Rico. To be consistent with the law, Treasury Department Orders, particularly TDO's 150-10 and 150-37, needed to be published in the Federal Register. Thus, given the absence of published authority delegations within the 50 States, the obvious conclusion is that the various Treasury Department orders found in Internal Revenue Manual 1229 have absolutely no legal bearing, force or effect on sovereign Citizens of the 50 States. Awesome, yes? Our hats are off, once again, to Lori Jacques for her superb legal research.

The astute reader will notice another basic disagreement between authors Lori Jacques and The Informer. Lori Jacques concludes that the term "State" now includes only the District of Columbia, a conclusion that is supported by IRC Sec. 7701(a)(10). The Informer, on the other hand, concludes that the term "States" refers to the federal states of Guam, Virgin Islands, etc. These two conclusions are obviously incompatible, because singular and plural must, by law, refer to the same things.

It is important to realize that both conclusions were reached by people who have invested a great deal of earnest time and energy studying the relevant law, regulations, and court decisions. If these honest Americans can come to such diametrically opposed conclusions, after competent and sincere efforts to find the truth, this is all the more reason why the law should be declared null and void for vagueness. Actually, this is all the more reason why we should all be pounding nails into its coffin, by every lawful method available to boycott this octopus. The First Amendment guarantees our fundamental right to boycott arbitrary government, by our words and by our deeds.

Moreover, the "void for vagueness" doctrine is deeply rooted in our right to due process (under the Fifth Amendment) and our right to know the nature and cause of any accusation (under the Sixth Amendment). The latter right goes far beyond the contents of any criminal indictment. The right to know the nature and cause of any accusation starts with the statute which a defendant is accused of violating. A statute must be sufficiently specific and unambiguous in all its terms, in order to define and give adequate notice of the kind of conduct which it forbids. If it fails to indicate with reasonable certainty just what conduct the legislature prohibits, a statute is necessarily void for uncertainty, or "void for vagueness" as the doctrine is called. Any prosecution which is based upon a vague statute must fail together with the statute itself. A vague criminal statute is unconstitutional for violating the 5th and 6th Amendments. The U.S. Supreme Court has agreed unequivocally:

That the terms of a penal statute creating a new offense must be sufficiently explicit to inform those who are subject to it what conduct on their part will render them liable to its penalties, is a well-recognized requirement,

consonant alike with ordinary notions of fair play and the settled rules of law. And a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application, violates the first essential of due process of law.

[Connally et al. vs General Construction Co.]
[269 U.S 385, 391 (1926), emphasis added]

The Informer's conclusions appear to require definitions of "includes" and "including" which are expansive, not restrictive. The matter could be easily decided if the IRC would instead exhibit sound principles of statutory construction, state clearly and directly that "includes" and "including" are meant to be used in the expansive sense, and itemize those specific persons, places, and/or things that are "otherwise within the meaning of the terms defined". If the terms "includes" and "including" must be used in the restrictive sense, the IRC should state, clearly and directly, that the expressions "includes only" and "including only" must be used.

Alternatively, the IRC could exhibit sound principles of statutory construction by stating clearly and directly that "includes" and "including" are always meant to be used in the restrictive sense. Better yet, abandon the word "include" entirely, together with all of its grammatical variations, and use instead the word "means" (which does not suffer from a long history of semantic confusion). It would also help a lot if the 50 States were consistently capitalized and the federal states were not. These, again, are excellent grounds for deciding that the IRC is vague and therefore null and void. Of course, if the real intent is to expand the federal zone in order to subjugate the 50 states under the dominion of Federal States (defined along something like ZIP code boundaries) and to replace the sovereign Republics with a monolithic socialist dictatorship, carved up into arbitrary administrative "districts", that is another problem altogether.

The absurd results which obtain from expanding the term "State" to mean the 50 States, however, are problems which will not go away, no matter how much we clarify the definitions of "includes" and "including" in the IRC. There are 49 other U.S. Codes which have the same problem. Moreover, the mountain of material evidence impugning the ratification of the so-called 16th Amendment should leave no doubt in anybody's mind that Congress must still apportion all direct taxes levied inside the sovereign borders of the 50 States. Likewise, Congress is not empowered to delegate unilateral authority to the President to subdivide or to join any of the 50 States. There are many other constitutional violations which result from expanding the term "State" to mean the 50 States of the Union. In this context, the mandates and prohibitions found in the Bill of Rights are immediately obvious, particularly as they apply to State Citizens.

Clarifying the definitions of "includes" and "including" in the IRC is one thing; clarifying the exact extent of sovereign jurisdiction is quite another. Congress is just not sovereign within the borders of the 50 States. Sorry, all you Senators and Representatives. When you took office, you did not take an oath to uphold and defend the Ten Commandments. You did not take an oath to

uphold and defend the Uniform Commercial Code. You did not take an oath to uphold and defend the Communist Manifesto. You did take an oath to uphold and defend the Constitution for the United States of America.

It should be obvious, at this point, that capable authors like Lori Jacques and The Informer do agree that the 50 States do not belong in the standard definition of "State" because they are in a class that is different from the class of federal states. Within the borders of the 50 States, the "geographical" extent of exclusive federal jurisdiction is confined to the federal enclaves; this extent does not encompass the 50 States themselves. We cannot blame the average American for failing to appreciate this subtlety. The confusion that results from the vagueness we observe is inherent in the statute and evidently intentional, which raises some very serious questions concerning the real intent of that statute in the first place. Could money have anything to do with it? The question answers itself.

Chapter 6: Empirical Results

Up to this point, I have defined a set of key terms and created a scheme for understanding how these key terms relate to each other. This scheme was summarized in the form of a diagram which I have called The Matrix (see chapter 3). The Matrix is a two-by-two table which permutes every combination of citizen, alien, resident and nonresident to create four unique cases:

1. resident citizen
2. resident alien
3. nonresident citizen
4. nonresident alien

As a body of law, the Internal Revenue Code (IRC) and its regulations together require all "citizens" and all "residents" of the United States** to pay taxes on their worldwide incomes. This requirement applies to three of the four cases shown above, namely, resident citizens, resident aliens and nonresident citizens. In the fourth case, nonresident aliens only pay tax on income which is effectively connected with a U.S.** trade or business, and on income from sources within the U.S.** (like Frank Brushaber's dividend). Their tax liability is succinctly summarized by the Code itself. Note how the relevant Code section utilizes the phrase "includes only" as follows:

General Rule. -- In the case of a nonresident alien individual, except where the context clearly indicates otherwise, gross income includes only -- [!]

- (1) gross income which is derived from sources within the United States** and which is not effectively connected with the conduct of a trade or business within the

United States**, and

- (2) gross income which is effectively connected with the conduct of a trade or business within the United States**.

[IRC 872(a), emphasis added]

This may sound all well and good, in theory. How does it work in practice? With so many words to document the recipe for pudding, how does the pudding taste? Two case histories provide the necessary proof.

Case 1

Figure 1 shows a letter which an American Citizen sent to the District Director of the Internal Revenue Service in Ogden, Utah. This letter was prepared in response to an unsigned letter from the IRS, requesting that he file a 1040 Form.

December 5, 1990
District Director
Internal Revenue Service
Ogden, Utah 84201

Re: NRA SSN # ___ - __ - ____

On or about December 1, 1990, I received an unsigned document claiming that you have not received the tax return 1040, and requesting that the form 1040 be filed. I have enclosed a copy of that request. I know of no such code that requires me to file a "tax return 1040". If you know of such a code, please identify that code for me.

I have enclosed a copy of the letter that I have sent to the Director of the Foreign Operations District, concerning this matter.

In researching the revenue code book which your people kindly supplied to me, I discovered that only an "individual" is required to file a tax return (26 USC 6012) and then only under certain circumstances. In looking at Section 7701(a)(1) of the code, I discovered that the term "individual" is defined as a "person". Then, in checking under 7701(a)(30), I discovered the definition of a "United States person" as meaning a "citizen of the United States", "resident of the United States", "domestic corporation", "domestic partnership" and a "domestic trust or estate". There is no INDIVIDUAL defined under 7701(a)(30) and therefore I cannot be an "individual" within the meaning of 7701(a)(1) and/or 26 USC 6012.

As well, the Supreme Court in the case of *Wills vs Michigan State Police*, 105 L.Ed.2d 45

(1989) made it perfectly clear that I, the sovereign, cannot be named in any statute as merely a "person", or "any person". I am a member of the "sovereignty" as defined in Yick Wo vs Hopkins, 118 U.S. 356 and the Dred Scott case, 60 U.S. 393.

Therefore and until you can prove otherwise, I am not a "taxpayer", nor an "individual" that is required to file a tax return. Please forward to me a letter stating that I am not liable for this tax return, or produce the documentation that requires me to file the "requested" tax return.

If you have any questions concerning this letter, you may write to me at the address shown below. Please sign all papers so that I know who I am dealing with. Until such a time as I hear from you or your office, I will take the position that I am no longer liable for filing the return. Failure to respond will be taken as meaning that you have "acquiesced" and that, from this date forward, the doctrine of "estoppel by acquiescence" will prevail.

Sincerely,

/s/ NRA

Figure 1: Letter to District Director

Note, in particular, his use of the key words "citizen of the United States**", "resident of the United States**", "domestic corporation", "domestic partnership", "domestic trust or estate" and "sovereign". He asserted his status by explicitly claiming to be a sovereign who was not the "person" defined at IRC 7701(a)(1), and who was not the "United States** person" defined at 7701(a)(30). The IRC defines "person" as follows:

Person. -- The term "person" shall be construed to mean and include an individual, a trust, estate, partnership, association, company or corporation.

[IRC 7701(a)(1)]

The IRC defines "United States** person" as follows:

United States** person. -- The term "United States** person" means --

- (A) a citizen or resident of the United States**,
- (B) a domestic partnership,
- (C) a domestic corporation, and
- (D) any estate or trust (other than a foreign estate or foreign trust, within the meaning of Section 7701(a)(31)).

[IRC 7701(a)(30)]

Again, note the use of the key words "citizen", "resident", "domestic", and "foreign" which have been highlighted for emphasis. These key words relate directly to The Matrix. The key words "domestic" and "foreign" relate directly to the boundaries of the federal zone, that is, the "United States**" as that term is defined in relevant sections of the United States Codes (USC). A domestic corporation is one which was chartered inside the federal zone. A foreign estate or foreign trust are foreign because they were established outside the federal zone. Without making these statements in so many words, our intrepid American's letter in Figure 1 can be used to draw the following inferences about his status with respect to the exclusive legislative jurisdiction of the "United States**":

1. He is a sovereign as defined by the Supreme Court
2. He is not a citizen of the United States**
3. He is not a resident of the United States**
4. He is not a domestic corporation
5. He is not a domestic partnership
6. He is not a domestic estate and
7. He is not a domestic trust

There is one important thing his letter did not state explicitly about him, and that is his status as a nonresident alien. Nevertheless, this inference can, in turn, be drawn from two of the above inferences: (2) he is not a citizen of the United States** and (3) he is not a resident of the United States**. As a human being, he is not an artificial "person" like a corporation, partnership, estate, or trust. If he is not a citizen of the United States**, then he is an alien. If he is not a resident of the United States**, then he is a nonresident. Therefore, he is a nonresident alien, according to the statute and its regulations.

Now, let's take the pudding out of the oven and see how it tastes. After taking some time to review his letter, the IRS addressed the following response to our intrepid American:

Department of the Treasury
Internal Revenue Service
Ogden, UT 84201

In reply refer to: 9999999999
June 27, 1991 LTR 2358C
____-__-____ 8909 05 0000
Input Op: 9999999999 07150

To: NRA
Address
City, State Zip

Taxpayer Identification Number : ____-__-____
Tax Form : 1040

Tax Period : Sep. 30, 1989
Correspondence Received Date : June 13, 1991

Dear Taxpayer:

Based on our information, you are no longer liable for filing this tax return. We may contact you in the future if issues arise that need clarification. You do not need to reply to this letter.

Sincerely yours,

/s/ J. M. Wood

Chief, Collection Branch

Case 2

It would have been interesting to see what kind of response NRA would have received if he had stated explicitly his status as a nonresident alien. Based on what we know already about the law and its regulations, such an explicit statement might have expedited the processing of his letter. But hindsight is always 20/20. Fortunately, we do have another example where an American Citizen did just that, in response to a similar IRS request for a 1040 form. The following is the text of the IRS request:

Department of the Treasury
Internal Revenue Service
Ogden, UT 94201

Date of this Notice: 08-19-91
Taxpayer Identification: (ssn)
Form: 1040
Tax Periods: 12-31-89

To: ARN

Your tax return is overdue -- Contact us immediately

We still have not received your tax return, Form 1040 U.S. Individual Income Tax Return, for the year ending 12-31-89.

We must resolve this matter. Contact us immediately, or we may take the following action:

1. Summon you to come in with your books and records

as provided by Sections 7602 and 7603 of the Internal Revenue Code;

2. Criminal prosecution that includes a fine, imprisonment, or both, for persons who willfully fail to file a tax return or provide tax information (Code Section 7203).

To prevent these actions, file your tax return today and attach your payment for any tax due. Even if you can't pay the entire amount of tax you owe now, it is important that you file your tax return today. Pay as much as you can and tell us when you will pay the rest. We may be able to arrange for you to pay in installments. Detach and enclose the form below with your return. To expedite processing, use the enclosed envelope.

If you are not required to file or have previously filed, please contact us at the phone number shown above.

[unsigned]

I always enjoy it very much when the IRS states that "you can pay in installments". Somebody should write to them and recommend that they consider augmenting their "Services" by implementing a layaway plan. They may even have a special form for this very thing: Service Augmentation Request Form (RF) #6666666, kind of like their "internal" Form 4685, as described on page 34 of the IRS Printed Product Catalog, Document 7130:

Form 4685 41890S (Each)
News Clipping Mounting Guide
This guide sheet is used for mounting news clippings
for submittal to the National Office.
C:PA:L Internal Use

Now, our second intrepid American, coded with the initials ARN (Non Resident Alien abbreviated backwards) also took it upon himself to respond in writing. This time, however, he wrote the following words right on the IRS letter and sent it back to them, certified mail, return receipt requested, on September 13, 1991:

PLEASE BE ADVISED that ARN is a non-resident alien of the

United States**, never having lived, worked, nor having income from any source within the District of Columbia, Puerto Rico, Virgin Islands, Guam, American Samoa or any other Territory within the United States**, which entity has its origin and jurisdiction from Article 1, Section 8, Clause 17 of the U.S. Constitution. Therefore, he is a non-taxpayer outside of the venue and jurisdiction of 26 U.S.C.

This response gets right to the point. In his first sentence, ARN is explicit and unequivocal about his status as a nonresident alien with respect to the United States**. He has never lived or worked in the United States**. He has never had income from any source inside ("within") the District of Columbia, Puerto Rico, Virgin Islands, Guam, American Samoa, or any other Territory within the United States**. He exhibits his knowledge of the relevant authority for "internal" revenue laws by correctly citing Article 1, Section 8, Clause 17 (1:8:17) of the U.S. Constitution. Lastly, he concludes that he is a "non-taxpayer" who is outside the "venue" and jurisdiction of 26 U.S.C. (Title 26, United States Code).

English Philosopher William of Occam (1300-1349) put it succinctly when he said:

"The simplest solution is the best."

Contrast this, the simplest of statements, with the dictionary definition of "Occam's razor", as it is called:

Occam's razor n [William of Ockham]: a scientific and philosophic rule that entities should not be multiplied unnecessarily which is interpreted as requiring that the simplest of competing theories be preferred to the more complex or that explanations of unknown phenomena be sought first in terms of known quantities.

[Webster's New Collegiate Dictionary]
[G. & C. Merriam Co.]
[Springfield, Mass. 1981]

I wonder if the people who write for G. & C. Merriam Company also obtain supplementary compensation for services performed inside the exclusive legislative jurisdiction of the federal democracy of the United States** (i.e., moonlight in the federal zone).

Exactly two weeks later, ARN received the following letter from J. M. Wood, signed with "hand writing" that lines up perfectly with the same signature received by NRA. Could it have been a computer signature?

Department of the Treasury
Internal Revenue Service
Ogden, UT 84201

In reply refer to: 9999999999
Sep. 30, 1991 LTR 2358C
____-____-____ 8902 30 000
Input Op: 9999999999 07150

To: ARN
Address
City, State Zip

Taxpayer Identification Number : ____-____-____
Tax Form : 1040
Tax Period : Dec. 31, 1989
Correspondence Received Date : Sep. 16, 1991

Dear Taxpayer:

Based on our information, you are no longer liable for filing a tax return for this period. If other issues arise, we may need to contact you in the future. You do not need to reply to this letter.

Sincerely yours,

/s/ J. M. Wood
Chief, Collection Branch

Now, that's what I call fast internal revenue service.

To give you some idea just how far we need to elevate the importance of status and jurisdiction, consider the following lengthy quotes from the written work of author, attorney at law and constitutional expert Jeffrey A. Dickstein. These quotes were buried deep among the footnotes at the end of chapters in his brilliant book entitled *Judicial Tyranny and Your Income Tax*:

The term "individual" which is used not only in Section 6012(a)(1) but also in Section 1 as the subject upon whose income the tax is imposed, is not defined in the Internal Revenue Code. It is, however, defined in the treasury regulations accompanying Section 1. The regulations make a distinction between "citizens" and "residents" of the United States**, and define a "citizen" as every person born or naturalized in the United States** and subject to its jurisdiction [see 26

CFR Section 1.1-1 (a) - (c)]. An extremely strong argument can be made that the federal income tax as passed by Congress and as implemented by the Treasury Department was only meant to apply to individuals within the "territorial or exclusive legislative jurisdiction of the United States**," as those individuals would be subject to the "jurisdiction of the United States**." These exclusive areas, per Article 1, Section 8, Clause 17, of the United States Constitution, are Washington, D.C., federal enclaves and United States** possessions and territories. Outside of these exclusive areas, state law controls, not federal law. Thus a State citizen, residing in a State, would not meet the two part test for being an "individual" upon whose income the tax is imposed by Section 1 of the Internal Revenue Code, and would not have the "status" of a "taxpayer." It is the official policy of the I.R.S. [Policy P-(11)-23] to issue, upon written request, rulings and determination letters regarding status for tax purposes prior to the filing of a return. On August 29, 1988, I requested such a "status determination" from the I.R.S. on behalf of one of my clients; as of the date of the publication of this book, the I.R.S. had still not responded. [Judicial Tyranny and Your Income Tax, pages 83-84]

Evidently, Dickstein was exposed to this particular argument by another attorney and constitutional expert, Lowell Becraft of Huntsville, Alabama. It is very revealing that Dickstein could justify the following observations even with a legal presumption that the Sixteenth Amendment had been ratified:

... Attorney Lowell Becraft of Huntsville, Alabama, has made a powerful territorial/legislative jurisdictional argument that under the Supreme Court's holding in Brushaber, the income tax cannot be imposed anywhere except within those limited areas within the states in which the Federal government has exclusive legislative authority under Article I, Section 8, Clause 17, of the United States Constitution, such as on military bases, national forests, etc., and within United States territories, such as Puerto Rico, etc. Indeed, Treasury Department delegation orders and the language of Treasury Regulation 26 C.F.R. Section 1.1-1(c) fully supports Mr. Becraft's scholarly analysis.

[Judicial Tyranny and Your Income Tax, p. 33]

After publishing Judicial Tyranny, Jeffrey Dickstein made an absolutely stunning presentation to Judge Paul E. Plunkett in defense of William J. Benson before the federal district court in Chicago. From the transcript of that hearing, it is obvious that Dickstein had continued to distill his vast knowledge even further, by isolating the following essential core:

The statutes are in the Internal Revenue Code. I submit they mean something different if the Sixteenth Amendment was

ratified than they do if the Sixteenth Amendment was not ratified. If the Sixteenth Amendment was ratified it means you can go into the states and collect this direct tax without apportionment. If it's not ratified you can't go into the states and do that. And since Pollock says it's a direct tax, what other connotation can you give to the statutes? The connotation that makes it constitutional is that it applies everywhere except within the states -- which would be where? On army bases, federal enclaves, Washington, D.C., the possessions and the territories.

[You Can Rely On The Law That Never Was!, pages 20-21]
[emphasis added]

Sometimes, the answer is staring us right in the face. In retrospect, I dedicate this chapter to Jeffrey Dickstein and Larry Becraft, who have done so much to bring the truth about our federal government into the bright light of day. Jeff and Larry, we have only ourselves to blame for not paying closer attention to your every words.

In the passage quoted above from pages 83 and 84 of Judicial Tyranny, author Dickstein refers to IRS Policy #P-(11)-23, from the official Internal Revenue Manual (IRM). This "policy" reads as follows:

RULINGS, DETERMINATION LETTERS, AND CLOSING AGREEMENTS AS TO SPECIFIC ISSUES

P-(11)-23 (Approved 6-14-87)

Rulings and determination letters in general

Rulings and determination letters are issued to individuals and organizations upon written requests, whenever appropriate in the interest of wise and sound tax administration, as to their status for tax purposes and as to the tax effect of their acts or transactions, prior to their filing of returns or reports as required by the revenue laws. Rulings are issued only by the National Office. Determination letters are issued only by District Directors and the Director of International Operations. Reference to District Director or district office in these policy statements also includes the office of the Director of International Operations. [emphasis added]

This IRS "policy", as published in their Internal Revenue Manual, prompted the National Commodity and Barter Association in Denver, Colorado, to draft the following example of a request letter, updated by this author for extra clarity and authority:

EXAMPLE OF REQUEST LETTER

Director of International Operations
Foreign Operations Division
Internal Revenue Service
11601 Roosevelt Boulevard
Philadelphia, Pennsylvania 19422

Dear Director:

My research of the Internal Revenue Code and related Regulations has left me confused about my status for purposes of Federal Income Taxation.

Pursuant to I.R.M. Policy #P-(11)-23, "upon written request" I can obtain from your office a determination of my status for purposes of Federal Income Taxation.

This is my written, formal request for a determination letter as to my status for Federal Income Tax purposes.

Please take note that your determination letter must be signed under penalty of perjury, per IRC Section 6065.

If this is not the proper format for making this request, please send me the proper format with instructions.

If I do not receive a determination letter from you within 30 days, I will be entitled to presume that I am not subject to any provisions of the IRC, Titles 26 or 27.

Sincere yours,
/s/ John Q. Doe
all rights reserved

What is the lesson in all of this? At the end of Chapter 1, I expressed my intention to elevate status and jurisdiction to the level of importance which they have always deserved. I am by no means and in no way advising any Americans to utter, or to sign their names on, any statements which they know to be false. On the contrary, it is fair to say that I have been criticized more

often in life for being too honest. If you are a nonresident alien with respect to the federal zone, then say so. If you are not a nonresident alien with respect to the federal zone, then think about changing your status. You can if you want to, because involuntary servitude is forbidden everywhere in this land. It's the Supreme Law!

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Chapter 7: Inside Sources

Frank Brushaber was taxed on a dividend he received from the stock of a domestic corporation. Remember, the term "domestic" in this context means "inside" the federal zone. The dividend came, therefore, from a "source" that was situated inside this zone. The exact legal meaning of the term "source" has been the subject of much debate, both inside and outside the federal courts. I would not presume to be the one who settles this debate once and for all, least of all in the few pages dedicated to this chapter. It is important to understand that the Brushaber Court's decision turned, in large part, on a determination of the "source" of the dividend which Frank Brushaber received. That source was a domestic corporation which had been chartered by Congress to build a railroad and telegraph through the Utah Territory. As such, it was an "inside source" -- a source that was situated inside the federal zone.

Frank Brushaber's income was "unearned" income. This means that he did not exchange any of his labor in order to receive the dividend paid to him by the Union Pacific Railroad Company. Earned income, on the other hand, is income which is derived from exchanging labor for something of value, like money. Also beyond the scope of this chapter are the sad debate, and considerable mass of IRS-sponsored confusion, that surround the legal definition of "income". Author Jeffrey Dickstein has done an extremely thorough job of documenting the history of judicial definitions of the term "income". Many of those definitions are in direct conflict with each other, but all Supreme Court decisions on the question have been completely consistent with each other. In Appendix J of this book, you will find one of our formal petitions to Congress in which are summarized a number of rulings on this issue by the Supreme Court and by lower courts which concur. If you must also review the courts which do not concur, you gluttons for punishment should buy Dickstein's great book on the subject.

Back to sources. IRS Publication 54 explains in simple terms that: "The source of earned income is the place where you perform the services." I always enjoyed it when Sister Theresa Marie would tell our third-grade class that the whole world is divided into persons, places and things. How I long for those simpler days! The courts have used the technical term "situs" instead of "place" as follows:

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.

[C.I.R. vs Piedras Negras HB Co., 127 F.2d 260 (1942)]

[emphasis added]

It is useful to repeat the section of the Internal Revenue Code (IRC) which was quoted in the last chapter. Specifically, in the case of a nonresident alien individual, except where the context clearly indicates otherwise, gross income includes only:

- (1) gross income which is derived from sources within the United States** and which is not effectively connected with the conduct of a trade or business within the United States**, and
- (2) gross income which is effectively connected with the conduct of a trade or business within the United States**.

