





# AN INVESTIGATION INTO THE MEANING OF THE TERM "UNITED STATES"

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## AN INVESTIGATION INTO THE MEANING OF THE TERM "**UNITED STATES**"

### Introduction and warning

My primary objective in this investigation is to provide a sketch of some of the meanings of the term 'United States,' and scrutinize how the general misinterpretation of this key term, and others, has led to the incorrect deciphering of the Internal Revenue Code which has prompted most Americans to falsely believe that they have always had some legal obligation to fill out a Form W-4, to file a return, and to pay income tax although I do stray from this point considerably, in addressing tax and other matters. But basic is defining the United States.

I can not stress too strongly that despite the many aspects of tax law that are dealt with, it was never my intent to provide tools, in any manner, for confronting the IRS. Preparation for such interfacing requires exacting knowledge of proper strategies and procedure, to which I do not even allude. That is a whole other area of study, which I cannot adequately go into here. At times, an

ingenuous scribbled reply has prevailed, in a response to a request for an overdue tax return (CP-515 to 518) but don't count on it! And, if you think merely quoting some law, or regulation, or interpretation of facts will do the trick, please restrain yourself.

This is, rather, a diligent inquiry into the true nature of the matters examined, and nothing in this paper should be construed as legal advice. I am only presenting the results of my research, based on the codes, statutes, court cases, government manuals, directives, Treasury Orders, etc. all of which are referenced and, usually, quoted in pertinent part. I apologize for any undocumented statement that I might have carelessly made. Ignore it.

By the end of this paper, I hope to have proven to your complete satisfaction that the government, being constitutionally constrained, as it is, was really not able to do a thorough job of encrypting its code for almost everything has to be, by law, and is, spelled out. Therefore, those who are sufficiently pertinacious, and have unbiased eyes to see, can eventually arrive at an adequately clear picture. But, once again, this is a theoretical examination of certain topics, and not an attempt to suggest any course of action in confronting the IRS.

As a matter of fact, with one notable exception, strategies that successfully deal with the IRS have no need to employ the interpretation espoused in this paper, viz. that when the Internal Revenue Code, uses the term United States, except where it specifies otherwise, refers only to the federal States, such as the District of Columbia, Guam, the Virgin Islands, Puerto Rico, etc., and federal possessions and enclaves in other words, what I will often refer to as the federal zone. To take one of many examples, if one were to simply ask the IRS for the section in the code that required her/him to file a return and obligated him/her to pay income tax, the definition of United States' would, obviously, be utterly irrelevant.

There is, as mentioned, one strategy that does employ this knowledge. I only call attention to it because for a quarter of a century it has enabled thousands of knowledgeable Americans to be reclassified to the status of one not obligated to pay income tax and this speaks volumes as to the veracity of the explication in this paper of the term United States, as used in the IRC. Because this strategy rests entirely on this interpretation. In a word, it involves the proper utilization of IRC 6013(g)(4) Termination of election (A) Revocation by taxpayers, which I comment on pages 10, and especially page 46.

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AN INVESTIGATION INTO THE MEANING  
OF THE TERM UNITED STATES  
TOGETHER WITH SOME OTHER RELATED TERMS  
AND SELECTED MATTERS HAVING  
TO DO WITH TAXATION

I doubt if many Americans have ever given a second thought to the meaning of the term United States, or would believe that it could be a perplexing question. It would have my vote, however, as being by far the most important and controversial word (or term) of art, *vocabula artis* also referred to as a statute term, leading word (or term), or what the French call *parol de ley*, technical word of law in all American legal writings as well as the most dangerous. For it is ambivalent, equivocal, and ambiguous. Indeed, as you will see, its use in the law exemplifies patent ambiguity, which is defined as:

*An ambiguity apparent on face of instrument [sic] and arising by reason of any inconsistency or inherent uncertainty of language used so that effect is either to convey **no definite meaning** or **confused meaning**.* (Black's Law Dictionary, 6<sup>th</sup> edition. Emphasis added.)

Reading Hamlet in the park this afternoon, I chanced on to an intriguing way to put it. In the words of King Claudius:

*The harlot's cheek, beautified with plast ring art,  
Is not more ugly to the thing that helps it  
Than is my deed to my most **painted word**.  
O heavy burden! (III, I, 51-54. Emphasis added.)*

The editor, Harold Jenkins, in his notes on painted says: "fair but false in appearance, like the beauty of the painted cheek." What serendipity to find this, just as I am on my final proofing of this paper. It is so appropriate, to describe how 'United States' usually is used by the government. And it has indeed imposed on us all a heavy burden !

With dogged determination and perseverance, however, one can succeed in seeing through this meticulous and painstakingly contrived duplicity. For, fortunately, Congress must define all terms that it uses in a particular and special way. For example, in the Internal Revenue Code (IRC), chapter 79 Definitions, Section 7701 Definitions, it states: "(a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof " It goes on, then, to define many terms of art. These definitions apply throughout the code, "where not otherwise distinctly expressed" which will sometimes be done for a single chapter, section, subsection, or even sentence which, you will later see, can be very instructive.

I fear that such analysis can be tedious, and for this I apologize. I will try to be as pithy and compendious as possible, but I am not writing merely to express opinions; I am writing to prove the points I discuss. And I will worry a question like a bull dog, until I am

satisfied that I have presented enough hard data to conclusively establish my particular contention, especially in the eyes of those of a different persuasion. For there are intelligent and respected researchers, for whom I have the greatest regard, who do not agree, for example, with my interpretation of the meaning of 'United States' in Title 26, as well as in all the other titles.

The history of the usage of United States, from the time of the American colonies to the present, is remarkably complex. This is thoroughly investigated in an easy-reading yet scholarly book that I highly recommend, by Sebastian de Gracia, *A Country With No Name*, Pantheon, 1997. Herein, however, I will have occasion to avail myself of virtually nothing from this wonderful tome. When I think of this, it astonishes even me. But my focus is primarily on the relevance of this term as it relates to the law, especially tax law, to which he simply doesn't allude at least in the way I do.

Before getting started, let me give you just a hint as to why it is so extremely important to have an absolutely correct interpretation of the term United States, but also, in the two quotes below, nonresident alien, and gross income.

This preview is an important section from the IRC, which is Title 26, also written in cites as 26 United States Code or 26 USC, Section (the symbol or, often, as in this paper, these are omitted)

**872 Gross income:**

*(a) **General rule.** In the case of a nonresident alien individual 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*

Add to this [26 USC §7701\(b\)\(1\)\(B\)](#):

*An individual is a nonresident alien if such individual is neither a citizen of the United States nor a resident of the United States*

and I think you will agree that the cardinal conundrum here indeed the very crux is the determination as to what is meant by the term "**United States**" and, above, nonresident alien. For, under certain circumstances we see that the nonresident alien is not subject to any federal income tax if his relationship to the United States is of a certain nature.

The United States is an abstraction given substantiality when delegated duties began to be performed, and when 1:8:17 of the Constitution was implemented, which provided for land for the seat of government, as well as forts, magazines, arsenals, dockyards, and other needful buildings. Upon thus acquiring land, it also became a geographical entity, as well as a government.

To begin with, one must remember, as the Supreme Court said, "the term United States is a metaphor." (A figure of speech. [Cunard S.S. Co. v. Mellon, 262 U.S. 100](#), 122. Note that U.S. in a cite like this indicates the U.S. Supreme Court.) The philosopher Jose Ortega y Gasset believes that "[t]he metaphor is perhaps one of man's most fruitful potentialities. Its efficacy verges on magic." But beware, there is black magic as well as white magic. In other words, as Lakoff and Johnson point out in *Metaphors We Live By*, metaphors can create reality for us, and can become symbols that "structure our conceptual system." That is, they can impede the clarity of our thinking. For, as you will see, there are numerous meanings of the term United States, though the government seeks to obscure this.

In the following section, you will see that you should develop the habit of always asking both yourself, and those who speak to you of it, WHICH United States? O.K., let us begin our Odyssey.

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## **1. Preliminary remarks on the different meanings of "United States".**

The lengthy insular cases were settled in 1901, when the U.S. Supreme Court ruled on *De Lima v. Bidwell*, 182 U.S. 1 and *Downes v. Bidwell*, 182 U.S. 244. In the latter, Justice Harlan dissented with the following words:

*The idea prevails with some indeed, it found expression in arguments at the bar that we have in this country substantially or practically two national governments; one, to be maintained under the Constitution, with all its restrictions; the other to be maintained by Congress outside and independently of that instrument, by exercising such powers as other nations of the earth are accustomed to exercise. (at 380)*

[Balzac v. Porto \(sic\) Rico, 258 U.S. 298 \(1922\)](#) reaffirmed (at 305) that the United States, under 4:3:2 of the Constitution, has exclusive power over the territories outside the union states. It is in no way bound, in its municipal laws, by what Jefferson called the chains of the Constitution. But, also the reverse applies:

*criminal jurisdiction of the federal courts is **restricted to federal reservations over which the federal government has exclusive jurisdiction** as well as to [federal] forts, magazines, arsenals, dockyards, or other needful buildings.  
[18 USC §451(3)(d). (Emphasis added.)]*

It is autonomous within the areas over which it has **complete** legislative jurisdiction the District of Columbia, Guam and the other

federal or territorial States and enclaves, etc. Statutory "citizens and nationals of the United States" per 8 U.S.C. §1401, (in this paper lower case c indicates a federal citizen) domiciled therein, are given civil rights, i.e., statutory and, therefore, retractable privileges. They do not have the unalienable rights of state Citizens. In brief, Daniel Webster was ultimately ruled to be right:

*"The Constitution was made for the states, not the territories."*

Two years after the 14<sup>th</sup> Article of Amendment to the Constitution was said to have been ratified, this very interesting decision was promulgated by the California Supreme Court:

*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 [s]tates**. 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 [federal] 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 Government in which they are not represented. Mere citizenship they may have, but the political rights of [C]itizens they cannot enjoy until they are organized into a State, and admitted into the [u]nion.  
[People v. De La Guerra, 40 Cal. 311, 342 [1870]. (Emphasis added.)]*

Of course, the creation of Constitutional "citizens of the United States" dates back to July 9, 1868, when the 14<sup>th</sup> Article of Amendment was fraudulently declared to be ratified. (Please allow me to remind you of the oft-quoted statement by judge Ellett, of the Utah Supreme Court:

*"I cannot believe that any court, in full possession of its faculties, could honestly hold that the amendment was properly approved and adopted."*

*[State v. Phillips, Pacific Reporter, 2<sup>nd</sup> Series, Vol. 540, page 941-942 (1975)]*

I must point out that the wording in the 14<sup>th</sup> Amendment reveals something very important. For it speaks of "citizens of the United States" and "citizens of the state wherein they reside." This is the first time that the word "citizen" as used in the Constitution was not capitalized. Every amendment to the Constitution after the enactment of the Fourteenth Amendment that referred to the word "citizen" used this new capitalization. This type of lower case "citizen of the United States" within the constitutional context is a superset of the capital C "Citizen", consisting of the upper case "Citizen" used in earlier versions of the Constitution with additional classes of persons eventually added to include:

1. Blacks. See the Thirteenth Amendment.
2. Women. See the 19th Amendment.
3. White males under age 21 who are eligible to vote but formerly were prohibited by most state laws from voting because underage. See 26th Amendment.

The important thing to remember that most people get confused about is that there are TWO contexts in which one may be a "citizen":

1. Statutory. This type of citizen is described in 8 U.S.C. §1401 and:
  - 1.1 Has a domicile on federal territory and is physically present on federal territory.
  - 1.2 Is a "subject" as described earlier in *People v. De La Guerra* above because subject to the exclusive or general or plenary jurisdiction of the Congress under Article 1, Section 8, Clause 17 of the Constitution.
  - 1.3 Is NOT protected by the Constitution.
  - 1.4 Is a "national" (see 8 U.S.C. §1101(a)(21)), meaning a member of the nation under the law of nations. 8 U.S.C. §1401 describes these types of statutory citizens as "citizens AND nationals of the United States".
2. Constitutional. This type of citizen is subject to the subject matter but not exclusive or plenary jurisdiction of the national government. They have a domicile within a constitutional but not statutory state of the Union and are therefore protected by the Constitution. This includes:
  - 2.1 "Citizens" as used in Article 1, Section 2, Clause 2 and Article 1, Section 3, Clause 3.
  - 2.2 "citizens of the United States" mentioned in the Fourteenth Amendment and subsequent amendments.

Henceforth, lower case usage in a statutory context only indicates a federal government subject, termed a "statutory U.S. citizen", and described in 8 U.S.C. §1401. Not, be it noted, a citizen of any land or country, but, as the courts have ruled, of a government. Statutory "U.S. citizens" are government citizens--which, as you will see, is exceedingly significant. State Citizens are free wo/men on the land. All rights attach to land. All privileges attach to statutory statuses, such as "citizen". Rights are unalienable while privileges and the rights that attach to the statuses under the franchise that enforces the privilege, are revocable at the whim of congress.

*The first clause of the fourteenth amendment of the federal Constitution created two classes of citizens, one of the United States and the other of the state.  
[Cory v. Carter, 48 Ind. 427, 17 Am. Rep. 738]*

*There are, then, two classes of citizens; one of the United States, and one of the state. One class of citizenship may exist in a person without the other, as in the case of a resident of the District of Columbia. [Gardina v. Board of Registrars of Jefferson County, 48 So. 788, 790, 791, 160 Ala. 155]*

In the second sentence of the 14<sup>th</sup> Article of Amendment of the Constitution of the United States it says:

*"No State shall make or enforce any law which shall abridge the **privileges or immunities** of citizens of the United States " (Emphasis added.)*

Seven years later, the Supreme Court made the distinction crystal clear:

*"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." [U.S. v. Cruikshank, 92 U.S. 588, 590 (1875)]*

In 1945, the Supreme Court settled this once and for all in [Hooven & Allison Co. v. Evatt, 324 U.S. 652](#) indeed, saying that they wouldn't deal with it again; henceforth, it must simply be given judicial notice. They upheld the *Downes v. Bidwell* case, above, but now GAVE THREE MEANINGS TO THE TERM UNITED STATES. (at 671-672) In the instant paper, the primary meaning of "United States" will be that designating territory over which the sovereignty of the corporate United States extends as granted to this federal agency (i.e., creation) of the union states, under Article 1, Section 8, Clause 17, and Article 4, Section 3, Clause 2, of their Constitution for the United States of (i.e., belonging to or originating from) America. The other two meanings designated are a nation among the family of nations, as at the UN, and the collective name of the states united by and under the Constitution (in this case, not including the District of Columbia, etc.). In other words, "the [s]tates united," as it was worded in *People v. De Guerra*, 40 Cal. 311, 337 (1870). Especially the last of these three, is often referred to as the United States of America.

The three definitions of "United States" identified by the U.S. Supreme Court in *Hooven* also implies that there can be at least three types of "citizens of the United States", where each type relies on a different context or definition for the word "United States". Hence, the convention on this website is to distinguish the three types of citizens using the following terminology:

Table 1: Meanings assigned to "United States" by the U.S. Supreme Court in *Hooven & Allison v. Evatt*

#	U.S. Supreme Court Definition of "United States" in <i>Hooven</i>	Context in which usually used	Referred to in this article as	Interpretation
1	"It may be merely the name of a sovereign occupying the position analogous to that of other sovereigns in the family of nations."	International law	United States**	"These <u>united States</u> ," when traveling abroad, you come under the jurisdiction of the President through his agents in the U.S. State Department, where "U.S." refers to the sovereign society. You are a "Citizen of the United States" like someone is a Citizen of France, or England. We identify this version of "United States" with a single asterisk after its name: "United States**" throughout this article.
2	"It may designate the territory over which the sovereignty of the United States extends, or"	Federal law Federal forms	"United States***"	"The United States (the District of Columbia , possessions and territories)". Here Congress has exclusive legislative jurisdiction. In this sense, the term "United States" is a singular noun. You are a person residing in the District of Columbia, one of its Territories or Federal areas (enclaves). Hence, even a person living in the one of the sovereign States could still be a member of the Federal area and therefore a "citizen of the United States." This is the definition used in most "Acts of Congress" and federal statutes. We identify this version of "United States" with two asterisks after its name: "United States***" throughout this article. This definition is also synonymous with the "United States" corporation found in 28 U.S.C. "3002(15)(A)".
3	"...as the collective name for the states which are united by and under the Constitution."	Constitution of the United States	"United States****"	"The <u>several States</u> which is the <u>united States of America</u> ." Referring to the <u>50 sovereign States</u> , which are united under the <u>Constitution of the United States of America</u> XE "DEFINITIONS:United States of America" . The federal areas within these states are not included in this definition because the <u>Congress does not</u> have exclusive legislative authority over any of the <u>50 sovereign States within the Union of States</u> . Rights are retained by the <u>States</u> in the 9th and 10th Amendments, and you are a " <u>Citizen of these united States</u> ." This is the definition used in the Constitution for the United States of America. We identify this version of "United States" with a three asterisks after its name: "United States****"

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

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

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

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

And finally, the U.S. Supreme Court has also held that the Constitution does not and cannot determine or limit the authority of Congress over federal territory and that the ONLY portion of the Constitution that does in fact expressly refer to federal territory and therefore the statutory "United States" is Article 1, Section 8, Clause 17. Notice they ruled that Puerto Rico is NOT part of the "United States" within the meaning of the Constitution, just like they ruled in O'Donoghue above that territory was no part of the "United States":

*In passing upon the questions involved in this and kindred cases, we ought not to overlook the fact that, **while the Constitution was intended to establish a permanent form of government for the states which should elect to take advantage of its conditions, and continue for an indefinite future, the vast possibilities of that future could never have entered the minds of its framers.** The states had but recently emerged from a war with one of the most powerful nations of Europe, were disheartened by the failure of the confederacy, and were doubtful as to the feasibility of a stronger union. Their territory was confined to a narrow strip of land on the Atlantic coast from Canada to Florida, with a somewhat indefinite claim to territory beyond the Alleghenies, where their sovereignty was disputed by tribes of hostile Indians supported, as was popularly believed, by the British, who had never formally delivered possession [182 U.S. 244, 285] under the treaty of peace. The vast territory beyond the Mississippi, which formerly had been claimed by France, since 1762 had belonged to Spain, still a powerful nation and the owner of a great part of the Western Hemisphere. **Under these circumstances it is little wonder that the question of annexing these territories was not made a subject of debate. The difficulties of bringing about a union of the states were so great, the objections to it seemed so formidable, that the whole thought of the convention centered upon surmounting these obstacles. The question of territories was dismissed with a single clause, apparently applicable only to the territories then existing, giving Congress the power to govern and dispose of them.***

*Had the acquisition of other territories been contemplated as a possibility, could it have been foreseen that, within little more than one hundred years, we were destined to acquire, not only the whole vast region between the Atlantic and Pacific Oceans, but the Russian possessions in America and distant islands in the Pacific, it is incredible that no provision should have been made for them, and the question whether the Constitution should or should not extend to them have been definitely settled. **If it be once conceded that we are at liberty to acquire foreign territory, a presumption arises that our power with respect to such territories is the same power which other nations have been accustomed to exercise with respect to territories acquired by them. If, in limiting the power which Congress was to exercise within the United States[\*\*\*], it was also intended to limit it with regard to such territories as the***

people of the United States[\*\*\*] should thereafter acquire, such limitations should have been expressed. Instead of that, we find the Constitution speaking only to states, except in the territorial clause, which is absolute in its terms, and suggestive of no limitations upon the power of Congress in dealing with them. The states could only delegate to Congress such powers as they themselves possessed, and as they had no power to acquire new territory they had none to delegate in that connection. The logical inference from this is that if Congress had power to acquire new territory, which is conceded, that power was not hampered by the constitutional provisions. If, upon the other hand, we assume [182 U.S. 244, 286] that the territorial clause of the Constitution was not intended to be restricted to such territory as the United States then possessed, there is nothing in the Constitution to indicate that the power of Congress in dealing with them was intended to be restricted by any of the other provisions.

[. . .]

If those possessions are inhabited by alien races, differing from us in religion, customs, laws, methods of taxation, and modes of thought, the administration of government and justice, according to Anglo-Saxon principles, may for a time be impossible; and the question at once arises whether large concessions ought not to be made for a time, that ultimately our own theories may be carried out, and the blessings of a free government under the Constitution extended to them. We decline to hold that there is anything in the Constitution to forbid such action.

We are therefore of opinion that the island of Porto Rico is a territory appurtenant and belonging to the United States, but not a part of the United States[\*\*\*] within the revenue clauses of the Constitution; that the Foraker act is constitutional, so far as it imposes duties upon imports from such island, and that the plaintiff cannot recover back the duties exacted in this case.  
[Downes v. Bidwell, 182 U.S. 244 (1901)]

Another important distinction needs to be made. Definition 1 above refers to the country "United States\*", but this country is not a "nation", in the sense of international law. This very important point was made clear by the U.S. Supreme Court in 1794 in the case of *Chisholm v. Georgia*, 2 Dall. (U.S.) 419, 1 L.Ed. 440 (1793), when it said:

*This is a case of uncommon magnitude. One of the parties to it is a State; certainly respectable, claiming to be sovereign. The question to be determined is, whether this State, so respectable, and whose claim soars so high, is amenable to the jurisdiction of the Supreme Court of the United States? This question, important in itself, will depend on others, more important still; and, may, perhaps, be ultimately resolved into one, no less radical than this 'do the people of the United States form a Nation?'*

A cause so conspicuous and interesting, should be carefully and accurately viewed from every possible point of sight. I shall examine it; 1st. By the principles of general jurisprudence. 2nd. By the laws and practice of particular States and Kingdoms. From the law of nations little or no illustration of this subject can be expected. By that law the several States and Governments spread over our globe, are considered as forming a society, not a NATION. It has only been by a very few comprehensive minds, such as those of Elizabeth and the Fourth Henry, that this last great idea has been even contemplated. 3rdly. and chiefly, I shall examine the important question before us, by the Constitution of the United States, and the legitimate result of that valuable instrument.  
[Chisholm v. Georgia, 2 Dall. (U.S.) 419, 1 L.Ed. 440 (1793)]

Black's Law Dictionary further clarifies the distinction between a "nation" and a "society" by clarifying the differences between a national government and a federal government, and keep in mind that the American government is called "federal government":

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

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

[Black's Law Dictionary, Revised Fourth Edition, 1968, p. 1176]

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

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

[Black's Law Dictionary, Revised Fourth Edition, 1968, p. 740]

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

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

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

If you would like to learn more about the subject of citizenship, the following memorandum of law on this website treats the subject with as much detail as you could probably ever want to know, and is completely consistent with the information in this article:

 [Why You are a "national", "state national", and Constitutional but not Statutory Citizen](#)

## **2. Another "United States of America".**

In January, 1997, Dan Meador and Tim McCrory "tracked down the illusive "United States of America" named principal in all current Federal civil and criminal prosecution. The new entity is a coalition of Federal territories and insular possessions, it is not "[s]tates of the [u]nion." (Internet email-list communication, "Who are IRS & the USA?" of June 15, 2000, by Dan Meador.) They demonstrate the use by the federal government, itself, of the term of art the United States of America. If proof were not so incontrovertible you can look up for yourself one would dismiss this as a fantastical notion, or a meaningless slip.

Article I of the Articles of Confederation (1777) used the phrase "United States of America." Sometime after 1909 the federal government began using this term, to refer to an agency of the "United States." One reads on the Federal Reserve Note that it is "legal tender for all debts, public and private, in the United States of America." Given that the Federal Reserve Act was enacted as a municipal law of the District of Columbia (and, therefore, by the way, perfectly constitutional), it isn't difficult to figure out that the District of Columbia could be at least part of what is referred to as the "U.S.A."

On December 7, 1925 Congress set forth 50 titles, "intended to embrace the laws of the United States " and yet these titles were designated "the Code of the Laws of the United States of America." (Emphasis added. Today there are only 48 titles, since Title 34 Navy has been eliminated, by the enactment of Title 10 Armed Forces, and Title 6 Surety Bonds was repealed, with the enactment of Title 31 Money and Finance. But, you still will always read "the 50 Titles.")

The U.S. Constitution, of course, only delegates authority to the "United States," not the "United States of America." The United States is an agency of the U.S.A. not the other way around. The first sentence of Article I states: "All

legislative Powers herein granted shall be vested in a Congress of the United States, which" Article II, Section 1 speaks of "the Government of the United States." And Article III, Section 1 begins: "The judicial Power of the United States, shall"

The distinctness of these two entities is incontestably made evident in the 1934 edition of *The Code of the Laws of the United States of America*, Title 18, §80. (Criminal Code, §35, amended.) Presenting false claims.