[IRC 872(a)]

[emphasis added]

The term "gross income" is crucial, because it is the quantity which triggers the filing requirement. It is like a threshold, or so we are told by august members of the black robe like Judge Eugene Lynch of the Federal District Court in San Francisco. Section 6012 of the IRC reads, in pertinent part:

General Rule. -- Returns with respect to income taxes under subtitle A shall be made by the following:

- (1)(A) Every individual having for the taxable year gross income which equals or exceeds the exemption amount ...

except that subject to such conditions, limitations, and exceptions and under such regulations as may be prescribed by the Secretary, nonresident alien individuals subject to the tax imposed by section 871 ... may be exempted from the requirement of making returns under this section.

[IRC 6012(a)]

[emphasis added]

Section 6012 is a pivotal section, if only because the IRS is now citing this section (among others) as their authority for requiring "taxpayers" to make and file income tax returns. As you

can plainly read with your own eyes, nonresident alien individuals may be exempted from the requirement of making returns. Diving into the many thousands of regulations which have been "prescribed by the Secretary" is also beyond the scope of this book. For now, realize that the regulations do exist and that the quantity "gross income" for nonresident aliens includes only two things: (1) gross income derived from sources within the United States** and (2) gross income that is effectively connected with a U.S.** trade or business. That's it!

You will note that the statute and its regulations make frequent use of the terms "within" and "without", in order to contrast the two terms as antonyms, or opposites. In this context, the term "within" is synonymous with "inside"; the term "without" is synonymous with "outside". "Within" and "without" are antonyms. And the term "antonym" is an antonym for a synonym! ("Good grief," declared Charlie Brown.) Thus, if you are outside the federal zone, you are "without" the United States** in the languid language of federal tax law. (Languid: drooping or flagging from, or as if from exhaustion.) Can we ever get along "without" the United States**?

The importance of "within" and "without" cannot be emphasized too much. In the context of everything we now know about jurisdiction within the federal zone, these terms are crucial to understanding the territorial extent of the IRC. To underscore this point, consider IRC Section 862(a), entitled "Income from Sources Without the United States**":

(a) Gross Income from Sources without United States**. --

The following items of gross income shall be treated as income from sources without the United States**: ...

(3) compensation for labor or personal services performed without the United States**.

[IRC 862(a)-(a)(3)]
[emphasis added]

Now, turn to IRS Form 1040NR. A copy of this form is found in Appendix K (not in electronic version). The "NR" stands for "NonResident". Nonresident aliens file this form to report and pay tax on gross income as defined in IRC Section 872(a). On page one of the 1990 version of this form, there is a block of line items numbered 8 thru 22. These items are summed to produce a total on line 23. "This is your total effectively connected income," states the form. Now, turn the form clockwise 90 degrees. Note, in particular, the phrase near the left margin of page one which reads:

Income Effectively Connected With U.S.** Trade/Business

If you are a nonresident alien and you have no income which is effectively connected with a U.S.** trade or business, then you can, in good conscience, put a big fat ZERO on line 23. But,

this is not the whole story. On page 4 of Form 1040NR, there is a table for computing "Tax on Income Not Effectively Connected with a U.S.** Trade or Business". What would this be?

Recall IRC Section 872(a), quoted above. The only other component of gross income for nonresident aliens is income which is derived from sources within the United States**, like Frank Brushaber's stock dividend. Lo and behold, this table itemizes such things as dividends, interest, royalties, pensions, and annuities. These are all items of unearned income, that is, profits and gains derived from U.S.** sources other than compensation for labor or personal services performed "within" the United States**. The total tax is computed and entered on line 81 of Form 1040NR. Unfortunately, true to form, line 81 in this table says that "This is your tax on income not effectively connected with a U.S.** trade or business." This is very deceptive. Remember, gross income for nonresident aliens includes only two kinds of gross income:

- (1) gross income derived from sources within the U.S.** which is not effectively connected with a U.S.** trade or business and
- (2) gross income which is effectively connected with the conduct of a trade or business within the United States**

Line 81 of Form 1040NR is referring to the first kind of gross income, namely, gross income which is "not effectively connected with a U.S.** trade or business". The second kind of gross income is entered on page 1 at line 23 of this form. Again, it's simple when you know enough to decode the Code. It's also very easy to get confused when the confusion is intentional. ("Encode" and "decode" are antonyms, by the way.)

Unfortunately, the filing requirements for nonresident aliens are not as straightforward as you might think, because the regulations contain certain rules that are not found in the Code itself, and the Code is frequently vague. To understand these requirements, the regulations must be reviewed as they apply to your particular situation. A brief overview is in order.

If you are a nonresident alien with no gross income from sources within the U.S.** , and with no U.S.** trade or business, is it a good idea to file a 1040NR with zeroes everywhere? No, it is not. The main reason is that filing any 1040 form can provide the IRS with a legal reason to presume that you are a "taxpayer", as that term is defined in the IRC. A later chapter of this book will explore the "law of presumption" in some detail. Your filed return can be used as evidence that you are a taxpayer, that is, one who is subject to any internal revenue tax because you are engaged in a "revenue taxable activity". A U.S.** trade or business is a revenue taxable activity. Thus, a key issue for nonresident aliens is whether or not they are engaged in any U.S.** trade or business. The CFR regulations say this about the filing requirement for nonresident aliens:

... [E]very nonresident alien individual ... who is engaged in a trade or business in the United States at any time during the taxable year or who has income which is subject to taxation under Subtitle A of the Code shall make a return on Form 1040NR. For this purpose it is immaterial that the gross income for the taxable year is less than the minimum amount specified in section 6012(a) for making a return. Thus, a nonresident alien individual who is engaged in a trade or business in the United States** at any time during the taxable year is required to file a return on Form 1040NR even though

- (a) he has no income which is effectively connected with the conduct of a trade or business in the United States**,
- (b) he has no income from sources within the United States**, or
- (c) his income is exempt from income tax by reason of an income tax convention or any section of the Code.

[26 CFR 1.6012-1(b)(1)]
[emphasis added]

Thus, the gross income "threshold" defined in the filing requirement at IRC 6012(a) is not relevant if a nonresident alien is engaged in any U.S.** trade or business. Conversely, the rules are somewhat different if a nonresident alien is not engaged in any U.S.** trade or business. The regulations have this to say about a nonresident alien in the latter situation:

A nonresident alien individual ... who at no time during the taxable year is engaged in a trade or business in the United States** is not required to make a return for the taxable year if his tax liability for the taxable year is fully satisfied by the withholding of tax at source under Chapter 3 of the Code.

[26 CFR 1.6012-1(b)(2)]
[emphasis added]

If a nonresident alien has no U.S.** trade or business and no tax liability that required withholding (such as U.S.** source income), then a return is not required. If you are a

nonresident alien and you remain in doubt as to whether or not you are required to file a Form 1040NR, you might begin by reading all the rules found in the Instructions for Form 1040NR. In general, the instructions are much easier to read than the regulations, but also understand that the regulations have the force of law and the instructions do not. The instructions for form 1040NR address the question of who must file as follows:

Use Form 1040NR if any of the four conditions listed below and on page 2 applies to you:

1. You were a nonresident alien engaged in a trade or business in the United States** during 1990. You must file Form 1040NR even if:
 - a. none of your income came from a trade or business conducted in the United States**,
 - b. you have no income from U.S.** sources, or
 - c. your income is exempt from U.S.** tax.

In any of the above three cases, do not complete the schedules for Form 1040NR. Instead, attach a list of the kinds of exclusions you claim and the amount of each.

2. You were a nonresident alien not engaged in a trade or business in the United States** during 1990 with income on which not all U.S.** tax that you owe was withheld.
3. You represent a deceased person who would have had to file Form 1040NR.
4. You represent an estate or trust that would have had to file Form 1040NR.

[Instructions for Form 1040NR, page 1]

Now, what is a "trade or business" within the United States**? Author and legal scholar Lori Jacques has concluded that the meaning of a "trade or business" is confined to performing the functions of a public office. This conclusion is supported by an explicit definition of "trade or business" that is found in the IRC itself:

Trade or Business. -- The term "trade or business" includes the performance of the functions of a public office.

[IRC 7701(a)(26)]

The Informer has come to the same conclusion, after years of research. All of this "trade or business" activity, thus defined, boils down to one simple thing: government employment. If you work for the federal government, even if you are a nonresident alien, the Congress reserves the power to define that work as a "privilege", the exercise of which Congress can tax. The measure of that tax is the amount of income derived. Author Lori Jacques summarizes government employment as follows:

It appears that the federal income tax is the graduated tax on income effectively connected with a U.S.** trade or business as described in IR Code Sec. 871(b) which is government employment. Remember the nonresident alien does not pay tax on non U.S.** source income. If the nonresident alien signs a Form W-4 he is obviously presumed to be a government employee with "effectively connected income."

[United States Citizen vs National of the United States]
[page 39, emphasis added]

Another competent author and IRS critic, Frank Kowalik, has also arrived at similar conclusions about the "taxability" of employment with the federal government. In his thorough book entitled IRS Humbug, IRS Weapons of Enslavement, Kowalik argues with exhaustive proof that a tax "return" is really just a kickback. Government employees are expected to return or "kick back" some of their earnings to the Treasury, in obvious and grateful tribute to the great giver of all federal privileges, Uncle Sam. Kowalik's arguments and accompanying complaints are so persuasive that Rep. Jack Brooks, Chairman of the House Judiciary Committee, has scheduled Kowalik's request for redress as Petition No. 107. In a personal letter to me, Frank Kowalik wrote the following:

I read with interest your Redress (12-24-90) to Barbara Boxer. I also delivered a Redress to Congress making Tom Foley, House Speaker, my personal representative. My book "IRS Humbug" was an exhibit in this Redress. Jack Brooks, Chairman of the House Judiciary Committee, was among those copied. From his letter (copy attached) my Redress has been referred to the Committee on the Judiciary as Petition No. 107. As I understand it, it will be heard in the session

after the holidays. I also provide information on "IRS Humbug" that covers the fact that federal income tax is not a tax on labor. It is a kickback program between the federal government and its employees.

[personal communication, December 10, 1991]
[emphasis added]

Taken together, The Informer, Lori Jacques and Frank Kowalik appear unanimous in understanding the term "trade or business" to include only the performance of the functions of a public office. This conclusion is, of course, supported by the explicit definition of "trade or business" which is found in the IRC itself at Sec. 7701(a)(26). Note, however, that this definition does not say "includes only"; it says "includes".

Once again, we are haunted by the ambiguity that results from not knowing for sure whether "includes" is expansive or restrictive. If "includes" is restrictive, then The Informer, Lori Jacques, and Frank Kowalik are all correct about the inferences they have drawn from the statute and its regulations. If "includes" is expansive, however, then we have to look elsewhere for things that are "otherwise within the meaning of the term defined", that is, otherwise within the meaning of "U.S.** trade or business".

An expansive intent is manifested by the explicit definitions of "includes" and "including" that are found at IRC 7701(c). The issues of statutory construction that arise from these definitions of "includes" and "including" are so complex, a subsequent chapter of this book will revisit these terms in more detail. The conclusions in that chapter should already be obvious to you. For now, suffice it to say that the intended clarification at 7701(c) is anything but. The hired lawyers who wrote this stuff should have known better than to use terms that have a long history of semantic confusion. For this reason, and for this reason alone, I am now convinced that the confusion is inherent in the language chosen by these hired "guns" and is therefore deliberate.

There is evidence that the meaning of "trade or business" is not limited to the performance of the functions of a public office. The Code itself contains a second definition of "trade or business within the United States**" as follows:

Trade or Business within the United States**. --

For purposes of this part, part II, and chapter 3, the term "trade or business within the United States**" includes the performance of personal services within the United States** at any time within the taxable year

[IRC 864(b)]
[emphasis added]

It is tempting to interpret this definition only "for purposes of this part, part II, and chapter 3". I will not take the bait, because it is more important to stay above a major addiction of the federal zone: obfuscation. You may have already begun to notice how frequently the IRC makes reference to other sections, subsections, subparts, subtitles, and subchapters. Sure, these other places in the law must be taken into account before the "performance of personal services" can be fully understood as defined. I can see that as well as anybody else. But two can play this game. Is there any reason in the statute to suspect that these remote references might not even be valid? First, read the following sub-statute within the statute, and then decide for yourself (go ahead, you have my permission):

Construction of Title.

[Sec. 7806(b)]

(b) Arrangement and Classification. -- No inference, implication, or presumption of legislative construction shall be drawn or made by reason of the location or grouping of any particular section or provision or portion of this title, nor shall any table of contents, table of cross references, or similar outline, analysis, or descriptive matter relating to the contents of this title be given any legal effect. The preceding sentence also applies to the side notes and ancillary tables contained in the various prints of this Act before its enactment into law.

[IRC 7806(a), emphasis added]

Many people, unschooled in the finer points of statutory construction, interpret this section of the IRC to mean that the entire Code has no legal effect. However, a close reading reveals that this section is limited to tables of contents, tables of cross references, side notes, ancillary tables and outlines, in other words, everything but the meat of the Code. Nevertheless, notice the last sentence; it contains a rule which also applies the "preceding sentence" to the side notes and ancillary tables contained in the various prints of the Code before its enactment into law. So, the obvious question is this: has Title 26 been enacted into law? The shocking answer is: NO, it has not been enacted into positive law. In a preface dated January 14, 1983 and included in the 1982 edition of the United States Code, Speaker of the House Thomas P. O'Neill wrote the following:

Titles 1, 3, ... 23, 28, ... have been revised, codified,
and enacted into positive law and the text thereof is legal

evidence of the laws therein contained. The matter contained in the other titles of the Code is prima facie evidence of the laws.

Notice that Title 26 is clearly missing from the list of titles which have been enacted into positive law. This fact can also be confirmed by examining the inside cover page of any volume of the United States Codes in any law library. There you will find that Title 26 is missing the asterisk "*" which indicates that the title has been enacted into positive law. The implications of this finding can be found in Subtitle F, Subchapter B, which deals with effective dates and related provisions. There the general rule for provisions of subtitle F reads as follows:

General Rule. -- The provisions of subtitle F shall take effect on the day after the date of enactment of this title and shall be applicable with respect to any tax imposed by this title.

[IRC 7851(a)(6)(A), emphasis added]

Believe it or not, subtitle F contains all the enforcement provisions of the IRC, such as filing requirements, assessment and collection, liens, levies and seizures. In other words, the enforcement provisions of the Internal Revenue Code have still not taken effect because, as of this writing, Title 26 has still not been enacted. If you don't mind getting frustrated, notice also that section 7851 is also part of subtitle F!

If the statute itself is entirely too frustrating to decipher, it is no wonder why the IRS has published literally hundreds of instruction booklets and official IRS "Publications" to help "clarify" the myriad rules and forms. At last count, there were more than 5,000 IRS forms in the IRS Printed Product Catalog quoted elsewhere in this book. To conclude our discussion of "U.S.** trade or business", you might want to obtain a copy of IRS Publication 519, U.S. Tax Guide for Aliens. This 40-page booklet expresses the English language in words that are much easier to understand than the statute itself. It even has its own Index. Be forewarned, however, that official IRS "Publications" do not have the force of law because they have not been published in the Federal Register, nor do any of them display control numbers and expiration dates issued by the Office of Management and Budget (OMB). (If the IRS makes an error, it's not their fault anyway.) Publication 519 has this to say about a trade or business inside the United States**:

Trade or Business

Whether you are engaged in a trade or business in the United States** depends on the nature of your activities. The

discussions that follow will help you determine whether you are engaged in a trade or business in the United States**.

Personal Services

If you perform personal services in the United States** at any time during the tax year, you usually are considered engaged in a trade or business in the United States**. You are engaged in a trade or business in the United States** if you perform services in this country and receive compensation such as wages, salaries, fees, tips, bonuses, honoraria, or commissions.

[Publication 519: U.S. Tax Guide for Aliens]

[page 8]

Back to sources one more time. (It's so easy to get sidetracked by some remote code reference that has no legal effect!) The interested reader and intrepid investigator will be happy to know that there are literally "oodles" of regulations which go into details, great and small, about the life and times of Mr. and Mrs. Nonresident Alien. Here is a blockbuster for which I am eternally grateful to Tarzan The Informer for weeding out of the jungle of slippery lines and double negatives:

Nonresident aliens. A nonresident alien individual never has self-employment income. While a nonresident alien individual who derives income from a trade or business carried on within the United States**, Puerto Rico, the Virgin Islands, Guam, or American Samoa (whether by agents or employees, or by a partnership of which he is a member) may be subject to the applicable income tax provisions on such income, such nonresident alien individual will not be subject to the tax on self-employment income, since any net earnings which he may have from self-employment do not constitute self-employment.

[26 CFR 1402(b)-3(d)]

[emphasis added]

A nonresident alien individual never has self-employment income. I agree completely with The Informer: "never" always means never.

The point of this chapter is to stress the extreme importance of understanding "sources" as they

affect the nonresident alien like you and me. Remember how Frank Brushaber ultimately lost his bid to the Supreme Court of the United States. He received a dividend that was issued by a "domestic" corporation. Even though he was found to be a nonresident alien with respect to the United States**, his dividend was found to be unearned income from a source inside the United States**, inside the federal zone. The Informer nicely summarizes the overall situation as follows:

YOU ARE NOT TAXABLE IF YOU ARE:

ITEM 1: a non resident alien NOT carrying on a trade or business with the U.S.** or State of a Union State;

ITEM 2: a non resident alien NOT making source income from within the United States**;

ITEM 3: a non resident alien NOT having a trademark, patent, or copyright;

ITEM 4: a non resident who is NOT a fiduciary, so you cannot be a person of incidence with respect to a person of adherence;

then the income tax is not imposed, under subtitle A, chapter 1 on a non resident alien. So you fit the description under 26 USC Sections 2(d) and 872.

[Which One Are You?, page 24]
[emphasis in original]

The complex issues of patents, trademarks, copyrights and fiduciaries are beyond the scope of this book. My "sources" tell me that The Informer is writing another book, hopefully to clarify some of the legal in's and out's of being a fiduciary. Author Lori Jacques has arrived at a remarkably similar conclusion about nonresident aliens. The first person "I" in the following excerpt is author Jacques:

It is conclusive the Department of Treasury, Internal Revenue Service, has no authority within the several states, it is just as conclusive that any income deriving from within the jurisdiction of the national government is taxable to the person receiving it. The treasury decision on Brushaber confirms that.

The tax on the nonresident alien conforms to all constitutional provisions:

1. Uniform taxation of 30% on unearned income from U.S.** sources.
2. No reporting of private information as the tax is withheld at source or else the government has all the information of amount it has paid -- just return the receipt to prove the tax was paid.
3. Graduated taxation on income received from trade or business conducted within the United States**, permitted because only the states are parties to the compact guaranteeing unalienable rights and uniform/apportioned taxation. The federal areas are always exempt from laws guaranteeing equal treatment.
4. No public notice has been published in the Federal Register since state citizens, nonresident to the United States** as defined, are not affected by the delegation of authority orders.

After the evidence is in, I now believe that under the internal revenue law I am a "national" and a nonresident alien to federal jurisdiction who has no U.S.** source income nor any effectively connected income with a U.S.** trade or business for which I am liable to render a return.

[United States Citizen vs National of the United States]
[page 44, emphasis added]

This lengthy excerpt does an excellent job of summarizing a mountain of earnest legal research and writing by author and scholar Lori Jacques. My hat's off to you, Lori, for doing a "totally boss" and uniquely thorough job. I take issue only with your statement above that "the Internal Revenue Service has no authority within the several States." Without clarifying the tax liability that attaches to income from "inside sources", this statement could be misleading. Remember that Frank Brushaber's liability attached to income from such a source. The Informer has accurately qualified the precise extent of federal tax jurisdiction within the 50 States of the Union as follows:

Yes, the IRS can go into the States of the Union by Treasury

Decision Order, to seek out those "taxpayers" who are subject to the tax, be they a class of individuals that are United States** citizens, or resident aliens. They also can go after nonresident aliens that are under the regulatory corporate jurisdiction of the United States**, when they are effectively connected with a trade or business with the United States** or have made income from a source within the United States** that they have entered into an agreement with, for then they are in the state of the forum.

[Which One Are You?, page 98]
[emphasis added]

For the reader who is motivated to investigate the question of "inside sources" in greater detail, Appendix V in this edition of The Federal Zone contains an Affidavit of Applicable Law. This affidavit contains numerous citations to IRC sections which are pertinent to the crucial distinction between "inside" sources and "outside" sources. This same affidavit can be used formally to deny specific liability for federal income taxes during any given calendar year(s).

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Chapter 8: Is it Voluntary?

One of the great deceptions in federal income taxation is the widespread IRS propaganda that the system is "voluntary". Commissioners of the IRS have repeatedly published statements to this effect in all kinds of places like The Federal Register, annual reports to Congress, various instruction booklets and other printed materials. Even the Supreme Court has joined the cadre (cacophony?) of federal government officials who admit, when cornered, that it is voluntary. So, this "voluntary" thing has not been a mistake or an occasional slip here and there; it has been the consistent policy of top officials of the Internal Revenue Service, the Justice Department and the Supreme Court, believe it or not. A thorough sampling of these admissions is now in order.

In 1953, Mr. Dwight E. Avis, head of the Alcohol and Tobacco Tax Division of the Bureau of Internal Revenue, made the following remarkable statement to a subcommittee of the Committee on Ways and Means in the House of Representatives:

Let me point this out now: Your income tax is 100 percent voluntary tax, and your liquor tax is 100 percent enforced tax. Now, the situation is as different as day and night.

[Internal Revenue Investigation]
[Hearings before a Subcommittee of the]
[Committee on Ways and Means]

[Feb. 3 thru Mar. 13, 1953, emphasis added]

In 1971, the following quote was found in the IRS instruction booklet for Form 1040:

Each year American taxpayers voluntarily file their tax returns and make a special effort to pay the taxes they owe.

[emphasis added]

In 1974, Donald C. Alexander, Commissioner of Internal Revenue, published the following statement in the March 29 issue of The Federal Register:

The mission of the Service is to encourage and achieve the highest possible degree of voluntary compliance with the tax laws and regulations

[Vol. 39, No. 62, page 11572]

[emphasis added]

One year later, in 1975, his successor, Mortimer Caplin authored the following statement in the Internal Revenue Audit Manual:

Our tax system is based on individual self-assessment and voluntary compliance.

[emphasis added]

In 1980, yet another IRS Commissioner, Jerome Kurtz (their turnover is high) issued a similar statement in their Internal Revenue Annual Report:

The IRS's primary task is to collect taxes under a voluntary compliance system.

[emphasis added]

Even the Supreme Court of the United States has held that the system of federal income taxation is voluntary:

Our tax system is based upon voluntary assessment and payment, not upon distraint.

[Flora vs United States, 362 U.S. 145]
[emphasis added]

The dictionary defines "distrain" to mean the act or action of distraining, that is, seizing by distress, levying a distress, or taking property by force.

IRS Publication 21 is widely distributed to high schools. It acknowledges that compliance with a law that requires the filing of returns is voluntary. (Get to those young minds early, and it's easier to wash their brains later on in life.) At the same time, it suggests that the filing of a return is mandatory, as follows:

Two aspects of the Federal income tax system -- voluntary compliance with the law and self-assessment of tax -- make it important for you to understand your rights and responsibilities as a taxpayer. "Voluntary compliance" places on the taxpayer the responsibility for filing an income tax return. You must decide whether the law requires you to file a return. If it does, you must file your return by the date it is due.

Perhaps one of the most famous quotes on this question came from Roger M. Olsen, Assistant Attorney General, Tax Division, Department of Justice, Washington, D.C. On Saturday, May 9, 1987, author, colleague and constitutional authority Godfrey Lehman was in the audience when Olsen told an assemblage of tax lawyers:

We encourage voluntary compliance by scaring the heck out of you!

[emphasis added]

This was a remarkable admission by an Assistant Attorney General in the Justice Department, or the "Just Us" department, as they have come to be known in certain circles of the well informed.

What gives? Are there any bases in law for concluding that federal income taxes are truly voluntary, in the everyday garden variety of the term? Yes, there are several. Some of these reasons may be "old hat" to those of you who are in these certain circles. Other reasons may come as a total shock, particularly because the federal government has been guilty of systematic

fraud against the American people. Let us begin with this fraud.

Reach in your wallet and pull out a dollar bill. Already, you have a big problem in your hands. Read what it says on the front of your dollar bill. It says "Federal Reserve Note". First of all, the Federal Reserve is not "federal". It is no more federal than Federal Express, or Federated Hardware Stores. For detailed proof, see *Lewis vs United States*, 680 F.2d 1239 (9th Circuit, 1982). There is no government copyright or trademark on using the word "federal".

Secondly, there is no "reserve". Federal Reserve banks are privileged to loan money they don't have. This is called "fractional reserve" banking. Thirdly, Federal Reserve Notes are not real promissory notes, because they do not promise to pay anything, like gold, or silver, or something else with real substance.