*Whoever shall make or cause to be made or present or cause to be presented, for payment or approval, to or by any person or officer in the civil, military, or naval service of the United States, or any department thereof, or any corporation in which the United States **of America** is a **stockholder**, any claim upon or against the Government of the United States, or any department or officer thereof, or any corporation in which the United States **of America** is a **stockholder**, knowing such claim to be false, fictitious, or fraudulent; or whoever shall by any trick, scheme, or device a [sic] material fact, or statements or representations, or make or use or cause to be made or used any false bill, receipt, voucher, roll, account, claim, certificate, affidavit, or deposition, knowing the same to contain any fraudulent or fictitious statement or entry, in any matter within the jurisdiction of any department or agency or the United States or of any corporation in which the United States **of America** is a stockholder shall be fined not more than \$10,000 or (Emphasis added. A stockholder?!?!)*

Or, also, 28 CFR, 0.96(b) Exchange of prisoners:

*The Director of the Bureau of Prisons and officers of the Bureau of Prisons designated by him are authorized to receive custody of offenders and to transfer offenders to and from the United States **of America UNDER TREATY** as referred to in Public Law 95-144; to make arrangements with the States and to receive offenders from the [federal] States for transfer to a foreign country [such as Ohio] to act as an agent of the **United States** to receive the delivery from a foreign government [say, Vermont] of any person being transferred to the **United States** under such a **treaty***

This makes unmistakable the fact that two independent and discrete geographical jurisdictions, foreign to one another, AND UNDER TREATY WITH EACH OTHER, are being referred to. Furthermore, 18 USC §1001 historical notes, together with 6, unassailably prove that the United States **of America** is a creation, an instrumentality, an agency of the United States, and/or a political subdivision thereof. It could be the District of Columbia and/or a compact of the insular possessions of the U.S., subject to the territorial clause at 4:3:2 of the Constitution. Indeed, I like Dan Meador's idea that it might better be described as the Federal United States of America which distinguishes it from the Preamble U.S.A.

In the historical notes to the current [18 USC §1001](#) we find:

*Words "or any corporation in which the United States **of America** is a stockholder" in said "80 [of the 1940 ed. of the USC] were omitted as unnecessary in view of definition of "**agency**" in [6](#) of this title. (Emphasis added.)*

Section 6 says:

*The term "agency" includes any department, independent establishment, commission, administration, authority, board or bureau of the United States or any corporation **in which the United States has a proprietary interest***

All of this recalls to mind the Declaration of Independence of 1776:

*He [King George] has combined with others to subject us to a jurisdiction foreign to our Constitution, and unacknowledged by our laws; giving his Assent to their Acts of pretended legislation . . . altering fundamentally the Forms of our Government. . .*

Unaware of this shattering state of affairs, many people include "of America," in their speech and writings, in an effort to avoid all ambiguity---as indeed the federal government does itself, in an extremely noteworthy and striking example. It involves the wording of the two perjury jurats, found in Title 28 Judiciary and Judicial Procedure Section 1746:

*(1) If executed **without** (outside) the [federal] United States: "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States **of America** that the foregoing is true and correct. Executed on (date). (Signature)" (Emphasis added.)*

*(2) If executed **within** the [federal] United States, its territories, possessions, or commonwealths: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)" (Emphasis added.)*

*"If executed without the United States " doesn't mean in Moscow; it means any place in the 50 union states that is not a federal zone, like D.C., an airforce base, or Guam. It would have been possible to include in (2) "under penalty of perjury under the laws of the United States," leaving out of America but that would have got people thinking about the difference between the U.S. and the U.S. of A .and that*

**maybe they were swearing under the laws of a foreign jurisdiction!**

They are, of course, but it is a particular kind of law; it is special, private, corporate, contract law with the 27 non-positive law titles of the 48, which are the corporate bylaws, having little or no necessary legal force and effect on the general population UNLESS there is some legal adhesionment, like signing a 1040 Label Form. (The term label is on the form, some say, because you are affixing your seal. )

The jurat on this form does not exactly follow the wording of [28 USC §1746\(2\)](#), above, as some people seem to think. The Form 1040 says "Under penalty ~~ies~~of perjury, I declare " The reason for this dissimilarity is because a federal employee or official may be tried and penalized twice. The second penalty is loss of benefits for life, if impeached and convicted because of having taken an oath of office. Remember, an oath establishes jurisdiction indeed, the word means oath spoken. For example, even though you haven't filed a tax return for decades, the government will presume that you still believe yourself to have a duty to do so unless you have rebutted this presumption by a cancellation of the oath you took on signing your first Form 1040 jurat see [26 USC §6013\(g\)\(4\)](#) Termination of election (A) Revocation by taxpayers.

By claiming to be a statutory "U.S. citizen" per 8 U.S.C. §1401 and 8 CFR §1.1-1(c) for tax purposes, way back when you were 14 and illegall submitted the SS-5 application for a Social Security card, you became, in the eyes of the IRS, a **federal "person"**, a de jure (by oath) non-compensated federal statutory "employee" by. For after all, *jurato creditur in judicio*, he who swears an oath is to be believed in judicial proceedings.

And you can now commit yourself to this jurat on-line. That is, once you have declared yourself to be a taxpayer under penalty of perjury on Form 8453-OL, and mailed it to the IRS. (On-line signatures permitted after October, 2000.) Thereafter, using the Declaration Control Number (DCN) they provide, all your 1040s or 1099s are considered to be signed under oath. And, for your convenience, this authorizes access to you bank account or credit card for direct withdrawal. How thoughtful! Thirty three million DCNs were provided last year. They are aiming at 80% of all tax returns to be filed electronically, by 2007.

I can't recall any criminal prosecution involving federal income taxation where there was not a signed tax form in evidence, or referred to albeit of many years previous. And, the judge will say openly but mostly to deaf ears that if you don't disavow (un-swear) that you are a United States person ([26 USC §7701\(a\)\(30\)](#) ) you can be found guilty of failure to file.

*Unless the defendant can establish that he is **not a citizen of the [District] United States**, the IRS possesses authority to **attempt** to determine his federal tax liability.  
[U.S. v. Slater, 82-2 USTC 9571. (Emphasis added.)]*

*As Templeton **does not dispute that she is a citizen of the [District] United States**, and because the Code imposes an income tax on every individual who is a citizen or resident of the [District] United States, [26 CFR §1.1-\(1\)\(a\)](#), it would clearly contradict the plain meaning [see section 14, below, by that title] of the term to conclude that Congress did not intend that Templeton be considered a taxpayer as the term is used throughout the Code.  
[Rachel Templeton v. IRS, 86-1363 on appeal from 85 c 457. (Emphasis added.)]*

For, every federal indentured servant, subject, slave, individual, employee, and official has an undisputed duty to file a tax return being a *homo fiscalis*, a vassal belonging to the treasury being an *alieni juris*, one under the control of, or subject to the authority of, another opposite to a freeman in *sui juris*, one possessing all his natural, social, and civil rights, not under anyone else's guardianship or control. In other words, s/he is *capax negotii*, competent to transact his or her legal affairs. Or, one could say, one who has *rectus in curia*, right in court, one who can benefit from the law unlike the outlaw or slave. That is, legally being able to act for him/herself namely, having the legal capacity, ability, and power to manage his/her own affairs, as opposed to someone having relinquished his/her power of judicial action, by giving up his/her power of attorney, and becoming, thereby, a ward of the court. That is, someone considered of unsound mind and under the care of a guardian.

Truly unbelievable! One is reminded of a remark by Judge Bork, to the effect that 90% of those in prison are there voluntarily i.e., by consent and permission! (You notice that he was not confirmed as a Supreme Court Justice!) Which brings to mind a Supreme Court case, in 1794, where one reads that:

The only reason, I believe, that a free man is bound by human law, is, that he binds himself. *Chisholm v. Georgia*, 2, Dall 440, 455.

Before leaving discussion of the semi-statutory U.S.A. I say semi because it was never enacted into actual law, just treated as though it were a *fait accompli*, a done deal, and never discussed. There is a great deal to be said about this subject; however, I will keep it short. Interested parties must go to Dan Meador's most recent writings for a more full treatment for example "Agents of a Foreign Government: A Bizarre Saga," written April 5, 2000.

I am going to skip over the very important relationship of the IRS with its predecessor, the BIR (Bureau of Internal Revenue, Puerto Rico), starting back in 1900. Here, as briefly as possible, I am going to touch on two very recent monumentally important events.

The first dates to January 24, 2000, where United States Attorney, Betty H. Richardson, responded to a complaint for impleader by the attorney John M. Ohman, for Cox Ohman & Brandstetter, Chartered, "in the District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Bonneville Magistrates Court" (Case No. CV93-4117). The point is that Ms. Richardson responded to the 4<sup>th</sup> item of the complaint with the earth-shocking statement that and I have a court copy in front of me: "4.

Denies that the Internal Revenue Service is an agency of the United States Government[,] but admits that the United States **OF AMERICA** would be a proper party to this action ." (Emphasis added.) I agree with Dan Meador that: "The Internal Revenue Service operates as an agent of this come-lately geographical and political alliance know[n] as the United States of America, Puerto Rico being a party to the compact" though there hasn't been space enough here to properly substantiate that statement. This is but a sketch.

In boxing they speak of the one, two punch. Well, here is the second punch the coup de grace. Michael Bufkin sent a FOIA request on December 18, 1998 to the Department of the Treasury, "for documents that evidence the authority of the U.S. Attorney General's Office to defend IRS agents in a civil or criminal matter." This is a quote from the government's response, on August 2, 1999: "A search was performed with the Office of Tax Crimes (Criminal Investigation) and with the Assistant Chief Counsel (Disclosure Litigation) and we have no documents responsive to your request." (Emphasis added.)

He then FOIAed the U.S. Department of Justice (Criminal Division), on September 21, 1999, and received a reply on Jan 11, 2000, stating that "we did not locate any records responsive to your request" (Emphasis added.) from the Chief FOIA/Privacy Act Unit Office of Enforcement Operations Criminal Division.

This is staggering in its implications! or, perhaps indications for it doesn't imply anything; it clearly states in black and white: the United States Government has no authority to defend in court any employee of the IRS for they are not employees of the U.S. Government!!

So, there we have it. The latest cutting edge news the IRS is not, in the strict governmental sense of the term, an agency, though it is hired out by the government, like a janitorial service. So there is not anything inconsistent with the fact that they get checks from the Department of Treasury. Just as the company that paints one of their buildings or repairs their toilets. It means nothing, where the check comes from.

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### **3. The territorial, federal, District, corporate States or "United States"**

In this paper, I will often qualify United States and State by placing in brackets before them one or more of the following: territorial, federal, District, or corporate. I realize that these words are not synonymous, but I often use the first one that comes to mind except, sometimes, to make a slightly different stress, in a particular context. I do this to point out the distinctness of the particular use of U.S., in the given quotation, from the common understanding of its meaning, as standing for the whole nation of the 50 states, together with the federal zone.

In case anyone has trouble with considering the U.S. a corporation, s/he will find this case, decided in 1823, of interest:

*The United States is a government, and, consequently, a body politic and corporate This great corporation was ordained and established by the American people  
[United States v. Maurice, 26 Fed. Cas. No. 15, 747, 2 Brock 96, Circuit Court, D. Virginia]*

Also, in the Clearfield case, of 1943, the Supreme Court quotes the very early *Penhallow v. Doane*, 3 Dall 55, where it was stated that "[g]overnments are corporations."

The Corpus Juris Secundum 2 states:

*When the United States enters into commercial business, it abandons its sovereign capacity and is to be treated like any **other** corporation. (Emphasis added.)*

But, more current and interesting is the cite from [28 USC §3002](#), which states that United States has several other meanings, as well:

(15) "United States" means

(A) a **Federal corporation**;

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

States; or

(C) an instrumentality of the United States. (Emphasis added.)

As for territory :

*[It s] a part of the country separated from the rest and **subject to a particular jurisdiction**. A portion of the country **subject to and belonging to the [District] United States [Government]** which is not within the boundary of any state or the District of Columbia. ([262 U.S. 122](#). Emphasis added.)*

*A territory is not a sovereignty. Such legislative powers as it may possess are delegated powers which may be granted or withheld at the will of Congress."*

#### 4. "Person".

I have used the term person a number of times, and I believe it deserves some special attention. It derives from the Latin persona, an actor's mask, used in Greek and Roman times for two purposes to identify the stage character for one actor often played more than one role, so he would simply switch masks and to project his voice by means of a megaphone-shaped mouth per sona, by sound. Hence, our word personality, that about ourselves which we project to others. In some, more than others, a presentation that indeed masks our true character or nature. In the Middle Ages it came to be used as synonymous with homo, man or individual. This was not the case in ancient (and modern) Roman law. As one legal historian put it:

*jus personarum did not mean law of persons, or rights of persons, but law of status, or condition. A person is here not a physical or individual person, but **the status or condition with which he is invested**. [34 Austins Jur., 363. Emphasis added.]*

In the 15<sup>th</sup> century, "person came to be used in legal terminology for one (as a human being, a partnership, or a corporation) that is recognized by the law as the subject of rights and duties." (*Merriam-Webster's New Book of Word Histories*, 1991. Emphasis added.) Note here that it is only the human being in his person, as a subject of rights and duties. As Ortolan says, in his *History of the Roman Law*:

*The word person (persona) **does not in the language of the law, as in ordinary language, designate the physical man**. In the first, it is every being considered as capable of having or owing rights, of being the active or passive subject of rights.*

*We say every being, for men are not alone comprised therein. In fact, law by its power of abstraction creates persons .because it makes of them beings capable of having or owing rights .*

*We shall therefore have to discriminate between, and to study, two classes of person: physical or natural persons, **for which we find no distinctive denomination in Roman jurisprudence** ; that is to say, the man-person; and abstract persons, which are fictitious and which have no existence except in law; that is to say, those which are purely legal conceptions or creations.*

*In another sense, very frequently employed, the word person designates each character man is called upon to play on the judicial stage; that is to say, each quality which gives him certain rights or certain obligations for instance, the person of father; of son as subject to his father; of husband or guardian. In this sense the same man can have several personae at the same time. (Emphasis added.)*

The Internal Revenue Code is Roman or civil law, together with its sibling, maritime or admiralty law. Thus, as I discuss below, the Supreme Court clearly states that all income taxes are on corporations, as set forth in the Corporation Tax Act of 1909, not on people. That is why all 48 titles always speak of persons, never people, human beings, or men or women; a fiction can only deal with a fiction.

This was made clear even before the Constitution, in *The Federalist Papers*, No. 15:

*Except as to the rule of apportionment, the United States have an indefinite discretion to make requisitions for men and money; but they have **no authority** to raise either by regulations extending to the **individual citizens of America**. (Emphasis added.)*

Let me put a little flesh on these bones. The Supreme Court stated in *Edwards v. Cuba RR Co.*, 268 US 628 that:

*the meaning of income as used in the Corporation Excise Tax Law of 1909 is not to be distinguished from the meaning of the same word as used in the Income Tax Law of 1913 and the Revenue Act of 1916. [[Merchants Loan & Trust Co. v. Smietanka 255 US 509](#). (Emphasis added.) ]*

However, as pointed out by Kenneth Weiland, it is of interest to note, also, a Federal Claims Court case, *Maryland Casualty Co. v. U.S.*:

*By the act of August 5, 1909, a special excise tax was imposed upon the privilege of carrying on business by corporations. **It was in reality a license to carry on business** .The Income Tax Act of October 3, 1913, should be considered as a **statutory construction of the act of August 5, 1909, in so far as it related to the basis of taxation**. (December Term, 1916-17 [52 C. Cls.] Emphasis added. This will take on further meaning toward the end of this paper.)*

Be it noted that in the California Penal Code "person" is clearly distinguished from "Citizen". Penal Code 228 states:

*"Any **citizen** of this state who shall fight a duel " While at 232 it states: "Any **person** of this state who fights a duel " [Emphasis added.]*

*"In common usage, the term person does not include the sovereign [and] statutes employing the [word] are ordinarily construed to exclude it."*

*[Wilson v. Omaha Indian Tribe, 442 U.S. 653, 667 (1979), quoting United States v. Cooper Corp. 312 U.S. 600, 604 (1941)]*

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## 5. "Individual"

The term of art individual is also frequently employed in the codes. Which is even more sneaky, because most people believe this word to be, for all intents and purposes, synonymous with a human being what the law refers to as a natural person. Roman law hardly referred to such a physical being, except the rare usage of *singularis persona* which, however, still employs persona, thereby preserving a juridical nexus, inapplicable to a sentient man (*homo*). An abstract, fictitious person is needed. Recall Judge Bork, on page 11, above, saying that 90% of those in prison were there because they consented to the process? You consent when you agree to be subject to a statute dealing with persons which we have seen to be fictional corporate constructs or entities. The code any of the 48 titles only applies to a human being at the point s/he agrees to take on the character, status, persona of an artificial juristic persona. Always remember that when the code says "any person," it means "any person in the jurisdiction of this code." One obligates oneself to the civil code by an act of *assumpsit* i.e., volunteering to be that person. (*Assumpsit*: "A promise or engagement by which one person assumes or undertakes to do some act or pay something to another." *Black's Law Dictionary*, 6<sup>th</sup> edition. Recall the Chisholm case, above.) You will never see in any code, State or federal, the word man or woman or people at least I don't recall having done so only the juristic, statutory person.

People are understandably confused about on what I believe to be the correct signification of a particular class of persons, namely, a natural person. It is almost always used loosely to refer to the physical, sentient human being. Indeed, in statutory law this is the term of choice for a living man but always in a qualified sense. At [26 CFR §1.6049-4\(f\)](#) Definitions we read:

*The term natural person means **any individual**, but shall not include a partnership (whether or not composed entirely of individuals), a trust, or an estate. (Emphasis added.)*

Notice carefully how they see it as both possible and necessary to qualify individual. If this term stood for a living man, it would be pointless and ridiculous to say that it could not be a trust or an estate! They wouldn't say that a man shall not include an estate.

So then, we see that person, natural person, and individual are all fictitious legal creations. And, if you acquiesce to being any of them, in a legal setting, you thereby agree that the code addresses and applies to you.

This is why some have an aversion to referring to their appearance in court as being *in propria persona* which some do to avoid pleading *pro se*, for oneself, when appearing without an attorney. They don't want to represent themselves, but be themselves. And, since *in propria persona* means in one's own proper person, it would seem to overcome this objection. Be this as it may and I am aware of many arguments pro and con the court still refers to your appearance as being *pro se*. Personally, if I found myself in that situation, I would appear *in rerum natura*, in the realm of actuality; in existence, (*Black's Law Dictionary*, 6<sup>th</sup> edition) the opposite of being a fictitious person.

We should look, too, at the very first term in the general definition chapter for the entire IRC: Section 7701(a)(1) and well they should begin there, for all statutory law rests on the foundation of this juristic fabrication.

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

Therefore, since we now know that, in law, person can not be anything but a fictitious juridical creation, it follows ineluctably that if individual is said to mean the exact same thing, then it must also refer to the same type of unnatural and artificial entity as person.

This is pretty well nailed down by a couple of cites from the CFR. At [5 CFR §582.101\(4\)](#) we read:

*Persons may include an individual, partnership, corporation, association, joint venture, private organization **or other legal entity**, and includes the plural of that term; person may include any of the **entities** that may issue legal process as set forth in (Emphasis added.)*

In [7 CFR §400.303\(m\)](#) we find:

*Person means an individual, partnership, association, corporation, estate, trust, **or other legal entity**, and whenever applicable, a State or a political subdivision, or agency of a State. (Emphasis added.)*

Here it is in the regulations, an individual is a legal entity, not a (wo)man, a sentient human being.

So, it makes perfect sense that [5 USC §552a\(a\)\(2\)](#) should hold that

*"the term **individual** means a **citizen of the United States**" or an alien lawfully admitted for permanent residence; (3) " (Emphasis added.)*

For a citizen is certainly a juristic "person" and therefore a party to the social compact or protection franchise codified in the civil and criminal laws of every jurisdiction.

A discussion of person, however, would not be complete without reference to [26 USC §7343 Definition of term "person."](#) This is at the very end of Chapter 75 Crimes, Other Offenses and Forfeitures, which includes such goodies as [7203 Willful failure to file return, supply information, or pay tax](#), which begins: "Any person required under this title to pay" (Emphasis added.)

[Section 7343](#) reads in its entirety:

*The term person **as used in this chapter** includes [is restricted to] an officer or employee of a corporation [such as the U.S. or some company incorporated in the federal zone], or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect to which the violation occurs.*

For starters, [Section 7203](#) is a **penalty section** and makes no attempt to establish any liability. Plus, the implementing regulations are in Title 27 BATF meaning that it is exclusively for their use, with excise taxes! It has nothing to do with the IRS. Leaving all that aside, do you believe that you could be charged as being the person described above? Do you work for the federal government or a domestic (U.S., not State) corporation?

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## **6. The 50 States, the several States, and the federal statutory "States"**

It is exceedingly noteworthy that in the several thousand pages of the Internal Revenue Code reference is only made to "the 50 States," on two occasions at which times it is legally required to do so. The first, [4612\(a\)\(4\)\(A\)](#), reads:

*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. (Emphasis added.)*

Which indicates that the code lawyers know how to be lucid when they wish to also, note that they use means rather than includes.

The second, [6103\(b\)](#), is somewhat different:

*(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*

They share, however, the clear reference to the 50 States, and they both use means, rather than includes, or other gobbledygook, such as found in the IRC's general definition of State at [7701\(a\)\(10\)](#), which I analyze in section 7.

I found there are at least three other occasions, however, when they use the phrase several States, in referring to the union states [5272\(b\)](#), [5362](#), and [7462](#).

However, some people mistakenly believe that several States always means the 50 States partly because the Declaration of Independence uses the phrase several times.

Not so! More than one constitutes several, and the government usually, though not always, uses the word to lead you to infer their meaning as being the union states. (The phrase several States is not a term of art and, therefore, can be used loosely, not being defined in the code.) The fact, however, is that the federal government almost always is making reference to the federal States, when it employs the phrase several states. This can be demonstrated by reference to many documents, such as the Congressional Quarterly. But one of the best sources is the Hawaii Omnibus Act, a compilation of all the alterations to the codes and Statutes at Large made necessary by Hawaii's admission to the union. For example:

*Sec. 10. Section 2 of the Act of September 2, 1937 (50 Stat. 917), as amended, is further amended by striking out the words ; and the term "State" shall be construed to mean and include the several States and the Territory of Hawaii . (Emphasis added.)*

As established above, State, here, cannot possibly make reference to the union states, for it included the Territory of Hawaii. Therefore, several States, here, must refer to the federal States.

Like reasoning applies to another section from this Act:

*Sec. 3. Section 113 of the Soil Bank Act, as amended, is amended to read as follows: This subtitle B shall apply to the several States and, if the Secretary determines it to be in the national interest, to the Commonwealth of Puerto Rico and the Virgin Islands; and as used in this subtitle B, the **term State includes [only see analysis of the term includes below] Puerto Rico and the Virgin Islands.** (Emphasis added.)*

It is obvious that Puerto Rico cannot be a State, the same as Oklahoma; therefore, once again, it must be a different species of State a federal State.

Title 31, Money and Finance, no longer contains Part 51, Financial Assistance to local governments, and Part 52, Antirecession, Fiscal Assistance to State, Territorial and Local governments. I located a different law library this morning that had some old CFRs, and went there in order to verify the quotes below in a July 1, 1992 edition. I will include a couple of items that are not directly relevant, but they help flesh out the picture of the two different governments involved.?

**Subpart A General Information.**

51.2 **Definitions.** (c) *Department means the Department of the Treasury.*

52.2 **Definitions.** (c) *Department means the Department of the Treasury.*

\* \* \*

51.2(i) *Governor means the Governor of any of the 50 **State** governments or the Mayor of the District of Columbia.*

52.2(f) *Governor means the Governor or any of the 50 **states** and the chief executive officer of the Commonwealth of Puerto Rico, and the territories of American Samoa, Guam, and the Virgin Islands of the United States.*

\* \* \*

51.2(o) *Secretary means the Secretary of the Treasury.*

52.2(n) *Secretary means the Secretary of the U.S. Department of the Treasury.*

\* \* \*

51.2(q) *State government means the government of any of 50 **State** governments or the District of Columbia.*

52.2(o) *State government means government of any of the 50 **states.***

\* \* \*

51.2(r) *Unit of local government .The District of Columbia, in addition to being treated as the sole unit of local government within its geographic area is considered a [federal] State.*

52.2(i) *Local government .The term local government includes the District of Columbia. (Text emphasis added.)*

By way of brief comment, on a dollar bill you will see a green seal inscribed "THE DEPARTMENT OF THE TREASURY 1789;" no reference is made to the "U.S. Department of the Treasury." But then there are a maze of treasuries to be found in the laws of the U.S. Of course, in the Constitution we only find "the Treasury of the United States." This was drastically changed by the Independent Treasury Act of 1921, which I won't go into. One can get some idea of the present hodge-podge by looking at the Bretton Woods Agreements Act, as seen in P.L. 94-564, p.19:

*Section 9 of the bill would also delete the reference in Section 14(c) of the Gold Reserve Act to the Treasurer of the United States" and substitute therefor the "United States Treasury". This substitution reflects Reorganization Plan No. 26 of 1950 ([31 U.S.C. "1001](#), note) and a reorganization within the Fiscal Service of the Treasury Department, effective February 1, 1974. All accounts of the "Treasurer of the United States", including accounts relating to gold held against outstanding gold certificates, now are accounts of the "United States Treasury". The Department of the Treasury proposes to amend or repeal other statutes, as and when appropriate, to make similar substitutions in the law. (Emphasis added.)*

And there are more treasuries not mentioned here.