The Federal Reserve system was conceived by a conspiracy of bankers and politicians who met secretly off the coast of Georgia to create the Federal Reserve Act. This Act of Congress was designed to remove the Constitution as a constraint on the financial operations of the U.S. government. It created a private credit monopoly which Congressman Louis T. McFadden once called "one of the most corrupt institutions the world has ever known". Congressman McFadden was Chairman of the House Banking and Currency Committee from 1920 to 1933.

The operations of the Federal Reserve are complicated and secretive. For example, this huge syndicate of private banks has never been publicly audited. I will do my best to simplify its operations for you. The Federal Reserve System was set up to encourage Congress to spend money it doesn't have -- lots of it.

Rather than honestly taxing Americans for all the money it wants to spend, Congress runs up a huge deficit which it covers by printing ink on paper and calling them bonds, or Treasury Bills.

Some of these T-bills are purchased by hard-working Americans like you and me, with money that we obtained from real labor, something that has real value. But the deficits have become so huge, the wage earners do not have enough money to purchase all these bonds every year. So, Congress walks across the street and offers these bonds to the Federal Reserve. The FED says, "Sure, we'll buy those bonds. Your interest rate is 8.25, or 9 and a half. Take it or leave it." Congress always takes it, because there's nobody else with that kind of money. Remember, the Federal Reserve is a private credit monopoly.

Now, what does the FED use to purchase those bonds? They create money out of thin air, using bookkeeping entries to manufacture credit out of nothing. They used to do it with pen and ink, then typewriters, and now computers do the job. This artificial money would normally create very rapid inflation. This happened in Germany just prior to World War II, when Louis McFadden was a Congressman. It eventually took a wheel barrow full of Deutsche marks just to buy one loaf of bread. Imagine that, if you can!

The bankers realized that a mechanism was needed to withdraw this artificial money out of circulation as quickly as it was put into circulation. Enter the Internal Revenue Service. The IRS

is really a collection agency for the Federal Reserve. The FED pumps money into the economy, and the IRS sucks it out of the economy, like two pumps working in tandem. This has the effect of artificially maintaining the purchasing power of this "fiat money", as it is called by monetary experts.

This is one of the primary purposes of the income tax. We know this to be true, because a man named Beardsley Rumml explained it clearly in an essay he published in the magazine American Affairs in January of 1946. Beardsley Rumml was Chairman of the Federal Reserve Bank of New York, so he was in a position to know. The shocking fact is that Federal income taxes do not pay for any government services; they are used to make interest payments on the federal debt. These interest payments are now approaching 40 percent of the annual federal budget.

The Federal Reserve Act is unconstitutional for many reasons, foremost among which is that Congress delegated to a private corporation a power which Congress never had, that is, to counterfeit money. It is unlawful for Congress to exercise a power which is not authorized to it by the Constitution. The people, you and I, and the 50 States reserve all powers not expressly delegated to the federal government.

Congress got hooked on this sweetheart deal and started spending money so fast, it quickly bankrupted the federal government. This may also come as a shock to many of you. And you might feel that what I am about to say is paranoid or crazy. We felt this way too when we first discovered it. We couldn't believe it. So we investigated. Our research discovered that the bankers foreclosed the United States Treasury no later than the year 1933. They called the loans and confiscated all the gold then being held by the U.S. Treasury.

An Act of Congress caused all that gold to be transferred to the Federal Reserve banks. Remember, those are private banks, and the Treasury Department is not the U.S. Treasury Department. If you need proof, try enclosing a check payable to the "U.S. Treasury Department" with your next tax return. Notice also that IRS stationery says "Department of the Treasury" and not the "U.S. Department of the Treasury".

To secure the rest of their debt, Congress then liened, in effect, on the future property and earnings of all the American people, through Social Security taxes, payroll withholding taxes, inheritance taxes, and the like. Congress mortgaged the American people, using our labor and our property as collateral.

What Congress did was analogous to this: I walk into a large department store and see a new toaster I want. I tell the sales person to ship it to my home tomorrow, and to send the bill to Willie Brown. Now, when Willie Brown gets the bill for this toaster, he's going to be pretty mad, and rightly so. He didn't order the toaster; he doesn't own the toaster; he wasn't a party to the toaster transaction. In fact, he didn't even know about it. And yet, I am holding him responsible to pay for the toaster. In this example, I am Congress; the department store is the Federal Reserve; and Willie Brown represents the American People (some of the time).

This is fraud, because Congress did not openly and freely disclose the real reasons for its

actions. Lack of full disclosure is grounds for fraud in any contract. The Uniform Commercial Code says so. And yet, all Americans are being unlawfully enslaved by this fraud, to help discharge the debt which Congress has tried to impose upon all of us. (Rumor has it that the New York banking establishment refers to our money as Federal Reserve Accounting Unit Devices, F-R-A-U-D. Film at 11.)

Your "income" is private property. Absent an apportioned direct tax, or some commercial agreement to the contrary, the federal government is not empowered to obtain a controlling interest in, or otherwise lien on private property so as to compel a private Citizen's specific performance to any third- party debt or obligation. Moreover, it is a well established principle in law that government cannot tax a Sovereign State Citizen for freely exercising a right guaranteed by the U.S. Constitution. The acquisition and exchange of private property is such a right. The pursuit of common-law occupations is another such right.

Now, if you want to "volunteer" to help reduce the national debt, you may, and Congress will of course accept your "gift" without question. You have the right to volunteer yourself as a third-party to the outstanding principal debt which Congress has amassed. As a "principal" in your own right, you have the right to obligate yourself as a "performance unit" on the national debt (unlike so many Americans whose birth certificates have ended up, without their knowledge, in the hands of the International Monetary Fund in Brussels, Belgium. See Appendix T if you decide to revoke your birth certificate.) Thus obligated, you will have turned yourself into someone who is subject to all the rules and regulations which have been established by the Secretary of the Treasury to discharge the massive federal debt. But, as long as you remain a Sovereign State Citizen, who is neither a resident nor a citizen of the United States**, and as long as you do not derive income from sources inside the United States** or from a U.S.** trade or business, you are completely outside the jurisdiction of the federal zone. The federal debt is not your burden to carry.

You cannot be compelled, at law, to perform under any third- party debt or obligation. If you are ever so compelled, it is extortion, or "tax-tortion" as Godfrey Lehman calls it. You are not only the victim of extortion. You are also the victim of a massive fiscal fraud which Congress and other officials of the federal government have perpetrated upon Sovereign State Citizens at least since 1913, the year the Federal Reserve Act was passed into law, and also the year the so-called 16th Amendment was simply "declared" into law: two pumps, working in tandem, one pumping money and credit into the economy, the other sucking it out of the economy. The Rothschild-Hamilton money and banking system, as it is called, is older than everyone alive.

The constitutional experts and experienced staff at the National Commodity and Barter Association in Denver, Colorado have done a fine job of summarizing "voluntary compliance" in one of their aging flyers that is still circulating:

The term "voluntary compliance" appears to be contradictory, but careful analysis shows the words to be accurate and appropriate. An act is voluntary when one does it of his

own free will, not because he is forced by law to do it. If a law applies to an individual, his compliance with the law is mandatory, not voluntary. However, individuals engaged in occupations of common right are not subject to the income (excise) tax. For them, compliance with the law is voluntary, not mandatory, because the law does not apply to them.

[brochure entitled Must You Pay Income Tax?]

So, now you know at least some of the many reasons why federal officials admit that income taxes are voluntary. It's a deception, because they will admit that it's voluntary, but they won't tell you why. Quite possibly, they don't even know why because they, too, have been deceived. When the U.S. Treasury's gold was transferred into the vaults of the Federal Reserve banks, lots of people were deceived into believing that Uncle Sam was simply moving that gold out of his right hand and into his left hand. Many of those deceived were Uncle Sam's employees. Only an elite few really knew that the Federal Reserve was established as a private corporation, a Class A common stock corporation, to be exact.

Are there any other reasons, like this, why federal income taxes are voluntary? Yes. In previous chapters, the concepts of "U.S.** resident", "nonresident", "U.S.** citizen", and "alien" were explored in some detail. Nonresident aliens with respect to the federal zone are required to pay taxes only on income derived from sources within that zone. Those sources may be a "U.S.**" trade or business, "U.S.**" corporations which sell stocks and bonds and pay dividends, or employment with the federal government.

Doing business with the federal zone is your option; it's voluntary. Nobody is compelling you to buy stock from a domestic "U.S.**" corporation. Nobody is compelling you to derive income from a "U.S.**" trade or business. Nobody is compelling you to work for the federal government. But, if you choose to do so, then you will be held liable for federal taxes on the "privilege" of deriving income from these sources, because these sources are situated inside a zone over which the Congress has exclusive legislative jurisdiction. That is, Congress can do pretty much whatever it wants inside that zone. If you don't like the tax rates, then don't choose a U.S.** trade or business. If you don't want to reside inside their zone, then move somewhere else. If you don't want to be one of their "citizens", then expatriate. Remember, involuntary servitude is forbidden everywhere in this land, even within the federal zone. It's relatively simple, when the boundaries and authorities of the federal zone are taken into full account, the Account for Better Citizenship.

When I say that Congress can do pretty much whatever it wants inside the federal zone, I mean to say that Congress is free to create a system of democratic socialism within that zone (see Appendix W). Outside the federal zone, Congress is bound by the chains of the Constitution to guarantee a Republic to the 50 States. Social Security is perhaps the most glaring example of a "voluntary" system offered by the democratic socialists who actually write the laws. These socialists then pay the "law makers" to vote for the laws, even though the real "makers" are not the ones who do the actual voting. (If you want to have some fun, ask your representatives in the

House or Senate if they've ever read the IRC, and if so, how much of it they have read and understood.) The actual scope of Social Security is limited to the federal zone, except for those outside the zone who wish to partake of its "benefits" knowingly, intentionally, and voluntarily. Ralph F. Whittington nails it down as follows:

Do you now understand that the Social Security Act was written under the authority of Article 1, Section 8, Clause 17, and Article 4, Section 3, Clause 2, of the Constitution, exclusive authority given to the Congress by "WE THE PEOPLE"???

The "USE" of a Social Security Account Number is evidence of the following:

1. You are a card carrying and practicing member of National Socialism.
2. You have voluntarily derogated your "Sovereignty", and make public and notorious declaration that you prefer to have the protection of Congress, and prefer to be a "Subject" under the "Exclusive Powers" of Congress and the Bureaucrats that have been assigned certain duties by Congress.
3. You make a public and notorious declaration that you are a "Taxpayer", and will follow the rules as laid down in the United States Code Title 26 (Tax Code), and the various other Laws which are written for enforcement upon the "Subjects of Congress".
4. The use of your Social Security Account Number is evidence of your FRANCHISE with the Federal Government, a Franchise that provides you with Privileges and Advantages, protected by the Federal Government.
5. Makes you, voluntarily, a "United States** Person" (per definition). See 26 U.S.C., Sec. 7701(a)(30).
6. You have rejected the protections of the Constitution for a dole, and prefer to be judged in the "King's Court" if you violate any of his rules.

[The Omnibus, pages 73-74]
[emphasis in original]

Thus, if you are participating knowingly, voluntarily, and intentionally in the "Franchise"

called "Social Security", then your participation is evidence that you have volunteered to classify yourself as a "taxpayer", as that term is defined in the Internal Revenue Code. Under the "Law of Presumption", your use of a social security number can be seen by the federal government as prima facie evidence that you have opted to obtain benefits from the federal zone. If you are not participating knowingly, voluntarily and intentionally, then the government's presumption can be rebutted. Aside from creating money via fractional counterfeits, how else do you think the feds obtain the money which they pay to "benefit" recipients? Contrary to federal propaganda, there still is no free lunch.

Remember, there is no "reserve", not in the Federal Reserve, and certainly not in Social Security. As the famous "baby boom" advances in age, this generational cohort is acting like a "pig in a python" to devastate the fiscal integrity of the entire Social Security system. Perhaps you thought that Social Security was really an insurance fund, like an annuity. That's another grand deception (and fraud), the details of which are also beyond the scope of this chapter. Funds have not been "set aside" for you. Social Security is a TAX, and it says so in the law. It's a tax with a bear trap hidden in the bushes. That bear trap converts you from a Sovereign into a subject. Now that you know, you may want to consider changing your status, while you still can. At the very least, continue to educate yourself about this.

There is yet another reason why federal income taxes are voluntary. The Internal Revenue Code says that nonresident aliens may "elect" to be treated as "residents". Think back to The Matrix. If you are a nonresident alien, you are in row 2, column 2. Now think of it as a game of checkers, on a board with only four squares. It's your move. If you volunteer to move from the square at row 2/column 2 to any other square, you will thereby incur a tax liability. According to Publication 519, an alien may be both a resident alien and a nonresident alien during the same tax year:

This usually occurs for the year you arrive in or depart from the United States**.

[Publication 519, U.S. Tax Guide for Aliens, page 3]

Such an alien is called a "dual status" alien.

A nonresident alien can also "elect" or volunteer to be treated as a resident alien. My reading of the law and the related publications leads me to conclude that this "election" is available only to a nonresident alien who is married, but I am open to persuasion on this point. Specifically, the IRC has this to say about "elections":

Election to Treat Nonresident Alien Individual as Resident of the United States**. --

- (1) In General. -- A nonresident alien individual with respect to whom this subsection is in effect for the taxable year shall be treated as a resident of the United States** --
- (A) for purposes of chapters 1 and 5 for all of such taxable year, and
- (B) for purposes of chapter 24 (relating to wage withholding) for payments of wages made during such taxable year.
- (2) Individuals with Respect to Whom This Subsection is in Effect. -- This subsection shall be in effect with respect to any individual who, at the close of the taxable year for which an election under this subsection was made, was a nonresident alien individual married to a citizen or resident of the United States**, if both of them made such election to have the benefits of this subsection apply to them.

[IRC 6013(g)]
[emphasis added]

The Instructions for IRS Form 1040NR, U.S. Nonresident Alien Income Tax Return, shed more light on these "election returns":

Election to be Taxed as a Resident Alien

Under some circumstances you can elect to be taxed as a U.S.** resident for the whole year. You can make this election if either of the following applies to you:

- You were a nonresident alien on the last day of the tax year, and your spouse was a U.S.** citizen or resident alien on the last day of the tax year.
- You were a nonresident alien at the beginning of the tax year, but you were a resident alien on the last day of the tax year and your spouse was a U.S.** citizen or resident alien on the last day of the tax year. (This

also applies if both you and your spouse were nonresident aliens at the beginning of the tax year and both were resident aliens at the end of the tax year.)

If you elect in 1990 to be taxed as a U.S.** resident, you and your spouse must file a joint return on Form 1040 or 1040A for 1990. Your worldwide income for the whole year will be taxed under U.S.** tax laws. You must agree to keep the records, books, and other information needed to figure the tax. If you made the election in an earlier year, you may file a joint return or separate return on Form 1040 or 1040A for 1990. Your worldwide income for the whole year must be included whether you file a joint or separate return.

[Instructions for Form 1040NR, page 2]
[emphasis added]

If nonresident aliens "elect" to be treated as "resident" aliens, they are thereby required to file IRS Form 1040 or 1040A instead of Form 1040NR. Filing Form 1040 or 1040A can be taken by the government as prima facie evidence that you want to be treated as a "resident". This, in turn, allows the government to presume that you have volunteered to be treated as a "taxpayer", that is, one who is entitled to the "benefits", and subject to the liabilities, of the federal zone's legislative democracy. The chain of cause and effect is clarified considerably by couching the discussion in terms of The Matrix: four-square checkers (like candidate Richard M. Nixon's famous pet dog). Author and scholar Lori Jacques has summarized it succinctly as follows:

IR Code Sec. 6013(g) grants an election to treat nonresident alien spouse as resident of the United States**. If the nonresident alien individual makes this election by filing a 1040 form, then returns must be filed for the current year and all subsequent years until the election is terminated.

[United States Citizen vs. National of the United States]
[page 40, emphasis added]

Again, an "election" can be terminated voluntarily. This termination is described in the IRC as follows:

Termination of Election. -- An election under this subsection shall terminate at the earliest of the following

times:

- (A) Revocation by Taxpayers. -- If either taxpayer revokes the election, as of the first taxable year for which the last day prescribed by law for filing the return of tax under chapter 1 has not yet occurred. ...

[IRC 6013(g)(4)]

We have not taken the time to determine if there are similar provisions in the IRC and its regulations for unmarried nonresident aliens. (Remember, the statute has 2,000 pages and the regulations have 6,000 pages.) Author Lori Jacques has taken note of the CFR provisions for terminating "voluntary" withholding, which may be effective in this case. An affidavit is attached to an individual's Form W-4, specifying the name, address and social security number of the employee making the request, the name and address of the employer, and a statement that the employee desires to terminate withholding of federal income tax and desires that the agreement terminate on a specific date. The report by Lori Jacques goes on to explain:

This arrangement can be found in 2 USC 60 for the Congress. Possibly the same format could be used, thereby revoking a presumed election to be treated as "resident of the United States**."

For the nonresident alien's exemption from withholding and taxation to apply, a statement is to be made stating the kind of exclusion claim.

- (1) No income from United States** source
- (2) No income from effectively connected United States** source
- (3) No income from a trade or business conducted within the United States**
- (4) Income excluded under "fundamental law"

[United States Citizen vs. National of the United States]

[page 40, emphasis added]

A close examination of the CFR regulations for terminating voluntary withholding reveals a trap, however. A number of natural born Sovereign State Citizens have been misled by well intended but ignorant Patriots who thought they had found in those regulations a method to stop paycheck withholding, without any adverse consequences. This method is the infamous section "1441" of the CFR:

1.1441-5 Claiming to be a person not subject to withholding.

(a) Individuals. For purposes of chapter 3 of the Code, an individual's written statement that he or she is a citizen or resident of the United States** may be relied upon by the payer of the income as proof that such individual is a citizen or resident of the United States**.

[26 CFR 1.1441-5]
[emphasis added]

In a now famous circular entitled "We Will Pay \$10,000 If You Can Prove the Following Statements of Fact To Be False!", the Save-A-Patriot Fellowship included the following "fact":

FACT #23: The implementation of IRS Treasury Regulation 1.1441-5 is explained in Publication 515 on page 2: If an individual gives you [the domestic employer or withholding agent] a written statement, in duplicate, stating that he or she is a citizen or resident of the United States, and you do not know otherwise, you may accept this statement and are relieved from the duty of withholding the tax.

IRS Publication 515 is entitled Withholding of Tax on Nonresident Aliens and Foreign Corporations, and the Save-A-Patriot quotation is accurate. However, by referring to The Matrix in chapter 3 of this book (and on the cover), it should now be obvious why such a statement is precisely the wrong thing to do. Nonresident aliens thereby declare themselves to be either citizens of the United States** or residents of the United States**, voluntarily rendering themselves liable for federal income taxes. To underscore why section 1441 is a trap, a Sovereign California Citizen received the following in a letter from the Employment Development Department of the State of California after filing a 1441 statement:

Your statement submitted in compliance with Title 26, Code of Federal Regulations, Section 1.1441-5, specifically Section 1.1441-5(c) is also noted. Your declaration, received without a date, has been logged and filed into EDD records.

[Employment Development Department]
[private communication]
[emphasis added]

Author Lori Jacques summarizes the "1441" statement with surgical accuracy:

... [I]t seems rather incomprehensible to file a statement claiming to be a U.S.** citizen (if one is not) making oneself obligated for a tax on income from whatever source -- within and without the United States**. Although one may be exempt from the 30% withholding under this provision, employers do not withhold a flat 30% rate anyway. Some day that declaration of U.S.** citizenship will surely come back to haunt its declarant when the IRS wants the returns and payment of a graduated tax for all of that undeclared income.

[A Ticket to Liberty, November 1990 edition, page 45]

There is a much better method for nonresident aliens to stop withholding. It is called a "Certificate of Exemption from Withholding in Lieu of W-4". This certificate is authorized by section 3402(n) of the IRC (see Appendix X). Details for completing and serving this certificate can also be obtained from Doc Scott's great book entitled Free at Last -- From the IRS, listed in the Bibliography (see Appendix N). Be careful to avoid explicitly declaring yourself as an "employee", however, since this term has a specific meaning in that chapter of the IRC (see the definition of "employee" at IRC 3401(c)). Your certificate is made so as to be "consistent with", or in pari materia with, section 3402(n).

Alternatively, IRS Form 8233 can be used as an alternative to a CERTIFICATE OF EXEMPTION FROM WITHHOLDING IN LIEU OF W-4. The following is the abstract describing Form 8233 in the IRS Printed Product Catalog, Document 7130:

8233 62292K (Each)

Exemption from Withholding of Compensation for Personal Services

Used by non resident alien individuals to claim exemption from withholding on compensation for personal services because of an income tax treaty or the personal exemption amount. D:R:FP:F Tax Related Public Use

[IRS Printed Product Catalog]
[Document 7130, Rev. 6-89, p. 66]

Summary

It is really exciting to discover that federal income taxes are indeed voluntary for nonresident aliens who derive no income from sources inside the federal zone. It is equally exciting to discover that aliens who have "elected" to be "resident aliens" may also terminate that election. (Terminating an election is something that most of us would never even think of doing! Let's all work and pray to ensure it never happens in this country.) Lastly, is it imperative to understand that the filing of prior 1040 forms can be taken as evidence that a nonresident alien has elected to be a resident alien, for purposes of federal tax law. The federal government is thereby entitled to presume that you are either required to file, or that you have elected to be treated as one who is required to file, if and when your signed 1040 or 1040A form arrives in a pouch of mail destined for an IRS Service Center. The Law of Presumption is so important, the next chapter will be dedicated to this one subject. Even the perjury oath under which you sign your name on IRS tax forms is a subtle indicator of your status vis-a-vis the federal zone. For proof, see Appendix R for [or] the relevant statute from Title 28.

Chapter 9: The Law of Presumption

A nonresident alien who has filed one or more Forms 1040 in the past is presumed by the IRS to be an individual who was required to file those forms. The filed forms entitle the IRS to presume that this individual either was required to file, or elected to be treated as one who is required to file. Such a requirement would be triggered by changing to resident status, changing to citizen status, and/or opting to derive income from a source inside the federal zone (like federal employment). Accordingly, the IRS is entitled to presume that this nonresident alien has "volunteered" to become a "taxpayer", that is, a person who is subject to an internal revenue tax. Quite apart from the day-to-day assumptions we all make about life in general, the term "presumption" has a very special meaning in law. A presumption in law is a logical inference which is made in favor of a particular fact. The Uniform Commercial Code (UCC) defines "presumption" and "presumed" as follows:

"Presumption" or "presumed" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

[UCC 1-201 (31)]

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

A presumption is a rule of law, statutory or judicial, by which finding of a basic fact gives rise to existence of presumed fact, until presumption is rebutted. ... A legal

device which operates in the absence of other proof to require that certain inferences be drawn from the available evidence.

There are, in law, two different and directly opposite kinds of presumptions: a conclusive presumption and a rebuttable presumption. A conclusive presumption is one for which proof is available to render some fact so "conclusive", it cannot be rebutted. To "rebut" a fact is to expose it as false, to disprove it. Thus, a "rebuttable fact" is one which can be disproven and exposed as false. In other words, a rebuttable fact is a lawyer's way of describing a fact that is not a fact. (1984 was a long time ago; the book is even older than that.) The opposite kind of presumption is a rebuttable presumption. A rebuttable presumption is a one that can be overturned or disproven by showing sufficient proof. We are interested primarily in this second type of presumptions -- rebuttable presumptions -- because the Code of Federal Regulations makes explicit certain presumptions about nonresident aliens. The regulations have this to say about the proof of alien residence:

Proof of residence of aliens.

- (a) Rules of evidence. The following rules of evidence shall govern in determining whether or not an alien within the United States** has acquired residence therein for purposes of the income tax.
- (b) Nonresidence presumed. An alien by reason of his alienage, is presumed to be a nonresident alien.

[26 CFR 1.871-4]
[emphasis added]

The regulations are very clear about a key presumption which the IRS does make about aliens. Because of their "alienage", that is, because of their status as aliens in the first place, all aliens are presumed by Treasury regulations to be nonresident aliens. This presumption is built into the law, because the Code of Federal Regulations is considered to have the force of law. (The CFR is judicially noticed, and courts have ruled that the CFR is a supplement to the published Federal Register, which puts the general public on actual notice too.) This presumption is not a conclusive presumption, however; it is a rebuttable presumption. The regulations establish the rules by which this presumption can be rebutted or disproven, as follows:

Other aliens. In the case of other [not departing] aliens, the presumption as to the alien's nonresidence may be overcome by proof --

- (i) That the alien has filed a declaration of his intention to become a citizen of the United States** under the naturalization laws; or
- (ii) That the alien has filed Form 1078 or its equivalent; or
- (iii) Of acts and statements of the alien showing a definite intention to acquire residence in the United States** or showing that his stay in the United States** has been of such an extended nature as to constitute him a resident.