And the difference between State and state must certainly have caught your attention which distinction I use throughout this paper.

And, lastly, on these quotes from Title 13, it is put forth that the District of Columbia is to be "considered a State." Well, it so happens that the Supreme Court dealt thoroughly with this matter in [O Donoghue v. United States, 289 U.S. 516 \(1933\)](#). It stated four conclusions dealing with the relationship between the union states and the District of Columbia and the territories. Three of them spoke of certain regards in which these latter were not states, but one enunciated a sense in which they could be termed states : "3. That the District of Columbia and the territories are states as that word is used in treaties with foreign powers, with respect to the ownership, disposition, and inheritance of property, 4 " I thank Jerry Brown, Ed. D., for this research, and his observation that this was why the territories were termed states in the treaty with Spain. He terms them

inchoate states. *Black's Law Dictionary*, 6<sup>th</sup> edition, defines inchoate as "imperfect; partial; unfinished; begun, but not completed" (It defines 6 inchoate items, but not a state. So perhaps this is Jerry's felicitous phrase. I like it.) Incidentally, the U.S. most certainly has tax treaties with the union states which are admitted to be foreign countries, as I will cite later just as it does with a couple of dozen other countries.

To this point I have quoted the codes and statutes. Next, I will call attention to a federal court's rather recent landmark decision, which very few know about. Then finally, we will see what a Congresswoman and the Congressional Research Service have to say which would seem to cover the matter from about all angles.

The United States District Court for the Virgin Islands decided a very important case, in 1996. It was a petition for redetermination of tax liability, Docket number 96-146, filed July 12, 1996, cited as: *Burnett v. Commissioner* [of Internal Revenue], KTC 1996-292 (D.V.I. 1996). The court stated that **Subtitle A taxes apply only to Washington, D.C. and the territories!!**. They cited [26 USC §7701\(a\)\(9\)](#), the general definition of United States, and 7701(a)(10), the definition of State which, as can be seen, they interpreted as I have in this paper!

Extremely important, also, is a letter that Congresswoman Barbara B. Kennelly, from Connecticut, sent on January 24, 1996. I have a fax copy of the original, and will quote it, in pertinent part.

*In your letter you asked if Section 3 (a) of H.R. 97 [which she introduced] defining the word state, and [26 U.S. Code 3121](#) (e) are the same. I have checked with Legislative Counsel and the Congressional Research Service about the definition. According to these legal experts, the definitions are not the same. The term state in [26 U.S. Code 3121](#) (e) **specifically includes only the named territories and possessions** of the District of Columbia, Puerto Rico, the Virgin Islands, Guam and American Samoa." (Emphasis added.)*

The Congresswoman is referring to 26 CFR §31.3121(e)-1 State, United States, and citizen [revised, below, April 1, 1999] where it states that:

*(a) When used in the regulations in this subpart, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Territories of Alaska and Hawaii **before their admission as States**, and (when used with respect to services performed after 1960) Guam and American Samoa.*

*(b) When used in the regulations in this subpart, the term "United States", when used in a geographical sense, means the **several states** (including the Territories of Alaska and Hawaii **before their admission as States**), the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands. When used in the regulations in this subpart with respect to services performed after 1960, the term "United States" also includes Guam and American Samoa when the term is used in a geographical sense. The term **citizen of the United States** includes a citizen of the Commonwealth of Puerto Rico or the Virgin Islands, and, effective January 1, 1961, a citizen of Guam or American Samoa. (Emphasis added.)*

How could it possibly be more clear that here, at least, the several states refers to the federal States only?! A legal maxim expresses the obvious: *verbis standum ubi nulla ambiguitas*, one must abide by the words when there is no ambiguity.

There is an instructive exception to this usage at [4 USC §112\(b\)](#):

*For the purposes of this section [only!], the term State means [not bothering to attempt dissimulation by using includes] the several States **and** Alaska, Hawaii, the Commonwealth of Puerto Rico, the Virgin Islands, and the District of Columbia. (Emphasis added.)*

As this section must, by the nature of its subject matter, make reference to the 50 states, as well as the federal zone, it doesn't hesitate to use words that make its meaning unambiguous. Of course, it is still shying away from the with one exception, at [26 USC §6103\(b\)\(5\)](#) unique forthrightness of [26 USC §4612\(a\)\(4\)](#):

**United States.** (A) In general. The term United States **means** [not includes] the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, any possession of the United States [Guam, American Samoa, and the Virgin Islands], the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. (Emphasis added.)

In [Title 4, §112\(b\)](#), above, Congress needed to make reference to the 50 states, so it puts and after several States, instead of a comma, as it would do otherwise. In the government's usual usage, items following the comma are examples of what precedes it, not items in addition to it, as you are fostered into believing. For example, "General Motors cars, Buick, Chevrolet, Pontiac, Oldsmobile, and Cadillac." General Motors is not one of the list; it incorporates the ensuing listed items.

This is a stratagem used when defining the federal U.S. by example, as in [26 CFR §1.911-2\(g\)](#) United States:

*The term United States when used in a geographical sense includes any territory under the sovereignty of the United States. It includes the States, [comma meaning, which are comprised of] the District of Columbia, the possessions and territories of the United States (Emphasis added.)*

There is, then, one thing always to keep in mind when reading the code. With a few exceptions like those mentioned above, it never does, it never needs to, nor can it ever refer to the union states and the population at large. It is private contract law i.e., when you sign something mentioned in the code, like a Form W-4, it then, and thereby, takes on the force and effect of law. Without such adhesionment, it has, except for the 17 areas clearly spelled out in 1:8 of the Constitution, as much relevance to a state Citizen's life as the rules at Sears, if one doesn't work there.

In the lengthy quote of [26 CFR §31.3121\(e\)-1](#), on the preceding page, it concluded:

*The term **citizen of the United States** includes a citizen of the Commonwealth of Puerto Rico or the Virgin Islands, and, effective January 1, 1961, a citizen of Guam or American Samoa. (Emphasis added.)*

The definition is only for Chapter 21 Federal Insurance Contributions Act, of Subtitle C Employment Taxes and Collection of Income Tax, where [Section 3121](#), Definitions, states at (b) Employment:

*For purposes of this chapter, the term employment means any service, of whatever nature, performed (B) **outside the United States [in Minnesota or New Hampshire] by a citizen** or resident **OF THE UNITED STATES** as an employee for an **American employer** (as defined in subsection (h)) (Emphasis added.)*

**a. American employer.** For purposes of this chapter, the term American Employer means an employer which is

**1. the United States or any instrumentality thereof** [which includes States and Municipalities, but not Counties see [26 CFR §301.6331-1\(a\)\(4\)](#)],

**(2) an individual who is a resident of the [District] United States**

Consequently, it is of crucial import to determine exactly what the meaning of the term "United States", and a "citizen of the United States" is, for the above chapter 21. For two conditions must obtain before one can be liable for employment tax:

1) one must be a citizen or resident of the United States and

2) one must be an employee of an American employer, which is to say, for the most part, a federal, State, or Municipal government.

One readily knows, of course, whether 2), above, applies. If you work for Macy's, you are home free, in that department. And, from the unassailable investigation of the Legislative Counsel and the Congressional Research Service, as seen in Congresswoman Kennelly's letter, above, we know that for the purposes of chapter 21, Employment Taxes, exactly what is being termed the 'United States' and a citizen of the United States. So, unless you perjure yourself by claiming that you are a U.S. citizen (i.e., for tax purposes), then this condition doesn't obtain. Both situations, above, must exist or you are not subject to employment tax. If both of these conditions are not present, then [26 USC §3402\(p\)](#) "Voluntary withholding agreements" (underline added) comes into play, and you are only part of the game **IF** you and your boss voluntarily agree to do so. Read it!! The ignoring of this crystal clear section by workers, and the flouting of it by the government, is one of the great mysteries and tragedies, on the one hand, and one of the most vile and despicable agendas on the part of the IRS, on the other.

At least one researcher has a problem with an aspect of this, however, for he says that this chapter only gives a geographical definition, and, in his opinion, "citizen connotes a political sense."

Without going into it too deeply, just let me quote the last paragraph of [26 USC §3121\(e\)](#) State, United States, and citizen:

*An individual who is a citizen of the Commonwealth of Puerto Rico (but not otherwise a citizen of the United States) **shall be considered, for purposes of this section, as a citizen of the United States.** (Emphasis added.)*

Now I don't see any distinctions here between a political citizen and a geographical citizen. Congress is simply stating, for tax purposes in, a given context, who they considered to be a citizen. the fact is that THERE IS NO SINGLE STATUTORY 'UNITED STATES.' There are numerous definitions of that term in the 48 codes, and certainly in Title 26. I give a number in this paper. As an extreme example take [927\(d\)](#), which says: "For the purposes of this subpart [of only 6 sections] (3) United States defined. The term 'United States' includes [only see section 18] the Commonwealth of Puerto Rico." On the other hand, in Section [4612\(a\)\(4\)](#), above, you have every conceivable place included with dozens of shades in between.

The fallback or default definition for the whole IRC is [7701\(9\)](#), which speaks of the federal States and the District of Columbia. In other words D.C., the territories, and enclaves, such as military bases. Though I know of one researcher who would exclude the territories, for chapter 21, and proposes that there citizen of the United States means citizens of the District of Columbia, the enclaves, and citizens of the Commonwealth of Puerto Rico. Sorry, but this flies in the face of the Kennelly letter. Questioning the Congressional Research Service just isn't done at least I have never heard of it. They, and the GAO, are as impartial and unbiased as it is possible to get in the federal government. Neither has an ax to grind. It's actually really heartening.

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## 7. "State"

There is another tack, on coming correctly to understand what the codes mean by "State." In the IRC, chapter 79 definitions applies to the entire title, unless specified otherwise in a given chapter or section. At [Section 7701\(a\)\(9\)](#) we read:

**United States.** *The term United States when used in a geographical sense includes only the States and the District of Columbia.*

OK, but what states? The next subsection, [7701\(a\)\(10\)](#), supposedly is intended to answer this:

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

Before analyzing this definition, it is very instructive to trace its development. It all began on June 30, 1864, when Congress enacted its first formulation.

*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, 43<sup>rd</sup> Congress, 1<sup>st</sup> Session, 1873-1874.)*

When Alaska was admitted into the union, in 1959, [IRC 7701\(a\)\(10\)](#) was amended by striking out "Territories" and substituting "Territory of Hawaii."

Then, when Hawaii was admitted, we read in the Hawaii Omnibus Act, 2<sup>nd</sup> Session, Volume 74, 1960, at Section 18:

*(j) Section 7701(a)(10) of the Internal Revenue Code of 1954 (relating to [the] definition of State ) is amended by striking out the Territory of Hawaii and .*

So, after the only two incorporated federal Territories/States left the fold, only the District of Columbia remains as an example which presents a problem. For, the Supreme Court ruled in [Hepburn & Dundas v. Ellsey, 6 U.S. 445](#), 2 Cranch 445, 2 L.Ed 332, that within the meaning of the Constitution, the District of Columbia is not a "state." Therefore, we know that we are dealing with a different animal here. And, as the 50 states are not mentioned, they cannot be referred to. *Inclusio unius est exclusio alterius* to include the one is to exclude the other, is an accepted maxim of law (if that's not a pleonasm).

It is really quite simple. Look at the IRC after Alaska had been admitted as a union state, in January, 1959. It then reads, at 22(a) of the Omnibus Acts of the 86<sup>th</sup> Congress 1<sup>st</sup> Session, Volume 73, 1959:

*and sections 3121(e)(1) [see the Kennelly letter, above], 3306(j), 4221(d)(4), and 4233(b) of such code (each relating to a special definition of State.) are amended by striking out Alaska. (Parentheses in original. Emphasis added.)*

This was done again, when Hawaii joined the union, in August, as we read, above.

Of course, the definition of United States, at [26 USC §7701\(a\)\(9\)](#), must also be changed, and is, in the preceding subsection, (i), where "the Territory of Hawaii" is struck out. For it no longer belongs to the U.S. It is now not a federal State, but a free union state. I would truly like to hear how anyone can gloss this over! But keep reading; it gets better.

The above Act supplies a great number of amendments similar to the following:

*Sec. 14. (a)(1) Subsection (a) of section 103 of the National Defense Education Act of 1958, relating to [the] definition of State, is amended by striking out Hawaii, each time it appears therein. (Emphasis added.)*

In other words, when Alaska and Hawaii become the 49<sup>th</sup> and 50<sup>th</sup> states of the union, they immediately had to be dropped from the various definitions of State, throughout the 48 titles and the statutes! This means that *ipso jure*, by the law itself, the Internal Revenue Code does not apply to Alaska and Hawaii!!! and, therefore, *pari ratione*, by like reasoning, not the other 48 union states, as well. For, to quote one more legal maxim, *res accedent lumina rebus*, one thing sheds light on others.

So, then, the above "States other than Alaska and Hawaii" are the **federal territorial States** Puerto Rico, Guam, Virgin Islands, the Northern Marianas, District of Columbia, etc. they vary from section to section in the various codes and statutes, as the particular application requires, but they are all, in a loose sense of the word, territories (not incorporated Territories, as were Alaska and Hawaii) in the federal zone.

Due to the apodictic, incontrovertible nature of the above observation, the following *placita juris*, rules of law, come to mind:

**Secundum normam legis, cadit questio!**  
*According to the rule of law, there is no room for further argument!*

*In determining the scope of a statute, one is to look first at its language. **If the language is unambiguous, it is to be regarded as conclusive** unless there is a clearly expressed legislative intent to the contrary. [Dickinson v. New Banner Institute, Inc., 460 U.S. 103, hearing denied, 461 U.S. 911. (Emphasis added.)]*

Conclusive though the above is, there nevertheless remains much of interest and great importance to say on the subject.

For example, in the Interstate Agreement on Detainers Act (Pub.L. 91-538, Dec. 9, 1970, 94 Stat. 1397 et seq.) it throws out a shocker in Article II(a):

*State shall mean a State of the [District] United States; the **United States of America**; a territory or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico. (Emphasis added.)*

Congress, in defining the United States of America as a State, reaffirms what we saw above it is a geographical entity, as well as a government or political compact distinct from and, therefore, foreign to the constitutionally created United States. And it is listed together with, and therefore distinct from, the federal States, territories or possessions. Verily, this is wondrous strange! It is almost spooky, as it is so far removed from any rational explanation.

I particularly like the definition in the first version of "The Code of the Laws of the United States of America," of June 30, 1926. (Emphasis added.) In Section 2 it states:

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

How clear can it get? It says "each State of [belonging to] the United States."

*the most natural meaning of "of the United States" is "belonging to the United States." [Ellis v. United States, 206 U.S. 246 \(1907\)](#).*

Does Iowa belong to the territorial District United States?

Also, I recently heard of a new unearthing by the dauntless South Carolina attorney, Larry Becraft, to the effect that:

*The first FULL and complete definition of the word "state" in a federal statute appears in an act to tax booze and tobacco, 15 Stat. 125, ch.186 (July 20, 1868). Section 104 of this act, 15 Stat. at 166, contained definitions for certain words appearing in the act and here you will find the following:*

*...and the word **State to mean and include a Territory and District of Columbia**... (Emphasis added.)*

At that early date, the government did not dissimulate so well. Here, it simply tells it like it is. How could one possibly fit a union state into that definition?!

I also found, in reading [12 USC, chapter 2, §202 Definitions](#), that it says:

*[T]he term State **means** any State, Territory, or possession of [belonging to surely, not Florida] the United States, and the Canal Zone." (Emphasis added.)*

Note that the Canal Zone is not a federal State, Territory, or possession of the U.S., but is still being classified as a State! But, then, you must always look at the title, chapter, section, subsection, or, sometimes even sentence, to determine the specific intent. Again, there is no ONE statutory United States.

This is incontestable from the dozens and dozens of definitions of the United States in the statutes and codes. And yet one is usually thought weird to contest the underlying theme of the whole IRC namely, that there is only one United States the whole nation. This is fatuous, of course, when you really think about it which almost no one does. Not just because of the Hooven case, above, but because of the numbing number of variations on the definition of the United States in the IRC. Some say over 200, which is perhaps too many, but certainly more than one.

In this title (12), Banks and Banking, they always seem to use the universally recognized restrictive word means, rather than the IRC's term of choice, includes, that has beguiled, deceived, deluded, hoodwinked, misdirected, and, most of all victimized, basically, the whole country. Such as in 215b(2) Definitions:

*State means the several States and Territories, [comma!] the Commonwealth of Puerto Rico, the Virgin Islands, and the District of Columbia. (Emphasis added.)*

Here, of course, the confusion is limited to the correct interpretation of the phrase the several States, which I have dealt with above.

Title 28, Crimes and Criminal Procedure, also contributes to the correct understanding of State and United States. Section 5, United States defined says:

*The term United States, as used in this title in a territorial sense, includes all places and waters,*

continental and insular, **subject to the [complete] jurisdiction of the United States**, except the Canal Zone. (Emphasis added.)

This, of course, excludes the union states. As does Section 7, Special maritime and territorial jurisdiction of the United States defined, where none of the eight jurisdictions mentioned venture beyond the federal zone, into the 50 states. Obviously! If they did, then the designated area would be, eo ipso, in the federal zone and not in the states a non sequitur.

One last example from [Title12: In Section 95a\(3\)](#) I found:

*As used in this subdivision the term United States means the United States [oh, really!!] and any place subject to the jurisdiction thereof; [p]rovided, however, [t]hat the foregoing shall not be construed as a limitation upon the power of the President, **which is hereby conferred**, to prescribe from time to time, definitions, not inconsistent with the purposes of this subdivision, for any and all of the terms used in this subdivision." (Emphasis added.)*

Unquestionably unconstitutional! Even if reference is being made only to domestic i.e., federal zone matters, over which the U.S. has jurisdiction which, of course, must be the case, despite all attempts to imply otherwise. The legislature cannot delegate legislative power to the executive.

This has not been contested yet, as was the President's authority in [Panama Refining Co. v. Ryan, 293 U.S. 388 \(1935\)](#). It was found there that "authorizing the President to prescribe such rules and regulations as may be necessary to carry out the purposes" of the Act (407) constituted unconstitutional delegation of legislative power to him, and that the regulations for this were "without constitutional authority" (433). Similar cases could be cited.

But then, since the commissions for newly appointed Federal judges are no longer filed with the Secretary of State, but with the Attorney General, under the seal of that executive office, the judiciary is also under the control of the President. Which fact is further confirmed by:

#### **SUPREME COURT OF THE U.S. - RULES**

*Part VIII. Disposition of Cases*

*Rule 45. Process; Mandates*

**1. All process of this Court issues in the name of the President of the United States.** (Emphasis added in this sentence.)

So much for separation of powers!!

Please excuse that brief interruption. I will now add the coup de grace, in our investigation of the meaning of the term state, in the IRC and all other codes. It is found in [26 USC §7621](#) Internal revenue districts:

*(b) Boundaries. [T]he President may subdivide **any State** or the District of Columbia, or **unite into one district two or more States**." (Emphasis added.)*

This cannot conceivably refer to union states, for it would contravene the Constitution (4:3:1):

*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. (Emphasis added.)*

Another observation throws more light on this matter. The above wording was promulgated 2/1/77. It should have been changed in the Hawaii Omnibus Act, right after Hawaii was admitted to the union, in 1959 as was this section, in the Alaska Omnibus Act, after Alaska was made a state of the union, earlier in the year. I guess that they just held off as long as possible. For, before that, in the IRC revision of 1/3/59, the subsection read:

*Boundaries. [T]he 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. (Emphasis added.)*

At that time, the United States had one remaining incorporated Territory. Ever afterwards, just unincorporated territories, such as Guam or the Virgin Islands.

Because of its importance, I will also mention that 7621 is not listed in the Parallel Table of Authorities, in the Index volume of the CFR for Title 26. This indicates that it does not can not have general applicability to the union states and the population at large. Of course not, how could it?!

Without going into detail, I will simply say that the President delegated authority to the Secretary of Treasury to prescribe internal revenue districts (Executive Order No.10289, 9/17/51). The Secretary then re-delegated it to the Commissioner of Internal Revenue. This delegated authority is related to the Anti-Smuggling Act and customs duties, so it is not surprising that the accompanying regulations are found in the CFR for Title 19 Customs Duties. United States Customs Service offices are legitimately located in

the union states, but the only authorized internal revenue districts were located in Puerto Rico, the Canal Zone, and other insular possessions. The Commissioner of Internal Revenue has delegated authority strictly limited by TDO 150-01 and 150-42, which have nothing to do with any area within the 50 states!

So, it would seem that, legally, there cannot be internal revenue districts in the 50 states, and, yet, we know that there are said to be such so-called districts.

There is a phrase in TDO 150-01 [now repealed], which is interesting though it doesn't solve the problem:

*6. U.S. Territories and Insular Possessions..*

*The Commissioner shall, to the extent of authority otherwise invested in him, provide for the administration of United States internal revenue laws in the United States territories and insular possessions **and other authorized areas of the world.** (Emphasis added.)*

The union states qualify, of course, as "other authorized areas of the world." But that still doesn't get around the unconstitutionality of applying 7621 to union states.

But they do it, anyway, in the Federal Register, Vol. 51, No. 53, Wednesday, March 19, 1986, pp. 9571-3, [captioned, interestingly, Number: 150-01!], entitled Designation of Internal Revenue Districts begins:

*Under the authority given to the President to establish and alter Internal Revenue Districts by section 7621 of the Internal Revenue Code of 1954, as amended, and vested in me as Secretary of Treasury by Executive Order 10574 the following Internal Revenue Districts continue as they existed prior to this order, with the changes noted below [and there follow dozens of areas so designated.] (Emphasis added.)*

All of which are flagrantly unconstitutional. Indeed, this is one of the most blatant and brazen misapplications of the code that I recall. And it is flaunted in our faces, daring us to do something about it.

Going hand in glove with [26 USC §7621](#) is [7601](#) Canvass of districts for taxable persons and objects:

*(a) General rule. The Secretary shall, to the extent he deems it practicable, cause officers or employees of the Treasury Department to proceed, from time to time, through each internal revenue district and inquire after and concerning all persons therein who may be liable to pay any internal revenue tax, and all persons owning or having the care and management of any objects with respect to which any tax is imposed. (Emphasis added.)*

Unlike [7621](#), this section has implementing regulations as eight parts, however, of Title 27 (BATF). So, there is legitimate canvassing of internal revenue districts. It is just that it is only for such as Subtitle E of the IRC, dealing with tobacco, alcohol, and firearms. And only in the insular possessions of the U.S.

Allow me to remind you that the Internal Revenue Code is used by both the IRS and the BATF. The IRS has no proprietary hold on it. For example, it has absolutely nothing to do with, and never makes reference to, Subtitle E Alcohol, Tobacco, and other Excise Taxes. And Subtitle F Procedure and Administration, contains **all** enforcement sections in the IRC, and these, without exception, are implemented exclusively by the BATF, and have to do only with excise taxes. There are a few sections therein that the IRS avails itself of, but they do not involve any aspect of enforcement.

Part 70 of CFR 27 is also where are found the regulations enabling the imposition of income tax on officers and employees of the U.S., because it is an excise taxable privilege to work for the Government. But there are no regulations authorizing canvassing any internal revenue districts for Subtitle A Individual income tax, or Subtitle C employment tax no matter where these districts are located.

It is of more than passing interest to note that lacking any statutory or regulatory authority in the 50 states, the IRS, BATF, and other alphabet soup agencies, can be required by law to apply for permission to enter these states, as registered foreign agents, pursuant to the Foreign Agents Registration Act of 1938. For they are operating under international law, not under the general, plenary powers of 4:3:2 of the U.S. Constitution, as is the case in the federal zone, but rather under the specifically authorized enumerated special powers of 1:8, therein.