[26 CFR 1.871-4]

Filing a declaration of intent to become a U.S.** citizen will "rebut the presumption". Acts or statements by aliens showing a definite intent to acquire residence will also "rebut the presumption". Form 1078 is a Certificate of Alien Claiming Residence in the United States**. The IRS Printed Product Catalog, Document 7130, describes this form as follows:

1078 171951 (Each)
Certificate of Alien Claiming Residence in the United States

Who May File. A resident alien may file the original and one copy of this certificate with the withholding agent to claim the benefit of U.S.** residence for income tax purposes. (A withholding agent is responsible for withholding tax from your income.) D:RF:F Tax Form or Instruction

[page 10, emphasis added]

Notice, in particular, the explicit reference to "the benefit of U.S.** residence for income tax purposes". What are the benefits of U.S.** residence for income tax purposes? Recall, from the previous chapter, the "benefits" of being under the protection of Congress and thereby subject to its exclusive jurisdiction. The actual scope of Social Security, for example, is limited to the federal zone, except for those outside the zone who wish to partake of its "benefits" voluntarily. Under the law of presumption, your use of a social security number can be seen by the federal government as proof that you have opted to obtain benefits from the federal zone. Form 1078 is likewise ready-made for those who begin as nonresident aliens, but later opt to declare themselves "resident" in the United States** in order to claim the benefit of that "residence". Simply stated, Form 1078 declares a nonresident alien to be a "resident" for income tax purposes.

It moves nonresident aliens out of the square at row 2/column 2 in The Matrix, and into the square at row 1/column 2.

There are other ways by which the presumed nonresidence of aliens can be rebutted, or disproven, thereby moving their four- square checkers into a square that is within the federal zone. The regulations make reference to Form 1078 or its equivalent. (Try to find a definition of the term "equivalent" in the statute or its regulations.) If nonresident aliens sign a Form W-4, for example, they are presumed to be government employees with income from a source inside the federal zone. Employers are to treat all employees as "residents" and to withhold pay as if the employers have not been instructed otherwise.

Notice how the presumption has shifted. Contrary to the regulations at 26 CFR 1.871-4 (quoted above), employers are told by the IRS to make the opposite "presumption" about the residence of their employees, even if they are not true "employees" as that term is defined in the IRC. If individuals have W-4 and W-2 forms, the presumption is that they were either required to sign these forms, or they have made elections to be treated as residents. Recall that the instructions for Form 1040NR describe the "election to be taxed as a resident alien". This is accomplished by filing an income tax return on Form 1040 or 1040A, and attaching a statement confirming the "election".

An extremely subtle indicator of one's status is the perjury oath which is found on IRS forms. Under Title 28 of the U.S. ** Codes, Section 1746, there are two different perjury oaths to which penalties attach: one within the United States**, and one without the United States** (see Appendix R for the precise wording of 28 USC 1746). If an oath is executed without the United States**, it reads, "I declare ... under the laws of the United States of America." If an oath is executed within the United States**, it reads, "I declare ... that the foregoing is true and correct." Thus, your signature under the latter oath can be presumed to mean that you are already subject to the jurisdiction of the United States**. This latter oath is the one found on IRS Form 1040.

It should be clear by now that the IRS may well be making presumptions about your status which are, in fact, not correct. If an original presumption of nonresidence has been rebutted, for example, because a nonresident alien filed one or more 1040 forms in the past, the filed forms do not cast the situation into concrete. The IRS is entitled to formulate a presumption from these filed forms, but this presumption is also rebuttable. If you filed under the mistaken belief that you were required to file, that mistaken belief, in and of itself, does not suddenly turn you into a person who is required to file. Tax liability is not a matter of belief; it is a matter that arises from status and jurisdiction.

The best approach is to "clean the slate". In other words, clear the administrative record of any written documents which may have been filed in error, or in the mistaken belief that the filer was required. In Appendix F of this book, there is an Affidavit of Rescission which can be used to clean the slate. This affidavit is not meant to be a document with universal application, because everyone's situation is different. For example, the affidavit makes certain statements about the laws and regulations which have been studied by the individual who signs it. Not everyone has read these same laws and regulations. The affidavit does, however, cover a wide range of factual

matters which will serve to educate the reader about the constructive fraud which Congress and other federal officials have perpetrated on the American people. Various qualified organizations are now available to assist individuals with the procedure for executing this affidavit, filing it with a County Recorder, and serving it on the appropriate government officials. The National Commodity and Barter Association is one such organization. Their address is in the list of organizations found in Appendix M of this book.

Now, let's have a little fun with this law of presumption, as it is called. The law works both ways. This means that you can use it to your advantage as well as anyone else can. One of the most surprising and fascinating discoveries made by the freedom movement in America concerns the bank signature card. If you have a checking or savings account at a bank, you may remember being asked by the bank officer to sign your name on several documents when you opened that account. One of these documents was the bank signature card. You may have been told that the bank needed your signature in order to compare it with the signatures that would be found on the checks you write, to detect forgeries. That explanation sounded reasonable, so you signed your name on the card.

What the bank officer probably did not tell you was that you signed your name on a contract whereby you agreed to abide by all rules and regulations of the Secretary of the Treasury. You see, bank signature cards typically contain such a clause in the fine print. These rules and regulations include, but are not limited to the IRC (all 2,000 pages of it) and the Code of Federal Regulations for the IRC (all 6,000 pages of it). These rules may also include every last word of the Federal Reserve Act, another gigantic statute. Now, did the bank have all 8,000 pages of the IRC and its regulations on exhibit for you to examine upon request, before you signed the card? Your bank should be willing, at the very least, to identify clearly what rules and regulations adhere to your signature.

You are presumed to be a person who knows how to read, and who knows how to read a contract before signing your name to it. Once your signature is on the contract, the federal government is entitled to presume that you knew what you were doing when you signed this contract. Their presumption is that you entered into this contract knowingly, voluntarily, and intentionally. Why? Because your signature is on the contract. That's why. Is this presumption rebuttable? You bet it is. Here's why:

Instead of telling you that the bank needed your signature to catch forgeries, imagine that the bank officer described the signature card as follows:

Your signature on this card will create a contract relationship between you and the Secretary of the Treasury. This Secretary is not the U.S. Secretary of the Treasury, because the U.S. Treasury Department was bankrupted in the year 1933. The Treasury Department referred to on this card is a private corporation which has been set up to enforce private rules and regulations. These rules and regulations

have been established to discharge the bankruptcy of the federal government. Your signature on this card will be understood to mean that you are volunteering to subject yourself to a foreign jurisdiction, a municipal corporation known as the District of Columbia and its private offspring, the Federal Reserve system. You accept the benefits of limited liability offered to you by this corporation for using their commercial paper, Federal Reserve Notes, to discharge your own debts without the need for gold or silver.

By accepting these benefits, you are admitting to the waiver of all rights guaranteed to you by the Constitution for the United States of America, because that Constitution cannot impair any obligations in the contract you will enter by signing this card. Your waiver of these rights will be presumed to be voluntary and as a result of knowingly intelligent acts done with sufficient awareness of the relevant circumstances and likely consequences, as explained by the Supreme Court in the case of *Brady vs U.S.* With your signature on this card, the Internal Revenue Service, a collection agency for the Federal Reserve system, will be authorized to attach levies against any and all of your account balances in order to satisfy any unpaid liabilities which the IRS determines to exist. You will waive all rights against self-incrimination. You will not be entitled to due process in federal administrative tribunals, where the U.S. Constitution cannot be invoked to protect you. Your home, papers and effects will not be secured against search and seizure. Now, please sign this card.

How does the law of presumption help you in this situation? First of all, you presumed that your signature was required, to compare it with the signatures on checks you planned to write. This was a reasonable presumption, because that's what the bank officer told you, but it is also a rebuttable presumption, because of what the fine print says. That fine print can be used to rebut, or disprove, your presumption when push comes to shove in a court of law. The federal government is entitled to presume that you knew what you were doing when you signed this contract. Well, did you? Did the bank officer explain all the terms and conditions attached thereto, as explained above? Did you read all 8,000 pages of law and regulations before deciding to sign this contract? Did you even know they existed? Was your signature on this contract a voluntary, intentional and knowingly intelligent act done with sufficient awareness of all its relevant consequences and likely circumstances? The Supreme Court has stated clearly that:

Waivers of Constitutional Rights not only must be voluntary, but must be knowingly intelligent acts done with sufficient awareness of the relevant circumstances and likely consequences.

[Brady vs United States, 397 U.S. 742, 748 (1970)]

Fortunately, the federal government's presumption about you is also rebuttable. Why? Because the feds are guilty of fraud, among other reasons, by not disclosing the nature of the bankruptcy which they are using to envelope the American people, like an octopus with a suction tentacle in everybody's wallet, adults and children alike. The banks became unwitting parties to this fraud because the Congress has obtained a controlling interest in the banks through the Federal Deposit Insurance Corporation and their traffic in Federal Reserve Notes and other commercial paper issued by the Federal Reserve banks, with the help of their agent, the private Treasury Department.

Because this fraud can attach to bank accounts without your knowledge or consent, it is generally a good idea to notify your bank(s), in writing, that the IRS cannot inspect any of your bank records unless you have specifically authorized such inspections by executing IRS Form 6014. The IRS Printed Products Catalog describes this form as follows:

6014 42996R (Each)

Authorization -- Access to Third Party Records for Internal Revenue Service Employees

Authorization from Taxpayer to third party for IRS employees to examine records. Re-numbered as a 4-digit form from Letter 995(DO) (7/77). Changes suggested per IRM Section 4082.1 to help secure the correct information from the third party. EX:E:D Tax Related Public Use

[IRS Printed Product Catalog]
[Document 7130, Rev. 6-89, p. 49]

Make explicit reference to this Form in a routine letter to your bank(s). Inform the appropriate bank officers that they must have a completed Form 6014 on file, with your authorized signature, before they can legally allow any IRS employees to examine your records. Then state, discretely, that you hereby reserve your fundamental right to withhold your authorized signature from Form 6014, because it might otherwise constitute a waiver of your 4th Amendment Rights, and no agency of government can compel you to waive any of your fundamental Rights such as those explicitly guaranteed by the 4th Amendment in the Constitution for the United States of America.

(Banks are chartered by the States in which they do business, and as such they are "agencies" of State government.) For good measure, you might also cite pertinent sections in your State Constitution, particularly if it mandates that the U.S. Constitution is the Supreme Law of the Land, as it does in the California Constitution of 1879. Finally, you may wish to state that Form 6014 is not applicable to you anyway, because you are not a "Taxpayer" as that term is defined by Section 7701(a)(14) of the Internal Revenue Code. Therefore, the bank is simply not authorized to release information about you to IRS employees, period!

Social Security is another example of a fraudulent contract with a built-in presumption. Your signature on the original application for Social Security, the SS-5 Form, is presumed by the federal government to mean that you knew what you were getting into, namely, that you knew it was voluntary, that you knew it wasn't a true insurance program, that you knew it was a tax, that you knew Congress reserved to itself the authority to change the rules at any time, and that you knew it would render you a subject of the Congress because you knowingly, intentionally and voluntarily chose to accept the "benefits" of this government program. Now ask yourself the 64,000 dollar questions: How could you have known any of these things, if nobody told you? How could you have known, if the real truth was systematically kept from you? How could you have known, if all applicable terms and conditions were not disclosed to you before you joined the program? And how could you have made a capable, adult decision in this matter when you signed the form as a minor, or your parents signed it for you? The answers to these questions are all the same: there is just no way.

For the record, Black's Law Dictionary, Sixth Edition, defines "fraud" as follows:

An intentional perversion of truth for the purpose of inducing another in reliance upon it to part with some valuable thing belonging to him or to surrender a legal right. A false representation of a matter of fact, whether by words or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed, which deceives and is intended to deceive another so that he shall act upon it to his legal injury.

[emphasis added]

The law with respect to fraud is crystal clear. "Constructive fraud as well as actual fraud may be the basis of cancellation of an instrument." *El Paso Natural Gas Co. vs Kysar Insurance Co.*, 605 Pacific 2d. 240 (1979).

How do you reverse these ominous presumptions which the federal government is entitled to make about the "contract" you signed at your friendly local bank, or the "contract" you signed to apply for Social Security? Spend some time to read carefully the Affidavit found in Appendix F of this book. This Affidavit is normally served on the Secretary of the Treasury. You might also be motivated to obtain and study some of the other books listed in the Bibliography (Appendix

N) and/or to join some of the organizations listed in Appendix M. The situation is a serious one, but knowledge can help to set you free. It is better to light a candle than to curse the darkness. And light always drives out darkness; darkness never drives out light.

Chapter 10: The Fundamental Law

The law of presumption is in the class of laws akin to esoteric technicalities. It is quite possible that we could get along quite well without it. The fundamental law, on the other hand, is just what it says: it is a law that is essential, of central importance. We could not get along without it. It determines the essential structure and function of our society. It serves as an original and generating source. A fundamental right, for example, is one which is innate to all free people. When used as a noun, the term "fundamental" refers to one of the minimum constituents, without which a system would not be what it is. In Latin, it is the *sine qua non*, without which there is nothing. What, then, is the fundamental law in our country?

The fundamental law in America is the Constitution for the United States of America. Black's Law Dictionary, Sixth Edition, contains a definition of "fundamental law" as follows:

Fundamental law. The law which determines the constitution of government in a nation or state, and prescribes and regulates the manner of its exercise. The organic law of a nation or state; its constitution.

The Constitution is a contract of delegated powers. These powers flow downhill, like water down a mountain stream. The ultimate source of all power is the Creator, who endowed His creations with certain unalienable rights. You and I are His creations, and we receive our power directly from the Creator; there is nothing standing between us and the Creator. We the people, in turn, delegate some of our powers to the States of the Union. We do not relinquish our powers; we delegate them. The 50 States exist to defend our rights in ways which are difficult if not impossible for individuals to defend those rights alone.

Power from the 50 States continues to flow downhill in the form of a contract to the federal government. The Constitution for the United States is a contract of powers delegated to the federal government by the 50 States, to perform specific enumerated services which are difficult if not impossible for individual States to provide for themselves. The fundamental law is, therefore, a "law of agency" whereby the 50 States created an agent in the federal government to exercise a limited set of government services on behalf of the 50 States. These States in turn perform a limited set of services for their creators, the people, above whom there is nothing but the Creator.

The fundamental law is the foundation of our society. In the United States of America, it is the Constitution. Through this document, our fundamental rights are secured and protected against

infringement by the federal government and by the State governments, because the States are also parties to this contract. To paraphrase the Declaration of Independence, we hold these truths to be self-evident: that all of us are created equal; that we are endowed by our Creator with certain unalienable rights; that among these are the rights to life, liberty, and the pursuit of happiness; that to secure these rights, governments are instituted among us, deriving their just power from our consent. These rights are unalienable, fundamental, and inherent.

The fundamental law is intimately connected with fundamental rights, because the ultimate purpose of that law is to protect and defend the fundamental rights of Sovereign individuals. The Supreme Court of the United States put it very eloquently when it said:

Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts. And the law is the definition and limitation of power.

[Yick Wo vs Hopkins, 118 U.S. 356, 370 (1886)]
[emphasis added]

Every Sovereign State Citizen is endowed with certain unalienable rights, for the enjoyment of which no written law or statute is required. "These are fundamental or natural rights, recognized among all free people," wrote Chancellor Kent in the case of United States vs Morris. The U.S. Supreme Court has repeatedly stated that fundamental rights are natural rights which are inherent in State Citizenship:

This position is that the privileges and immunities clause protects all citizens against abridgment by states of rights of national citizenship as distinct from the fundamental or natural rights inherent in state citizenship.

[Madden v. Kentucky, 309 U.S. 83 (1940)]
[84 L.Ed. 590, at 594; emphasis added]

What are the fundamental or natural rights recognized among all free people? Chancellor Kent answered as follows:

That the rights to lease land and to accept employment as a laborer for hire are fundamental rights, inherent in every

free citizen, is indisputable.

[United States vs Morris, 125 F.Rept. 322, 331 (1903)]

One of the most precious of fundamental rights is the natural right to enjoy the fruits of our own labor, our own "industry". In the year 1919, the Secretary of the Treasury recognized as "fundamental" the right of Sovereign State Citizens to accept employment as laborers for hire, and to enjoy the fruits of their own labor:

Gross income excludes the items of income specifically exempt by ... fundamental law free from such tax.

[Treasury Decisions under Internal Revenue Laws
of the United States, Vol. 21, Article 71]
[emphasis added]

In the year 1921, the Secretary of the Treasury reiterated this statement concerning the fundamental law:

Gross income excludes the items of income specifically exempted by the statute and also certain other kinds of income by statute or fundamental law free from tax.

[Treasury Decision 3146, Vol. 23, page 376]
[emphasis added]

And again in the year 1924, the identical statement was published concerning the fundamental law:

Gross income excludes the items of income specifically exempted by the statute and also certain other kinds of income by statute or fundamental law free from tax.

[Treasury Decision 3640, Vol. 26, page 769]
[emphasis added]

The Constitution is, therefore, the fundamental law. Within the 50 States where Congress is restrained by the Constitution, "gross income" excludes certain kinds of income which are free

from tax under the fundamental law. Labor is personal property. The fruits of labor are personal property. A tax on personal property is a direct tax, or "capitation" tax. Outside the federal zone and inside the 50 States, Congress is restrained from imposing a direct tax on Sovereign State Citizens, unless that tax is apportioned (see 1:9:4 and 1:2:3). Apportionment is a very simple concept. If California has 10 percent of the nation's population, then California's "portion" would be 10 percent of any direct tax levied by Congress (see Appendix Q). Thus, the income from labor is also personal property, which is free from direct taxation by Congress, unless that tax is apportioned among the 50 States of the Union. In the year 1895, the Supreme Court overturned an Act of Congress precisely because it levied a direct tax without apportionment on a State Citizen:

First. We adhere to the opinion already announced, that, taxes on real estate being indisputably direct taxes, taxes on the rents or income of real estate are equally direct taxes.

Second. We are of the opinion that taxes on personal property, or on the income of personal property, are likewise direct taxes.

Third. The tax imposed by sections twenty-seven to thirty-seven, inclusive, of the act of 1894, so far as it falls on the income of real estate and of personal property, being a direct tax within the meaning of the Constitution, and therefore, unconstitutional and void because not apportioned according to representation, all those sections, consisting of one entire scheme of taxation, are necessarily invalid.

[Pollock vs Farmers' Loan & Trust Co.]
[158 U.S. 601 (1895)]
[emphasis added]

It is important to realize that Charles Pollock was a Citizen of Massachusetts; he was not a citizen of the United States**. This fact is often overlooked in discussions of the Pollock case, because the U.S. Supreme Court's decision explored the history and meaning of direct taxes in such great depth. Pollock's political status can easily get lost like a needle in a haystack. Even experts like author and attorney Jeffrey Dickstein have been mistaken about Pollock's status:

The Pollock Court clearly found that a tax on the entire income of a United States** citizen was a direct tax that required apportionment to withstand constitutional validity.

[Judicial Tyranny and Your Income Tax, page 20]
[emphasis added]

Nevertheless, the political status of Charles Pollock is clearly established in the very first sentence of the Pollock decision, as follows:

This was a bill filed by Charles Pollock, a citizen of the state of Massachusetts, on behalf of himself and all other stockholders of the defendant company similarly situated, against the Farmers' Loan & Trust Company, a corporation of the state of New York, and its directors

[Pollock vs Farmers' Loan & Trust Co.]
[157 U.S. 673, 674 (1895)]
[emphasis added]

Notice also that the Farmers' Loan & Trust Company was a corporation of the State of New York. As such, it was a foreign corporation with respect to the federal zone, not a domestic corporation. This is one of the key factual differences between the Pollock and Brushaber cases. This difference has similarly been ignored by many of those who have done any analysis of Pollock. A headnote in the decision explains the corporate implications, as understood by the Supreme Court at that time:

5. In so far as the act levies a tax upon income derived from municipal bonds, it is invalid, because such tax is a tax on the power of the states and their instrumentalities to borrow money, and consequently repugnant to the constitution.

[Pollock vs Farmers' Loan & Trust Co.]
[157 U.S. 673 (1895), emphasis added]

The Pollock case has never been overturned and is still the holding case law on direct taxes. In light of some 17,000 State-certified documents which prove that the so-called 16th Amendment never became law, the importance of the Pollock ruling is vastly enhanced. All direct taxes levied upon State Citizens inside the 50 States must be apportioned, as required by the Constitution.

The situation within the federal zone is entirely different. Remember that Congress has exclusive legislative authority within the federal zone. This means that Congress is not restrained by the Constitution within this zone. Therefore, Congress is not required to apportion a direct tax within the federal zone. When it comes to law, the areas inside and outside the federal zone are

heterogeneous with respect to each other, resulting in a principle of territorial heterogeneity. This principle states that areas within the federal zone are subject to one set of rules; the areas without the federal zone are subject to a different set of rules. The Constitution rules outside the zone; the acts of Congress rule inside the zone. (See Appendix W for a summary of *Downes vs Bidwell*, the pivotal case on this question.) In describing the powers delegated to Congress by Article 1, Section 8, Clause 17 and by Article 4, Section 3, Clause 2 of the Constitution, the Supreme Court has explained this principle as follows:

In exercising this power, Congress is not subject to the same constitutional limitations, as when it is legislating for the United States***. ... And in general the guarantees of the Constitution, save as they are limitations upon the exercise of executive and legislative power when exerted for or over our insular possessions, extend to them only as Congress, in the exercise of its legislative power over territory belonging to the United States**, has made those guarantees applicable.

[*Hooven & Allison Co. vs Evatt*, 324 U.S. 653 (1945)]
[emphasis added]

Without referring to it as such, author Lori Jacques describes the principle of territorial heterogeneity as follows:

The "graduated income tax" is not a constitutionally authorized tax within the several states; however, Congress is apparently not prohibited from levying that type of tax upon the "subjects of the sovereign" in the Possessions and Territories. The definitions of "United States" and "State" are stated "geographically to include" only those areas constitutionally within congress' exclusive legislative jurisdiction upon whom a graduated tax can be imposed.

[*A Ticket to Liberty*, November 1990 edition]
[page 54, emphasis added]

The limitation against direct taxes without apportionment is not the only limitation on Congress outside the federal zone. There are many other limitations. The most famous of these is the Bill of Rights, which recently celebrated its 200th Anniversary (with little if any fanfare by federal government officials). The Bill of Rights is the first 10 amendments to the U.S. Constitution. There is a widespread misunderstanding that the Constitution, as amended by the

Bill of Rights, is the source of those rights which are enumerated in the first 10 amendments. Even Black's Law Dictionary makes this "fundamental" error as follows:

Fundamental rights. Those rights which have their source, and are explicitly or implicitly guaranteed, in the federal constitution.

The rights enumerated in the Bill of Rights did not have their source in the federal Constitution. If this were the case, then our unalienable rights would not have existed before that Constitution was written. Of course, this is nonsense. The Declaration of Independence existed long before the U.S. Constitution. One has only to read that Declaration carefully to appreciate the source of our fundamental, unalienable rights. We are endowed "by our Creator with certain unalienable rights". These rights are not endowed by the Constitution. They are inherent rights which exist quite independently of any form of government we might invent to secure those rights. We relinquish our rights if and only if we waive those rights knowingly, intentionally and voluntarily, or act in such a way as to infringe on the rights of others. As the Supreme Court has said:

... [A]cquiescence in loss of fundamental rights will not be presumed.

[Ohio Bell vs Public Utilities Commission]
[301 U.S. 292]

Unfortunately, public awareness of the Bill of Rights is in a sorry state. The following article was published in the San Francisco Chronicle on the 200th Anniversary of the signing of the Bill of Rights:

The right to be ignorant

A new survey shows most Americans don't know much about James Madison's handiwork or the legacy he left them.

The poll, commissioned by the American Bar Association in honor of the Bill of Rights' 200th birthday, found that:

* Sixty-seven percent of those surveyed don't know the Bill of Rights is the first 10 amendments to the Constitution. That's worse than the 59 percent found in a similar survey in 1987, when the five-year celebration of

the Constitution's bicentennial started.

* Only 10 percent know the Bill of Rights was approved to protect individuals and states against the power of the federal government.

* More than half are willing to give up some of their Fourth Amendment protections against search and seizure to help win the war on drugs.

* 51 percent believe government should prohibit hate speech that demeans someone's race, sex, national origin or religion, despite First Amendment free-speech protections.

* Forty-six percent think Congress should be able to ban media coverage of any national security issue unless government gives its prior approval, despite the First Amendment's free-press guarantee.

[San Francisco Chronicle]
[December 16, 1991, page A-20]

The Bill of Rights must be viewed as a set of rules which constrain Congress from passing laws which infringe on our unalienable rights. The Bill of Rights does not say that the Constitution endows us with the right to freedom of speech. It does say that "Congress shall make no law ... abridging the freedom of speech, or of the press." There is a world of difference between these two views. Similarly, it is a common mistake to believe that we enjoy only those rights which are enumerated in the Bill of Rights. This is also a fundamental error. The rights which are enumerated in the Bill of Rights are not the only rights which we enjoy. This is clearly expressed by the 9th and 10th Amendments:

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

[Constitution for the United States of America]
[Ninth Amendment]

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

[Constitution for the United States of America]
[Tenth Amendment]

With this in mind, it is important to appreciate how the Bill of Rights can be utilized to restrain federal government agents outside the federal zone. Even if it does operate as a private mercantile organization, the IRS is an "agency" of the federal government. The right to be secure in our persons, houses, papers and effects is guaranteed by the 4th Amendment:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

[Constitution for the United States of America]
[Fourth Amendment]

Similarly, the rights against self-incrimination and of due process of law are also guaranteed by the 5th Amendment:

... [N]or shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

[Constitution for the United States of America]
[Fifth Amendment]

The Internal Revenue Service is well aware of these amendments to the U.S. Constitution. For example, many persons are incorrect to believe that the IRS has authority to force disclosure of private books and records. Even though the IRS may have authority to issue a summons in certain circumstances, it has absolutely no authority to compel disclosure of private books and records. This means that you must bring your books and records to an audit, if lawfully summoned to do so, but you are under no obligation to open those books and records, or to submit them to the Internal Revenue Service. As amazing as this may seem, this restraint is documented in the official IRS Tax Audit Guidelines (IR Manual MT 9900-26, 1-29-75), as follows:

242.12 Books and Records of An Individual

- (1) An individual taxpayer may refuse to exhibit his books and records for examination on the ground that compelling him to do so might violate his right against self-incrimination under the Fifth Amendment and constitute an illegal search and seizure under the Fourth Amendment. However, in the absence of such claims, it is not error for a court to charge the jury that it may consider the refusal to produce books and records, in determining willfulness.

- (2) The privilege against self-incrimination does not permit a taxpayer to refuse to obey a summons issued under IRC 7602 or a court order directing his appearance. He is required to appear and cannot use the Fifth Amendment as an excuse for failure to do so, although he may exercise it in connection with specific questions. He cannot refuse to bring his records, but may decline to submit them for inspection on Constitutional grounds. In the Vader case [U.S. vs Vader, 119 F.Supp. 330], the Government moved to hold a taxpayer in contempt of court for refusal to obey a court order to produce his books and records. He refused to submit them for inspection by the Government, basing his refusal on the Fifth Amendment. The court denied the motion to hold him in contempt, holding that disclosure of his assets would provide a starting point for a tax evasion case.

[emphasis added]

Note, in particular, where this IR Manual uses the phrase "in the absence of such claims". In general if you do not assert your rights, explicitly and in a timely fashion, then you can be presumed to have waived them. There's the "law of presumption" again. You can, therefore, assert your rights under the Fourth and Fifth Amendments to the Constitution, by refusing to submit your books and records for inspection, even though you cannot refuse to bring those books and records to an audit. This may seem like splitting hairs. However, if the federal government could compel your submission of books and records to IRS agents, then the federal government could compel persons to be witnesses against themselves. This would violate the Fifth Amendment.

Similarly, the federal government could compel the search and seizure of books and records

without a warrant issued upon probable cause and describing the place to be searched and the persons or things to be seized. This would violate the Fourth Amendment. Agencies of the federal government are constrained by law to avoid infringing upon the rights guaranteed by the Fourth and Fifth Amendments to the U.S. Constitution.

How do you assert your rights in a polite yet convincing way, so that everyone who needs to know is placed on notice that you have done so? One of the most effective ways of asserting your rights is to become totally alert to every document which bears your signature, past, present and future. Know that your signature is the touch which magically transforms common pieces of paper into commercial contracts, or "commercial agreements" as they are called in the Uniform Commercial Code. Always sign your name with the following phrase immediately above your signature on all contracts which involve bank credit or Federal Reserve Notes:

With Explicit Reservation of All My Rights
and Without Prejudice U.C.C. 1-207

A short-hand way of doing the same thing is to utilize the phrase "All Rights Reserved". This phrase appears in most published books and in film credits. The use of these phrases above your signature on any document indicates that you have exercised the "Remedy" provided for you in the Uniform Commercial Code (UCC) in Article 1 at Section 207. This "Remedy" provides a valid legal mechanism to reserve a fundamental, common law right which you possess. Under the common law, you enjoy the right not to be compelled to perform under any contract or commercial agreement which you did not enter knowingly, intentionally and voluntarily.

Moreover, your explicit reservation of rights serves notice upon all administrative agencies of government, whether international, national, state, or local, that you do not, and will not accept the liability associated with the "compelled" benefit of any unrevealed commercial agreements. As you now know from reading previous chapters, the federal government is famous for making presumptions about you, because your signature is on documents which bind you to "commercial agreements" with tons of unrevealed terms and conditions. Think back to the terms and conditions attached to the bank signature card, for example. An unrevealed term is proof of constructive fraud, and constructive fraud is a legal basis for cancelling any written instrument.

Last but not least, your valid reservation of rights results in preserving all your rights, and prevents the loss of any such rights by application of the concepts of waiver or estoppel. A "waiver" has occurred when you sign your name on an agreement which states that you knowingly, intentionally and voluntarily waive one of your fundamental rights. Kiss it goodbye. As long as you are not infringing on the rights of others, only you can waive one or more of your fundamental rights. In law, "estoppel" means that a party is prevented by his own acts from claiming a right, to the detriment of another party who was entitled to rely on such conduct and who has acted accordingly. If all parties were acting in good faith, for example, estoppel prevents you from changing your mind and claiming a right after the fact, in order to get out of an otherwise valid contract. The doctrine of estoppel holds that an inconsistent position or course of

conduct may not be adopted to the loss or injury of another. However, if the other party has been responsible for actual fraud, constructive fraud or deliberate misrepresentation, then the estoppel doctrine goes out the window and the contract is necessarily null and void. And there is no statute of limitations on fraud.

The remedy provided for us in the Uniform Commercial Code was first brought to my attention by a Patriot named Howard Freeman, who has written a classic essay entitled *The Two United States and the Law*. This essay does an excellent job of describing the tangled legal mess that has resulted from the bankruptcy of the federal government in the year 1933. Specifically, the Supreme Court decision of *Erie Railroad vs Thompkins* in 1938 changed our entire legal system in this country from public law to private commercial law. Prior to 1938, all Supreme Court decisions were based upon public law, i.e., the system of law that was controlled by Constitutional limitations. Ever since the Erie decision in 1938, all Supreme Court decisions have been based upon what is termed "public policy". Public policy concerns commercial transactions made under the Uniform Commercial Code (U.C.C.). Freeman describes the overall consequences for our system of government as follows:

Our national Congress works for two nations foreign to each other, and by legal cunning both are called The United States. One is the Union of Sovereign States, under the Constitution, termed in this article the Continental United States***. The other is a Legislative Democracy which has its origin in Article I, Section 8, Clause 17 of the Constitution, here termed the Federal United States**. Very few people, when they see some "law" passed by Congress, ask themselves, "Which nation was Congress working for when it passed this or that so-called law?" Or, few ask, "Does this particular law apply only to residents of the District of Columbia and other named enclaves, or territories, of the Democracy called the Federal United States**?"

[emphasis in original]

The "Federal United States**" to which Freeman refers is the federal zone. Because of its sweetheart deal with the Federal Reserve, Congress deliberately failed in its duty to provide a constitutional medium of exchange for the Citizens of the 50 States. Instead of real money, Congress created a "wealth" of commercial credit for the federal zone, where it is not bound by constitutional limitations. After the tremendous depression that began in 1929, Congress used its emergency authority to remove the remaining real money (gold and silver) from circulation inside the 50 States, and made the commercial paper of the federal zone a legal tender for all Citizens of the 50 States to use in discharging their debts. Freeman goes on to describe the "privilege" we now enjoy for being able to discharge our debts with limited liability, that is, by using worthless commercial paper instead of intrinsically valuable gold and silver:

... Congress granted the entire citizenry of the two nations the "benefit" of limited liability in the discharge of all debts by telling the citizenry that the gold and silver coins of the Republic were out of date and cumbersome. The citizens were told that gold and silver (substance) was no longer needed to pay their debts, that they were now "privileged" to discharge debt with this more "convenient" currency, issued by the Federal United States**. Consequently, everyone was forced to "go modern," and to turn in their gold as a patriotic gesture. The entire news media complex went along with the scam and declared it to be a forward step for our democracy, no longer referring to America as a Republic.

You are strongly encouraged to read and study Freeman's entire essay, which can [also] be obtained by writing Howard Freeman, c/o P.O. Box 364, Lusk, Wyoming. A copy of this essay can also be obtained from the Account for Better Citizenship. The compound metaphor of "Two United States" is rich in meanings and long on prophetic insight.

America is now submerged in a tangled legal mess which began in 1901 and reached critical mass in 1913. This mess is due, in large part, to systematic efforts to destroy the Constitution as the fundamental law in this country, and to devolve the nation from a Republic into a Democracy (mob rule) and eventually a socialist dictatorship. The Supreme Court gave its official blessing to the dubious principle of territorial heterogeneity in the Insular Cases. These controversial precedents then paved the way for unrestricted monetary devolution under a private credit monopoly created by the Federal Reserve Act; this Act followed closely behind the fraudulent 16th Amendment in order to justify "municipal" income taxation (two pumps, working in tandem). The Supreme Court stepped into line once again when their Erie decision threw out almost 100 years of common law precedent. Echoing Justice Harlan's eloquent dissent in *Downes vs Bidwell*, author Lori Jacques identifies territorial heterogeneity as a root cause of the disease she calls "governmental absolutism":

There has been no cure for the disease of governmental absolutism introduced into our body politic by the acquisition of Dependencies and the subsequent alleged Sixteenth Amendment. ... [T]hrough Rules and Regulations meant for the Territories and insular Possessions, which are not limited by the Constitution, Congress has extended this limited legislative power into the several states by clever design thereby usurping the states' right to a republican form of Government and virtually destroying the concept of Liberty of the individual. ...

Until the person who receives benefits from the Government is not permitted to vote, or buy himself benefits to the detriment of another, the Liberty of the Individual will be denied. "Benefits" granted by the Government are the rights transferred by the Individual to the Government and then returned as "privileges" by its formula of felicific calculus.

[A Ticket to Liberty, November 1990 edition]
[pages 145-146, emphasis added]

These efforts to destroy the Constitution have not been entirely successful, however. Due to the concerted efforts of many courageous Americans like Howard Freeman, the United States Constitution is alive, if not well, and remains the Supreme Law of the Land even today. Any statute, to be valid, must be in agreement with the Constitution and, therefore, with all relevant provisions for amending it. It is impossible for both the Constitution and a law violating it to be valid; one must prevail. That "one" is the Constitution, the fundamental law in these United States. This is succinctly stated as follows:

The general rule is that an unconstitutional statute, though having the form and name of law, is in reality no law, but is wholly void and ineffective for any purpose; since unconstitutionality dates from the time of its enactment, and not merely from the date of the decision so branding it. An unconstitutional law, in legal contemplation, is as inoperative as if it had never been passed. Such a statute leaves the question that it purports to settle just as it would be[,] had the statute not been enacted.

Since an unconstitutional law is void, the general principles follow that it imposes no duties, confers no rights, creates no office, bestows no power or authority on anyone, affords no protection, and justifies no acts performed under it

A void act cannot be legally consistent with a valid one. An unconstitutional law cannot operate to supersede any existing valid law. Indeed, insofar as a statute runs counter to the fundamental law of the land, it is superseded thereby.

No one is bound to obey an unconstitutional law, and no

courts are bound to enforce it.

[16 American Jurisprudence 2d, Section 177]
[emphasis added]

The vivid pattern that is now painfully emerging is that "citizens of the United States", as defined in federal tax law, are the intended victims of a modern statutory slavery that was predicted by the infamous Hazard Circular soon after the Civil War began. These statutory slaves are now burdened with a bogus federal debt which is spiralling out of control. The White House budget office recently invented a new kind of "generational accounting" so as to project a tax load of seventy-one percent on future generations of these "citizens of the United States". It is our duty to ensure that this statutory slavery is soon gone with the wind, just like its grisly and ill-fated predecessor.

Chapter 11: Sovereignty

The issue of jurisdiction as it relates to sovereignty is a major key to understanding our system of government under the Constitution. In the most common sense of the word, "sovereignty" is autonomy, freedom from external control. The sovereignty of any government usually extends up to, but not beyond the borders of its jurisdiction. This jurisdiction defines a specific territorial boundary which separates the "external" from the "internal", the "within" from the "without". It may also define a specific function or set of functions which a government may lawfully perform within a particular territorial boundary. Black's Law Dictionary, Sixth Edition, describes sovereignty as follows:

... [T]he international independence of a state, combined with the right and power of regulating its internal affairs without foreign dictation.

On a similar theme, Black's defines "sovereign states" to be those which are not under the control of any foreign power:

No foreign power or law can have control except by convention. This power of independent action in external and internal relations constitutes complete sovereignty.

It is a well established principle of law that the 50 States are "foreign" with respect to each other, just as the federal zone is "foreign" with respect to each of them (In re Merriam's Estate, 36 NE 505 (1894)). The status of being foreign is the same as "belonging to" or being "attached to"

another state or another jurisdiction. The proper legal distinction between the terms "foreign" and "domestic" is best seen in Black's definitions of foreign and domestic corporations, as follows:

Foreign corporation. A corporation doing business in one state though chartered or incorporated in another state is a foreign corporation as to the first state, and, as such, is required to consent to certain conditions and restrictions in order to do business in such first state.

Domestic corporation. When a corporation is organized and chartered in a particular state, it is considered a domestic corporation of that state.

The federal zone is an area over which Congress exercises exclusive legislative jurisdiction. It is the area over which the federal government exercises its sovereignty. Despite its obvious importance, the subject of federal jurisdiction had been almost entirely ignored outside the courts until the year 1954. In that year, a detailed study of federal jurisdiction was undertaken. The occasion for the study arose from a school playground, of all places. The children of federal employees residing on the grounds of a Veterans' Administration hospital were not allowed to attend public schools in the town where the hospital was located. An administrative decision against the children was affirmed by local courts, and finally affirmed by the State supreme court. The residents of the area on which the hospital was located were not "residents" of the State, since "exclusive legislative jurisdiction" over this area had been ceded by the State to the federal government.

A committee was assembled by Attorney General Herbert Brownell, Jr. Their detailed study was reported in a publication entitled Jurisdiction over Federal Areas within the States, April 1956 (Volume I) and June 1957 (Volume II). The committee's report demonstrates, beyond any doubt, that the sovereign States and their laws are outside the legislative and territorial jurisdiction of the United States** federal government. They are totally outside the federal zone. A plethora of evidence is found in the myriad of cited court cases (700+) which prove that the United States** cannot exercise exclusive legislative jurisdiction outside territories or places purchased from, or ceded by, the 50 States of the Union. Attorney General Brownell described the committee's report as an "exhaustive and analytical exposition of the law in this hitherto little explored field". In his letter of transmittal to President Dwight D. Eisenhower, Brownell summarized the two volumes as follows:

Together, the two parts of this Committee's report and the full implementation of its recommendations will provide a basis for reversing in many areas the swing of "the pendulum of power * * * from our states to the central government" to which you referred in your address to the Conference of

State Governors on June 25, 1957.

[Jurisdiction over Federal Areas within the States]
[Letter of Transmittal, page V, emphasis added]

Once a State is admitted into the Union, its sovereign jurisdiction is firmly established over a predefined territory. The federal government is thereby prevented from acquiring legislative jurisdiction, by means of unilateral action, over any area within the exterior boundaries of this predefined territory. State assent is necessary to transfer jurisdiction to Congress:

The Federal Government cannot, by unilateral action on its part, acquire legislative jurisdiction over any area within the exterior boundaries of a State. Article 1, Section 8, Clause 17, of the Constitution, provides that legislative jurisdiction may be transferred pursuant to its terms only with the consent of the legislature of the State in which is located the area subject to the jurisdictional transfer.

[Jurisdiction over Federal Areas within the States]
[Volume II, page 46, emphasis added]

Under Article 1, Section 8, Clause 17 of the Constitution, States of the Union have enacted statutes consenting to the federal acquisition of any land, or of specific tracts of land, within those States. Secondly, the federal government has also made "reservations" of jurisdiction over certain areas in connection with the admission of a State into the Union. A third means for transfer of legislative jurisdiction has also come into considerable use over time, namely, a general or special statute whereby a State makes a cession of specific functional jurisdiction to the federal government. Nevertheless, the Committee report explained that "... the characteristics of a legislative jurisdiction status are the same no matter by which of the three means the Federal Government acquired such status" [Volume II, page 3]. There is simply no federal legislative jurisdiction without consent by a State, cession by a State, or reservation by the federal government:

It scarcely needs to be said that unless there has been a transfer of jurisdiction (1) pursuant to clause 17 by a Federal acquisition of land with State consent, or (2) by cession from the State to the Federal Government, or unless the Federal Government has reserved jurisdiction upon the admission of the State, the Federal Government possesses no legislative jurisdiction over any area within a State, such jurisdiction being for exercise entirely by the State

[Jurisdiction over Federal Areas within the States]
[Volume II, page 45, emphasis added]

The areas which the 50 States have properly ceded to the federal government are called federal "enclaves":

By this means some thousands of areas have become Federal islands, sometimes called "enclaves," in many respects foreign to the States in which they are situated. In general, not State but Federal law is applicable in an area under the exclusive legislative jurisdiction of the United States**, for enforcement not by State but Federal authorities, and in many instances not in State but in Federal courts.

[Jurisdiction over Federal Areas within the States]
[Volume II, page 4, emphasis added]

These federal enclaves are considered foreign with respect to the States which surround them, just as the 50 States are considered foreign with respect to each other and to the federal zone: "...[T]he several states of the Union are to be considered as in this respect foreign to each other" *Hanley vs Donoghue*, 116 U.S. 1 (1885). Once a State surrenders its sovereignty over a specific area of land, it is powerless over that land; it is without authority; it cannot recapture any of its transferred jurisdiction by unilateral action, just as the federal government cannot acquire jurisdiction over State area by its unilateral action. The State has transferred its sovereign authority to a foreign power:

Once a State has, by one means or another, transferred jurisdiction to the United States**, it is, of course, powerless to control many of the consequences; without jurisdiction, it is without the authority to deal with many of the problems, and having transferred jurisdiction to the United States**, it cannot unilaterally capture any of the transferred jurisdiction.

[Jurisdiction over Federal Areas within the States]
[Volume II, page 7, emphasis added]

Once sovereignty has been relinquished, a State no longer has the authority to enforce criminal

laws in areas under the exclusive jurisdiction of the United States**. Privately owned property in such areas is beyond the taxing authority of the State. Residents of such areas are not "residents" of the State, and hence are not subject to the obligations of residents of the State, and are not entitled to any of the benefits and privileges conferred by the State upon its residents. Residents of federal enclaves usually cannot vote, serve on juries, or run for office. They do not, as matter of right, have access to State schools, hospitals, mental institutions, or similar establishments.

The acquisition of exclusive jurisdiction by the Federal Government renders unavailable to the residents of the affected areas the benefits of the laws and judicial and administrative processes of the State relating to adoption, the probate of wills and administration of estates, divorce, and many other matters. Police, fire-fighting, notaries, coroners, and similar services performed by, or under, the authority of a State may result in legal sanction within a federal enclave. The "old" State laws which apply are only those which are consistent with the laws of the "new" sovereign authority, using the following principle from international law:

The vacuum which would exist because of the absence of State law or Federal legislation with respect to civil matters in areas under Federal exclusive legislative jurisdiction has been partially filled by the courts, through extension to these areas of a rule of international law that[,] when one sovereign takes over territory of another[,] the laws of the original sovereign in effect at the time of the taking[,] which are not inconsistent with the laws or policies of the second[,] continue in effect, as laws of the succeeding sovereign, until changed by that sovereign.

[Jurisdiction over Federal Areas within the States]
[Volume II, page 6, commas added for clarity]
[emphasis added]

It is clear, then, that only one "state" can be sovereign at any given moment in time, whether that "state" be one of the 50 Union States, or the federal government of the United States**. Before ceding a tract of land to Congress, a State of the Union exercises its sovereign authority over any land within its borders:

Save only as they are subject to the prohibitions of the Constitution, or as their action in some measure conflicts with the powers delegated to the national government or with congressional legislation enacted in the exercise of those powers, the governments of the states are sovereign within their territorial limits and have exclusive jurisdiction over persons and property located therein.

[72 American Jurisprudence 2d, Section 4]
[emphasis added]

After a State has ceded a tract of land to Congress, the situation is completely different. The United States**, as the "succeeding sovereign", then exercises its sovereign authority over that land. In this sense, sovereignty is indivisible, even though the Committee's report documented numerous situations in which jurisdiction was actually shared between the federal government and one of the 50 States. Even in this situation, however, sovereignty rests either in the State, or in the federal government, but never both. Sovereignty is the authority to which there is politically no superior. Outside the federal zone, the States of the Union remain sovereign, and their laws are completely outside the exclusive legislative jurisdiction of the federal government of the United States**.

Now, if a State of the Union is sovereign, is it correct to say that the State exercises an authority to which there is absolutely no superior? No, this is not a correct statement. There is no other political body which is superior to the political body which retains sovereignty. The sovereignty of governments is an authority to which there is politically no superior, but there is absolutely a superior body. The source of all sovereignty in a constitutional Republic like the 50 States, united by and under the Constitution for the United States of America, is the people themselves. Remember, the States, and the federal government acting inside those States, are both bound by the terms of a contract known as the U. S. Constitution. That Constitution is a contract of delegated powers which ultimately originate in the sovereignty of the Creator, who endowed creation, individual people like you and me, with sovereignty in that Creator's image and likeness. Nothing stands between us and the Creator. I think it is fair to say that the Supreme Court of the United States was never more eloquent when it described the source of sovereignty 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. And the law is the definition and limitation of power. It is indeed, quite true, that there must always be lodged somewhere, and in some person or body, the authority of final decision; and in many cases of mere administration the responsibility is purely political, no appeal except to the ultimate tribunal of the public judgement, exercised either in the pressure of opinion or by means of the suffrage. But the fundamental rights to life, liberty, and the pursuit of happiness, considered as individual possessions, are secured by those maxims of constitutional

law which are the monuments showing the victorious progress of the race in securing to men the blessings of civilization under the reign of just and equal laws, so that, in the famous language of the Massachusetts Bill of Rights, the government of the commonwealth "may be a government of laws and not of men." For, the very idea that one man may be compelled to hold his life, or the means of living, or any material right essential to the enjoyment of life, at the mere will of another, seems to be intolerable in any country where freedom prevails, as being the essence of slavery itself.

[Yick Wo vs Hopkins, 118 U.S. 356, 370 (1886)]
[emphasis added]

More recently, the Supreme Court reiterated the fundamental importance of US the people as the source of sovereignty, and the subordinate status which Congress occupies in relation to the sovereignty of the people. The following language is terse and right on point:

In the United States***, sovereignty resides in the people who act through the organs established by the Constitution. [cites omitted] The Congress as the instrumentality of sovereignty is endowed with certain powers to be exerted on behalf of the people in the manner and with the effect the Constitution ordains. The Congress cannot invoke the sovereign power of the people to override their will as thus declared.

[Perry vs United States, 294 U.S. 330, 353 (1935)]
[emphasis added]

No discussion of sovereignty would be complete, therefore, without considering the sovereignty that resides in US, the people. The Supreme Court has often identified the people as the source of sovereignty in our republican form of government. Indeed, the federal Constitution guarantees to each and every State in the Union a "Republican Form" of government, in so many words:

Section 4. The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion;

[United States Constitution, Article 4, Section 4]

[emphasis added]

What exactly is a "Republican Form" of government? It is one in which the powers of sovereignty are vested in the people and exercised by the people. Black's Law Dictionary, Sixth Edition, makes this very clear:

Republican government. One in which the powers of sovereignty are vested in the people and are exercised by the people, either directly, or through representatives chosen by the people, to whom those powers are specially delegated. In re Duncan, 139 U.S. 449, 11 S.Ct. 573, 35 L.Ed. 219; Minor v. Happersett, 88 U.S. (21 Wall.) 162, 22 L.Ed. 627.

The Supreme Court has clearly distinguished between the operation of governments in Europe, and government in these United States*** of America, as follows:

In Europe, the executive is almost synonymous with the sovereign power of a State; and generally includes legislative and judicial authority. When, therefore, writers speak of the sovereign, it is not necessarily in exclusion of the judiciary; and it will often be found that when the executive affords a remedy for any wrong, it is nothing more than by an exercise of its judicial authority. Such is the condition of power in that quarter of the world, where it is too commonly acquired by force or fraud, or both, and seldom by compact. In America, however, the case is widely different. Our government is founded upon compact. Sovereignty was, and is, in the people.