Perhaps it would be easier to understand that IRS personnel are "agents of a foreign principal," if one recalls that our Secretary of the Treasury is also the Governor of the International Monetary Fund and the Bank of Reconstruction and Development, to which he was appointed, per the Bretton Woods Agreements Act, of 1944 (22 USC 286). And, pursuant to Section 3 of this Act, as amended, the U.S. Governor/Councilor is prohibited "from receiving salary or other compensation from the U.S. Government."

Also, one should take note of [Title 18, §219. Officers and employees acting as agents of foreign principals](#) and [591 Agents of foreign governments](#).

Which should be read in conjunction with [22 USC §611\(c\)](#):

*Except as provided in subsection (d) of this section, the term agent of a foreign principal means--*

(1) any person who acts as an agent, representative employee, or servant, or any person who acts in any other capacity **at the order, request, or under the direction or control, of a foreign principal** or a person any of whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part, by a foreign principal, and who directly or through any other person

(i) engages within the United States in political activities for or in

the interests of such foreign principal;

(iii) within the United States solicits, **collects, disperses, or dispenses contributions, loans money, or other things of value for or in the interests of such foreign principal** (Emphasis added.)

This should suffice to establish, as stated above, that Internal Revenue personnel are agents operating under the authority, control, and jurisdiction of a foreign principal, as laid out in the Articles of Agreement of the International Monetary Fund, Article IX, Section 3. And, [22 USC §286](#)h of the Bretton Woods Agreements Act indicates that:

*The provisions of article IX, sections 2 to 9, both inclusive of the Articles of Agreement of the Bank, **shall have full force and effect in the [federal District] United States and its Territories and possessions upon acceptance of membership by the United States in, and the establishment of, the Fund and the Bank, respectively.*** (Emphasis added.)

That Internal Revenue employees are foreign agents is also established by the International Organizations Immunities Act, of 1945, and found at [22 USC §288](#) and 288f.

In other words, the U.S. has relinquished its sovereignty to these organizations of the UN, and must operate under the above charter i.e., the Articles of Agreement of the Bank and the Fund. Refer to [22 USC §286](#)e indeed all of 286.

(Speaking of relinquishing sovereignty, I must interject, here, that the Congressional Research Service wrote: "As a member of the WTO [World Trade Organization], the United States does commit to act in accordance with the rules of the multilateral body. It [the U.S.] is legally obligated to ensure national laws do not conflict with WTO rules." (8/25/99) To put teeth to this, the Wall Street Journal wrote: "A recent decision by the 'WTO Appellate Body' ruled that \$2.2 billion in United States tax breaks violate WTO rules and must be eliminated by October 1, 2000." What constitutes 'United States' changes almost daily, it seems.)

That this has substance is demonstrated by the fact that sheriffs can, and have, limited the entry of IRS agents into their county. Agents have even been thrown in jail, and let out only on condition that they don't return! In some counties there are virtually no liens and levies filed, or prosecutions for failure to file tax returns. For, all these three actions are *ultra vires* performed without delegated authority granted *sub curia*, under law.

The following is from a communication I received recently, concerning what the famous Bighorn Sheriff did, a couple of years ago:

*Sheriff Dave Mattis stated that all federal officials are forbidden to enter his county without his prior approval. If a sheriff doesn't want the Feds in his county he has the constitutional power and right to keep them out or ask them to leave **or retain them in custody.** The court decision came about after Mattis and other members of the Wyoming Sheriffs' Association brought a suit against **both the BATF and the IRS** in the Wyoming federal court district seeking restoration of the protections enshrined in the United States Constitution and the Wyoming Constitution. The District Court ruled in favor of the sheriffs, stating that Wyoming is a sovereign state and the duly elected sheriff of a county is the highest law enforcement official within a county and has law enforcement powers exceeding that of any other state or federal official. The sheriffs are also demanding that **federal agencies immediately cease the seizure of private property and the impoundment of private bank accounts without regard to due process in state courts.*** (Emphasis added.)

Another wrinkle in this garment can be seen by the fact that I specifically recall hearing, some years ago, that some congressperson or senator (I forget who) registered as a foreign agent in the State that elected him. For, the annotated Title 18 lists a half a dozen cases ruling that a member of Congress is an officer of the 'United States' and I think that you are becoming informed enough to realize which 'United States' .and that it is a foreign government under private international law. (See section 21, below, which is so titled.)

This brings to mind some clear, indisputable, but oft-forgot words of the Supreme Court:

*"The Government of the United States is one of enumerated powers; **it has no inherent powers of sovereignty.**"*  
[Kansas v. Colorado, 206 US 46 (1906) (Emphasis added.)]

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## **8. The Hawaii Omnibus Act.**

Because of its importance, I want to focus a bit more on the Hawaii Omnibus Act (Vol. 74, Public Law 86-624). It is described as

"An Act To amend certain laws of the United States in light of the admission of the State of Hawaii into the Union " It constitutes 13 pages of intriguing amendments to various federal statutes and codes, that the government was forced to promulgate which is really a stand-alone expos" of the contortions that the federal government goes through to mask its identity, and, thereby, to mislead Americans into believing that they are subject to laws which they are not. But, if we weren't so hopelessly indoctrinated, this Act, by itself, would shatter the delusion that all Americans are statutory "U.S. citizens" and, therefore, subject to all the federal codes and laws.

I recommend reading the whole Act, for I can only call attention to a few points, among this embarrassment of riches, as the French say.

I will begin with a quote concerning the IRC, at [18\(a\)](#):

*Section 4262(c)(1) of the Internal Revenue Code of 1954 (relating to the definition of continental United States for purposes of the tax on transportation of persons) is amended to read as follows: (1) Continental United States. The term "continental United States" means the District of Columbia and the States other than Alaska and Hawaii. (Underline added. Parenthesis in original.)*

The use of "other than" implies that Alaska and Hawaii were previously States" similar to whatever political bodies were referred to by the preceding word, "States." To further verify this is the case, it is necessary to go back to the also important Alaska Omnibus Act, of the 86<sup>th</sup> Congress, Volume 73, 1959, which accommodated the statutes and codes to Alaska's having been made a state. We read at 48:

*Whenever the phrase **continental United States** is used in any law of the United States enacted after the date of enactment of this Act, it shall mean the 49 States on the North American Continent [which would include, now, Alaska] and the District of Columbia [as in section 25(b) of the Hawaii Omnibus Act], **unless otherwise expressly provided**. (Emphasis added.)*

There is the catch unless otherwise expressly provided! One need only look at Section 22 to see where it is so provided for it is obviously not so in 18(a), above:

*(a) and sections [3121\(e\)\(1\)](#) [remember this section from the Kennelly letter?], [3306\(j\)](#), [4221\(d\)\(4\)](#), and [4233\(b\)](#) of such code (each relating to a special **definition of State**) are amended by **striking out Alaska**. (Parentheses in original. Emphasis added.)*

*(b) Section [4262\(c\)\(1\)](#) of the Internal Revenue Code of 1954 (definition of continental United States ) is amended to read as follows: (1) The continental United States. The term continental United States means the District of Columbia and the States other than Alaska. (Emphasis added.)*

Here, in this section, Hawaii, despite being comprised of islands in the middle of the Pacific, is considered, by implication, to be part of the continental U.S. For otherwise it would not have been thought necessary to exclude it from the same section, 4262(c)(1), a few months later, after Hawaii was taken into the union. In words of law islands can be termed continental; there is no necessary relationship to the world as normally defined. Thus, with Hawaii and Alaska, we view how a state ceases to be a state when it becomes a state!

So, in answer to our question, above, the "States other than," in this section of the Hawaii Omnibus Act, can refer only to the federal States of Guam, the Northern Marianas, etc.

One should also note Section 27 of the Hawaii Omnibus Act:

*(b) striking out the words continental United States, **its** Territories, and possessions in section 211(j) and inserting in lieu thereof the words **States of the Union**, the District of Columbia, Puerto Rico, and the possessions of the United States. (Emphasis added.)*

Here, the use of its indicates that the federal territorial U.S. is being referred to, for the 50 union states obviously don't possess any Territories; its agency, the U.S., does. In fact, there are no more incorporated Territories, now that Hawaii has become a union state hence, the need to expunge the word from any definition of the United States.

This interpretation is substantiated by the numerous times that continental is struck out of the phrase continental United States, in this Act indicating that all along, in these instances, continental United States was no different than the federal corporate territorial District United States it just had a slightly different makeup incorporating the Territory (federal State) of Hawaii.

There is another facet of these amendments which cries out for mention, such as seen in the following:

*striking out continental United States in clause (ii) of such sentence and inserting in lieu thereof United States (which for the purposes of **this sentence and the next sentence means the fifty States and the District of Columbia**) . (Section 14(d)(2)) (Emphasis added.)*

The term United States means (**but only for purposes of this subsection and subsection (a)**) the fifty States and the District of Columbia. (Section 29(d)(3)) (Emphasis added.)

In other words, only on rare occasions in the codes and statutes is it found necessary to refer to the 50 States. Only in a sentence here, or in a subsection there each such occasion being scrupulously noted, and disclaimed as being the norm, just as above. Which fact alone, one would think, would suggest to even a school child that elsewhere this was not the case. It is almost like they are waving a red flag and exclaiming: Please be advised that only in this specific and particular instance are we compelled and allowed to make reference to the 50 union states united by and under the Constitution.

Yet, look what here replaced the continental United States in 27(b), above: "States of the Union, the District of Columbia, Puerto Rico, and the possessions of the United States." Just as it was in the preceding subsection, 27(a) as well as in 8(a), 36, and 38.

This presents a problem, for everyone believes that this phrase stands for the 50 union states. And, yet here, in this section, at least, it is being equated, with the territorial United States. I will let the reader ponder the solution of this conundrum, for I have no answer. I would recall to your mind a similar appropriation of the term "United States of America" that I discuss in section 2.

In any event, States of the Union unmistakably refers to the 50 union states in Section 45 of the Hawaii Omnibus Act:

*purchases of typewriters*

*Title I of the Independent Offices Appropriation Act, 1960, is, [sic] amended by striking out the words for the purchase within the continental limits of the United States of any typewriting machines and inserting in lieu thereof for the purchase within the States of the Union and the District of Columbia of any typewriting machines .*

This is because, previously typewriters had been bought from Alaska and Hawaii which, as Territories, were, therefore, "within the continental limits of the United States". Now, as two of the fifty States of the Union, they were not within the continental limits of the federal United States.

So, a show of hands. Who still believes that the States referred to in the codes unless pointedly qualified embraces the 50 union states?

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## **9. A few general remarks.**

Along with the instances I have noted, there is another place in which the deviousness and sneakiness of the IRS really shows. In three sections of the IRC they need to encompass all union states. In [4132\(7\)](#) they say that U.S. has the meaning that it does in [4612\(a\)\(4\)](#), where the 50 States are mentioned. Then, in [4672\(b\)\(2\)](#), they remove it yet another stage, saying that it has the meaning that it does in [4662\(a\)\(2\)](#), wherein it says that it has the meaning that it does in [4612\(a\)\(4\)](#)! They just do not like to use the words "50 States!" All of which calls more attention to the fact that the code only rarely has occasion to refer the 50 union states.

And, they actually cannot do so, except where required, as above. For, as some like to put it, they are to a great extent, though not exclusively, writing the employment conditions for those who work for the federal government, as well as for those two categories mentioned at the beginning of the IRC and its regulations. E.g., [26 CFR §1.1-1](#):

***Income tax on individuals(a) General rule.*** (1) Section 1 of the Code imposes an income tax on the income of every individual who is a ***citizen or resident of the [federal District] United States***. (Emphasis added.)

The first sentence in the IRC reads somewhat differently. Part 1 is titled simply:

***Tax on individuals. Section 1 Tax imposed. (a) Married individuals filing joint returns and surviving spouses.*** There is hereby imposed on the taxable income of (Emphasis added.)

Be aware that all headings in the code are without any legal force or effect, as pointed out by the IRC, itself, in [26 USC §7806\(b\)](#). The heading or title, here, is guilefully misdirecting, for there never has been and never could be an "income tax" ***on individuals*** except an apportioned tax or a capitation tax. It would be unconstitutional and the federal District government generally makes a great effort to write (albeit deviously) its laws in conformity with the Constitution. This wording is, doubtlessly, to give the impression that it is a direct tax. Indeed, the very first sentence of 26 CFR, after the heading, states what most taxpayers (incorrectly) believe that the tax is on. It s "an income tax on the income " or, as 26 USC words it, "on the taxable income." So, in both cases, in less than a dozen words, there is a switch from a tax on "individuals" to one on "income" or "taxable income."

This leads to the embarrassing question as to what exactly is "income". This is a moot point, of course unless one is a taxpayer. But, I will pursue the matter in order to provide a full understanding as to why the IRS feels compelled to indicate in everyone s Individual Master File that ***all*** individual income taxpayers are corporations, and pay corporate income tax.

Congress does not try to define internal revenue income in the code, or elsewhere and the Supreme Court says that they

(Congress) can not do so! Section 61 of the IRC, weasels out by simply defining "gross income." But that's like defining a green apple as an apple that is the color green without defining apple.

It might be of passing interest that Section 61, one of the most crucial sections of Subtitle A, has not had any legitimate application for a number of years. Briefly, a footnote to Section 61 of the 1954 revision of the IRC reads: "Source; Sec.22(a), 1939 Code, substantially unchanged." The Parallel Table of Authorities in the Index of the CFR indicates that 26 USC §22, of the 1939 IRC, corresponds to 26 CFR Part 519. A following table shows that Part 519 is the Canadian Tax Treaty, a 75 year treaty signed in 1918, which expired in 1993, and is now not operative, but shown as reserved for future use. So, Section 61 does not, and never did, define taxable income from American sources, but rather from Canadian sources. One of the many gems hidden right out in plain view. The deception is not that the documentation isn't available; it is that the IRS proceeds on its course knowingly ignoring it.

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## 10. Corporate entities.

I will seek to demonstrate, now, why "income tax" must come from corporate entities.

I believe that I can best begin by quoting from what is easily one of the half dozen most important U.S. Supreme Court tax cases: [Eisner v. Macomber, 252 U.S. 189 \(1920\)](#):

*[I]t becomes essential to distinguish what is and what is not "income" and .Congress **cannot** by any definition it may adopt conclude the matter.*

*After examining dictionaries in common use we find little to add to the succinct definition adopted in two cases arising under the Corporation Act of 1909 ([Stratton s Independence v. Howbert, 231 U.S.399, 415](#); [Doyle v. Mitchell Bros. Co., 247 U.S. 179, 185](#)) "**Income** may be defined as the gain derived from capital, from labor, or from both combined," **provided** it be understood to include profit gained through **a sale or conversion of capital assets, to which it was applied in the Doyle Case** (pp. 183, 185)*

*"Derived from capital" Here we have the essential matter: not a gain accruing to capital, **not a growth or increment of value in the investment** but a gain, a profit, something of exchangeable value **proceeding from the property, severed from** the capital however invested or employed, and coming in, being "derived," that is, received, or drawn by the recipient (the taxpayer) **for his separate use**, benefit, and disposal that is income derived from property. Nothing else answers the description.*

*The same fundamental conception is clearly set forth in the Sixteenth Amendment "incomes, from whatever source derived " Eisner at pp. 206-208. (Italics are in the original text; bold added.)*

This powerful, pithy, and very lucid treatment should have prevented the IRS from equating "gross incomes" with "gross receipts." As it was put in *Conner v. United States*, 303 F Supp. 1187, 1991, (1969):

*Income is nothing more nor less than realized gain. **It is not synonymous with receipts** .If there is no gain there is no income Congress has taxed **income, not compensation**. (Emphasis added. Other cases state the same.)*

In *Eisner*, above, "profit" and "gain" were meant to limit the meaning of "income" to "profit gained through a sale or conversion of capital assets, *to which it was applied in the Doyle Case.*" To what was it applied? The Supreme Court stated, in *Doyle* (at 179):

*Whatever difficulty there may be about a precise and scientific definition of income, it imports, as used here the idea of **gain or increase arising from corporate activities**." (Emphasis added.)*

And permit me to repeat the quote from the [Maryland Casualty Co. v. U.S., 251 U.S. 342 \(1920\)](#) case:

*By the act of August 5, 1909, a special excise tax was imposed upon the privilege of carrying on business by corporations. **It was in reality a license to carry on business** .The Income Tax Act of October 3, 1913, should be considered as a **statutory construction of the act of August 5, 1909, in so far as it related to the basis of taxation**. (December Term, 1916-17 [52 C. Cls.] Emphasis added.)*

The above can have any pertinence, of course, only if one is subject to and liable for the normal tax, called income tax. What conceivable relevance could the precise definition of income or gross income have for someone not so subject and liable?! Arguing that one has none of this ill-defined stuff called income implies that if you did you believe that you would then be potentially liable for federal income tax.

This rests on the fallacy that earned property is the subject of income tax. But both the House Congressional Record and the Supreme Court have decimated this belief:

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

Congressional Record, 3-27-43, page 2580. Emphasis added.)

Excises are "taxes laid upon the manufacture, sale or consumption of commodities within a country, upon licenses to pursue certain occupations, and upon corporate privileges." Cooley, Const. Lim., 7<sup>th</sup> ed., 680. (*Flint v. Stone Tracy Co.*, 220 U.S. 107, at 151 (1911).)

And, they go on to say, "the element of demand is lacking. If business is not done in the manner described in the statute, no tax is payable." (loc cit, at 151-152.) (Emphasis added.)

Note, too, a later ruling of the Supreme Court:

*The 16<sup>th</sup> Amendment contains nothing repudiating or challenging the ruling of the Pollock case The contention that the Amendment treats a tax on income as a direct tax is wholly without foundation The 16<sup>th</sup> Amendment, as correctly interpreted, was limited to indirect [excise] taxes, and for that reason is Constitutional. (Brushaber v. Union Pacific RR Co, 240 US 1. Emphasis added.)*

So, the so-called income tax is really a privilege or excise tax measured by the income produced by the exercise of such government privilege. This property (income) is not what is taxed; it is only a means of measuring how much to charge for the taxable activity, of which the taxpayer voluntarily avails him/herself. Not indulging in any such privileged activity, one would, eo ipso, have no taxable year ([26 USC §6012](#)), and, therefore, all discussion of gross income ([26 USC §61](#)) would be moot and pointless making the filing of a tax return uncalled for...indeed, perjurous..

In any event, this is the standard so-called patriot approach. And it seems reasonable, at first blush to me, at least if I didn't know about Title 15 Commerce and Trade, 17 Antitrust laws not applicable to labor organizations. I well remember when I verified this at the law library, a few years ago; I had to see it in print. The first sentence reads: "THE LABOR OF A HUMAN BEING IS NOT A COMMODITY OR ARTICLE OF COMMERCE." (Emphasis added.) On first encountering this, I thought that it must surely be one of the biggest oversights the code lawyers ever permitted to make its way into the codes. Why? Because it means that human labor cannot be subject to an indirect tax, an excise tax, in the above areas when not working for the government. When you get commerce out of the picture, you have got government out of the picture! If ever there was a marriage made in heaven, it is commerce and government. All of which is a good segue into the following section, which seeks to show that even if a tax, direct or indirect, could be imposed on someone, it would not be possible to calculate

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## 11. The value of one's labor.

The following establishes the impossibility of being able to calculate any Subtitle A tax obligation for any human taxpayer. Strong words, but the government can't find anyone to refute them.

I will start by quoting the following cases, which are a beautiful summary of the points that I want to present:

*The word "profit" is defined in Black's Law Dictionary (3<sup>rd</sup> edition) as "The advance in the price of goods sold beyond the cost of purchase. The gain made by the sale of produce or manufactures, **after deducting the value of LABOR, the materials, rents, and all expenses, together with the interest of the capital employed.**" There is a clear distinction between "profit" and "wages" or compensation for labor. (Emphasis added.)*

[*Oliver v. Halstead*, 86 S.E.2d 858 (1955); 196 Va. 992, 994 (1955)]

**"Compensation for labor cannot be regarded as profit within the meaning of the law.** *The Word profit, as ordinarily used, means the gain made upon any business or investment a different thing altogether from mere compensation for labor.*" *Commercial League Association of America v. People ex rel. Needles, Auditor*, 90 Ill. 166. "Reasonable compensation for labor or services rendered is not profit." [*Lauderdale Cemetery Association v. Matthews*, 354 Pa. 239, 47 A. (2d) 277. (Emphasis added.)]

The point is, that even if someone were subject to Subtitle A income tax, it would be totally impossible to calculate the expenses the taxpayer could deduct, in order to arrive at his "gain" or "profit." The correct way of viewing this, however, is set forth in 26 USC 83, its regulations, and in Publication 17 Tax Guide for Individuals: Basis. The Fair Market Value or contract value of labor can not be taxed, for there is no excess otherwise, the contract would not represent fair value, for both the parties. (See [26 CFR §1.83-3\(g\)](#).) Right in the Code, then, it says that our labor does not have a zero basis we are not, it admits, giving our labor away for nothing! In brief, labor is property, all property is cost, and cost is deductible. Ergo, ***nil debit***, nothing is owed!

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## 12. Taxpayer's IMF indicates that s/he is a business.

If the hundred million individual income tax taxpayers seem to refute the fact that all are paying a corporate tax, look at any of the correspondence they receive like the first letter sent to late filers, the CP 515. To find out what such numbers mean, one must go to the inch thick 6209 Manual, every page of which is marked "for official use only," and a few years ago was confiscated from

defendants, in court though it can now be found on a U.S. Government website. It decodes The Individual Master File (IMF), which the IRS has for every taxpayer i.e., basically, everyone who has ever filed a tax return or signed a Form W-4. All correspondence is recorded, together with everything else they have entered about you. You will find there, in Section 9, that Computer Paragraphs, like the CP 515, with three digits, refer only to businesses! (Please refer to the [Maryland Casualty Co.](#) case, above.) Yet, three digits are what every individual filer receives. So, there are over 100 million businesses filing returns, without realizing it. They certainly would, if they bothered to decode their IMF!

For lo and behold! They would probably read there that they have been designated as narcotics traffickers. They would find that their IMF has a TC (transaction code), say, of 914 and, say, a 307.301 blocking series, which indicates a criminal violation of the US/UK Tax Treaty. This indicates a (refutable, fortunately) presumption that you have secured a loan in the Cayman Islands, to purchase narcotics for sale in the Virgin Islands, without paying the backup withholding, on Form 8288.

Utterly outrageous as it sounds, this is the usual default notation in the IMF. Though I know several people with others. Like an acquaintance, Richard S., who is classified as having a machine shop in Puerto Rico, and his wife is said to be manufacturing machine guns in the Virgin Islands.

All filers are transmogrified, by some strange magic, into businesses exercising government privileges, and, thereby, effectively connected to the federal zone.

QED, they are taxpayers which, of course, they have sworn under penalties of perjury that they were, anyway, by signing the Form 1040. However, the government feels that it needs more than that. In any event, present the IRS with a decoded copy of your IMF, for the year(s) in question, in a pre-trial conference, and check your stopwatch to see how fast you are out of there!

One s IMF is easily obtainable, by a Freedom of Information Act (FOIA) request. Two experts, who have decoded over 2000 IMFs, have yet to find one that did not indicate some drug-related activity, the manufacture of machine guns, etc.

But, interestingly, you cannot obtain records concerning yourself under the Privacy Act, for that Act only deals with records of "natural persons" and not entity documents on businesses, etc. They will send your IMF to you, and say that it is in response to your FOIA request. If you really persist, they will give you excuses. For, the 124 files that the IRS has access to are all entity modules, and an entity is not a living person, but a fictitious creation, like a corporation.

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### **13. "Nonresident alien"**

I believe that the term nonresident alien warrants more detailed study.

To begin with, one must note the unfortunate fact that the IRC would like to give the impression that two different meanings of the term nonresident alien are the same simply by choosing this off-putting phrase. After all, it simply means, as stated at [26 USC §7701\(b\)\(1\)\(B\)](#) Nonresident alien:

*An individual is a nonresident alien if such individual is neither a citizen of the [District] United States nor a resident of the [District] United States*

That is, he is "Citizen of California", say, who does not reside in the federal zone. OR, Canadians and Mexicans, for the most part, who work in the union states, but reside in their home country. But, it sounds like someone from Mars. A newly arrived Frenchman, taking up residence in, say, Alabama is a green card resident alien or an immigrant. If he were just travelling here, and not working, he would be just a tourist. For these terms have meaning only within the state of the forum (*forum contractus*, a place of jurisdiction in the present case, the tax forum) of the IRC. And, if you don t work or receive 1099 payments, you don t exist as far as the IRS is concerned.

According to the [IRS Publication 519 U.S. Guide for Aliens](#), anyone who is not a federal statutory franchisee called a "U.S. citizen" is some kind of alien, which would be practically the whole of America, outside the federal zone, if well over 200 million of them hadn t volunteered, in numerous ways.