[Glass vs The Sloop Betsey, 3 Dall 6 (1794)]

[emphasis added]

The federal Constitution makes a careful distinction between natural born Citizens and citizens of the United States** (compare 2:1:5 with Section 1 of the so-called 14th Amendment). One is an unconditional Sovereign by natural birth, who is endowed by the Creator with certain unalienable rights; the other has been granted the revocable privileges of U.S.** citizenship, endowed by the Congress of the United States**. One is a Citizen, the other is a subject. One is a Sovereign, the other is a subordinate. One is a Citizen of our constitutional Republic; the other is a citizen of a legislative democracy (the federal zone). Notice the superior/subordinate

relationship between these two statuses. I am forever indebted to M. J. "Red" Beckman, co-author of *The Law That Never Was* with Bill Benson, for clearly illustrating the important difference between the two. Red Beckman has delivered many eloquent lectures based on the profound simplicity of the following table:

Chain of command and authority in a:

Majority Rule Democracy	Constitutional Republic
X Majority Government Public Servants Case & Statute Law Corporations individual	Creator Individual Constitution Government Public Servants Statute Law Corporations

In this illustration, a democracy ruled by the majority places the individual at the bottom, and an unknown elite, Mr. "X" at the top. The majority (or mob) elects a government to hire public "servants" who write laws primarily for the benefit of corporations. These corporations are either owned or controlled by Mr. X, a clique of the ultra-wealthy who seek to restore a two-class "feudal" society. They exercise their vast economic power so as to turn all of America into a "feudal zone". The rights of individuals occupy the lowest priority in this chain of command. Those rights often vanish over time, because democracies eventually self-destruct. The enforcement of laws within this scheme is the responsibility of administrative tribunals, who specialize in holding individuals to the letter of all rules and regulations of the corporate state, no matter how arbitrary and with little if any regard for fundamental human rights:

A democracy that recognizes only manmade laws perforce
obliterates the concept of Liberty as a divine right.

[A Ticket to Liberty, November 1990 edition, page 146]
[emphasis added]

In the constitutional Republic, however, the rights of individuals are supreme. Individuals delegate their sovereignty to a written contract, called a constitution, which empowers government to hire public servants to write laws primarily for the benefit of individuals. The corporations occupy the lowest priority in this chain of command, since their primary objectives are to maximize the enjoyment of individual rights, and to facilitate the fulfillment of individual responsibilities. The enforcement of laws within this scheme is the responsibility of sovereign

individuals, who exercise their power in three arenas: the voting booth, the trial jury, and the grand jury. Without a jury verdict of "guilty", for example, no law can be enforced and no penalty exacted. The behavior of public servants is tightly restrained by contractual terms, as found in the written Constitution. Statutes and case law are created primarily to limit and define the scope and extent of public servant power.

Sovereign individuals are subject only to a common law, whose primary purposes are to protect and defend individual rights, and to prevent anyone, whether public official or private person, from violating the rights of other individuals. Within this scheme, Sovereigns are never subject to their own creations, and the constitutional contract is such a creation. To quote the Supreme Court, "No fiction can make a natural born subject." *Milvaine vs Coxe's Lessee*, 8 U.S. 598 (1808). That is to say, no fiction, be it a corporation, a statute law, or an administrative regulation, can mutate a natural born Sovereign into someone who is subject to his own creations. Author and scholar Lori Jacques has put it succinctly as follows:

As each state is sovereign and not a territory of the United States**, the meaning is clear that state citizens are not subject to the legislative jurisdiction of the United States**. Furthermore, there is not the slightest intimation in the Constitution which created the "United States" as a political entity that the "United States" is sovereign over its creators.

[A Ticket to Liberty, November 1990 edition, page 32]
[emphasis added]

Accordingly, if you choose to investigate the matter, you will find a very large body of legal literature which cites another fiction, the so-called 14th Amendment, from which the federal government presumes to derive general authority to treat everyone in America as subjects and not as Sovereigns:

Section 1. All persons born or naturalized in the United States**, and subject to the jurisdiction thereof, are citizens of the United States** and of the State wherein they reside.

[United States Constitution, Fourteenth Amendment [sic]]
[emphasis added]

A careful reading of this amendment reveals an important subtlety which is lost on many people who read it for the first time. The citizens it defines are second class citizens because the

"c" is lower-case, even in the case of the State citizens it defines. Note how the amendment defines "citizens of the United States**" and "citizens of the State wherein they reside"! It is just uncanny how the wording of this amendment closely parallels the Code of Federal Regulations (CFR) which promulgates Section 1 of the Internal Revenue Code (IRC). Can it be that this amendment had something to do with subjugation, by way of taxes and other means? Section 1 of the IRC is the section which imposes income taxes. The corresponding section of the CFR defines who is a "citizen" as follows:

Every person born or naturalized in the United States** and subject to its jurisdiction is a citizen.

[26 CFR 1.1-1(c), emphasis added]

Notice the use of the term "its jurisdiction". This leaves no doubt that the "United States**" is a singular entity in this context. In other words, it is the federal zone. Do we dare to speculate why the so-called 14th Amendment was written instead with the phrase "subject to the jurisdiction thereof"? Is this another case of deliberate ambiguity? You be the judge.

Not only did this so-called "amendment" fail to specify which meaning of the term "United States" was being used; like the 16th Amendment, it also failed to be ratified, this time by 15 of the 37 States which existed in 1868. The House Congressional Record for June 13, 1967, contains all the documentation you need to prove that the so-called 14th Amendment was never ratified into law (see page 15641 et seq.). For example, it itemizes all States which voted against the proposed amendment, and the precise dates when their Legislatures did so. "I cannot believe that any court, in full possession of its faculties, could honestly hold that the amendment was properly approved and adopted." *State vs Phillips*, 540 P.2d. 936, 941 (1975). The Utah Supreme Court has detailed the shocking and sordid history of the 14th Amendment's "adoption" in the case of *Dyett vs Turner*, 439 P.2d 266, 272 (1968).

A great deal of written material on the 14th Amendment has been assembled on computer files by Richard McDonald, whose mailing address is 585-D Box Canyon Road, Canoga Park, California Republic (not "CA"). He requests that ZIP codes not be used on his incoming mail. If you must use a ZIP code when you write to him, show it on a separate line, preceded by the words "POSTAL ZONE" and followed by "/TDC" or "without prejudice U.C.C. 1-207". McDonald has done a mountain of legal research and writing on the origins and effects of the so-called 14th Amendment. He documents how key court decisions like the Slaughter House Cases, among many others, all found that there is a clear distinction between a Citizen of a State and a citizen of the United States** (e.g., see 16 Wall. 36, 74). A State Citizen is a Sovereign, whereas a citizen of the United States** is subject to Congress. The exercise of federal citizenship is a statutory privilege which can be taxed with excises. The exercise of State Citizenship is a Common Law Right which cannot be taxed because governments simply cannot tax the exercise of a Right, ever.

The case of U.S. vs Cruikshank is famous, not only for confirming this distinction between State Citizens and U.S.** citizens, but also for establishing a key precedent in the area of due process. This precedent underlies the "void for vagueness" doctrine which can and should be applied to nullify the IRC. On the issue of citizenship, the Cruikshank court ruled as follows:

We have in our political system a government of the United States** and a government of each of the several States. Each one of these governments is distinct from the others, and each has citizens of its own who owe it allegiance, and whose rights, within its jurisdiction, it must protect. The same person may be at the same time a citizen of the United States** and a citizen of a State, but his rights of citizenship under one of these governments will be different from those he has under the other. Slaughter-House Cases

[United States vs Cruikshank, 92 U.S. 542 (1875)]
[emphasis added]

The leading authorities for this pivotal distinction are, indeed, a series of U.S. Supreme Court decisions known as the Slaughter House Cases, which examined the so-called 14th Amendment in depth. An exemplary paragraph from these cases is the following:

It is quite clear, then, that there is a citizenship of the United States** and a citizenship of a State, which are distinct from each other and which depend upon different characteristics or circumstances in the individual.

[Slaughter House Cases, 83 U.S. 36 (page 408)]
[16 Wall. 36, 21 L.Ed. 394 (1873)]
[emphasis added]

A similar authority is found in the case of K. Tashiro vs Jordan, decided by the Supreme Court of the State of California almost fifty years later. Notice, in particular, how the California Supreme Court again cites the Slaughter House Cases:

That there is a citizenship of the United States** and a citizenship of a state, and the privileges and immunities of one are not the same as the other is well established by the decisions of the courts of this country. The leading cases upon the subjects are those decided by the Supreme Court of

the United States and reported in 16 Wall. 36, 21 L. Ed. 394, and known as the Slaughter House Cases.

[K. Tashiro vs Jordan, 256 P. 545, 549 (1927)]
[emphasis added]

This case was subsequently appealed on a writ of certiorari to the U.S. Supreme Court, where it was affirmed in the case of Jordan vs K. Tashiro, 278 U.S. 123 (1928).

In the fundamental law, the notion of a "citizen of the United States" simply did not exist before the 14th Amendment; at best, this notion is a fiction within a fiction. In discussing the power of the States to naturalize, the California State Supreme Court put it rather bluntly when it ruled that there was no such thing as a "citizen of the United States":

A citizen of any one of the States of the union, is held to be, and called a citizen of the United States, although technically and abstractly there is no such thing. To conceive a citizen of the United States who is not a citizen of some one of the States, is totally foreign to the idea, and inconsistent with the proper construction and common understanding of the expression as used in the Constitution, which must be deduced from its various other provisions. The object then to be attained, by the exercise of the power of naturalization, was to make citizens of the respective States.

[Ex Parte Knowles, 5 Cal. 300 (1855)]
[emphasis added]

This decision has never been overturned!

What is the proper construction and common understanding of the term "Citizen of the United States" as used in the original Constitution, before the so-called 14th Amendment? This is an important question, because this status is still a qualification for the offices of Senator, Representative and President. No Person can be a Representative unless he has been a Citizen of the United States for seven years (1:2:2); no Person can be a Senator unless he has been a Citizen of the United States for nine years (1:3:3); no Person can be President unless he is a natural born Citizen, or a Citizen of the United States (2:1:5). If these requirements had been literally obeyed, there could have been no elections for Representatives to Congress for at least seven years after the adoption of the Constitution, and no one would have been eligible as a Senator for nine years after its adoption. Author John S. Wise, in a rare book now available on Richard McDonald's electronic bulletin board system (BBS), explains away the problem very simply as follows:

The language employed by the convention was less careful than that which had been used by Congress in July of the same year, in framing the ordinance for the government of the Northwest Territory. Congress had made the qualification rest upon citizenship of "one of the United States***," and this is doubtless the intent of the convention which framed the Constitution, for it cannot have meant anything else.

[Studies in Constitutional Law:
[A Treatise on American Citizenship]
[by John S. Wise, Edward Thompson Co. (1906)]
[emphasis added]

This quote from the Northwest Ordinance is faithful to the letter and to the spirit of that law. In describing the eligibility for "representatives" to serve in the general assembly for the Northwest Territory, the critical passage from that Ordinance reads as follows:

... Provided, That no person be eligible or qualified to act as a representative, unless he shall have been a citizen of one of the United States*** three years, and be a resident in the district, or unless he shall have resided in the district three years;

[Northwest Ordinance, Section 9, July 13, 1787]
[The Confederate Congress, emphasis added]

Without citing the case as such, the words of author John S. Wise sound a close, if not identical parallel to the argument for the Respondent filed in the case of *People vs De La Guerra*, decided by the California Supreme Court in 1870. The following long passage elaborates the true meaning of the Constitutional qualifications for President and Representative:

As it was the adoption of the Constitution by the Conventions of nine States that established and created the United States***, it is obvious there could not then have existed any person who had been seven years a citizen of the United States***, or who possessed the Presidential qualifications of being thirty-five years of age, a natural born citizen, and fourteen years a resident of the United States***. The United States*** in these provisions, means the States united. To be twenty-five years of age, and for

seven years to have been a citizen of one of the States which ratifies the Constitution, is the qualification of a representative. To be a natural born citizen of one of the States which shall ratify the Constitution, or to be a citizen of one of said States at the time of such ratification, and to have attained the age of thirty-five years, and to have been fourteen years a resident within one of the said States, are the Presidential qualifications, according to the true meaning of the Constitution.

[People vs De La Guerra, 40 Cal. 311, 337 (1870)]
[emphasis added]

Thus, the phrase "Citizen of the United States" as found in the original Constitution is synonymous with the phrase "Citizen of one of the United States***", i.e., a Union State Citizen. This simple explanation will help cut through the mountain of propaganda and deception which have been foisted on all Americans by government bureaucrats and their high-paid lawyers. With this understanding firmly in place, it is very revealing to discover that many reprints of the Constitution now utilize a lower-case "c" in the sections which describe the qualifications for the offices of Senator, Representative and President. This is definitely wrong, and it is probably deliberate, so as to confuse everyone into equating Citizens of the United States with citizens of the United States, courtesy of the so-called 14th Amendment. There is a very big difference between the two statuses.

Moreover, it is quite clear that one may be a State Citizen without also being a "citizen of the United States", whether or not the 14th Amendment was properly ratified! In a book to which this writer has returned time and time again, author Alan Stang faithfully cites the relevant court authorities as follows:

Indeed, just as one may be a "citizen of the United States" and not a citizen of a State; so one apparently may be a citizen of a State but not of the United States. On July 21, 1966, the Court of Appeal of Maryland ruled in *Crosse v. Board of Supervisors of Elections*, 221 A.2d 431; a headnote in which tells us: "Both before and after the Fourteenth Amendment to the federal Constitution, it has not been necessary for a person to be a citizen of the United States in order to be a citizen of his state" At page 434, Judge Oppenheimer cites a Wisconsin ruling in which the court said this: "Under our complex system of government, there may be a citizen of a state, who is not a citizen of the United States in the full sense of the term"

[Tax Scam, 1988 edition, pages 138-139, emphasis added]

Conversely, there may be a citizen of the United States** who is not a Citizen of any of the 50 States. In *People vs De La Guerra* quoted above, the published decision of the California Supreme Court clearly maintained this crucial distinction between the two classes of citizenship, and did so only two years after the alleged ratification of the so-called 14th Amendment:

I have no doubt that those born in the Territories, or in the District of Columbia, are so far citizens as to entitle them to the protection guaranteed to citizens of the United States** in the Constitution, and to the shield of nationality abroad; but it is evident that they have not the political rights which are vested in citizens of the States. They are not constituents of any community in which is vested any sovereign power of government. Their position partakes more of the character of subjects than of citizens. They are subject to the laws of the United States**, but have no voice in its management. If they are allowed to make laws, the validity of these laws is derived from the sanction of a Government in which they are not represented. Mere citizenship they may have, but the political rights of citizens they cannot enjoy until they are organized into a State, and admitted into the Union.

[*People vs De La Guerra*, 40 Cal. 311, 342 (1870)
[emphasis added]

In one of the brilliant text files on his electronic bulletin board system (BBS), Richard McDonald utilized his voluminous research into the so-called 14th Amendment when he made the following pleading in opposition to a traffic citation:

17. The Accused Common-Law Citizen [defendant] hereby places all parties and the court on NOTICE, that he is not a "citizen of the United States**" under the so-called 14th Amendment, a juristic person or a franchised person who can be compelled to perform to the regulatory Vehicle Codes which are civil in nature, and challenges the In Personam jurisdiction of the Court with this contrary conclusion of law. This Court is now mandated to seat on the law side of its capacity to hear evidence of the status of the Accused Citizen.

[see MEMOLAW.ZIP on McDonald's electronic BBS]
[see also FMEMOLAW.ZIP and Appendix Y]
[emphasis added]

You might be wondering why someone would go to so much trouble to oppose a traffic citation. Why not pay the fine and get on with your life? The answer lies, once again, in the fundamental law of our land, the Constitution for the United States of America. Sovereigns have learned to assert their rights, because rights belong to the belligerent claimant in person. The Constitution is the last bastion of the Common Law in our country. Were it not for the Constitution, the Common Law would have been history a long time ago:

There is, however, one clear exception to the statement that there is no national common law. The interpretation of the constitution of the United States is necessarily influenced by the fact that its provisions are framed in the language of the English common law, and are to be read in the light of its history.

[United States vs Wong Kim Ark, 169 U.S. 891, 893 (1898)]
[emphasis added]

Under the Common Law, we are endowed by our Creator with the right to travel. "Driving", on the other hand, is defined in State Vehicle Codes to mean the act of chauffeuring passengers for hire. "Passengers" are those who pay a "driver" to be chauffeured. Guests, on the other hand, are those who accompany travelers without paying for the transportation. Driving, under this definition, is a privilege for which a State can require a license. Similarly, if you are a citizen of the United States**, you are subject to its jurisdiction, and a State government can prove that you are obligated thereby to obey all administrative statutes and regulations to the letter of the law. These regulations include, of course, the requirement that all subjects apply and pay for licenses to use the State and federal highways, even though the highways belong to the people. The land on which they were built, and the materials and labor expended in their construction, were all paid for with taxes obtained from the people. Provided that you are not engaged in any "privileged" or regulated activity, you are free to travel anywhere you wish within the 50 States. Those States are parties to the Constitution and are therefore bound by all its terms.

Another one of your Common Law rights is the right to own property free and clear of any liens. ("Unalienable" rights are rights against which no lien can be established precisely because they are un-lien-able.) You enjoy the right to own your vehicle outright, without any lawful requirement that you "register" it with the State Department of Motor Vehicles. The State governments violated your fundamental rights when they concealed the legal "interest" which they obtained in your vehicle, by making it appear as if you were required to register the vehicle when you purchased it, as a condition of purchase. This is fraud. If you don't believe me, then try

to obtain the manufacturer's statement of origin (MSO) the next time you buy a new car or truck. The implications and ramifications of driving around without a license, and/or without registration, are far beyond the scope of this book. Suffice it to say that effective methods have already been developed to deal with law enforcement officers and courts, if and when you are pulled over and cited for driving without a license or tags. Richard McDonald is second to none when it comes to preparing a successful defense to the civil charges that might result. A Sovereign is someone who enjoys fundamental, Common Law rights, and owning property free and clear is one of those fundamental rights.

If you have a DOS-compatible personal computer and a 2400- baud modem, Richard McDonald can provide you with instructions for accessing his electronic bulletin board system (BBS). There is a mountain of information, and some of his computer files were rather large when he began his BBS. Users were complaining of long transmission times to "download" text files over phone lines from his BBS to their own personal computers. So, McDonald used a fancy text "compression" program on all the text files available on his BBS. As a consequence, BBS users must first download a DOS program which "decompresses" the compressed files. Once this program is running on your personal computer, you are then free to download all other text files and to decompress them at your end. For example, the compressed file "14AMREC.ZIP" contains the documentation which proves that the so-called 14th Amendment was never ratified. If you have any problems or questions, Richard McDonald is a very patient and generous man. And please tell him where you read about him and his computer bulletin board (voice: 818-703-5037, BBS: 818-888-9882).

As you peruse through McDonald's numerous court briefs and other documents, you will encounter many gems to be remembered and shared with your family, friends and associates. His work has confirmed an attribute of sovereignty that is of paramount importance. Sovereignty is never diminished in delegation. Thus, as sovereign individuals, we do not diminish our sovereignty in any way by delegating our powers to State governments, to perform services which are difficult, if not impossible for us to perform as individuals. Similarly, States do not diminish their sovereignty by delegating powers to the federal government, via the Constitution. As McDonald puts it, powers delegated do not equate to powers surrendered:

17. Under the Constitutions, "... we the People" did not surrender our individual sovereignty to either the State or Federal Government. Powers "delegated" do not equate to powers surrendered. This is a Republic, not a democracy, and the majority cannot impose its will upon the minority because the "LAW" is already set forth. Any individual can do anything he or she wishes to do so long as it does not damage, injure, or impair the same Right of another individual. This is where the concept of a corpus delicti comes from to prove a "crime" or a civil damage.

[see MEMOLAW.ZIP on Richard McDonald's electronic BBS]

[see also FMEMOLAW.ZIP and Appendix Y]
[emphasis added]

Indeed, to be a Citizen of the United States*** of America is to be one of the Sovereign people, "a constituent member of the sovereignty, synonymous with the people" [see 19 How. 404]. According to the 1870 edition of Bouvier's Law Dictionary, the people are the fountain of sovereignty. It is extremely revealing that there is no definition of "United States" as such in this dictionary. However, there is an important discussion of the "United States of America", where the delegation of sovereignty clearly originates in the people and nowhere else:

The great men who formed it did not undertake to solve a question that in its own nature is insoluble. Between equals it made neither superior, but trusted to the mutual forbearance of both parties. A larger confidence was placed in an enlightened public opinion as the final umpire. The people parcelled out the rights of sovereignty between the states and the United States**, and they have a natural right to determine what was given to one party and what to the other. ...

It is a maxim consecrated in public law as well as common sense and the necessity of the case, that a sovereign is answerable for his acts only to his God and to his own conscience.

[Bouvier's Law Dictionary, 14th Edition, 1870]
[in definition of "United States of America"]
[emphasis added]

We don't need to reach far back into another century to find proof that the people of America are sovereign. In a Department of Justice booklet revised on October 12, 1988 (M-76), the meaning of American Citizenship was described with these eloquent and moving words by the Commissioner of Immigration and Naturalization:

The Meaning of American Citizenship
Commissioner of Immigration and Naturalization

Today you have become a citizen of the United States of America. You are no longer an Englishman, a Frenchman, an Italian, a Pole. Neither are you a hyphenated-American -- a

Polish-American, an Italian-American. You are no longer a subject of a government. Henceforth, you are an integral part of this Government -- a freeman -- a Citizen of the United States of America.

This citizenship, which has been solemnly conferred on you, is a thing of the spirit -- not of the flesh. When you took the oath of allegiance to the Constitution of the United States you claimed for yourself the God-given unalienable rights which that sacred document sets forth as the natural right of all men.

You have made sacrifices to reach this desired goal. We, your fellow citizens, realize this, and the warmth of our welcome to you is increased proportionately. However, we would tincture it with friendly caution.

As you have learned during these years of preparation, this great honor carries with it the duty to work for and make secure this longed-for and eagerly-sought status. Government under our Constitution makes American citizenship the highest privilege and at the same time the greatest responsibility of any citizenship in the world.

The important rights that are now yours and the duties and responsibilities attendant thereon are set forth elsewhere in this souvenir booklet. It is hoped that they will serve as a constant reminder that only by continuing to study and learn about your new Country, its ideals, achievements, and goals, and by everlastingly working at your citizenship can you enjoy its fruits and assure their preservation for generations to follow.

May you find in this Nation the fulfillment of your dreams of peace and security, and may America, in turn, never find you wanting in your new and proud role of Citizen of the United States.

[A Welcome to U.S.A. Citizenship, page 3]
[U.S. Department of Justice]
[Immigration and Naturalization Service]
[emphasis added]

Chapter 12: Includes What?

Now, we juxtapose the sublime next to the ridiculous. In a previous chapter, the issues of statutory construction that arose from the terms "includes" and "including" were so complex, another chapter is required to revisit these terms in greater detail. Much of the debate revolves around an apparent need to adopt either an expansive or a restrictive meaning for these terms, and to stay with this choice. The restrictive meaning settles a host of problems. It confines the meaning of all defined terms to the list of items which follow the words "include", "includes" and "including". An official Treasury Decision, T.D. 3980, and numerous court decisions have reportedly sided with this restrictive school of ambiguous terminology. The Informer provides a good illustration of this school of thought by defining "includes" and "include" very simply as follows:

... [T]o use "includes" as defined in IRC is restrictive.

[Which One Are You?, page 20]

... [I]n tax law it is defined as a word of restriction

[Which One Are You?, page 131]

In every definition that uses the word "include", only the words that follow are defining the Term.

[Which One Are You?, page 13]

Author Ralph Whittington cites Treasury Decision (T.D.) 3980 as his justification for joining the restrictive school. According to his reading of this T.D., the Secretary of the Treasury has adopted a restrictive meaning by stating that "includes" means to "comprise as a member", to "confine", to "comprise as the whole a part". This was the definition as found in the New Standard Dictionary at the time this T.D. was published:

"(1) To comprise, comprehend, or embrace as a component part, item, or member; as, this volume includes all his works, the bill includes his last purchase."

"(2) To enclose within; contain; confine; as, an oyster shell sometimes includes a pearl."

It is defined by Webster as follows:

"To comprehend or comprise, as a genus of the species, the

whole a part, an argument or reason the inference; to take or reckon in; to contain; embrace; as this volume includes the essays to and including the tenth."

The Century Dictionary defines "including," thus: "to comprise as a part."

[Treasury Decision 3980, January-December, 1927]
[Vol. 29, page 64, emphasis added]

Authors like Whittington may have seized upon a partial reading of this T.D., in order to solve what we now know to be a source of great ambiguity in the IRC and in other United States Codes. For example, contrary to the dictionary definitions cited above, page 65 of T.D. 3980 goes on to say the following:

Perhaps the most lucid statement the books afford on the subject is in *Blanck et al. vs Pioneer Mining Co. et al.* (Wash.; 159 Pac. 1077, 1079), namely, "the word 'including' is a term of enlargement and not a term of limitation, and necessarily implies that something is intended to be embraced in the permitted deductions beyond the general language which precedes. But granting that the word 'including' is a term of enlargement, it is clear that it only performs that office by introducing the specific elements constituting the enlargement. It thus, and thus only, enlarges the otherwise more limited, preceding general language. * * * The word 'including' introduces an enlarging definition of the preceding general words, 'actual cost of the labor,' thus of necessity excluding the idea of a further enlargement than that furnished by the enlarging clause to introduced. When read in its immediate context, as on all authority it must be read, the word 'including' is obviously used in the sense of its synonymous 'comprising; comprehending; embracing.'"

[Treasury Decision 3980, January-December, 1927]
[Vol. 29, page 65, emphasis added]

Now, didn't that settle the matter once and for all? Yes? No? Treasury Decision 3980 is really not all that decisive, since it obviously joins the restrictive school on one page, and then jumps ship to the expansive school on the very next page. If you are getting confused already, that's good. At least when it comes to "including", be proud of the fact you are not alone:

This word has received considerable discussion in opinions of the courts. It has been productive of much controversy.

[Treasury Decision 3980, January-December, 1927]
[Vol. 29, page 64, paragraph 3, emphasis added]

Amen to that!

One of my goals in this chapter is to demonstrate how the continuing controversy is proof that terms with a long history of semantic confusion should never be used in a Congressional statute. Such terms are proof that the statute is null and void for vagueness. The confusion we experience is inherent in the language, and no doubt deliberate, because the controversy has not exactly been a well kept national security secret.

Let us see if the Restrictive School leads to any absurd results. Reductio ad absurdum to the rescue again! Notice what results obtain for the definition of "State" as found in the 7701, the "Definitions" section of the Internal Revenue Code:

Step 1: Define "State" as follows:

The term "State" shall be construed to include the District of Columbia, where such construction is necessary to carry out provisions of this title.

[IRC 7701(a)(10)]

Step 2: Define "United States" as follows:

The term "United States" when used in a geographical sense includes only the States and the District of Columbia.

[IRC 7701(a)(9)]

Step 3: Substitute text from one into the other:

The term "United States" when used in a geographical sense includes only the Districts of Columbia and the District of Columbia. (Or is it the District of Columbias?)

This is an absurd result, no? yes? none of the above? Is the definition of "United States"

clarified by qualifying it with the phrase "when used in a geographical sense"? yes or no? This qualifier only makes our situation worse, because the IRC rarely if ever distinguishes Code sections which do use "United States" in a geographical sense, from Code sections which do not use it in a geographical sense. Nor does the Code tell us which sense to use as the default, that is, the intended meaning we should use when the Code does not say "in a geographical sense". Identical problems arise if we must be specific as to "where such construction is necessary to carry out provisions of this title", as stated in 7701(a)(10). Where is it not so necessary?

The Informer's work is a good example of the confusion that reigns in this empire of verbiage. Having emphatically sided with the Restrictive School, he then goes on to define the term "States" to mean Guam, Virgin Islands and "Etc.", as follows:

The term "States" in 26 USC 7701(a)(9) is referring to the federal states of Guam, Virgin Islands, Etc., and NOT the 50 States of the Union.

[Which One Are You?, page 98]

You can't have it both ways, can you? no? yes? maybe? Let us marshall some help directly from the IRC itself. Against the fierce winds of hot air emanating from the Restrictive School of Language Arts, there is a section of the IRC which does appear to evidence a contrary intent to utilize the expansive sense:

Includes and Including. The terms "includes" and "including" when used in a definition contained in this title shall not be deemed to exclude other things otherwise within the meaning of the term defined.

[IRC 7701(c), emphasis added]

Perhaps we should give this school a completely different name. How about the Federal Area of Restrictive Terminology (F-A-R-T)? All in favor, say AYE! (Confusion is a gaseous state.)

Section 7701(c) utilizes the key phrase "other things", which now requires us to examine the legal meaning of things. (So, what else is new?) Black's Law Dictionary, Sixth Edition, defines "things" as follows:

Things. The objects of dominion or property as contradistinguished from "persons." Gayer v. Whelan, 138 P.2d 763, 768. ... Such permanent objects, not being persons, as are sensible, or perceptible through the senses.

[emphasis added]

This definition, in turn, requires us to examine the legal meaning of "persons" in Black's, as follows:

Person. In general usage, a human being (i.e. natural person), though by statute term may include labor organizations, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers.

Here, Black's Law Dictionary states that "person" by statute may include artificial persons, in addition to natural persons. How, then, does the IRC define "person"?

Person. -- The term "person" shall be construed to mean and include an individual, a trust, estate, partnership, association, company or corporation.

[IRC 7701(a)(1)]

Unfortunately, the IRC does not define the term "individual", so, without resorting to the regulations in the CFR, we must again utilize a law dictionary like Black's Sixth Edition:

Individual. As a noun, this term denotes a single person as distinguished from a group or class, and also, very commonly, a private or natural person as distinguished from a partnership, corporation, or association

[emphasis added]

Therefore, "things" and "persons" must be distinguished from each other, but the term "person" is not limited to human beings because it shall be construed to mean and include an individual, trust, estate, partnership, association, company or corporation. So, are we justified in making the inference that individuals, trusts, estates, partnerships, associations, companies and corporations are excluded from "things" as that term is used in Section 7701(c)? This author says YES. Notice also the strained grammar that is found in the phrase "shall be construed to mean and include". Why not use the simpler grammar found in the phrase "means and includes"? The answer: because the term "includes" is defined by IRC 7701(c) to be expansive, that's why! But the term "include" is not mentioned in 7701(c); therefore, it must be restrictive and is actually

used as such in the IRC. Accordingly, no individual, trust, estate, partnership, association, company or corporation could otherwise fall within the statutory meaning of a term explicitly defined by the IRC because, being "persons", none of these is a "thing"! Logically, then, "includes" and "including" are also restrictive when they are used in IRC definitions of "persons". Utterly amazing, yes?

Author Otto Skinner, as we already know from a previous chapter, cites Section 7701(c) of the IRC as proof that we all belong in the Expansive School of Language Science. Followers of this school argue that "includes only" should be used, and is actually used in the IRC, when a restrictive meaning is intended. In other words, "includes" and "including" are always expansive. An intent contrary to the expansive sense is evidenced by using "includes only" whenever necessary. Fine. All in favor say AYE. All opposed, jump ship. The debate is finished yes? Not so fast. Cheerleaders, put down your pom-poms. The operative concepts introduced by 7701(c) are those "things otherwise within the meaning of the term defined". Now, the 64 million dollar question is this:

How does something join the class of things that are "within the meaning of the term defined", if that something is not enumerated in the definition?

We can obtain some help in answering this question by referring to an older clarification of "includes" and "including" that was published in the Code of Federal Regulations in the year 1961. This clarification introduces the notion of "same general class". (So, you might be in the right school, but you may be in the wrong class. Detention after school!) This clarification reads:

170.59 Includes and including.

"Includes" and "including" shall not be deemed to exclude things other than those enumerated which are in the same general class.

[26 CFR 170.59, revised as of January 1, 1961]

In an earlier chapter, a double negative was detected in the "clarification" found at IRC 7701(c), namely, the terms "not ... exclude" are equivalent to saying "include" ("not-ex" = "in"). Two negatives make a positive. Apply this same finding to regulation 170.59 above, and you get the following:

"Includes" and "including" shall be deemed to include things other than those enumerated which are in the same general

class.

What are those things which are "in the same general class", if they have not been enumerated in the definition? This is one of the many possible variations of the 64 million dollar question asked above. Are we any closer to an answer? yes? no? maybe? (Is this astronomy class, or basket weaving?) If a person, place or thing is not enumerated in the statutory definition of a term, is it not a violation of the rules of statutory construction to join such a person, place or thing to that definition? One of these rules is a canon called the "ejusdem generis" rule, defined in Black's Law Dictionary, Sixth Edition, as follows:

Under "ejusdem generis" canon of statutory construction, where general words follow the enumeration of particular classes of things, the general words will be construed as applying only to things of the same general class as those enumerated.

[emphasis added]

Here the term "same general class" is used once again. One of the major points of this book is to distinguish the 50 States from the federal zone, by using the principle of territorial heterogeneity. The 50 States are in one class, because of the constitutional restraints under which Congress must operate inside those 50 States. The areas within the federal zone are in a different class, because these same constitutional restraints simply do not limit Congress inside that zone. This may sound totally correct, in theory, but the IRC is totally mum on this issue of "general class" (because it has none). Yes, this is all the more reason why the IRC is null and void for vagueness.

This conclusion is supported by two other rules of statutory construction. The first of these is *noscitur a sociis*, in Latin. Black's defines this rule as follows:

Noscitur a sociis. It is known from its associates. The meaning of a word is or may be known from the accompanying words. Under the doctrine of "*noscitur a sociis*", the meaning of questionable or doubtful words or phrases in a statute may be ascertained by reference to the meaning of other words or phrases associated with it.

[emphasis added]

In this context, the 50 States are associated with each other by sharing their membership in the Union under the Constitution. The land areas within the federal zone are associated with each

other by sharing their inclusion within the zone over which Congress has exclusive legislative jurisdiction. The areas inside and outside the zone are therefore dissociated from each other because of this key difference, i.e., the Union, in or out.

The second rule is *inclusio unius est exclusio alterius*, in Latin. Black's defines this rule as follows:

Inclusio unius est exclusio alterius. The inclusion of one is the exclusion of another. The certain designation of one person is an absolute exclusion of all others. ... This doctrine decrees that where law expressly describes [a] particular situation to which it shall apply, an irrefutable inference must be drawn that what is omitted or excluded was intended to be omitted or excluded.

[emphasis added]

Are we, or are we not, therefore, justified in drawing the following irrefutable inferences?

Places omitted from the statutory definitions of "State", "States" and "United States" were intended to be omitted (like California, Maine, Florida and Oregon).

"Include" is omitted from the definition of "includes" and "including" because the latter terms were intended to be expansive, while the former was intended to be restrictive.

Let's dive back into the Code in order to find any help we can get on this issue. In Subtitle F, the Code contains a formal definition of "other terms" as follows:

Other terms. -- Any term used in this subtitle with respect to the application of, or in connection with, the provisions of any other subtitle of this title shall have the same meaning as in such provisions.

[IRC 7701(a)(28)]

Let's use the rules of grammar to decompose this definition of "other terms" into two separate definitions, as follows:

Any term used in Subtitle F with respect to the application of the provisions of any other subtitle shall have the same meaning as in such provisions.

-or-

Any term used in Subtitle F in connection with the provisions of any other subtitle shall have the same meaning as in such provisions.

Now, therefore, does IRC 7701(a)(28) clarify anything? For example, if there is a different definition of "State" in the provisions of some other subtitle, do we now know enough to decide whether or not:

- (1) that different definition should be expanded with things that are within the meaning as defined at 7701(a)(10)? Yes or No?
- (2) the definition at 7701(a)(10) should be expanded with things that are within the meaning of that different definition? Yes or No?
- (3) all of the above are correct?
- (4) none of the above is correct?

If you are having difficulty answering these questions, don't blame yourself. With all this evidence staring you in the face, it is not difficult to argue that the confusion which you are experiencing is inherent in the statute and therefore deliberate.

To confuse our separate cheering squads even more, the word "shall" means "may". Squad leaders, let's see those pom-poms. Since this may be most difficult for many of you to swallow without convincing proof, the following court decisions leave no doubt about the legal meaning of "shall". In the decision of *Cairo & Fulton R.R. Co. vs Hecht*, 95 U.S. 170, the U.S. Supreme Court stated:

As against the government the word "shall" when used in statutes, is to be construed as "may," unless a contrary intention is manifest.

[emphasis added]

Does the IRC manifest a contrary intent? In the decision of *George Williams College vs Village of Williams Bay*, 7 N.W.2d 891, the Supreme Court of Wisconsin stated:

"Shall" in a statute may be construed to mean "may" in order to avoid constitutional doubt.

In the decision of *Gow vs Consolidated Coppermines Corp.*, 165 Atlantic 136, that court stated:

If necessary to avoid unconstitutionality of a statute, "shall" will be deemed equivalent to "may"

Maybe we can shed some light on the overall situation by treating the terms "State" and "States" as completely different words. After all, the definition of "United States" uses the plural form twice, and there is no definition of "States" as such. Note carefully the following:

The term "State" shall be construed to include the District of Columbia, where such construction is necessary to carry out provisions of this title.

[IRC 7701(a)(10)]

The term "United States" when used in a geographical sense includes only the States and the District of Columbia.

[IRC 7701(a)(9)]

So, can we assume that the singular form of words necessarily has a meaning that is different from the plural form of words? This might help us to distinguish the two terms "include" and "includes", since one is the singular form of the verb, while the other can be the plural form of the verb. For example, the sentence "It includes ..." has a singular subject and a singular predicate. The sentence "They include ..." has a plural subject and a plural predicate, but the sentence "I include ..." has a singular subject and predicate. What if "include" is used as an infinitive, rather than a predicate? Recall that the "clarification" at IRC 7701(c) contains explicit references to "includes" and "including", but not to the word "include". Does this therefore provide us with a definitive reason for deciding that the term "include" is restrictive, while the terms "includes" and "including" are expansive? Some people, including this author, are completely satisfied that it does (but not all people are so satisfied). What if these latter terms are used in the restrictive sense of "includes only" or "including only"? Are you getting even more

confused now? Welcome to the state of confusion (surely a gaseous state). Recall once again the definition of "State" at 7701(a)(10):

The term "State" shall be construed to include the District of Columbia, where such construction is necessary to carry out provisions of this title.

Now recall the definition of "United States" at 7701(a)(9):

The term "United States" when used in a geographical sense includes only the States and the District of Columbia.

[IRC 7701(a)(9)]

Title 1 and the Code of Federal Regulations come to the rescue. Plural forms and singular forms are interchangeable:

170.60 Inclusive language.

Words in the plural form shall include the singular and vice versa, and words in the masculine gender shall include the feminine as well as trusts, estates, partnerships, associations, companies, and corporations.

[26 CFR 170.60, revised as of January 1, 1961]

Now, doesn't that really clarify everything? If "includes" is singular and "include" is plural, using the above rule for "inclusive language", the term "include" includes "includes". Wait, didn't we already make this remarkable discovery in a previous chapter? Answer: No, in that chapter, we discovered that "includes" includes "include". But, now we have conflicting results. Didn't we just prove that one is restrictive and the other is expansive? What gives? Remember, also, that "shall" means "may". Therefore, our rule for "inclusive language" from the CFR can now be rewritten to say that "words in the plural form MAY include the singular" (and may NOT, depending on whether it is a week from Tuesday). If this is Tuesday, then we must be in Belgium. At least one major mystery is now solved.

Does the Code of Federal Regulations clarify any of the definitions found in section 7701 of the Internal Revenue Code? The following table lists the headings of corresponding sections from the CFR, beginning at 26 CFR 301.7701-1:

Definitions

- 301.7701-1 Classification of organizations for tax purposes
- 301.7701-2 Associations
- 301.7701-3 Partnerships
- 301.7701-4 Trusts
- 301.7701-5 Domestic, foreign, resident, and nonresident persons
- 301.7701-6 Fiduciary
- 301.7701-7 Fiduciary distinguished from agent
- 301.7701-8 Military or naval forces and Armed Forces of the United States
- 301.7701-9 Secretary or his delegate
- 301.7701-10 District director
- 301.7701-11 Social security number
- 301.7701-12 Employer identification number
- 301.7701-13 Pre-1970 domestic building and loan association
- 301.7701-13A Post-1970 domestic building and loan association
- 301.7701-14 Cooperative bank
- 301.7701-15 Income tax return preparer
- 301.7701-16 Other terms
- 301.7701-17T Collective-bargaining plans and agreements (temporary)

[26 CFR 301.7701-1 thru 7701-17T]

This list contains such essential topics as trusts, associations, cooperative banks, and pre- and post-1970 domestic building and loan associations. In fact, there are numerous pages dedicated to these building and loan associations. However, the reader reaches the end of the list without finding any reference to "State" or "United States". Instead, the following regulation is found near the end of the list:

301.7701-16 Other terms.

For a definition of the term "withholding agent" see section 1.1441-7(a). Any other terms that are defined in section 7701 and that are not defined in sections 301.7701-1 to 301.7701-15, inclusive, shall, when used in this chapter, have the meanings assigned to them in section 7701.

[26 CFR 301.7701-16]

Like it or not, we are right back where we started, in IRC Section 7701, the "definitions" section of that Code, where "other terms" are defined differently. You may pass "GO" again, but do not collect 200 dollars. You must pay the bank instead! (Try changing that rule the next time you play Monopoly. The Monopoly bank will, of course, end up owning everything in sight.) You are also free to search some 6,000 pages of additional regulations to determine if the fluctuating definitions of the terms "State" and "United States" are clarified anywhere else in the Code of Federal Regulations. Happy hunting!

The only way out of this swamp is to rely on something other than the murky gyrations of conflicting, mutually destructive semantic mishmash. That something is The Fundamental Law: Congress can only tax the Citizens of foreign States under special and limited circumstances. Congress can only levy a direct tax on Citizens of the 50 States if that tax is duly apportioned. Congress can only levy an indirect tax on Citizens of the 50 States if that tax is uniform. These are the chains of the Constitution. Read Thomas Jefferson.

The historical record documents undeniable proof that the confusion, ambiguity and jurisdictional deceptions now built into the IRC were deliberate. This historical record provides the "smoking gun" that proves the real intent was deception. The first Internal Revenue Code was Title 35 of the Revised Statutes of June 22, 1874. On December 5, 1898, Mr. Justice Cox of the Supreme Court of the District of Columbia delivered an address before the Columbia Historical Society. In this address, he discussed the history of the District of Columbia as follows:

In June 1866, an act was passed authorizing the President to appoint three commissioners to revise and bring together all the statutes [T]he act does not seem, in terms, to allude to the District of Columbia, or even to embrace it Without having any express authority to do so, they made a separate revision and collection of the acts of Congress relating to the District, besides the collection of general statutes relating to the whole United States. Each collection was reported to Congress, to be approved and enacted into law [T]he whole is enacted into law as the body of the statute law of the United States, under the title of Revised Statutes as of 22 June 1874. ...

[T]he general collection might perhaps be considered, in a limited sense as a code for the United States, as it embraced all the laws affecting the whole United States within the constitutional legislative jurisdiction of Congress, but there could be no complete code for the entire United States, because the subjects which would be proper to be regulated by a code in the States are entirely outside the legislative authority of Congress.

[District of Columbia Code, Historical Section]
[emphasis added]

More than half a century later, the deliberate confusion and ambiguity were problems that not only persisted; they were getting worse by the minute. In the year 1944, during Roosevelt's administration, Senator Barkley made a speech from the floor of the House of Representatives in which he complained:

Congress is to blame for these complexities to the extent, and only to the extent, to which it has accepted the advice, the recommendations, and the language of the Treasury Department, through its so-called experts who have sat in on the passage of every tax measure since I can remember. Every member of the House Ways and Means Committee and member of the Senate Finance Committee knows that every time we have undertaken to write a new tax bill in the last 10 years we have started out with the universal desire to simplify the tax laws and the forms through which taxes are collected. We have attempted to adopt policies which would simplify them. When we have agreed upon a policy, we have submitted that policy to the Treasury Department to write the appropriate language to carry out that policy; and frequently the Treasury Department, through its experts, has brought back language so complicated and circumambient that neither Solomon nor all the wise men of the East could understand it or interpret it.

[Congressional Record, 78th Congress, 2nd Session]
[Vol. 90, Part 2, February 23, 1944, pages 1964-5]
[emphasis added]

You have, no doubt, heard that ignorance of the law is no excuse for violating the law. This principle is explicitly stated in the case law which defines the legal force and effect of administrative regulations. But, ambiguity and deception in the law are an excuse, and the ambiguity in the IRC is a major cause of our ignorance. Moreover, this principle applies as well to ambiguity and deception in the case law. Lack of specificity leads to uncertainty, which leads in turn to court decisions which are also void for vagueness. The 6th Amendment guarantees our right to ignore vague and ambiguous laws, and this must be extended to vague and ambiguous case law. In light of their enormous influence in laying the foundations for territorial heterogeneity and a legislative democracy for the federal zone, The Insular Cases have been justly criticized, by peers, for lacking the minimum judicial precision required in such cases:

The Absence of Judicial Precision. -- Whether the decisions in the Insular Cases are considered correct or incorrect, it seems generally admitted that the opinions rendered are deficient in clearness and in precision, elements most essential in cases of such importance. Elaborate discussions and irreconcilable differences upon general principles, and upon fascinating and fundamental problems suggested by equally indiscriminating dicta in other cases, complicate, where they do not hide, the points at issue. It is extremely difficult to determine exactly what has been decided; the position of the court in similar cases arising in the future, or still pending, is entirely a matter of conjecture. ...

It is still more to be regretted that the defects in the decision under discussion are by no means exceptional. From our system of allowing judges to express opinion upon general principles and of following judicial precedent, two evils almost inevitably result: our books are overcrowded with dicta, while dictum is frequently taken for decision. Since the questions involved are both fundamental and political, in constitutional cases more than in any others the temptation to digress, necessarily strong, is seldom resisted; at the same time it is strikingly difficult, in these cases, to distinguish between decision, ratio decidendi, and dictum. Yet because the questions involved are both extensive and political, and because the evils of a dictum or of an ill-considered decision are of corresponding importance, a precise analysis, with a thorough consideration of the questions raised, and of those questions only, is imperative. The continued absence of judicial precision may possibly become a matter of political importance; for opinions such as those rendered cannot be allowed a permanent place in our system of government.

[15 Harvard Law Review 220]
[anonymous]

The average American cannot be expected to have the skill required to navigate the journey we just took through the verbal swamp that is the Internal Revenue Code, nor does the average American have the time required to make such a journey. Chicanery does not make good law. The rules of statutory construction fully support this unavoidable conclusion:

... [I]f it is intended that regulations will be of a specific and definitive nature then it will be clear that the only safe method of interpretation will be one that "shall suppress the mischief, and advance the remedy, and to suppress subtle inventions and evasions for the continuance of the mischief"

[Statutes and Statutory Construction, by J. G. Sutherland]
[3rd Edition, Volume 2, Section 4007, page 280 (1943)]

The Supreme Court has also agreed, in no uncertain terms, as follows:

... [K]eeping in mind the well settled rule that the citizen is exempt from taxation unless the same is imposed by clear and unequivocal language, and that where the construction of a tax law is doubtful, the doubt is to be resolved in favor of those upon whom the tax is sought to be laid.

[Spreckels Sugar Refining Co. vs McLain]
[192 U.S. 397 (1903), emphasis added]

In the interpretation of statutes levying taxes it is the established rule not to extend their provisions, by implication, beyond the clear import of the language used, or to enlarge their operations so as to embrace matters not specifically pointed out. In case of doubt they are construed most strongly against the Government, and in favor of the citizen.

[United States vs Wigglesworth, 2 Story 369]
[emphasis added]

On what basis, then, should the Internal Revenue Service be allowed to extend the provisions of the IRC beyond the clear import of the language used? On what basis can the IRS act when that language has no clear import? On what basis is the IRS justified in enlarging their operations so as to embrace matters not specifically pointed out? The answer is tyranny. The "golden" retriever has broken his leash and is now tearing up the neighborhood to fetch the gold. What a service!

Consider for a moment the sheer size of the class of people now affected by the fraudulent 16th Amendment. First of all, take into account all those Americans who have passed away, but

who paid taxes into the Treasury after the year 1913. How many of those correctly understood all the rules, when people like Frank R. Brushaber were confused as early as 1914? Add to that number all those Americans who are still alive today and who have paid taxes to the IRS because they thought there was a law, and they thought that law was the 16th Amendment. After all, they were told as much by numerous federal officials and possibly also their parents, friends, relatives, school teachers, scout masters and colleagues. Don't high school civics classes now spend a lot of time teaching students how to complete IRS 1040 forms and schedules, instead of teaching the Constitution?

Donald C. Alexander, when he was Commissioner of Internal Revenue, published an official statement in the Federal Register that the 16th Amendment was the federal government's general authority to tax the incomes of individuals and corporations (see Chapter 1 and Appendix J). Sorry, Donald, you were wrong. At this point in time, it is impossible for us to determine whether you were lying, or whether you too were a victim of the fraud. Just how many people are in the same general class of those affected by the fraudulent 16th Amendment? Is it 200 million? Is it 300 million? Whatever it is, it just boggles the imagination. It certainly does involve a very large number of federal employees who went to work for Uncle Sam in good faith.

It is clear, there is a huge difference between the area covered by the federal zone, and the area covered by the 50 States. Money is a powerful motivation for all of us. Congress had literally trillions of dollars to gain by convincing most Americans they were inside its revenue base when, in fact, most Americans were outside its revenue base, and remain outside even today. This is deception on a grand scale, and the proof of this deception is found in the statute itself. It is no wonder why public relations "officials" of the IRS cringe in fear when dedicated Patriots like Godfrey Lehman admit, out loud and in person, that he has read the law. It is quite stunning how the carefully crafted definitions of "United States" do appear to unlock a statute that is horribly complex and deliberately so. As fate would have it, these carefully crafted definitions also expose perhaps the greatest fiscal fraud that has ever been perpetrated upon any people at any time in the history of the world. It is now time for a shift in the wind.

Chapter 13: Amendment 16 Post Mortem

The documented failure of the 16th Amendment to be ratified is a cause for motivating all of us to isolate the precise effects of this failed ratification. In previous chapters, a careful analysis of the relevant case law revealed two competing groups of decisions. One group puts income taxes in the category of direct taxes. Another group puts them in the category of indirect taxes. One group argues that the 16th Amendment did amend the Constitution by authorizing an unapportioned direct tax, but only on income, leaving the apportionment rule intact for all other direct taxes. Another group argues that the 16th Amendment did not really amend the Constitution; it merely clarified the taxing power of Congress by overturning the "principle" on which the Pollock case was decided. By distilling the cores of these two competing groups, we are thereby justified in deciding that a ratified 16th Amendment produced one or both of the following two effects:

1. Inside the 50 States, it removed the apportionment restriction from taxes laid on income, but it left this restriction in place for all other direct taxes.
2. It overturned the principle advanced in the Pollock case which held that a tax on income is, in legal effect, a tax on the source of the income.