I would like to interject a few words on Subtitle A being called by some a voluntary tax. This, of course, is an oxymoron; tax is an exaction imposed by the government. One can voluntarily choose to gift the government, but in doing so one is not paying a tax. Subtitle A has definite requirements that must be adhered to by the certain specified individuals such as that nonresident aliens must pay for the privilege of earning money in the District U.S., if they are Americans, or anywhere in America, if they are, say, Mexicans residing in their country, but working in this country. Or federal, State, or municipal employees living anywhere.

In the original California Code of 1872, it states that one is either a Citizen of this State, a Citizen of another State, or an alien from anywhere else in the world Japan or England, say, or the District United States. That is, if one is not a state Citizen, then s/he is a resident alien, subject to the total control of the corporate State wherein s/he lives. A state Citizen, on the other hand, is obviously "nonresident" to anywhere else, including the territorial "United States."

*A person is born subject to the jurisdiction of the [federal] United States, for purposes of acquiring citizenship at birth, if this birth occurs in a territory over which the [federal] United States is [completely]*

sovereign (3A Am Jur 1420, art. Aliens and Citizens)

[T]he phrase subject to the jurisdiction relates to time of birth, and one not owing allegiance at birth cannot become a Citizen **save by subsequent naturalization**, individually or collectively. The words do not mean merely geographical location, but **completely subject** to the political jurisdiction. " Elk v. Wilkins, 112 U.S. 94, 102 (1884). (Emphasis added.)

Individual naturalization **must** follow certain steps: (a) petition for naturalization by a person of lawful age who has been a lawful resident of the United States [i.e., one of the union states or the federal zone] for 5 years; (c) hearing before a U.S. District Court or certain State courts of record " Black s Law Dictionary (6<sup>th</sup> edition, art. naturalization )

Absent proof of such actions, one cannot be legally labeled a statutory "U.S. citizen" per 8 U.S.C. §1401, subject to the territorial corporate United States Government. In fact, Congress has made it a CRIME under 18 U.S.C. §911 to falsely claim such status for those who do not in fact and in deed have a domicile on federal territory. How can they do this, you might as? Well, rights attach to the status under federal civil law, and all such rights are statutory creations of Congress and therefore property of the national government. They are simply criminalizing abuse of their property under their protection franchise contract or "social compact". Very few people realize this, even in the so-called Patriot community. It is a golden nugget. Indeed, one is perjuring oneself by claiming to be a statutory "U.S. citizen", if s/he was born in a union state, not naturalized, and not currently under the complete jurisdiction of the federal government, as by living in D.C. or on an army base. Although, as one IR agent said, one would never be prosecuted for this!

Although one could be! Title 18 Chapter 43 False personation Section 911 Citizen of the United States, says, in toto:

*Whoever falsely and willfully represents himself to be a citizen of the United States shall be fined not more than \$1,000 or imprisoned not more than three years, or both.*

And, it is interesting to note [26 CFR §1.871-4](#):

**Nonresidence presumed.** *An alien by reason of his alienage, is presumed to be a nonresident alien.*

Therefore, unless it could be proved that one has a domicile on federal territory, his/her statutory alienage to the District government is indisputable. QED, one is a statutory "nonresident alien".



An increasing number of would-be PTs (Previous Taxpayers) are submitting Form W-8 to their employers, in this regard. The reason will be clear upon reading this excerpt from the General Instructions of this Certificate of Foreign Status:

*Use Form W-8 or a substitute form containing a substantially similar statement to tell the payer that you are a **NONRESIDENT ALIEN** individual, **foreign entity**, or **exempt foreign person not subject to certain U.S. information return reporting or backup withholding rules** For purposes of this form, you are an "exempt foreign person" for a calendar year in which: **1. You are a nonresident alien individual** **2.** You are an individual who has not been, and plans not to be, present in the [federal District] United States for a total of 183 days or more during the calendar year, and **3.** You are neither engaged, nor plan to be engaged during the year, in a [federal] U.S. trade or business that has effectively connected gains from transactions with a broker or barter exchange . Payments to account holders who are foreign persons (nonresident alien individuals, foreign corporations, partnerships, estates, or trusts) generally are **not required to have a TIN**, nor are they subject to any backup withholding because they do not furnish a TIN to a payer or broker. However, foreign persons with income effectively connected with a trade or business in the [federal] United States (income subject to regular (graduated) income tax), must have a TIN. (Emphasis added.)*

Performing this simple act establishes that this non-immigrant, non-naturalized, freeborn state Citizen/American is someone to whom [26 CFR §1.871-7\(1\)](#) applies wherein it states:

*a nonresident alien individual **Is Not Subject To The Tax Imposed By Section 1.** (i.e., Subtitle A **Income Taxes, Part 1 Tax on Individuals.** Emphasis added.)*

For further extensive details on what a "nonresident alien" is, see:

 [Nonresident Alien Position, Form #05.020 \(OFFSITE LINK\) -SEDM](#)  
 <http://sedm.org/Forms/MemLaw/NonresidentAlienPosition.pdf>

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## **14. The Brushaber case.**

If this case had been given its justly deserved attention and correctly interpreted, most Americans would never have had any federal tax worries!! And, while most seem to think that the Brushaber case was written by Chief Justice Edward D. White in a most enigmatic and tortuous prose, we have one of the clearest and most lucid expositions imaginable in Treasury Decision 2313, which

was promulgated a few months later, in order to implement this Court decision. In this TD, the government is uncharacteristically unambiguous, unequivocal, undisguised, and expresses its points clearly and succinctly. (Please see the Appendix for the complete document one of the most important parts of this paper.)

In [Brushaber v. Union Pacific Railroad Co., 240 U.S. 1](#), the Supreme Court affirmed on January 24, 1916 that the District 'United States' could tax income of nonresident aliens in this case, Mr. Brushaber that was derived from sources within the District 'United States.'

Fact # 1. In the case, just as in his Complaint, Frank R. Brushaber swore to being "a citizen of the State of New York and a resident of the Borough of Brooklyn, in the City of New York" and the Court agreed with this vital point. Indeed, the nonresident alieny of Mr. Brushaber is the whole raison d "tre for the promulgation of TD 2313, necessitated by this case.

Later, the government tried to say that he was an NRA by virtue of the fact that he was native to France. But that is ridiculous, for that would make him a resident alien. For he lived and worked in New York making him, eo ipso, a nonresident of the 'United States' and alien to its jurisdiction.

No, the Court concurred totally with his self-proclaimed status as being a nonresident alien. What they didn't agree with was that the Union Pacific RR Co. was also such.

Fact # 2. The Union Pacific RR, the Court proclaimed, was a resident of the District United States. Mr. Brushaber made the mistake in his Complaint of not realizing that Utah was still a territory when The Union Pacific was incorporated, on July 1, 1862, by an Act of the U.S. Congress, making it domestic to the District United States. Had Utah then been a state of the union, he would have won his case.

I believe it fair to say that the case hinges only on the establishment of these two facts which, when fairly read, are absolutely incontestable, and permissive of no multiple interpretations. For, on the one hand, as you have seen, in [26 USC §872](#) Gross Income, quoted above: "In the case of a nonresident alien individual gross income includes ONLY (1) gross income which is derived from sources within the United States " (Emphasis added.)

On the other hand, you might also recall:

*"An individual is a nonresident alien if such individual **is neither a citizen of the United States nor a resident of the United States.**"*  
*[[26 USC §7701\(b\)\(1\)\(B\)](#). Emphasis added.]*

And, reading the case and the TD, one sees that beyond any doubt both the Supreme Court and Secretary of Treasury are interpreting the term United States, in the above two quotations, to mean precisely what I have been saying it means not the whole country, but the territorial or District United States, exclusively.

The circumstances were that a cash dividend had been declared on stocks and bonds of the Union Pacific RR Co. owned by Frank Brushaber, and he believed that it was unconstitutional to claim that he owed income tax on this money, due to the undisputed fact that he was outside the *forum contractus*, and he mistakenly believed the Union Pacific was, as well. As you are now in a position to agree, the Court correctly ruled otherwise, as quoted above in section 10. For, as a foreigner, availing himself of the privilege of earning income from a domestic (i.e., District U.S.) corporation, he was obligated to pay an excise tax. As Justice White put it in this case:

*[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** .... (Emphasis added.)*

The Court s finding that it was perfectly constitutional to levy an Income Tax from Brushaber has been the principal evidence the IRS chooses to throw at everyone who doubts that both the 16<sup>th</sup> Amendment, and the imposition of income tax on basically everyone, is constitutional.

Actually, the 16<sup>th</sup> Amendment is something of a non-issue, since the Supreme Court has ruled several times that this Amendment in no way alters any taxing powers of the United States. (I say something of because public perception overrides the legal facts together with unchallenged misinterpretations of some Appellate Courts.)

And, while many are railing over the fact that it was never lawfully ratified, I know of very few who claim that it, or the IRC, is unconstitutional when lawfully applied, as in the instant case. Those who really understand Title 26, hope it never changes and, of course, it can not substantially do so, and remain constitutional. For, with the help of TD 2313, it should be clear to those who can and will read which, unfortunately, limits the field that very few Americans really are obligated to pay any income tax if they are careful as to how they structure their lives.

Of course, even if they were to make some investment in a U.S. corporation, like Frank B. did, they would only owe tax on that particular portion of their total earnings if the rest of their income derived from outside the federal zone.

It goes mostly unnoticed that his dividend money earned in the District United States is all that the court is saying that Brushaber is obligated to pay not what he earned while living and working in New York!! There, the U.S. has no jurisdiction to impose an income tax, and the Court well knew it. For, he was not a statutory "U.S. citizen" without a domicile on federal territory.

I would be inexcusably remiss and derelict if I didn't warn you of the egregious twisting of the facts in another interpretation indeed, this, or something roughly similar, is forced on those who still mistakenly hold onto the definition of a "U.S. citizen" as being synonymous with American which is how the government would like you to believe it is to be interpreted in the Internal Revenue Code.

Although the following is not the only incorrect presentation of the Brushaber case and TD 2313, it is the worst one I could imagine, and it is repeated verbatim on a number of websites:

*[If you look this case up and read it **[which I would advise the writer doing]**, you will see that the Supreme Court tells Frank Brushaber (an American citizen) **[right: not a U.S. citizen]** that the tax IS Constitutional (as an indirect excise) and that he (Brushaber) has to pay it (the income tax). **[Right: HE has to pay it not act as a withholding agent, who withholds from some other person, as you state below.]** The IRS relies on, and cites, this Court ruling, as absolute proof that the income tax IS CONSTITUTIONAL. AND THEY ARE RIGHT. **[Correct so far]** HOWEVER, Frank Brushaber, a citizen, FILED THIS LAW SUIT ON BEHALF OF HIS FOREIGN PRINCIPALS, FROM WHOM HE WAS REQUIRED TO DEDUCT AND WITHHOLD INCOME TAX AS THEIR (the foreigners ) US (withholding) AGENT. **[I can not imagine where they dreamed this up from; he was a shareholder, not a withholding agent.]** FRANK GOT TOLD TO PAY THE TAX ON THE INCOME OF FOREIGNERS, NOT HIS OWN INCOME. **[It was his own Income Tax that he didn't want to pay. And, HE was the foreigner in the case; the RR Co. was domestic.]** And Treasury Decision 2313 clearly **[apparently not to you!]** shows the orders resultant within the IRS as a result of this Supreme Court decision. THIS IS A CASE ABOUT THE TAXATION OF FOREIGNERS **[right!]** WHO HAVE NO RIGHTS and enjoy a government granted PRIVILEGE in being allowed access to the American markets to earn money. **[Correct for non-American immigrants; but, for Americans, as this case proves, the privileged area or domain is the District U.S. only, not the 50 states.]** IT IS NOT A CASE RELATED TO THE TAXATION OF A Citizen's OWN INCOME EARNED BY RIGHT. **[The earnings involved were not such, of course, but by extrapolation it has direct relevance to helping determine one s income earned by right.]** IT IS A FUNDAMENTAL FRAUD TO MISREPRESENT THIS CASE AS APPLICABLE, OR RELATED, TO THE ISSUE OF TAXATION OF CITIZENS **[that is precisely who it is about non-federal state Citizen/Americans, not resident in the District U.S. and, since not being totally under its jurisdiction, an alien thereof in other words, a nonresident alien]**, AS THE IRS HAS DONE FOR OVER 60 YEARS !!! (This is copied from jerseyguy.com/brushaber.html. All emphasis was in the original. Condensed into one paragraph.)*

It was stated above that Frank Brushaber "filed this law suit on behalf of his foreign principals." Actually, in his Bill of Complaint, filed on 3/13/14, with the District Court of the United States, Southern District of New York, he

*brings this his bill against Union Pacific Railroad Company, a corporation and citizen of the State of Utah **[wrong, see above]** 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 **[but its residence and tax home in the District of Columbia]** **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. (Emphasis added.)*

For the average American this should be, beyond contention, the most momentous, and consequential Supreme Court case ever tried together, of course, with the beautifully lucid TD 2313, which implements it. For, they nail down two major points: the unambiguous and unarguable definition of the United States, and the income tax obligations of most Americans due to their relationship to this particular United States namely, NONE.

It seems almost beyond belief that these two precious documents were ignored by the American taxpayer, at the time. Reading them today, it is indeed unfathomable that they did not become a watershed event, completely precluding the events that have ensued. As it happened, however, not much happened until over half a century later. But, since then, many thousands of previous taxpayers have elected out of the system. In section 2 I mentioned where the code permitted this, at 26 USC 6013 (g) Election to treat nonresident alien individual as resident of the United States (4) Termination of election (A) Revocation by taxpayers, which allows a nonresident alien to re-establish his/her previous status (one time only see subsection 5), after having knowingly or unknowingly elected to "be treated as a resident of the United States." (6013(g)(1).) In other words, this is an escape hatch to get out of the system that one almost always inadvertently entered, when filing his/her first Form 1040 in order to get a refund, at the age of 14. One thereby declared oneself a resident of the District United States, as well as a statutory "U.S. citizen" per 8 U.S.C. §1401, for tax purposes. But, Section 6013 allows one to revoke this uninformed choice. I won't go into why such relief must be written into statutory law, but believe me, they wouldn't do it if they didn't need to.

After pondering the matter, I have concluded that it is incumbent upon me to at least reveal that there is, as I just discovered two weeks ago (this is July, 00) a company that takes people through this process by writing a minimum of 22 letters! and with results

guaranteed. I spoke with the founder, as well as reading the company's sufficiently extensive literature which was in absolutely precise agreement with the interpretation in the instant paper. I found him to be a very knowledgeable, sympathetic, and easygoing individual, and I have no reason to doubt him when he says that his company has experienced over 400 successes, in less than a year and no failures. After all, why should it, it is based on IRC regulations and each individual's true state of affairs?

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## 15. A brief interlude on the plain meaning rule.

Understanding the precise wording of statutes or the code and its regulations, as above, is of utmost importance. For

*no citizen shall be imprisoned or otherwise detained by The United States except pursuant to an act of Congress. ([18 USC §4001\(a\)](#))*

So, at least theoretically, one is on safe grounds if one abides scrupulously by the words of Congressional laws. In [Gould v. Gould, 245 US 151](#), the Supreme Court states that the courts must do the same:

*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 operation 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. (Emphasis added.)*

The 9<sup>th</sup> Circuit, in 1986, expands on this definitively, I believe:

*We begin our interpretation by reading the statutes and regulations for their plain meaning. The **plain meaning rule** has its origin in [U.S. v. Missouri Pacific Railroad, 278 U.S. 269 \(1929\)](#). There the Supreme Court stated that "where the language of an enactment is clear and construction according to its' terms does not lead to absurd or impracticable consequences, the **words employed are to be taken as the final expression of the meaning intended**"...The principle was more recently affirmed in [Dickinson v. New Banner Institute, Inc., 460 U.S. 103, 103 S.C. 986, 74 L.Ed.2d 845 \(1983\)](#), rehearing denied, 461 U.S. 911, 103 S.C. 1887, 76 L.Ed.2d 815 (1983), where the Court stated, "In determining the scope of a statute, one is to look first at its language. If the language is unambiguous, ... **it is to be regarded as conclusive** unless there is a clearly expressed legislative intent to the contrary." [*United States v. Varlet, 780 F2d 758 at 761. (Emphasis added.)*]*

It is, of course, a struggle to compel the IRS to follow its own rules and regulations as regards, for example, the voluntary nature of submitting a Form W-4. They will give in on this, but usually not without a fight.

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## 16. U.S. residents and state Citizens.

In 1957 was published the second volume of an extremely important study, put out by the federal government: Report of the Interdepartmental Committee for the Study of Jurisdiction over Federal Areas with States. A text of the Law of Legislation Jurisdiction. It established, in painstaking detail, that only persons residing within the legislative jurisdiction of the U.S. Congress are residents of that jurisdiction i.e., are U.S. residents. It is made exhaustively manifest that this Congress does not extend the jurisdiction of its legislative umbrella beyond the Constitutionally restricted boundaries of territories of the United States, "belonging to" its "exclusive sovereignty" "in all cases whatsoever," e.g. the federal zone (D.C., the federal States, possessions, and enclaves). In other words, the powers of the federal government are limited to and specifically defined at 1:8:17 of the Constitution, where Congress can:

*exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) [which will] become the Seat of the Government of the United States, and 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...*

Of course, today it has got totally out of control, with the U.S. said to "own" over 900,000 square miles of territory in the union states!! (The size of Texas is 267,339 square miles.) But, this is another story. Suffice it to say, the fact that it has happened does not make it legal or lawful.

The state Citizen, then, is legislatively alien to and is not subject to the exclusive jurisdiction and sovereignty of the territorial "United States". Of course the Frenchman who resides here must pay income tax, but the American state Citizen is almost totally free therefrom. (I qualify this elsewhere.) Remember Matthew 17, 25-26?

*Tell me, Simon, from whom do earthly monarchs collect tribute money? From their own people, or from aliens [others or strangers, in other translations]? From aliens, said Peter. Yes, said Jesus, and **their own people are exempt**. (KJV. Emphasis added.)*

Most Americans are constitutionally exempt just as sovereign state Citizens are exempt from State income tax, which is very clearly

spelled out in the statutes at least in those of the California Republic as you will soon see. Incidentally, when we use the word "exempt", we don't mean it in a STATUTORY context, but in an ordinary context. This means that we are really implying that they are "not subject" to any provision of the civil law found in the Internal Revenue Code Subtitles A and C "public office" franchise tax. To be statutorily "exempt", on the other hand, implies that you are a "person" and an "individual" subject to the franchise because lawfully occupying a public office in the U.S. government, but who has no liability by virtue of a privileged exemption found within the franchise contract itself.

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## **17. Resident alien, reside, domicile, and more on resident.**

Having discussed nonresident alien, I think that I should elaborate more on the resident part of it, as well as the terms resident alien, and reside, and domicile.

*The term resident has not a technical meaning. In some statutes and for some purposes it means one thing, and in other statutes and for other purposes it means another thing." (U.S. v. Nardello, D.C. 4 Mackey 503. Also, see Black's Law Dictionary, art. residence, etc.)*

This is true, but it isn't too hard to find a common thread running through its usage. Yet, for a full understanding there are a few collateral terms and factors that one must deal with.

To begin with, let's look at the 18<sup>th</sup> century classic of Emer De Vattel, *Law of Nations*:

*Residents as distinguished from citizens, **are aliens** who are permitted to take up a permanent abode in the country. (Section 213, 1758.)*

This might help us to realize that resident is really short for resident alien! It refers to someone who indicates a desire to remain in one state/nation/country (these words are synonymous in international law which is what we are dealing with) while retaining a domicile and, usually, citizenship in another i.e., a resident is someone who is foreign to the state/nation/country in which they reside, and, therefore, termed a resident alien though alien, of course, is almost always left off. It would raise too many questions, to ask you on your application for a hunting license if you were a resident alien, rather than a resident, of the State! There are well over 200 million Americans who are resident aliens where they live, because they claim to be, and in the eyes of the government therefore are, domiciled in the District U.S., where ALL federal statutory "U.S. citizens" are domiciled. Not where they live, but where their legal tax home is.

And, just where, precisely, is their legal tax home? One startling definition is found in Subtitle C Employment Tax 26 CFR 31.3121(e)-1(b), where it says:

*The term **citizen of the United States** includes [is limited to] a citizen of the Commonwealth of Puerto Rico or the Virgin Islands, and, effective January 1, 1961, a citizen of Guam or American Samoa. (Emphasis added.)*

State Citizens, of course, are domiciled in their non-corporate state, Republic, or Commonwealth. They never claim to be residents in "the State of " on corporate State license applications, etc. For this would be interpreted as them claiming to be a resident alien always! And, remember who is taxed? The foreigner, not the Citizen at least not in our constitutional Republic.

Actually, one is not obligated, legally, even to pay sales taxes, if the purchases are taken out "of the State," into the Republic, say, by taking them to your living quarters, which is not in the federal zone. But, few businesses will sign the paper, without an O.K. from the Tax Board and they won't give it. I've tried.

In brief, every American who classified him/herself as a corporate statutory "U.S. citizen" franchisee, residing in one of the 50 corporate States is also considered to be a statutory "resident alien". This is because, although s/he is residing in a constitutional but not statutory "State", s/he is domiciled in the federal zone and, therefore, is an "alien". Under Federal Rule of Civil Procedure 17(b), the public office he or she occupies as a statutory franchisee has a domicile in the place the "United States" federal corporation was created, and therefore has an effective domicile in the District of Columbia regardless of where he or she physically resides. QED, s/he is a resident alien, and is taxed on the privilege of residing in the State.

(I analyze elsewhere the term of art, in detail. And you will see that astonishingly! it refers only to the federal territory in the geographical state and that you unknowingly perjure yourself in claiming to reside there.)

State income tax is an excise tax, just like federal income tax meaning it is payment for a privilege received.

*"A foreign business corporation for venue purposes, resides in [the] county where its registered office and agent is located. "*

*[State ex rel. Bowden v. Jensen, Mo. 359 S.W. 2<sup>nd</sup> 343, 351] (Emphasis added.)]*

That is, a resident is a foreigner, here doing business in a corporate county.

Of course, if one were to live in, say, the Republic of California, rather than the corporate State of California, that would be another

matter, altogether. One does this simply by declaring on a form that I understand every state provides (in California it is Form 590), that one is a resident of, say, "California," *not* the "State of California." And, presto! it declares that his or her employer is no longer required to withhold any tax. Furthermore, the employer is instructed to keep this; not to send it to the tax office. In California this is the Franchise Tax board, where they are charged with collecting guess what? "Resident Income Tax," i.e., from resident aliens, residents of the State, not of California, California Republic, or California state.

Let me review. A resident of and in the territorial U.S. (usually the District of Columbia) includes everyone who is a non-visitor, i.e., who intends to remain for an extended length of time. That could be nonresident aliens from the states, who remain over 183 days in a given tax year; resident aliens, like Englishmen; and, of course, the citizens who live there. The first two categories are alien, because they are domiciled elsewhere. After a year, say, the Citizen of California who returns to his/her state, reverts back to being a nonresident alien, with respect to the District United States. This is because s/he is domiciled (has his/her legal tax home) in California. S/he is alien to the federal zone, and no longer resident there. The Englishman remains a resident alien, no matter where he lives and works in America whether the federal zone or the 50 states. For, he is domiciled in England, and resident in America.

Now I will move on to some pertinent IRC and CFR sections relating to nonresident aliens. This is quite important, of course, and is the reason why one submits a [Form W-8](#) to one's employer (not the IRS). This should be obvious from 26 CFR "31.3401(a)(6)-1(b), which said:

**Sec. 31.3401(a)(6)-1 Remuneration for services of nonresident alien individuals.**

**Remuneration paid to a nonresident alien individual for services performed outside the [federal] United States is excepted from wages and hence is not subject to withholding. (Emphasis added.)**

Or, from the 1954 IRC section 6012:

**(a) GENERAL RULE Returns with respect to income taxes under Subtitle A (5) nonresident alien individuals not subject to the tax imposed by 871 may be exempted from the requirements of making returns (Emphasis added.)**

Again, in [26 CFR §1.871-7](#) Taxation of nonresident alien individuals not engaged in trade or business [in the District U.S.]:

**(a) Imposition of tax. (1) a nonresident alien individual is not subject to the tax imposed by section 1 [of Subtitle A]. (Emphasis added.)**

Certainly, the 50 states are ruled out, by [26 CFR §1.911-2\(g\)](#), which states that:

**The term "United States" when used in a geographical sense includes [is restricted to see below] any Territory under the [complete] sovereignty of the [federal] United States**

Therefore, a state Citizen would be alien to that jurisdiction. And, not living in a federal zone, would be nonresident thereto. Therefore, unless they claimed otherwise, as *most do*, practically every American, in the 50 states, not working for the government (federal, State, or municipal) would be a nonresident alien, by default. For such state Citizens do not fall under the definition in 26 CFR §1.1-1(c), which states that

*every person born or naturalized in the [territorial] United States and [completely] subject to its jurisdiction is a [U.S.] citizen.*

Also, Section 2(d) of the IRC Nonresident aliens is quite clear and concise:

*In the case of a nonresident alien individual, the taxes imposed by sections 1 [individual graduated income tax] and 55 [alternative minimum tax] shall apply only as provided by section 871 or 877. (Emphasis added.)*

[Section 871\(a\)](#) is for nonresident aliens who have a 30% tax imposed upon earnings received from sources within the [federal] U.S. [Section 871\(b\)](#) deals with income effectively connected with a trade or business [as a federal government employee] within the [federal] U.S., or for one having a corporate office there, for which the regular Subtitle A graduated tax is imposed. [Section 877, Expatriation to avoid tax](#), is of little relevance.

Therefore, as [26 USC §864\(c\)\(4\)\(A\)](#) states:

**Except as provided in subparagraphs (B) or (C) [which have to do with tax liabilities of nonresident aliens and foreign corporations with offices within the federal zone] no income, gain or loss from sources without [outside] the [federal] United States [e.g., in the union states] shall be treated as effectively connected with the conduct of a trade or business within the United States. (Emphasis added.)**

Being a nonresident alien, of course, also affects withholding Subtitle C. It states in [26 USC §3401\(a\)](#) Wages:

**(a) For the purpose of this chapter, the term wages means all remuneration (other than fees paid to a**

public official) for services performed by an employee to his employer except that **such term shall not include remuneration paid (6) for such services, performed by a nonresident alien individual** (Emphasis added.)

It is absolutely crucial to understand the meaning of the term of art wages. Like almost everything else in the code, it is spelled out, if one looks for it with some exceptions, as was seen with the phrase several States. But, here, it is out in plain sight. In [26 CFR §31.3401\(c\)](#) Employee it states:

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

Of course, they try to confuse and confound matters by using the unmodified word of art State. But, I hope I have adequately clarified that, above. Wages, are earnings paid to federal government employees though the term Federal personnel, as defined at [5 USC §552a\(a\)\(13\)](#), is a more comprehensive category. These are those whom federal law applies to outside the federal zone, in the matter of wages, as in all other matters:

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

Wages are not compensation paid for the labor of a nonresident alien. This is further stressed in [26 CFR §1.1441-3](#) Exceptions and rules of special application, where it states:

**(a) Income from sources without [outside] the [federal] United States.** to the extent that items of income constitute **gross income** from sources without the [District] United States, **they are not subject to withholding.** (Emphasis added.)

How it is that this can be misinterpreted is beyond me!

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## **18. The Buck Act and its Federal areas.**

No delving into the meaning of the term state or State would be complete without mention of the Buck Act. Congress passed the "Public Salary Tax Act of 1939" (4 USC 111) with the purpose of taxing all federal and State employees, as well as those living and working in the federal zone. It became, thereby, municipal law for D.C. and the territories, etc. The next year the government pulled what many believe to be one of its most devious ploys: It passed the Buck Act (4 USC 104-110), Section 110(e) of which reads:

*The term Federal area means any **LANDS OR PREMISES held or acquired by or for the use of the United States or any department, establishment, or agency of the United States;** and any Federal area, or any part thereof, which is located within the exterior boundaries of any State, shall be deemed to be a Federal area located within such State.* (Emphasis added.)

This one sentence was the tinder box that ignited a much ballyhooed controversy about what the federal government could do and has done i.e., the intent and meaning of the Act. Richard McDonald and Paul Mitchell have propounded the view that this Act sanctions the creation of Federal areas within any State, such as has been done by the Social Security Board and the U.S. Postal Service, with their 2-letter designations for each State, like CA.

I don't read this from the Buck Act, personally. The ZIP code areas, for example, do refer to federal areas not however, to "**Federal areas**" of the Buck Act. I can certainly understand why a real stickler would balk at accepting mail at such an address, if s/he didn't want to admit to living in a federal area. But, firstly, it is certain that this is not a sufficient reason for obligating anyone to file a tax return. And, secondly, the Buck Act was simply not needed to establish such areas, and others. Every alphabet soup agency utilizes areas across the country, but they have no relationship to any "lands or premises" held by the federal government. I believe it is simply an administrative decision to form these areas. If I am wrong, then I must be shown proof in the few brief paragraphs of this short and simple Act.

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## **19. "Includes" and more on resident.**

I have used the term includes many times, and since it is impossible to interpret the USC correctly without a proper understanding of this term, I will give some detailed attention to its definition and usage in legal writings. I will start by focusing on resident, as found in the laws of the STATE OF CALIFORNIA although I am confident that only insignificant details will vary from corporate State to corporate State.

For example, in my case, I am not now, and never have been, a resident of the corporate STATE OF CALIFORNIA, because this

term of art refers to one who lives on any federal territory located within the borders of California, such as a military base.

The word resident is a term of art that has a special meaning in the STATE OF CALIFORNIA CODE (which is how it is often written). The General Provisions of this Code, Section 17014, defines resident, in pertinent part, as:

1. Every individual who is in this state for other than a temporary or transitory purpose.
2. Every individual domiciled in this state who is outside the state for a temporary or transitory purpose. (Emphasis added.)

Unfortunately, the above definition of resident is deceptive, because it must be understood that the phrase in this state in (1) and (2), is another term of art, which has a special meaning that is precisely defined in the Code's General Provisions, Section 6017, and Assessments Section 11205:

*In this State or in the State means within the exterior limits of the State of California and **includes** [is limited to] all territory within these limits owned by or ceded to the United States of America. (Emphasis added.)*

(As shown above, this use of United States of America is a constitutionally unauthorized usage, sometimes employed by the corporate federal United States, misleadingly to designate itself, or one of its agencies. It must not be confused with the original meaning of that phrase, as found in the Declaration of Independence, and Article I of the still valid Articles of Confederation: "The title of this confederacy shall be The United States of America." which is the name of the delegating authority, not that agency [the United States] to which the U.S. Constitution later delegated specific limited powers within the states, at 1:8, or plenary powers within the federal zone, at 4:3:2.)

The above definition of in this state still does not clarify the meaning of the term resident, however, until the special meaning of yet another *painted word*, includes, is understood.

While it would be easy to assume that the above definition means "all land within the borders of California, and does not exclude federal territory therein," the proper interpretation is fundamentally and crucially different! What is really meant, is that land in this State refers only to "territory within these limits owned by or ceded to the United States of America" (i.e., an agency of the corporate federal U.S. government).

I believe that it is beyond contention that the use of includes is meant to mislead and deceive. The law writers prove themselves to be able to be completely unambiguous when a forthright statement is called for as [26 USC §6103\(b\)\(5\)](#) or [4612\(a\)\(4\)](#), quoted in section 6, above. However, the correct interpretation of this term, as used in all corporate State and federal codes and regulations, has been made quite clear, if one probes deep enough.

For instance, if one goes back to the January 1, 1961 revision of Title 26 Code of Federal Regulations, at Section 170.59, it states:

*Includes and including shall not be deemed to exclude things other than those enumerated [i.e., by the example given by the class example] **which are in the same general class.**" (Emphasis added.)*

The example represents the class and that class only! Which is to say, if Puerto Rico is given as a class example, this would indicate that no union state, being party to the Constitution, could be referred to, since Puerto Rico is not yet, at least, a union state.

As the Supreme Court has put forth several times, the statutes must be assumed to be written exactly, and, therefore, taken to mean precisely what they say. (This will be painfully obvious, when we read Public Law 86-624, below.) So, no meaning can be imputed into their words, other than specifically what is written. Therefore, what is excluded must be interpreted to mean that it was intended to be excluded.

This revision of 1961, is where this essential qualification of "includes" was introduced, although this concept has been accepted in law for millennia. For example, in the maxims: the *Ejusdem generis* rule (of the same kind, class, or nature), as well as *Noscitur a sociis* (it is known by its associates) and *Inclusio unius est exclusio alterius* (the inclusion of one is the exclusion of another).

It is interesting, although not unexpected or important, that it was watered down in the most recent revisions, for the older version still has legal force and effect. Now, the code tries to disguise things by saying, in [26 USC §7701\(c\)](#) 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.**"*

This, of course, is a desperate effort which, for the most part has succeeded! to obfuscate the earlier phrasing: "which are in the same general class." But, for anyone with half a mind, it is seen to be just the same old smoke and mirrors.

A Supreme Court ruling supports this in [Montello Salt Co. v. Utah, 221 U.S. 452 \(1911\), at 455-456](#):

*"The determining word is, of course the word 'including.' It may have the sense of addition, [221 U.S. 452, 465] as we have seen, and of 'also;' but, we have also seen, 'may merely specify particularly that which belongs to the genus.' Hiller v. United States, 45 C. C. A. 229, 106 Fed. 73, 74. It is the participle of the word 'include,' which means, according to the definition of the Century Dictionary, (1) 'to confine within*

something; hold as in an inclosure; inclose; contain.' (2) 'To comprise as a part, or as something incident or pertinent; comprehend; take in; as the greater includes the less; . . . the Roman Empire included many nations.' 'Including,' being a participle, is in the nature of an adjective and is a modifier."

Even more interesting, considering its source, is Treasury Definition 3980, Vol. 29, January-December, 1927, pages 64 and 65, where the terms includes and including are defined as follows:

(1) To comprise, comprehend, or embrace (2) To enclose within; contain; confine 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 is obviously used in the sense of its synonyms, **comprising**; comprehending; embracing. (Emphasis added.)

In the [Montello case](#), above, the U.S. Supreme Court, puts its cachet to this view:



**"...The court [the Supreme Court of the State] also considered that the word 'including' was used as a word of enlargement, the learned court being of opinion that such was its ordinary sense. With this we cannot concur. It is its exceptional sense, as the dictionaries and cases indicate. We may concede to 'and' the additive power attributed to it. It gives in connection with 'including' a quality to the grant of 110,000 acres which it would not have had, -the quality of selection from the saline lands of the state. And that such quality would not exist unless expressly conferred we do not understand is controverted. Indeed, it cannot be controverted...."**

Some 80 court cases have chosen the restrictive meaning of includes, etc., such as this one last example:

*Includes is a word of limitation. Where a general term in Statute is followed by the word including the primary import of specific words following quoted words is to indicate restriction rather than enlargement. (Powers ex rel Dovon v. Charron R.I., 135 A. 2<sup>nd</sup> 829)*

To elucidate more clearly the 1961 definition, above: includes and including shall not be deemed to include things not enumerated, unless they are in the same general class. For instance, State, in [26 USC §7701\(10\)](#): "The term State shall be construed to include the District of Columbia " Here, "the District of Columbia," without any doubt, is not "in the same general class," category, or genus as Missouri or California it is a federal "State." The District of Columbia has a totally different jurisdictional set up than a union state. It is under the absolute jurisdiction of the U.S., and the states are not. Only in the federal zone does the U.S. have *jura summi imperii*, right of supreme dominion, complete sovereignty.

For further extensive details on how the words "include" and "including" are abused to unlawfully enlarge federal jurisdiction within states of the Union, see::

 [Meaning of the words "includes" and "including"](#)  
 <http://famguardian.org/Subjects/Taxes/FalseRhetoric/Includess.pdf>

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## 20. Jurisdiction and more on "State"

And, just what is jurisdiction? It was defined as "the power of a court to apply the law and to enter and enforce judgement," in *Jones v. Brinson*, (N.C.) 78 S.E. 2d 334, 337. Or, it was said to be "the power to declare the law." (*Bullington v. Angel*, 220 N.C. 18) The U.S. obviously cannot do these things in a union state. It cannot "exercise exclusive legislation in all cases whatsoever," in the 50 states, as the Constitution says it can in the federal zone:

*It is a well established principle of law that all federal legislation applies only **within the territorial jurisdiction** of the United States unless a contrary intent appears. *Foley Brothers, Inc. v. Filardo*, 336 U.S. 281 (1948) (Emphasis added.)*

*Act of Congress includes [is restricted to] an act of Congress **locally applicable** to and in force in the District of Columbia, in Puerto Rico, in a [federal] territory or in an insular [federal] possession. Rule 54(c), **Federal Rules of Criminal Procedure**. (Emphasis added.)*

***It is clear** that Congress, as a legislative body, exercises two species of legislative power: the one, limited as to its objects but extending all over the Union; the other, an absolute, exclusive legislative power over the District of Columbia." *Cohens v. Virginia*, 6 Wheat. 264, 5 L.Ed. 257. (U.S. Supreme Court, 1821. Emphasis added.)*

*[There can] be no complete [legal] code for the entire United States [of America, i.e., the union states], because the subjects which would be regulated by the code in the [union] [s]tates **are entirely outside the legislative authority of Congress**. (Justice Walter S. Cox, of the Supreme Court of the District of Columbia, in a speech to the Columbia Historical Society, 12/5/1898. Emphasis added.)*

*A State does not owe its origin to the Government of the United States, in the highest or in any of its branches. It was in existence before it. It derives its authority from the same pure and sacred source as itself: The voluntary and deliberate choice of the people...**A State is altogether exempt from the jurisdiction of the Courts of the United States, or from any other exterior authority,** unless in the special instances where the general Government has power derived from the Constitution itself. Chisholm, Ex'r v. Georgia, 2 Dall. 419, 448 (1794). (Emphasis added.)*

That is, Congress can only exercise such power when carrying out the constitutional mandates of the special legislative jurisdiction authorized at 4:3:2, where it states that it "shall have Power to dispose of and make all needful Rules and Regulations respecting the territory or other Property belonging to the United States " (Emphasis added.)

Surely, not South Dakota! To operate there, at all, would require general legislative powers those 17 that are specifically and precisely set forth at 1:8 of the U.S. Constitution and, hence, referred to as the enumerated powers of the United States.

For: "Legislation is presumptively territorial and confined to limits over which the law-making power has jurisdiction. ([Sandberg v. McDonald, 248 U.S. 185.](#)) And: "All legislation is prima facie territorial." ([American Banana Co. v. United Fruit Co., 213 U.S. 347.](#))

Or look at [18 USC §5](#):

*The term United States, as used in this title in a territorial sense, includes all places and waters, continental and insular, **subject to the [complete] jurisdiction of the United States,** except the Canal Zone.*

Having established, above, how the misleading term includes must be interpreted in all the codes, it follows, then, incontrovertibly, that "in this State" means those areas which are not only within California's borders, but are also owned by or ceded to the corporate United States. Which means that since they are outside of the general class, then **any and all non-federal areas like where i live are not in this state.**

Therefore, the term resident, in the Code of any State or in the 48 U.S. titles means someone who is in a federal territory "within the exterior limits of [say] the State of

California" (such as the Presidio) for other than a temporary or transitory purpose **OR ELSE CLAIMS TO BE**, by declaring him/herself to be a resident of the State (as almost everyone does).

In light of the above, one is reminded of a remark by Jeremy Bentham (1748-1832) about words of art, which he defined interestingly:

*When **leading terms** [as he calls them] are made to chop and change their several significations, sometimes meaning one thing, sometimes another, at the upshot perhaps nothing, and this in the compass of a paragraph, one may judge what will be the complexion of the whole context. (Emphasis added.)*

I like a phrase that is not commonly encountered, and that I have never seen used in this context: weasel word or here, perhaps, weasel phrase. It is perfect, indeed nonpareil, for indicating the usage of terms of art, such as United States, State, or resident. To quote *Webster's New Collegiate Dictionary*:

*[fr. the weasel's reputed habit of sucking the contents out of an egg while leaving the shell superficially intact]: a word used in order to **evade or retreat from a direct or forthright statement of position.**" (Emphasis added. Brackets in original.)*

Look in the General Provisions, section 6017:

***In this State or in the State*** *In this State or in the State means within the exterior limits of the State of California and includes [is restricted to] all territory within these limits **owned by or ceded to the United States of America.**" (Emphasis added.)*

For example, if you live in the Presidio. This is repeated verbatim in the State of California Revenue and Taxation Code, section 11205. And, section 17018:

***State*** *State includes [is limited to] the District of Columbia, and the possessions of the United States. (Emphasis added.)*

Or, in General Provisions, section 18:

***State*** *State means the State of California [not California, California state, or California Republic], unless applied to the different parts of the United States. In the latter case, **it includes [only] the District of Columbia and the territories.***

Do you get that? If reference is made to the States of the United States, this encompasses only D.C. and the territories. Those are the only states of the federal corporate district U.S.! And, don't be thrown by State meaning State of

California. Reference is to the corporate, contract, private law State. They exist side by side. The Governor and all other s/State officials wear two hats one for when they are involved in corporate State activities, and one for when they are occasionally involved in common law actions. And, to really confuse matters, there are those, like Dave Hinkson, who believe that the corporate States are sub-corporations of the District U.S.

Of course, back in 1869, when the Court in Washington Territory said: "A Territory is not a State, nor is the word State used as synonymous with Territory," things were quite different than today. (*Smith v. United States*, 1 Wash. T. 262.)

Remember Form 590, where one declares oneself a resident of California? This means that then one would not be a resident of the State of California, and thereby federalized to a status where one must pay both federal and corporate State taxes. If the reader requires more than this for entertainment, s/he has a higher threshold of enjoyment than I do!

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## **21. More on resident and nonresident**

It is ultimately necessary to quote [26 USC §865\(g\)\(1\)\(A\)](#) and (B) in order to understand fully what the code means by resident and nonresident :

*"(A) **United States resident.** The term United States resident means (i) any individual who (I) is a [federal] United States citizen or a resident alien and does not have a tax home (as defined in section 911(d)(3) ) in a foreign country [like way back in Nebraska], or (II) is a nonresident alien and has a tax home (as so defined) in the [federal] United States, and (ii) any corporation, trust, or estate which is a United States person (as defined in section 7701(a)(3) ). (B) **Nonresident.** The term "nonresident" means any person other than a [District] United States resident. "*  
*(Emphasis added.)*

This probably requires exegesis! First, (i)(I). This means that to be a statutory "U.S. resident" you have to be either a citizen of the District U.S. (i.e., D.C., the territories or enclaves) or an alien, such as a union state Citizen or, say, a German, not having his business location without (i.e., outside) the District U.S. e.g., in Missouri or Germany. That is, a sovereign state Citizen can temporarily be a "U.S. resident," for tax purposes, that year, and not lose his state Citizen status, when he changes his tax home back to his home state. (II) A "nonresident alien" (i.e., someone who is neither a statutory "citizen" or statutory "resident" of the [corporate] U.S., as defined in [26 USC §7701\(b\)\(1\)\(B\)](#), above) can also be a statutory "U.S. resident" if and when his tax home is in the District U.S. And (B) "nonresident" means just what the forgoing code section also said someone who is not a District U.S. resident, such as a state Citizen or a non-immigrant Japanese no matter where s/he is living.

A state Citizen/nonresident alien, however, can owe "income tax" to the federal government, without having his tax home there. The IRC, at section [872\(a\)](#) General rule, states:

***In the case of a nonresident alien individual gross income includes only** (1) gross income which is **derived from sources within** the [District] United States and which is not effectively connected with the conduct of a trade or business within the [federal] United States [like interest on government bonds], and (2) gross income which is effectively connected with the conduct of a trade or business within the [corporate] United States." (Emphasis added.)*

Or [26 USC §871\(b\)\(2\)](#):

***Determination of taxable income.** In determining taxable income gross income includes only gross income which is effectively connected with the conduct of a "trade or business," within the [District] United States.*

Incidentally, one reads in [26 USC §7701 \(a\)\(26\)](#): "Trade or business. The term trade or business includes [i.e., is restricted to] the performance of the functions of a public office" i.e., in a general sense, anyone working for the government.

By extension, one can see that for a District U.S. citizen the situation is just the reverse of that of a state Citizen. That is, if a federal statutory "U.S. citizen" franchisee earns remuneration from without the District U.S., in one of the 50 foreign countries called union states, then that is correctly termed "*foreign earned income*," which requires [Form 2555](#) titled just that, Foreign Earned Income. This, of course, is almost universally misinterpreted, because of the intentionally misleading ambiguity of the terms of art State and United States .

This is made crystal clear, however, in the Instructions for [Form 2555](#):

*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** [like Iowa or Illinois]. It does not include the U.S. possessions or territories. (Emphasis added.)*

Volume 20 of Corpus Juris Secundum 1785, states that the United States is a foreign Corporation with respect to a State. Leaving aside numerous case cites, one can go to the code itself [28 USC §297](#):

**Assignment of judges to courts of the freely associated compact states** (b) The Congress consents to the acceptance and retention by any judge so authorized of reimbursement from the **COUNTRIES** referred to in subsection (a) , [where it indicates that they are speaking of] **the freely associated compact [union] states**. (Emphasis added. Other similar quotes will be found at the end of this paper.)

Lastly, *Black's Law Dictionary*, 6<sup>th</sup> edition, defines Foreign state as "A foreign country or nation. The several United States are considered foreign to each other except as regards their relations as common members of the Union."

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## **22 Private international law.**

Americans, especially, when they have to do with the law, must learn to think internationally. As well put in 16 Am Jur 2d, art. Conflict of Laws, 2:

*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 (Emphasis added.)*

In the words of the Rhode Island Supreme Court:

*In the sense of public international law, the several states of the union are neither foreign to the United States nor are they foreign to each other. But such is not the case in the field of private international law. That it is the settled view of the [United States] Supreme Court that, on questions of private international law, the states are foreign to the United States would seem to be clear from the decision in *State of Wisconsin v. Pelican Ins. Co.*, 127 U.S. 265. *Robinson v. Norato*, 71 R.I. 25, 643 A 2d 467 (1945). (Emphasis added.)*

To clarify:

*Public international law deals with the authority the federal government has been granted to represent American interests OUTSIDE of American society. Private international law deals with the authority the federal government has WITHIN American society. The U.S. Constitution grants to the federal government the exclusive right to represent American interests to nations outside American society. But there is no such authority granted to the federal government when dealing with the states of the Union and the people who live therein. Thus, the United States has no inherent legislative jurisdiction within the states of the Union except for those things that have been specifically delegated to the United States government in the U.S. Constitution. Remember, the United States government is a federal government with limited authority, not a national government (From an email transmission by Gerald Brown, 2/2/2000)*

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## **23. "Tax payer", "taxpayer", and nontaxpayer.**

I should point out that although we are all "tax payers", only some are "taxpayers". The tax payer pays countless taxes every day dozens on a loaf of bread, alone, as well as excise and sales tax on liquor, etc. But a statutory "taxpayer", as defined in the IRC, at [7701\(a\)\(14\)](#), is "any person subject to any internal revenue tax," and again at [§1313\(b\)](#):

*"Notwithstanding section [7701\(a\)\(14\)](#), the term taxpayer means any person **subject to** a tax under the applicable revenue law."*

(I never understood the need or point of "notwithstanding ")

And, concerning this, it is very important to note well the words of the decision in *Economy Plumbing Co. v. U.S.*, 470 F 2d 585:

*"Persons who are not taxpayers are not within the system and can obtain no benefit by following **procedures prescribed for taxpayers**." (At 589. Emphasis added.)*

*"The term taxpayer in this opinion is used in the strict or narrow sense contemplated by the Internal Revenue Code and means a person who pays, overpays, or is subject to pay his own personal income tax. A **nontaxpayer** is a person who does not possess the foregoing requisites of a taxpayer." (At 590, emphasis added.)*

*"The revenue laws are a code or system in regulation of tax assessment and collection. **They relate to taxpayers and not to nontaxpayers**." (At 589, emphasis mine. I find it amusing that "nontaxpayer" is red-flagged by my spellchecker. that's how brainwashed we are.)*

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## 24. More on foreign earned income and Form 2555.

Back to [Form 2555 Foreign earned income](#). A statutory "U.S. person" per 26 U.S.C. §7701(a)(30) i.e., a statutory "citizen" or "resident" of the "United States" as well as a domestic (i.e., District U.S.) partnership, corporation, estate, or trust residing and working in, say, New Mexico, certainly has income earned outside his domicile/legal tax home in the federal zone. It is, therefore, foreign earned income, and requires the filing of [Form 2555](#). A state Citizen of New Mexico would owe nothing on his earnings from within his/her state. Only if he received remuneration from D.C. or some other tax treaty country. Not every country it must be tied in with the District U.S. tax laws, by tax treaty. S/he can keep what s/he earns in Nepal, because they have no tax treaty with the U.S. Remember, that a state citizen nonresident alien American s gross income, to be taxable, must be derived only from sources within the District U.S., or a tax treaty country, not from his state of domicile, in Kentucky. (The requirements attending the gross income of a statutory "U.S. citizen" are addressed in section 26.)