Federal courts did not hesitate to identify the effects of a ratified 16th Amendment. Now that the evidence against its ratification is so overwhelming and incontrovertible, the federal courts are evidently unwilling to identify the effects of the failed ratification. These courts have opted to call it a "political" question, even though it wasn't a "political" question in years immediately after Philander C. Knox declared it ratified. It is difficult to believe that the federal courts are now incapable of exercising the logic required to isolate the legal effects of the failed ratification. Quite simply, if a ratified 16th Amendment had effect X, then a failed ratification proves that X did not happen. What is X? Their "political" unwillingness to exercise basic logic means that the federal courts have abdicated their main responsibility -- to uphold and defend the Constitution -- and that we must now do it for them instead (see Appendix W concerning "Direct Taxation and the 1990 Census"). At a minimum, the value of X is one or both of the two effects itemized above.

Some people continue to argue, even now, that the 16th Amendment doesn't even matter at all. Soon after The Federal Zone began to circulate among readers throughout America, the flow of complimentary letters grew to become a steady phenomenon. As of this writing, no substantive criticisms have been received of its two major theses, i.e., territorial heterogeneity and void for vagueness. Occasional criticisms did occur, but most of them were minor, lacking in substance, or lacking authority in law. The following is exemplary of the most serious of these criticisms:

I fail to understand the harping on the invalid ratification of the 16th Amendment. It really doesn't matter whether the amendment was ratified or not -- Brushaber ruled "no new powers, no new subjects", and further went on to tell us that Congress always had the power to tax what the 16th Amendment said could be taxed.

[private communication, June 1, 1992]

It does matter whether the amendment was ratified or not, for several reasons. One obvious reason is that the Federal Register contains at least one official statement that the 16th Amendment is the federal government's general authority to tax the incomes of individuals and corporations (see Chapter 1 and Appendix J). If the amendment failed, then it cannot be the

government's general authority to tax the incomes of individuals and corporations. There may be some other authority, but that authority is definitely not the 16th Amendment. The official statement in the Federal Register is further evidence of fraud and misrepresentation, even if its author was totally innocent.

Another reason is that, contrary to Brushaber, other decisions of the Supreme Court, as well as lower federal courts, have ruled that taxes on incomes are direct taxes, and the 16th Amendment authorized an unapportioned direct tax on incomes. Author Jeffrey Dickstein has done a very thorough job of demonstrating how the Brushaber ruling stands in stark contrast to the Pollock case before it, and to the Eisner case after it. The Brushaber decision is an anomaly for this reason, and for this reason alone. It ruled that income taxes are indirect excise taxes (which necessarily must be uniform across the States of the Union). However, the Brushaber court failed even to mention "The Insular Cases" and the doctrine of territorial heterogeneity that issued therefrom (see Appendix W).

If the 16th Amendment authorized an unapportioned direct tax on incomes, per Eisner, Peck, Shaffer and Richardson, then such a tax is not required to be either uniform or apportioned. Therefore, this group of decisions did interpret the 16th Amendment differently from Brushaber; they conclude that it did amend the Constitution and that it did create a new power, namely, the power to impose an unapportioned direct tax. Contrary to the private communication quoted above, Congress has not always had the power to impose an unapportioned direct tax on the States of the Union. In view of the evidence which now proves that the 16th Amendment was never ratified, it is correct to say that Congress has never had the power to impose an unapportioned direct tax on the States of the Union. The Pollock decision now becomes a major hurdle standing in the government's way, because the Pollock Court clearly found that all taxes on income are direct taxes, and all direct taxes levied inside the 50 States must be apportioned. The Pollock decision is most relevant to any direct tax which Congress might levy against the incomes and property of State Citizens, as distinct from citizens of the United States**. (Each has citizens of its own.)

Put in the simplest of language, a ratified 16th Amendment either changed the Constitution, or it did not change the Constitution. If it changed the Constitution, one change that did occur was to authorize an unapportioned direct tax on the incomes of State Citizens. If it did not change the Constitution, the apportionment restriction has always been operative within the 50 States, even now. Either way, the failed ratification proves that Congress must still apportion all direct taxes which it levies upon the incomes and property of Citizens of the 50 States.

Corporations, on the other hand, are statutory creations, whether they are domestic or foreign. As such, they enjoy the privilege of limited liability. Congress is free to levy taxes on the exercise of this privilege and to call them indirect excises. Within the 50 States, such an excise must be uniform for it to be constitutional; within the federal zone, such an excise need not be uniform. In the context of statutory privileges, the apportionment rule is completely irrelevant. Therefore, the status of "United States** citizens" is also a statutory privilege the exercise of which can be taxed with indirect excises, regardless of where that privilege might be exercised. The subject of such indirect taxes is the exercise of a statutory privilege; the measure of such

taxes is the amount of income derived from exercising that privilege.

Justice White did all of us a great disservice by writing a ruling that is tortuously convoluted, in grammar and in logic. If he had taken *The Insular Cases* explicitly into account, and if he had distinguished Frank Brushaber's situs from the situs of Brushaber's defendant, the principle of territorial heterogeneity would have clarified the decision enormously. Specifically, according to the doctrine established by *Downes vs Bidwell* in 1901, Congress is not required to apportion direct taxes within the federal zone, nor is Congress required to levy uniform excise taxes within the federal zone. However, within the 50 States of the Union, all direct taxes must still be apportioned, and all indirect excise taxes must still be uniform. Now that we know the 16th Amendment never became law, these restrictions still apply to any tax which Congress levies inside the 50 States. Quite naturally, a problem arises when one party is inside the federal zone, and the other party is outside the federal zone. That was the case in *Brushaber*.

The *Downes* doctrine defined the "exclusive" authority of 1:8:17 in the Constitution to mean that Congress was not subject to the uniformity restriction on excise taxes levied inside the federal zone. By necessary implication, Congress is not subject to the apportionment restriction on direct taxes levied inside the federal zone. It is important to realize that the *Union Pacific Railroad Company* was a domestic corporation, incorporated by Congress, inside the federal zone. A tax on such a corporation was a tax levied within the federal zone, where the apportionment and uniformity restrictions simply did not exist.

Instead of making this important territorial distinction, Justice White launched into an exercise of questionable logic, attributing statements to the *Pollock* court which the *Pollock* court did not make, adding words to the 16th Amendment that were not there, hoping his logic would persuade the rest of us that the *Pollock* principle was now overturned. According to White, the principle established in *Pollock* was that a tax on income was a tax on the source of that income. In this context, White is distinguishing income from source, in the same way that interest is distinguished from principal. This same distinction was made by a federal Circuit court in the *Richardson* case as late as the year 1961. In light of the overriding importance of the *Downes* doctrine, it is difficult and unnecessary to elevate the importance of this distinction any higher; it is also important to keep it in proper perspective. Within the federal zone, Congress can tax interest and principal (income and source) without any regard for apportionment or uniformity. Therefore, within the federal zone, the distinction is academic.

Whatever the merits of this distinction between income and source, White was wrong to ignore the key *Pollock* holding that income taxes are direct taxes. The *Pollock* decision investigated the relevant history of direct taxes in depth. White was also wrong to ignore the clear legislative history of the 16th Amendment, the stated purpose of which was to eliminate the apportionment restriction which caused the *Pollock* court to overturn an income tax Act in the first place. That Act was found to be unconstitutional precisely because it levied a direct tax on incomes without apportionment. Finally, White was wrong to launch into his lengthy discussion of the 16th Amendment without even mentioning *The Insular Cases*, when these cases were recent authority for the proposition that Congress did not need an amendment to impose taxes without apportionment or uniformity inside the federal zone. This may be hindsight, but

hindsight is always 20/20.

The relevance of the 16th Amendment to the tax on Frank Brushaber's dividend is another matter. Two schools of thought have emerged, with opposing views of that relevance. One school relies heavily on the key precedents established by Pollock. Specifically, the original investment is the "source" of Brushaber's income. A tax on the source is a direct tax. Pollock found that a tax on income is a tax on the source. Therefore, a tax on income is a direct tax. Without a ratified 16th Amendment, such a tax must be apportioned whenever it is levied inside the 50 States. With a ratified 16th Amendment, such a tax need not be apportioned whenever it is levied inside the 50 States. This school argues that Brushaber's dividend was taxable because the 16th Amendment removed the apportionment requirement on such a tax. But, is the tax really levied "inside the 50 States", if the activity which produced the income was actually inside the federal zone? The importance of the Pollock principle now comes to the fore.

The competing school argues that a ratified 16th Amendment was not strictly necessary for Congress to impose a direct tax on Brushaber's dividend without apportionment. Granted, he was a State Citizen who lived and worked within one of the States of the Union. For this reason, the government found that he was a "nonresident alien" under their own rules. If White's ruling did anything else, it held that Brushaber's dividend was also taxable without apportionment and without uniformity because its "source" was inside the federal zone, and that "source" was a taxable activity (profit generation by a domestic corporation). In this context, it does make sense to jettison the Pollock "principle" and to distinguish interest from principal, dividend from original stock investment. Having done so, Justice White could argue that the "source" of Brushaber's dividend was domestic corporate activity and not Brushaber's original investment. Unfortunately for all of us, however, Brushaber did not challenge the constitutionality of the income tax as applied to his dividend, so this question was not properly before the Supreme Court; Brushaber did challenge the constitutionality of the income tax as applied to his defendant.

Unfortunately for Mr. Brushaber, he thought that the defendant was a foreign corporation. The government was correct to point out that the defendant was actually a domestic corporation, chartered by Congress. As such, this corporation's profits could be taxed by Congress without apportionment or uniformity, and without an amendment authorizing such a tax. For the same reasons, Brushaber's share of those same profits could also be taxed without constitutional restrictions, and without an amendment authorizing such a tax, even though he was outside the federal zone and inside a State of the Union. In this context, it is revealing that the Internal Revenue Code imposes a uniform "flat tax" when such income is received by nonresident aliens, giving it the appearance of a uniform indirect tax. However, this "uniformity" is not the consequence of a constitutional requirement; it is the consequence of decisions by Congress acting in its capacity as a majority-ruled legislative democracy.

Moreover, under the authority of the Downes doctrine, Congress is empowered to define domestic corporate profits as "profits before dividends are paid", and to penalize all domestic corporations which attempt to avoid federal taxes by defining their profits as "profits after dividends are paid." Within the federal zone, Congress has the power to assert a superior claim to

all profits of domestic corporations, and to define those profits any way it chooses. By "superior claim" I mean that Congress comes before stockholders inside the federal zone, even if the stockholders are outside the federal zone, and even if the money they used to purchase their stock came from a source that was outside the federal zone. A ratified 16th Amendment would have had no effect whatsoever on the power of Congress to levy a tax without any restrictions on any of the assets of domestic corporations. A ratified 16th Amendment would have empowered Congress to tax, without apportionment, dividends paid to State Citizens by foreign corporations when both were inside the 50 States, but a ratified 16th Amendment was not strictly necessary for Congress to tax dividends paid to them by domestic corporations. Neither was a ratified 16th Amendment necessary for Congress to tax dividends paid by either type of corporation to citizens of other nations like France, since the latter citizens enjoy none of the protections guaranteed by the Constitution for the United States of America. In this context, it is important to make a careful distinction between dividends and corporate profits.

It is clear that the second of these two competing schools of thought has now prevailed. Even though there are serious logical and obvious grammatical problems with Justice White's ruling, in retrospect he was right to question the Pollock principle. The situs principle is easier to understand, if only because it dovetails so squarely with the overriding principles of territorial jurisdiction and territorial heterogeneity. Moreover, it is entirely possible for the Pollock principle to yield to the situs principle, even though the 16th Amendment was never actually ratified. Remember that Justice White ruled in *Brushaber* that the only effect of the 16th Amendment was to overturn the Pollock principle. If the amendment failed, it could thereby be argued that the Pollock principle has never been overturned. Nevertheless, subsequent case law has confirmed the superiority of the situs principle: the source of income is the situs of the income-producing activity. Sources are either inside or outside the federal zone.

Finally, like "income", the term "source" is not in the Constitution either, because the amendment failed to be ratified. Recall the Eisner prohibition, whereby Congress was told it did not have the power to define "income" by any definition it might adopt (see Appendix J). That prohibition was predicated on a ratified 16th Amendment, the text of which introduced the term "income" to the Constitution for the first time. Although the issue did not arise as such and there is no court precedent per se, the exact same logic applies to the term "source". The failed ratification means that Congress is now free to legislate any definition it might adopt for the terms "income" and "source", as long as the statutes containing those terms do not otherwise violate the Constitution as lawfully amended. The source of income is the situs of the income-producing activity.

The explicit recognition of territorial jurisdiction, and of the status of the parties with respect to that territorial jurisdiction, provides much additional clarification to the *Brushaber* ruling. Such a clarification was definitely needed because the almost incomprehensible grammar of the *Brushaber* ruling is actually responsible for much of the confusion and controversy that continue to persist in this field, even today. As Alan Stang puts it, Justice White turned himself into a pretzel, and lots of other people got twisted up in the process. A clear understanding of status and jurisdiction, and a proper application of the principle of territorial heterogeneity, together provide an elegant and sophisticated means to eliminate much, if not all, of that confusion and

controversy.

Chapter 14: Conclusions

The areas of land over which the federal government exercises exclusive authority are the District of Columbia, the federal territories and possessions, and the enclaves within the 50 States which have been ceded to the federal government by the consent of State Legislatures. This book has referred to these areas collectively as "the federal zone" -- the zone over which Congress exercises exclusive legislative jurisdiction, the zone over which the federal government is sovereign. Author Ralph Whittington itemizes the federal "states" and possessions as follows:

- (1) District of Columbia Federal State
- (2) Commonwealth of Puerto Rico Federal State
- (3) Virgin Islands Federal State
- (4) Guam Federal State
- (5) American Samoa Federal State
- (6) Northern Mariana Islands Federal Possession
- (7) Trust Territory of the Pacific Islands .. Federal Possession

Inclusive of the aforementioned Federal State(s) and Federal Possessions, the "exclusive Federal Jurisdiction" also extends over all Places purchased by the Consent of the Legislature of one of the Fifty State(s), in which the same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings.

[The Omnibus, page 87]
[emphasis added]

In exercising its exclusive authority over the federal zone, Congress is not subject to the same constitutional limitations that exist inside the 50 States. For this reason, the areas that are inside and outside the federal zone are heterogeneous with respect to each other. This difference results in a principle of territorial heterogeneity: the areas within the federal zone are subject to one set of rules; the areas without (or outside) the federal zone are subject to a different set of rules. The Constitution rules outside the zone and inside the 50 States. The Congress rules inside the zone and outside the 50 States. The 50 States are, therefore, in one general class, because all constitutional restraints upon Congress are in force throughout the 50 States, without prejudice to any one State. The areas within the federal zone are in a different general class, because these same constitutional restraints simply do not limit Congress inside that zone.

Without referring to it as such, Lori Jacques has concisely defined the taxing effects of

territorial heterogeneity as follows:

The "graduated income tax" is not a constitutionally authorized tax within the several states; however, Congress is apparently not prohibited from levying that type of tax upon the "subjects of the sovereign" in the Possessions and Territories. The definitions of "United States" and "State" are stated "geographically to include" only those areas constitutionally within congress' exclusive legislative jurisdiction upon whom a graduated tax can be imposed.

[A Ticket to Liberty, November 1990 edition, page 54]
[emphasis added]

It is in the area of taxation where the restraints of the Constitution are most salient. Congress cannot levy indirect taxes inside the borders of the 50 States unless the tax rates are uniform across those 50 States. The mountain of material evidence which impugns the ratification of the so-called 16th Amendment should leave no doubt in anybody's mind that Congress must still apportion all direct taxes levied inside the borders of the 50 States and outside the federal zone. For example, if California has 10 percent of the nation's population, then the State of California would pay 10 percent of any apportioned direct tax levied by Congress. Unfortunately, the IRS currently enforces federal income taxes as direct taxes on the gross receipts of individual persons without apportionment. This results in great tension between the law and its administration.

Similarly, Congress is not empowered to delegate unilateral authority to the President to divide or join any of the 50 States of the Union. Dividing or joining States of the Union can only occur with the consent of Congress and of the Legislatures of the States affected. For many reasons like this, the IRC would be demonstrably unconstitutional if it applied to areas over which the 50 States exercise sovereign jurisdiction. It is conclusive, therefore, that the IRC is a municipal law for the federal zone only. As the municipal authority with exclusive legislative jurisdiction, Congress is "City Hall" for the federal zone.

The Bill of Rights also constrains Congress from violating the fundamental rights of Citizens of the 50 States. These rights include, but are not limited to, the right to work for a living, and the right to enjoy the fruits of individual labor. These activities are free from tax under the fundamental law. The fundamental law is the Constitution for the United States of America, as lawfully amended. The first 10 amendments institutionalize a number of explicit constraints on the acts of Congress within the 50 States. The most salient of these amendments are those that mandate due process and prohibit self- incrimination.

The Internal Revenue Code and its regulations impose taxes on the worldwide income of United States** citizens and United States** residents. Throughout this book, two stars "***" after the term "United States**" are used to emphasize that the "United States" in this context has

the second of three separate and distinct meanings. These meanings were defined by the Supreme Court in the pivotal case of *Hooven & Allison Co. vs Evatt*, which is still the standing case law on this question. The high Court indicated that the *Hooven* case would be the last time it would address a definition of the term "United States". Therefore, this ruling, and the preceding case law and law review articles on which it was based, must be judicially noticed by the entire American legal community.

The United States**, as that term is used in the IRC, is the area over which Congress exercises exclusive legislative authority; it is the federal zone. If you are not a United States** citizen, then you are an alien with respect to the United States**. If you are not a United States** resident, then you are nonresident with respect to the United States**. Therefore, if you were born outside the federal zone, if you live and work outside the federal zone, and if you were never naturalized or granted residency privileges by the federal zone, then you are a nonresident alien under the Internal Revenue Code, by definition. Be clear that an "alien" is not a creature from outer space. The term "alien" is the creation of lawyers.

Nonresident aliens only pay taxes on income that is derived from sources that are inside the federal zone. According to explicit language in the Internal Revenue Code, gross income for nonresident aliens includes only gross income which is effectively connected with the conduct of a trade or business within the United States**, and gross income which is derived from sources within the United States**, even if it is not connected with a U.S.** trade or business. Thus, employment with the federal government produces earnings which have their source inside the federal zone. Similarly, unearned dividends paid to nonresident aliens from stocks or bonds issued by U.S.** domestic corporations also have their source inside the federal zone, and are therefore taxable. Frank Brushaber was such a nonresident alien.

For any federal tax liability that does exist, a nonresident alien can utilize Form 1040NR to report and remit that tax liability to the IRS. As a general rule, a nonresident alien need not report or pay taxes on gross income which is derived from sources that are outside the federal zone, or on gross income which is effectively connected with the conduct of a trade or business that is outside the federal zone. The regulations specify a key exception to this general rule: a return must be filed, however, by nonresident aliens who are engaged in any U.S.** trade or business, whether or not they have derived income from any U.S.** sources.

The law of presumption has made it possible for the federal government to impose income taxes on individuals who had no tax liability in the first place. The regulations which promulgate the Internal Revenue Code make it very clear that all aliens are presumed to be nonresident aliens because of their "alienage", that is, because of their status as aliens from birth. However, through their own ignorance, in combination with a systematic and constructive fraud perpetrated upon them by the federal government, nonresident aliens may have filed 1040 forms in the past, in the mistaken belief they were required to do so, when they were not required to do so.

The receipt of these forms, signed under U.S.** penalties of perjury, entitles the federal government to presume that nonresident aliens have "elected" to be treated as residents and/or they have volunteered to be treated as taxpayers. A completed, signed and submitted 1040 or

1040A form is a voluntarily executed commercial agreement which can be used as prima facie evidence, in criminal trials and civil proceedings, to show that nonresident aliens have voluntarily subjected themselves to the federal income tax. This presumption was described in a decision of the United States** Court of Appeals for the 9th Circuit, in the 1974 ruling of Morse vs U.S. which stated:

Accordingly, when returns were filed in Mrs. Morse's name declaring income to her for 1944 to 1945, and making her potentially liable for the tax due on that income, she became a taxpayer within the meaning of the Internal Revenue Code.

[Morse vs United States, 494 F.2d 876,880]
[emphasis added]

Within the borders of the 50 States, the "geographical" extent of exclusive federal jurisdiction is confined to the federal enclaves; this extent does not encompass the 50 States themselves. We cannot blame the average American for failing to appreciate this subtlety, particularly when officials in Congress and elsewhere in the federal government have been guilty of constructive as well as actual fraud ever since the year 1913. Not only are the key definitions of "State" and "United States" confusing and vague; the term "income" isn't even defined in the statute or its regulations, and neither is its "intent".

Close examination of the Internal Revenue Code (IRC), reveals that the meaning of "income" is simply not defined, period! There is an important reason in law why this is the case. At a time when the U.S. Supreme Court did not enjoy the benefit of 17,000 State-certified documents which prove it was never ratified, that Court assumed that the 16th Amendment was the supreme law of the land. In what is arguably one of the most important rulings on the definition of "income", the Supreme Court of the United States has clearly instructed Congress that it is essential to distinguish between what is and what is not "income", and to apply that distinction according to truth and substance, without regard to form. In that instruction, the high Court has told Congress it has absolutely no power to define "income" by any definition it may adopt, because that term was considered by the Court to be a part of the U.S. Constitution:

Congress cannot by any definition it may adopt conclude the matter, since it cannot by legislation alter the Constitution, from which alone it derives its power to legislate, and within whose limitations alone that power can be lawfully exercised.

[Eisner vs Macomber, 252 US 189]
[emphasis added]

Clearly, the Internal Revenue Code has not distinguished between what is, and what is not income. To do so would be an exercise of power which Congress has been told, in clear and certain terms, it simply does not have. This is a Catch-22 from which the Congress cannot escape, without officially admitting that the 16th Amendment is not law. Congress either defines income by statute, and thereby exercises a power which it does not have, or it fails to define income, thereby rendering whole chunks of the Internal Revenue Code null and void for vagueness. If it argues that the word "income" is not really in the Constitution after all, because the 16th Amendment was never ratified, Congress will admit the amendment is null and void.

The confusion that results from the vagueness we observe in the IRC is inherent in the statute and evidently intentional, which raises some very serious questions concerning the real intent of that statute in the first place. The hired lawyers who wrote this stuff should have known better than to use terms that have a long history of semantic confusion. For this reason, and for this reason alone, I am now convinced that the confusion is inherent in the language chosen by these hired "guns" and is therefore deliberate. Could money have anything to do with it? You bet it does.

It is clear that there is a huge difference between the area enclosed by the federal zone, and the area enclosed by the 50 States of the Union. No one will deny that money is a powerful motivation for all of us. Congress had literally trillions of dollars to gain by convincing most Americans that they were inside its revenue base when, in fact, most Americans were outside its revenue base, and remain outside even today. This is deception on a grand scale, and the proof of this deception is found in the statute itself and its various amendments over time.

It is quite stunning how the carefully crafted definitions of terms like "State" and "United States" do unlock a huge statute, a mountain of regulations, and a pile of forms, instructions and publications that are all horribly complex, and deliberately so. As fate would have it, these carefully crafted definitions also expose perhaps the greatest fiscal fraud that has ever been perpetrated upon any people at any time in the history of the world.

It is now time for a shift in the wind. Let justice prevail. Let no man or woman be penalized from the oppression that results from arbitrary enforcement of vague and ambiguous statutes that benefit the few and injure the many. The Constitution for the United States of America guarantees our fundamental right to ignore vague and ambiguous laws because they violate the 6th Amendment. This is the Supreme Law of the Land. Unlike other governments elsewhere in space and down through time, the federal government of the United States of America is not empowered to be arbitrary.

The vivid pattern that has now painfully emerged is that "citizens of the United States", as defined in federal tax law, are the intended victims of a new statutory slavery that was predicted by the infamous Hazard Circular soon after the Civil War began. These statutory slaves are now burdened with a bogus federal debt which is spiralling out of control. The White House budget office recently invented a new kind of "generational accounting" so as to project a tax load of seventy-one percent on future generations of these "citizens of the United States". It is our duty to ensure that this statutory slavery is soon gone with the wind, just like its grisly and ill-fated

predecessor.

In the long history of the world, only a few generations have been granted the role of defending freedom in its hour of maximum danger. I do not shrink from this responsibility -- I welcome it. I do not believe that any of us would exchange places with any other people or any other generation. The energy, the faith, the devotion which we bring to this endeavor will light our country and all who serve it -- and the glow from that fire can truly light the world.

[President John Fitzgerald Kennedy]
[Inaugural Address, January 1961]