Let me back up. One must begin with [26 USC §6012](#) "Persons required to make returns of income. (a) General rule. Returns with respect to income taxes under subtitle A shall be made by the following: " (Last emphasis added.) This is the only place in the IRC where a filing requirement for Subtitle A individual income tax is made reference to.

Better yet, let s go to the regulations for this section 1.6012-1 Individuals required to make returns of income:

**a. Individual [U.S.] citizen or resident** (1) *In general. Except as provided in subparagraph (2) of this paragraph, an income tax return must be filed by every individual [i.e., juristic person] for each taxable year beginning before January 1, 1973, during which he receives \$600 or more of gross income, and for each taxable year beginning after December 31, 1972, during which he receives \$750 or more of gross income, **IF such individual is:** (i) A citizen of the [territorial] United States, whether residing at home [in the federal zone] or abroad [outside the borders of the USA or in one of the 50 states], (ii) **A resident of the [territorial] United States** even though not a citizen thereof, or (iii) An alien bona fide resident of Puerto Rico during the entire taxable year. (Emphasis added.)*

In other words, [6012](#) only requires one of the above 3 categories of persons to file a return. If one were one of these, subparagraph (6) would, then, seem to apply and so hundreds of millions of taxpayers have believed, for many decades:

*(6) Form of return. Form 1040 is prescribed for general use in making the return required under this paragraph.*

This is not exactly incorrect, but it is only part of the story.

The Office of Management and Budget (OMB) provided a Document Control Number of 1545-0067, with respect to [26 CFR §1.1-1](#) Tax imposed, as well as "1.6012-0 Persons required to make returns of income. If one goes to the cross tables at [26 CFR §1.602.101](#), where the appropriate form is matched to every section in the IRC that requires one, s/he will find that the only form required and approved by the OMB is not [Form 1040](#), but [Form 2555](#) Foreign earned income. However, it does specify thereon: "Attach to Form 1040" (although a Form W-2 may be used, instead). Form 1040 is merely a worksheet and supplemental to Form 2555. So, it is, indeed, for "use in making the return," as stated above. It is, however, not usually used exclusively only collaterally, with Form 2555. And, when so used, it is for the purpose of claiming a refund, certain credits or deductions. If no such deductions are claimed, then the [Form 2555](#) is used alone which explains why a Form W-2 can replace [Form 1040](#).

One can see in [26 CFR §1.602.101](#), above, that immediately following [Section 1.1-1](#) comes [Section 1.23-5](#), whose OMB Document Control Number, 1545-0074, just happens to require Form 1040! And, this is to be used for the very important purpose of obtaining a tax credit, through "[c]ertification that an item meets the definition of an energy-conserving component or renewable energy source property." And, there are a number of other places in the cross tables where Form 1040 is exclusively paired to a given section in the IRC that are almost all for the obtaining of a credit, refund, or deduction not to discharge a tax liability with the exception of its use by federal employees for a certain purpose (see [4 USC §111](#)), and by fiduciaries of nonresident aliens, to be mentioned shortly.

To repeat, as regards filing a return for Subtitle A tax, both of these forms must be filed together that is, if one is a federal statutory "citizen" franchisee and wants deductions on income earned without (outside) the District United States. Indeed, there isn't even a place to affix one s signature on [Form 2555](#), although it does, understandably, request one s social security number, and "Name shown on Form 1040," or, of course, Form W-2, if one is claiming no deductions.

As I have indicated, however, Form 1040, can be used alone. For example, the lately oft-quoted Treasury Decision (TD) 2313, of March 21, 1916, states that Form 1040 is only to be used by **FIDUCIARIES** of nonresident aliens (NOT by the nonresident aliens themselves, back in Minnesota), to report and pay any tax on "income from property owned, and of every business, trade, or profession carried on in the [District] United States. received by them in behalf of their nonresident alien principals." (See the complete document in the Appendix.) That is, it is to be used by the withholding agents to report the income of the foreign (nonresident alien) principals e.g., someone living and working in Arizona.

Back to [Form 2555](#). For the last couple of years, a few hip taxpayers have complied with the above requirement, and have received refunds of up to the statutory yearly deduction of \$74,000, plus a generous housing allowance. Recently, however the IRS is usually stalling, claiming that the filing of a Form 2555 constitutes a frivolous return, and imposing a \$500 frivolous penalty charge which is

simple and certain to defeat, if one knows exactly how to proceed.

As a consequence, in 1995 they simply took mention of [Form 2555](#) out of the cross tables! It is still the law, you just can't see it, in recent yearly revisions! They say in response to queries, that its presence was too confusing!! I call it **really** confusing, not to tell the whole country what form to submit, in order to pay one's individual income tax!

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## **25. Duties of the Criminal Investigation Division (CID).**

Perhaps this is a good place to quote the duties of the CID. In the Internal Revenue Manual, Chapter 1100, Section 1132.75 it states:

*The Criminal Investigative Division enforces the criminal statutes applicable to income, estate, gift, employment, and excise tax laws involving [District] United States citizens residing in foreign countries [like Missouri and New Hampshire] and nonresident aliens subject to Federal income tax filing requirements [e.g., Oregonians having federal U.S. source income].*

In the many times that I have seen this mentioned, I have never witnessed it correctly interpreted. A typical retort is to ask where in the code or the IRM is there reference to Americans living and working in the U.S., as opposed to foreign countries. If you have read everything in this paper, you will instantly understand that the outlined duties are correctly defined and absolutely constitutional. As you know, if you file a Form 1040, you are swearing to being a District "U.S. citizen", and since you live in a foreign country (Georgia), you are, therefore, their legitimate meat. Actually, this quote validates what I have been saying. It may, indeed, be an embarrassment to the IRS, but not for the reasons that other people believe. It is because it verifies the fact that most taxpayers are foreigners to the District United States. And, note, by the way, that the CID works out of the **International** Office, in Philadelphia for, after all, it is concerned with collection from what we've seen private international law considers to be 50 foreign countries!

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## **26. Implementing regulations.**

Next, I want to show why understanding the vital role of regulations is crucial in determining to whom the codes apply as a background to speaking briefly of the keystone Sections 61 and 63 of the IRC.

At [26 CFR §601.702\(a\)\(1\)\(ii\)](#) Effect of failure to publish, it unambiguously states that:

*.any such matter which imposes an obligation and which is not so published or incorporated by reference **will not adversely change or affect a person's rights.** (Emphasis added.)*

One could also reference, among others, 25 CFR Part 601. But the strongest and most often quoted authority is at [44 USC §1505\(a\)](#) and [1507](#), which are part of the Federal Register Act, where it clearly says that if something is required to be published in the FR, and it isn't, then the individual involved cannot be adversely affected, and is held harmless. This has been upheld in several court cases.

E.g., I like the Renis, Murphy, and Mersky cases, and especially *U.S. v. \$200,000*. But I will limit myself to a quote from what seems to be considered the controlling case in this matter. The Supreme Court stated in [California Bankers Association v. Schultz, 416 U.S. 21, 26 \(1974\)](#):

*Because it has a bearing on our treatment of some of the issues raised by the parties, **we think it important to note** [when have you seen that before?] that the Act's civil and criminal penalties **attach only upon violation of regulations** promulgated by the Secretary; if the Secretary **were to do nothing, the Act itself would impose no penalties on anyone.** (Emphasis added.)*

IRC Sections 61 and 63 are two of the most important in the Code. In [26 USC §63\(a\)](#), it defines "taxable income," for Subtitle A Income taxes, as meaning "gross income minus the deductions allowed." This is purportedly clarified by Section 61, which reads:

**Gross income defined. (a) General definition.** *Except as otherwise provided in this subtitle, gross income means all income from whatever source derived "*

As the Supreme Court said in the California Bankers' Assoc. case just above, I think it important to note that these sections lack the required implementing regulations, as determined by referencing the Parallel Table of Statutory Authorities and Rules in the Index volume of the CFR. This stands to reason, of course, since, as has been shown, there have been, and can be, no constitutionally legitimate internal revenue districts established in the 50 states, pursuant to [26 USC §7621](#) and E.O. #10289, and, therefore, no such publication is necessary.

Since there are NO Part 1 (Income taxes) or Part 31 (Employment Tax) regulations for [26 USC §63](#) Taxable income defined, it is limited to determining taxable income only for such as government employees ([5 USC §301](#)); those residing and working within the federal zone; nonresident aliens and foreign corporations (back in Wyoming) deriving gross income from within the District U.S.;

and those under U.S. maritime jurisdiction.

Without any means to determine taxable income, which is the ultimate object of any tax collection activity, there is little point in pursuing any other matter! However, just for your general delectation, you might find it of interest that in [26 CFR §1.62-1](#), which defines adjusted gross income, we find that since subsections (a) and (b) are reserved, one must rely on 1.62-1T for the only definition of gross income. And, since T means temporary and temporary regulations have no legal force and effect, it is as if [62](#) had been expunged from the code. Indeed, for all intents and purposes it has; it's just still printed there.

This procedure is far from unusual, since, for example, every penalty and enforcement section in Subtitle F Procedure and Administration (where is found the feared [7203 Willful failure to file return, supply information, or pay tax](#)) has either no implementing regulations at all or else has been taken over by the Bureau of Alcohol, Tobacco, and Firearms, Title 27 and, thus, has **zero connection** to Subtitle A Income Taxes or Subtitle C Employment Tax. Of course, people go to prison for not knowing and availing themselves of this knowledge. Cases where the would-be taxpayer is known to know this are apparently dismissed before they reach court. Speak of embarrassing!!

I enjoy researching such matters. But, I would like to remind you that the question of whether or not one has gross income has pertinence **only if** one is subject to and liable for payment of income tax, in the first place! For what conceivable relevance could the precise definition of income or gross income have for someone not so subject and liable?! Arguing that one has none of this ill-defined stuff called income implies that if you did, then you believe that you would be subject to and liable for the payment of income tax.

Such a belief, which is shared by most taxpayers, stems from the assumption that earned property is the subject of income tax. Though both the House Congressional Record and the Supreme Court have decimated this position:

*The income tax is, therefore, not a tax on income as such. **It is an excise tax with respect to certain activities and privileges** which is **measured by reference to the income** which they produce. The income is not the subject of the tax: it is the basis for determining the amount of tax. House Congressional Record, 3-27-43, page 2580. (Emphasis added.)*

*Excises are "taxes laid upon the manufacture, sale or consumption of commodities within a country, upon licenses to pursue certain occupations [like working for the federal government], and upon corporate privileges." Cooley, Const. Lim., 7<sup>th</sup> ed., 680. ([Flint v. Stone Tracy Co., 220 U.S. 107, at 151 \(1911\)](#)). (Emphasis added.)*

And, they go on to say, "the element of demand is lacking. If business is not done in the manner described in the statute, no tax is payable." (loc cit, at 151-152. Emphasis added.)

A recent email-list communication from Dave Champion makes an exceedingly interesting observation about the courts approach to the idea of income tax being an excise tax. After reading a great number of tax cases, he found that:

*In every case in which the court rules that the tax is an excise, the court NEVER mentions citizenship and the defendant is always a Citizen of one of the states of the Union. However, in EVERY case where a federal court has ruled that the income tax is a direct tax without apportionment, the court ALWAYS adds,..."upon a citizen of the United States". ("Excise for Citizen of States of the Union , Direct Tax for Citizen of the United States ?" 4/2/00.)*

In other words, direct taxation, which is unconstitutional sans apportionment, is only possible for federal statutory "citizen/subjects" domiciled on federal territory and therefore subject to the civil franchise "trade or business" contract that implements the tax. While the court only imposes a tax on state Citizens by treating it as a privilege or excise tax, and without calling the defendant a U.S. citizen. This makes perfect sense, and is in harmony with what I have been saying.

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## **27 Status, "person", and "individual"**

A few words on claiming and establishing one's true status which is defined as

*"[a] legal personal relationship, not temporary in its nature **nor terminable at the mere will of the parties**."*

*[Black's Law Dictionary, 6<sup>th</sup> edition. Emphasis added.]*

State Citizenship is a status not created by either the corporate State or the common law state, but is a natural common law birthright.

The right to such a determination is also supported by an international treaty, to which the United States is a party:

International covenant on civil and political rights

*Article 1 All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development  
[U.N.T.S. No. 14668, vol. 999, p. 171 (1976)]*

To maintain one's status requires an ongoing effort. For it can all too easily be relinquished, as most have done. Ben Franklin said:

*"When men make sheep of themselves, the wolves will eat them."*

For example, I would venture that in almost all states (I know of at least one exception and it is not California), one cannot register as a qualified elector (voter) without certifying, under penalty of perjury, that s/he is a federal citizen. Someone told me that they had tried to register, stipulating that they were a de jure state Citizen, and therefore, a Citizen of the United States of America but not a statutory "citizen of the United States" per 8 U.S.C. §1401. He was not permitted to register. Although he pursued the matter to the Secretary of State, he received no explanation. The reason is that if the Secretary of State told the truth on the record, their FRAUD would have to end instantly, so they protect the truth with silence and lies.

*"The 'Truth' about income taxes is so precious to the U.S. government that it must be surrounded by a bodyguard of lies."  
[Family Guardian Fellowship]*

Far from being a birthright, everyone agrees that the statutory "citizen of the United States" found in 8 U.S.C. §1401 is was and is a statutory creation of congress that implements a protection franchise tied to domicile on federal territory in the statutory but not constitutional "United States", consisting of federal territory that subject to the exclusive jurisdiction of Congress. Originating from a corporation, called the United States, s/he is a fiction, just as is the "U.S." not a wo/man on the land. S/he is an abstraction, defined into being at the changing whim of the United States Congress, of which s/he is a franchisee and subject. As such, s/he is assigned statutory privileges, for s/he has no inherent, unalienable rights. S/he has a status comparable to a green card resident alien.

For example, it has been ruled more than once that the first 10 Articles of Amendment of the Constitution of the United States the so-called Bill of Rights do not apply to statutory "U.S. citizens" under 8 U.S.C. §. (They have their own, found in [Title 48, §1421b](#) "Bill of rights!!" without the 10<sup>th</sup> Amendment of the Constitution of the U.S., together with many other changes. However, being in the code, and therefore statutory and alterable, I believe that it would be more correctly termed a Bill of Privileges. )

*The privileges and immunities clause of the 14<sup>th</sup> Amendment protects very few rights because it **neither** incorporates the Bill of Rights **nor** protects all rights of individual citizens. Instead, this provision protects **only those rights peculiar to being a citizen of the federal government; it does not protect those rights which relate to state citizenship.**  
[Jones v. Temmer 829 F. Supp. 1226 (Emphasis added.)]*

The 14<sup>th</sup> Amendment starts off: "All persons " because that's who it addresses, Constitutional but not statutory "persons", who are people domiciled within states of the Union and outside the civil jurisdiction of Congress. A statutory "person" under acts of Congress, on the other hand, is an artificial entity, to which statutory law applies whether it be in the guise of a corporation or a human being. All the codes refer almost exclusively to these statutory but not Constitutional "persons". Only one time, in Title 26, for instance, is a legally necessary exception made when having to do with inoculations, and the phrase "human being" is used. For details on why nearly all civil statutes regulate and refer ONLY to government public officers and instrumentalities, see:

1.  [Why Statutory Civil Law is Law for Government and Not Private Persons, Form #05.037](#)
2.  [Why Your Government is Either a Thief or You are a "Public Officer" for Income Tax Purposes, Form #05.008](#)

It was mentioned above that the IRS records for all "taxpayers" are stored in 126 entity modules. You will find, in the lengthy definition of entity in *Black's Law Dictionary* (6<sup>th</sup> edition), that there is no reference to, nor any indication that this term could possibly apply to, a human being. An entity is, in part:

*[a]n organization or being that **possesses separate existence for tax purposes**. Examples would be corporations, partnerships, estates and trusts. (Emphasis added.)*

Indeed, there was a class action suit recently, in the D.C. District Court, by several hundred people, demanding to know why there are no Privacy Act tax records relating to them, which, of legal necessity, could only be personal records, i.e. of living human beings, not entity documents, as for a business. (For, without such records and they never exist then there is no legal justification even to be approached by the IRS.) The government tax attorneys admitted, in open court, that there were no such records for them. But the case was defeated on a technicality, because of a grossly incompetent attorney.

A fiction can only deal with a fiction. That is why the corporate government does everything it can to make you participate somehow in corporate activity. Thus, you become a statutory "person", "individual", or "resident". In other words, a federal statutory "citizen". Only by treating you as a fictitious corporate entity and public officer of the government and therefore government instrumentality, can they lawfully attempt to tax you. And, just for good measure, they impute to you drug dealing activities in the Virgin Islands, an excise taxable activity which also makes you a person, a juristic entity, which they can approach in court.

As was stated, federal and State statutes apply primarily to statutory "U.S. citizens" under 8 U.S.C. §1401. Theoretically, at least, state Citizens need not submit to them, except where they have to do with one of the 17 "Powers vested by this Constitution in the Government of the United States " (1:8:18).

For example, note the State of California CCP 1898. Public and private statutes defined states that

*Statutes are public and private. A private statute is one which concerns **only designated individuals**, and affects only their private rights. All other statutes are public, in which are included statutes creating or affecting **corporations**.*

*[Emphasis added. Notice how it always seems to come back to corporations.]*

Interestingly and importantly, another restriction is that such fictional creations as statutory "U.S. citizens" cannot invoke the common law Constitution of the state wherein they reside e.g., in California, the original one, of 1849, rather than the corporate statutory law substitute, of 1879, as amended which has not replaced it. For the 14<sup>th</sup> Amendment operates within admiralty jurisdiction, i.e., civil law, not common law.

For example, in California Republic the Constitution (1:11) provides state Citizens with a writ of habeas corpus. In 1872, however, it enacted in the Penal Code (Title 12, Chapter 12, Section 1473) a statutory writ of habeas corpus for other persons, who could not avail themselves of the former, because it operated under common law.

The main thing to remember is that de jure constitutional "Citizens" or "citizens of the United States", as well as the 200 plus million self-proclaimed statutory "U.S. citizens", owe their main allegiance to Uncle Sam. They are merely strangers, aliens, residing in their chosen States. Since the time the federal government was infused with unconstitutional powers by Lincoln, the states have become ever weaker. They merely act as "baby sitters," as Dave Champion puts it, for these statutory "U.S. citizen" franchisees, "tax consumers", and socialist government dependents.

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## **28. Conclusion and a note on the 861 argument.**

Having just completed the above paper, it occurred to me that it might be useful to summarize some of the main points covered, which go to prove that the usual interpretation of the Internal Revenue Code both by the general public and probably a majority of researchers in the Patriot Movement is not correct when it takes the term "United States", as used therein, to mean the whole nation, and the term "U.S. citizen", to refer to every American. Beliefs, as I have shown, which the government has done everything in its power to foster.

In my understanding, each of the twenty-one points, selected below, is prima facie evidence that the IRC does not refer to the 50 union states when employing the term United States unless specifically stating that it is only doing so in that particular instance.

I have tried to make them somewhat self-contained, in the event that they were to be read first. A fair rebuttal, however, would have to be of the full exposition of each position, and not of the synopses below.

All emphasis is added, except of code section titles, etc.

1. The Alaska and Hawaii Omnibus Acts, mandates that the IRC stop referring to Alaska and Hawaii as being States, upon their being made states of the union. Therefore, 26 CFR 31.3121(e)-1 State, United States, and citizen [revised April 1, 1999] now reads: "(a) When used in the regulations in this subpart, the term State includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Territories of Alaska and Hawaii before their admission as States " They were previously, then, federal States, which is what the IRC said it applied to. *Quod erat demonstrandum*. (QED, which was to be demonstrated. )

2. The foregoing means that the IRC admits that it no longer applies to these two states which, however, are constitutionally no different than the other 48 states. Therefore, the IRC applies to none of the 50 states. QED.

3. The findings of the Legislative Counsel and the Congressional Research Service, in reply to a request from Congresswoman Barbara Kennelly, state that: "The term state in 26 U.S. Code 3121 (e) specifically includes only the named territories and possessions of the District of Columbia, Puerto Rico, the Virgin Islands, Guam and American Samoa" not the 50 states. QED.

4. Title 26, §7621 Internal revenue districts reads: "(b) Boundaries. [T]he President may subdivide any State or the District of Columbia, or unite into one district two or more States." This, of course, would be unconstitutional (4:3:1), if reference were being made to the 50 states. So, obviously, it is not. QED.

5. Note such instructions as this: "The term United States means (but only for purposes of this subsection and subsection (a)) the fifty States and the District of Columbia." (Hawaii Omnibus Act, Section 29(d)(3).) Or this, from the Alaska Omnibus Act 14(d)(2):

*"and by striking out continental United States in clause (ii) of such sentence and inserting in lieu thereof United States (which for purposes of this sentence and the next sentence means the fifty States and the*

*district of Columbia).*"

In the middle of a paragraph, then, we are told that the U.S. means the 50 States but, only for 2 sentences! On other occasions it doesn't. QED.

6. The United States District Court case *Burnett v. Commissioner*, which held that Subtitle A taxes apply only to Washington, D.C. and the territories. They cited [26 USC §7701\(a\)\(9\)](#), the IRC's general definition of United States, and [7701\(a\)\(10\)](#), the definition of State, interpreting them as in this paper. QED.

7. Only in the few instances that I mention in this paper is it stated that the term "United States means the 50 States" occasions which, unlike all others, clearly and obviously call for application to the whole nation. And, only on these occasions, incidentally, is the term means used, rather than the term includes.

8. The January 1, 1961, revision of Title [26 CFR §170.59](#) states: "Includes and including shall not be deemed to exclude things other than those enumerated [i.e., by the example given by the class example] which are in the SAME GENERAL CLASS." Or, as TD 3980 (1927) puts it: "by introducing the specific elements constituting the enlargement." With the above in mind, look at the IRC's general definition of State at [26 USC §7701\(a\)\(10\)](#): "The term State shall be construed to include the District of Columbia " Since the District of Columbia manifestly and incontestably can not be considered as being *pari causa* (on an equal footing and with equivalent rights) with the 50 states, it must, therefore, be a federal State. Being in a category separate from the union states, this definition, then, cannot be expanded to include them. QED.

9. Therefore, when [26 USC §7701\(a\)\(9\)](#) United States says that this term "includes only the States and the District of Columbia," the term States must, perforce, mean the federal States. For, it cannot be making reference to the union states, as established, above. QED. (Most Americans would not guess that there are, or even could be, such things as federal States. But, *Black's Law Dictionary*, 6<sup>th</sup> edition, clears this up, in the article State. It differentiates two kinds. First, it designates: "The section of territory occupied by one of the United States." But, also, it refers to federal States: "Any [S]tate of the [District] United States, [comma, that means, here, which is comprised of the following ] the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States [and, therefore, not a union state]. Uniform Probate Code, 1-201(40)." (Emphasis added.) I deal with and document federal States not infrequently, in the instant paper.)

10. [Title 28, §1746](#), has two jurats: "(1) If executed without (outside) the United States: I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct " and "(2) If executed within the United States, its territories, possessions, or commonwealths: I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct " Note also that they left out United States in the second oath, after including the United States of America in the first one. Was this to avoid people questioning what the difference between them was? Nevertheless, the point remains that there is, here, a United States of America designated as being "without (outside)" the United States. QED.

11. With three exceptions, noted in the paper, the use of several States misleadingly implies that reference is being made to the union states. A perfect example of this is found in the Hawaii Omnibus Act: Sec. 10. Section 2 of the Act of September 2, 1937 (50 Stat. 917), as amended, is further amended by striking out the words ; and the term "State" shall be construed to mean and include the several States and the Territory of Hawaii." So, before Hawaii became a union state it was on a par with the several States meaning that they must have been federal States. For a Territory could never be termed a State, in the same sense as Nebraska. QED.

12. It is instructive to follow the transmogrification of the general definition of State, presently found at [26 USC §7701\(a\)\(10\)](#). (Please excuse the long word, but it seems to fit the bill like no other. *Webster's New Collegiate Dictionary* defines it as "to change or alter greatly and often with grotesque or humorous effect." You be the judge.) In 1873, its forerunner stated that it "shall be construed to include the Territories and the District of Columbia " When Alaska was admitted to the union, in 1959, [7701\(a\)\(10\)](#) State was amended by striking out "Territories and substituting "Territory of Hawaii," the only remaining incorporated Territory. A few months later, when Hawaii was admitted to statehood, this was amended by striking out "the Territory of Hawaii and." So now we simply have: "The term State shall be construed to include the District of Columbia " Patently, a federal State. QED. And, incidentally, this further substantiates and confirms the correct interpretation of the term includes, for these cases it can be read in no other way than as being a term of restriction.

13. In section 7 of this paper I quote an alcohol and tobacco tax act, of 1868, which reads: " and the word State to mean and include a Territory and District of Columbia." So, here we have the federal States referred to openly and unmistakably. Furthermore, mean and include are equated, which makes include restrictive. This is bolstered in [12 USC §202](#) Definitions where it says: "the term State means any State, [comma, that means, here, which is comprised of the following ] Territory, or possession of [i.e., belonging to] the [District] United States " State, here, has to unquestionably indicate a federal State, because of the other sample examples, which are totally distinct from a union state and, therefore, cannot be in the same list with it. QED.

14. [Title 28, §5 United States defined](#) reads: "The term United States, as used in this title in a territorial sense, includes all places and waters, continental and insular, subject to the jurisdiction of the United States, except the Canal Zone." Jurisdiction, here, is short for complete or exclusive jurisdiction, as adequately documented in the instant paper. As it's stated in the McCuller case: "land acquired for the United States and under its exclusive jurisdiction." See point 19 for more documentation of the fact that legislative jurisdiction means complete jurisdiction. QED.

15. It is more than noteworthy that lacking any statutory or regulatory authority in the 50 states, the IRS, BATF, and other alphabet soup agencies, can be required by law to apply for permission to enter these states, as registered foreign agents, pursuant to the Foreign Agents Registration Act of 1938. For they are operating under international law, not under the general, plenary powers of 4:3:2 of the U.S. Constitution, as would be the case were they in the federal zone, but rather under the specifically authorized enumerated special powers of 1:8. Does this seem like something that could happen in a single income tax jurisdiction? And look at Wyoming Sheriff Dave Mattis, who established in court that he had the legal and constitutional right to retain IRS agents in custody for operating in his county without his permission and had done so. QED. (See section 11 for details.)

16. The Alaska Omnibus Act 22 makes a very significant statement in subsection (b): "Section 4262(c)(1) of the Internal Revenue Code of 1954 (definition of continental United States ) is amended to read as follows: (1) The continental United States. The term "continental United States" means the District of Columbia and the States other than Alaska. " So, now that Alaska has become a union state it is no longer included in the definition of the "continental United States" though, by implication, the islands of Hawaii still are. Code definitions, as you know, can mean anything. QED.

17. Somewhat similarly, the Hawaii Omnibus Act 45, calls for "striking out the words for the purchase within the continental limits of the United States of any typewriting machines and inserting in lieu thereof for the purchase within the States of the Union and the District of Columbia of any typewriting machines ." For, such machines were bought from both of these new union states, when they were Territories, and, therefore, part of the continental United States. Now, as union states they are no longer part of the territorial District United States. QED.

18. I quote the Supreme Court (*Elk v. Wilkins*), to the effect that: "the phrase subject to the jurisdiction relates to time of birth, and one not owing allegiance at birth cannot become a Citizen save by subsequent naturalization .[i.e.] COMPLETELY subject to the political jurisdiction." Not having gone through the 5 year court process to do this, any state Citizen is able to avail him/herself of Form W-8 Certificate of Foreign Status, which s/he gives to her/his employer the IRS never wants to see it. The General Instructions read: "Use Form W-8 or a substitute form [i.e., a letter] containing a substantially similar statement to tell the payer that you are a nonresident alien individual, foreign entity, or exempt foreign person not subject to certain U.S. information return reporting or backup withholding rules For purposes of this form, you are an "exempt foreign person" for a calendar year in which: 1. You are a nonresident alien individual " Notice that the term payer is used, not employer, which is a painted word in tax law, and would not fit in this picture. So, where is the universally applicable income tax for all of America and all its inhabitants? If there were only one United States that the IRC applied to, how can one utilize a Form W-8 to claim that s/he is an NRA, by virtue of working and living in a union state? QED.

19. In 1957 the second volume of an extremely important study, was published by the federal government: Report of the Interdepartmental Committee for the Study of Jurisdiction over Federal Areas with States. A text of the Law of Legislation Jurisdiction. It established, in painstaking detail, that only persons residing within the legislative jurisdiction of the U.S. Congress are residents of that jurisdiction i.e., are U.S. residents. It is made exhaustively manifest that this Congress does not extend the jurisdiction of its legislative umbrella beyond the Constitutionally restricted boundaries of territories of the United States, "belonging to" its "exclusive sovereignty" "in all cases whatsoever," e.g., the federal zone (D.C., the federal States, possessions, and enclaves). In other words, the powers of the federal government are limited to and specifically defined at 1:8:17 of the Constitution. And, just as a reminder:

*" Act of Congress includes [is restricted to] an act of Congress **locally applicable** to and in force in the District of Columbia, in Puerto Rico, in a territory or in an insular possession."*  
*[Rule 54(c), **Federal Rules of Criminal Procedure**]*

It shouldn't surprise you to learn that the above rule conveniently was removed from the Federal Rules of Criminal Procedure in 2002 after we pointed it out, but it was not repealed and therefore is still in effect. Hence, your oppressors are hiding the truth to keep you enslaved, as usual.

This takes care of the question as to whether one is a U.S. resident or not just as the preceding paragraph goes a long way in clarifying who is a U.S. citizen. QED.

20. In the Internal Revenue Manual, Chapter 1100, Section 1132.75, it states: "The Criminal Investigative Division enforces the criminal statutes applicable to income, estate, gift, employment, and excise tax laws involving [District] United States citizens residing in foreign countries [like Missouri and New Hampshire] and nonresident aliens subject to Federal income tax filing requirements [e.g., Oregonians having federal U.S. source income, say, from Treasury Bonds]. If my bracketed suggestions are not on the mark, then the CID would be acting outside its delegated authority, defined above, and only above, in proceeding as it does. In other words, one could then ask where there is reference to Americans living and working in the USA. The U.S. citizen part is explained by everyone s swearing on a Form 1040 that s/he is U.S. citizen, for tax purposes. And, I have established that from the point of view of private international law the union states are 50 countries foreign to one another, as well as to their agency, the District United States. QED.

21. Lastly, the supremely important Brushaber case and the resultant Treasury Decision 2313, of 1916. This can be summarized briefly, without distorting the situation. Frank Brushaber thought that he was outside the tax *forum contractus* of the federal government, due to his living and working in New York meaning that he was not a resident in, or of, the U.S., and was alien to its jurisdiction, i.e., a nonresident alien, which this the Court never contested. His error was in believing that the Union Pacific RR Co. was also outside this tax forum. Consequently, in the first sentence he "enjoined the corporation from complying with

the income tax provisions of the tariff act of October 3, 1913 " He contended that the Union Pacific was incorporated in a union state. But he overlooked the fact that Utah was still a federal territory in 1862 and, therefore, domestic to the District U.S. Therefore, he was obligated to pay an excise tax (which, incidentally, is what the Brushaber case determined that income tax was) for the privilege of earning money from a corporation resident in the federal zone i.e., having been incorporated by an act of Congress. It is exceedingly important to note that **no money he earned in his home state was exacted, or even mentioned.** What this all means is that a state Citizen, who, therefore, is a nonresident alien with respect to the District U.S., has no tax liability if he has no income that is "received from sources within the [District] United States." (26 USC §871(a)(1)) which includes, thereby, being a federal employee. But the real jewel of this whole scenario is Treasury Document 2313, which I have reproduced in the Appendix. It states that it was promulgated specifically to implement the Brushaber case. In crystal clear language, it proceeds along in perfect harmony with the IRC today, as seen in 872 Gross Income: "In the case of a nonresident alien individual gross income includes only (1) gross income which is derived from sources within the [District] United States And, of course "[a]n individual is a nonresident alien if such individual is neither a citizen of the

[District] United States nor a resident of the [District] United States." (26 USC §7701(b)(1)(B)). Because this TD is referencing the Brushaber case exclusively, it can not be disputed, by any logical acrobatics, that Brushaber's status i.e., living and working in a union state was accepted by the Court as exemplifying the criteria that define a nonresident alien. Which status is exactly like that of most Americans today. Otherwise, why was he only obligated to pay income tax on the dividend earnings from a District U.S. corporation, and not on any earnings from his home state, New York. Therefore, when 872, above, says "from sources within the United States" it can only be interpreted to mean within the District U.S. QED.

\* \* \*

Perhaps a fitting endnote to this paper would be a brief mention of a strategy that has recently been used with success, often called the Bosset Procedure. Thurston Bell, who is primarily responsible for its current promotion, although it has been around for awhile, prefers to term it the Employer Refund and Abatement Program. You can read about it on the website [Taxgate.com](http://Taxgate.com), which he co-founded, or on his new website, NITE.org.

To be scathingly brief, it contends that gross income derives only from sources listed at [26 CFR §1.861-8\(f\)\(1\)](http://26.CFR.1.861-8(f)(1)), in 16 functional Operative sections. These take up but a small page and a half, and clearly make reference to only two categories of income. All but one section specifies various sources of foreign income, such as (v) "*Foreign base company income.*" The second category pertains to foreigners. It is (iv) "*Effectively connected taxable income,*" which reads, in pertinent part:

*"Nonresident alien individuals and foreign corporations engaged in trade or business within the United States, under sections [871\(b\)\(1\)](http://871(b)(1)) and [882\(a\)\(1\)](http://882(a)(1)), on taxable income which is effectively connected with the conduct of a trade or business within the United States." (Emphasis added.)*

Bosset, and other employers have received back monies they withheld, with interest, by claiming that they previously misunderstood the tax regulations. They say that now they realize that, pursuant to the CFR, since their employees don't earn foreign income, they have no legal right to withhold anything.

The government cannot, of course, clarify that foreign means any place outside the District U.S. usually the 50 states. And, that the foreigners specified, i.e. the nonresident aliens, are your average Americans working and living in one of the 50 states as well as, of course, the other kind of nonresident alien, like a Canadian living in Canada and earning income in America

You must keep in mind that those using this 861 argument are claiming to be statutory "U.S. citizens", as the term is used in Title 26 (see 26 CFR §1.1-1(c)). The fact that the term is misunderstood to indicate all Americans, ironically doesn't hurt their case because the IRS cannot admit otherwise. And, therefore, the government is left with the redoubtable task of explaining away the foreign income bugbear. In other words, either the IRS admits what foreign really signifies, or U.S. citizens (as it is implying includes everyone) don't owe any income tax, if all their income was earned, say, in Missouri, and not in Germany.

So, then, if someone working for Ford Motor Co., in Kansas City, insists on calling him/herself a U.S. citizen, for tax purposes, then pursuant to this 861 argument they would have no income tax liability. And it also so happens, that they would have no income tax liability if they were to realize that they were nonresident alien/Americans, since they are making no income in the District U.S. or working for the government. Both positions, of course, the IRS will resist. But, if the 861 argument proves legally unassailable which I believe it will it would be theoretically unavoidable that one of the two be allowed. Now, in July, 00, the IRS is starting to impose frivolous penalty charges for employees utilizing this approach. But the story is far from over. There has not been time for the mandatory due process hearings, where the IRS will really be put to the test having to prove their case.

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QUOTATIONS: The following are some highly relevant quotations.

- "One may be a Citizen of a state, and yet not a citizen of the United States." [Boyd v. State of Nebraska, 143 U.S. 103, 108](http://Boyd.v.State.of.Nebraska.143.U.S.103.108). And with almost identical wording: *Thomasson v. State*, 15 Ind. 449; and dozens of others. (Emphasis added.)
- "[W]e find nothing which requires that a citizen of a state must also be a citizen of the United States, if no question of federal rights or jurisdiction is involved." *Crosse v. Bd. of Supvrs of Elections*, 221 A.2d. 431 (1966) (Emphasis added.)
- "By metaphysical refinement, in examining our form of government, it might be correctly said that there is no such thing as a citizen of the United States. But constant usage arising from convenience, and perhaps necessity, and dating from the

formation of the Confederacy has given substantial existence to the idea which the term conveys. 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 [in 1855, before the 14<sup>th</sup> Amendment created them, in 1868] .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 obtained, by the exercise of the power of naturalization, was to make citizens of the respective states. If we examine the language closely, and according to the rules of rigid construction always applicable to delegated powers, we will find that the power to naturalize in fact is not given to Congress, but simply the power to establish an uniform rule .[A] distinction both in name and privileges is made to exist between citizens of the United States *ex vi termini* [ by the very meaning of the term used. Reference is being made to those living in the District of Columbia.], and citizens of the respective States. To the former no privileges or immunities are granted " Ex parte Knowles, 5 Ca. 300 (1855). (Emphasis added.)

- "The 14<sup>th</sup> Amendment creates and defines citizenship of the United States. It had long been contended, and had been held by many learned authorities, and had never been judicially decided to the contrary, that there was no such thing as a citizen of the United States, except by first becoming a citizen of some state." *United States v. Anthony* (1874), 24 Fed. Cas. 829 (No. 14,459), 830. (Emphasis added.)
- "United States citizenship does not entitle citizen to rights and privileges of state citizenship." *K. Tashiro v. Jordan*, 201 Cal. 236, 256 P. 545 (1927), 48 Supreme Court. 527. (Emphasis added.)
- "It will be admitted on all hands that with the exception of the powers granted to the states and the federal government, through the Constitutions, the people of the several states are unconditionally sovereign within their respective states." *Ohio L. Ins. & T. Co. v. Debolt*, 16 How. 416, 14 L. Ed. 997.
- "At the Revolution, the sovereignty devolved on the people [state Citizens] and they are truly the sovereigns of the country." *Chisholm v. Georgia*, 2 Dall. 440, 463.
- "The people of the state [state Citizens], as the successors of its former sovereign, are entitled to all the rights which formerly belonged to the king by his own prerogative." *Lansing v. Smaith*, 4 Wendell 9 (NY) (1829).
- The opinion of Judge John Appleton, of the Maine Supreme Court, cannot be stressed too strongly, when he stated that in the Dred Scott Decision, "Justice Taney says every person recognized as citizens of the several states, became also citizens of this new political body Taney s opinion, therefore, rests upon a remarkable and most unfortunate misapprehension of facts. Taney would have concurred with (Justice) Curtis had the facts been pointed out to him." (Emphasis added.)
- "A fundamental right inherent in "state citizenship" is a privilege or immunity of that citizenship only. Privileges and immunities of "citizens of the United States," on the other hand, are only such as arise out of the nature and essential character of the national government, or as specifically granted or secured to all citizens or persons by the Constitution of the United States." *Twining v. New Jersey*, 211 U.S. 78. (Emphasis added.)
- "We have cited these cases for the purpose of showing that the privileges and immunities of citizens of the United States do not necessarily include all the rights and powers of the Federal government. They were decided subsequently to the adoption of the Fourteenth Amendment " *Maxwell v. Dow*, 176 U.S. 598 (1900).
- "[T]he 14<sup>th</sup> Amendment is throughout affirmative and declaratory, intended to ally doubts and to settle controversies which had arisen, and not to impose any new restriction upon [state] citizenship." *U.S. v. Wong Kim Ark* 169 US 649. (Emphasis added.)
- "A citizen of the United States is ipso facto and at the same time a citizen of the state in which he resides. While the 14<sup>th</sup> Amendment does not create a national citizenship, it has the effect of making that citizenship paramount and dominant instead of derivative and dependent upon state citizenship." *Colgate v. Harvey*, 296 U. S. 404, 427. (Emphasis added. More is the pity.)
- "The (14<sup>th</sup>) amendment referred to slavery. Consequently, the only persons embraced by its provisions, and for which Congress was authorized to legislate in the manner were those then in slavery." *Bowlin v. Commonwealth* (1867), 65 Kent. Rep. 5, 29. (Emphasis added.)
- "Our Union in its foreign relations presents itself with all its states and territories as one and indivisible; a garment without a seam; but at home we are separate sovereign states of the union. Within the limits of the states, the government of the United States has no powers but those that have been delegated to it." George Bancroft. (Emphasis added.)
- After the adoption of the 13<sup>th</sup> Amendment a bill which became the first Civil Rights Act was introduced in the 39<sup>th</sup> Congress, the major purpose of which was to secure to the recently freed Negroes all the civil rights secured to white people No one but citizens of the United States [i.e., the freed slaves] were within the provisions of the Act. Cf. *Hague v. C. I. O.*, 307 U. S. 496, 509. (Emphasis added.)
- 26 CFR 1.911-2(h) Foreign Country "The term foreign country when used in a geographical sense includes any territory under the sovereignty of a government other than that of the [federal] United States [such as Kentucky]."
- "Foreigner. a person who is not a citizen or subject of the state or country of which mention is made " *Black s Law Dictionary*, 6<sup>th</sup> edition.
- "The 14<sup>th</sup> Amendment, declaring that all persons born or naturalized in the [District] United States and subject to its allegiance are citizens, uses the word in the sense of [federal] national or subject." *Encyclopedia of Political Science*, art. "Nationality." (Emphasis added.)
- "The natives of Puerto Rico and the other ceded islands are [federal] United States nationals, or, as the learned Attorney General prefers to term them, American subjects." *United States v. Wong Kim Ark*, 169 U.S. 667. (Emphasis added.)
- "In determining the boundaries of apparently conflicting powers between the states and the general government, the proper question is, not so much what has been, in terms, reserved to the states, as what has been, expressly or by necessary implication, granted by the people to the national government; for each state possesses all the powers of an independent and sovereign nation, except so far as they have been ceded away by the constitution. The federal government is but the

creature of the people of the states, and, like an agent appointed for definite and specific purposes, must show an express or necessarily implied authority in the charter of its appointment to give validity to its acts." *People ex rel. Attry. Gen. v. Naglee*, 1 Cal. 234 (California Supreme Court, 1850). (Emphasis added.)

- "It scarcely needs to be said [sic!] that unless there has been a transfer of jurisdiction [from state to federal] the federal Government possesses no legislative jurisdiction over any area within a [s]tate " "Jurisdiction Over Areas Within the States" A federal government report of 1956. (Emphasis added.)
- " McCULLER, at a place within the special maritime and territorial jurisdiction of the United States, namely Wright Patterson Air Force Base, Ohio, on land acquired for the United States and under its exclusive jurisdiction, did take " (Emphasis added.) *United States of America v. ERNEST A. McCULLER*, Case No. CR 3-95-73, U.S. District Court for the Southern District of Ohio, Western Division, charges filed August 10, 1995.
- "The Doctrine of Sovereign Immunity is one of the Common-Law immunities and defenses that are available to the Sovereign Citizen of Michigan [or, say, California]." *Will v. Michigan Dept. of State Police*, 491 U.S. 58, 105 L. Ed. 2d. 45, 109 S. Ct. 2304 (1988).
- "Congress exercises its confirmed powers subject to the limitations contained in the Constitution. If a state ratifies or gives consent to any authority which is not specifically granted by the Constitution of the United States, it is null and void. State officials cannot consent to the enlargement of powers of Congress beyond those enumerated in the Constitution." Sandra Day O Connor, *New York v. United States, et al.*, 488 U.S. 1041
- "The more intelligent adversaries of the new Constitution admit the force of this reasoning; but they qualify their admission by a distinction between what they call internal and external taxation. The former they would reserve to the State governments; the latter, which they explain into commercial imposts, or rather duties on imported articles, they declare themselves willing to concede to the federal head." Alexander Hamilton, *The Federalist* 36. (Emphasis added.)
- "A person is born subject to the jurisdiction of the United States, for purposes of acquiring citizenship at birth, if this birth occurs in a territory over which the United States is sovereign." 3A Am Jur 1420, art. Aliens and Citizens.
- "The law is that income from sources not effectively connected with the conduct of a trade or business within the U.S. Government (sic) is not subject to any tax under subtitle "A" of the Internal Revenue Code." Letter in response to a Privacy Act request dated 12/12/95, by Cynthia J. Hills, Disclosure Officer, IRS, Service Center, Philadelphia, PA. (Emphasis added.)
- In the 1920s, Pulitzer Prize winner for his writings on American Law, Charles Warren, said that "[h]ad the [Slaughterhouse cases] been decided otherwise the States would have largely lost their autonomy and become, as political entities, only of historic interest The boundary lines between the States and the National Government would be practically abolished, and the rights of the citizens of each state would be irrevocably fixed as of the date of the Fourteenth Amendment." It was "one of the landmarks of American law." But, this has come to pass, and almost everyone claims to be a federal District citizen swearing to it on every 1040 Form.
- Before the 14<sup>th</sup> Amendment, in 1868, "it had been said by eminent judges that no man was a citizen of the United States except as he was a citizen of one of the States composing the Union. Those, therefore, who were born and always resided in the District of Columbia or in the Territories, though within the United States, were not citizens [After that] the distinction between citizenship of the United States and citizenship of a state is clearly recognized. Not only may a man be a citizen of the United States without being a citizen of a state [e.g., if born in D.C.], but an important element is necessary to make the former the latter. He must reside in the state to make him a citizen of it, but it is only necessary that he should be born or naturalized in the United States to become a citizen of the Union. *Slaughter House Cases*, 16 Wall. 36, 72, 74 (1873).

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## **APPENDIX: Treasury Decision 2313.**

*Treasury Decision Under Internal Revenue Laws of the United States*

*Vol. 18 January-December 1916*

*W. G. McAdoo Secretary of the Treasury*

*Washington Government Printing Office 1917*

*T.D. 2313 Income Tax*

*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.*

*Treasury Department Office of Commissioner of Internal Revenue Washington, D.C., March 21, 1916*

*To collectors of internal revenue:*

*Under the decision of the Supreme Court of the United States in the case of *Brushaber v. Union Pacific Railway [sic] Co.*, 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.*

*Nonresident aliens are not entitled to the specific exemption designated in paragraph C of the income-tax law, but are liable for the normal and additional tax upon the entire net income "from all property owned, and of every business, trade, or profession carried on in the United States," computed upon the basis*

prescribed in the law.

*The responsible heads, agents, or representatives of nonresident aliens, who are in charge of the property owned or business carried on within the United States, shall make a full and complete return of the income therefrom on Form 1040, revised, and shall pay any and all tax, normal and additional, assessed upon the income received by them in behalf of their nonresident alien principals.*

*The person, firm, company, copartnership, corporation, joint-stock company, or association, and insurance company in the United States, citizen or resident alien, in whatever capacity acting, having the control, receipt, disposal, or payment of fixed or determinable annual or periodic gains, profits, and income of whatever kind, to a nonresident alien, under any contract or otherwise, which payment shall represent income of a nonresident alien from the exercise of any trade or profession within the United States, shall deduct and withhold from such annual or periodic gains, profits, and income, regardless of amount, and pay to the officer of the United States Government authorized to receive the same such sum as will be sufficient to pay the normal tax of 1 per cent imposed by law, and shall make an annual return on Form 1042.*

*The normal tax shall be withheld at the source from income accrued to nonresident aliens from corporate obligations and shall be returned and paid to the Government by debtor corporations and withholding agents as in the case of citizens and resident aliens, but without benefit of the specific exemption designated in paragraph C of the law.*

*Form 1008, revised, claiming the benefit of such deductions as may be applicable to income arising within the United States and for refund of excess tax withheld, as provided by paragraphs B and P of the income-tax law, may be filed by nonresident aliens, their agents or representatives, with the debtor corporation, withholding agent, or collector of internal revenue for the district in which the withholding return is required to be made.*

*That part of paragraph E of the law which provides that "if such person is absent from the United States the return and application may be made for him or her by the person required to withhold and pay the tax " is held to be applicable to the return and application on Form 1008, revised, of nonresident aliens.*

*A fiduciary acting in the capacity of trustee, executor, or administrator, when there is only one beneficiary and that beneficiary a nonresident alien, shall render a return on Form 1040, revised; but when there are two or more beneficiaries, one or all of whom are nonresident aliens, the fiduciary shall render a return on Form 1041, revised, and a personal return on Form 1040, revised, for each nonresident alien beneficiary.*

*The liability, under the provisions of the law, to render personal returns, on or before March 1 next succeeding the tax year, 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. Returns shall be rendered to the collector of internal revenue for the district in which a nonresident alien carries on his principal business within the United States or, in the absence of a principal business within the United States and in all cases of doubt, the collector of internal revenue at Baltimore, Md., in whose district Washington is situated.*

*Nonresident aliens are held to be subject to the liabilities and requirements of all administrative, special, and general provisions of law in relation to the assessment, remission, collection, and refund of the income tax imposed by the act of October 3, 1913, and collectors of internal revenue will make collection of the tax by distraint, garnishment, execution, or other appropriate process provided by law.*

*So much of T.D. 1976 as relates to ownership certificate 1004, T.D. 1977 (certificate Form 1060), 1988 (certificate Form 1060), T.D. 2017 (nontaxability of interest from bonds and dividends on stock), T.D. 2030 (certificate Form 1071), T.D. 2162 (nontaxability of interest from bonds and dividends on stock) and all rulings heretofore made which are in conflict herewith are hereby superseded and repealed.*

*This decision will be held effective as of January 1, 1916.*

*W. H. Osborn Commissioner of Internal Revenue*

*Approved, March 30, 1916:*

*Byron R. Newton, Acting Secretary of the Treasury*

