

**What the prosecution proposed should be given to the jury:**

WAGES DEFINED

*As it relates to 26 U.S.C. § 7206(1), I instruct you that the wages means all payments for services performed by an employee for his employer. The term wages applies to all employees and is not restricted to persons working for the government.*

*26 U.S.C. § 3401*

EMPLOYER DEFINED

*As it relates to 26 U.S.C. § 7206(1), I instruct you that the term "employer" means the person for whom an individual performs or performed any service, of whatever nature, as the employee of such person . This definition applies to all employers, whether private or government.*

*26 U.S.C. § 3401*

EMPLOYEE DEFINED

*As it relates to 26 U.S.C. § 7206(1), I instruct you that the term "employee" includes every individual performing services if the relationship between that individual and the person for whom he performs such services is the legal relationship of employer and employee.*

*26 U.S.C. § 3401*

**What I proposed should be given to the jury (the actual words of the laws):**

3401(a) Wages

*For purposes of this chapter, the term "wages" means all remuneration (other than fees paid to a public official) for services performed by an employee for his employer, including the cash value of all remuneration (including benefits) paid in any medium other than cash; except that such term shall not include remuneration paid— [a list of exceptions omitted for purposes of this posting]*

3401(c) Employee

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

3121(a) Wages

*For purposes of this chapter, the term "wages" means all remuneration for employment, including the cash value of all remuneration (including benefits) paid in any medium other than cash; except that such term shall not include - ... [a list of exceptions omitted for purposes of this posting]*

3121(b) Employment

*For purposes of this chapter, the term "employment" means any service, of whatever nature, performed*

*(A) by an employee for the person employing him, irrespective of the citizenship or residence of either,*

*(i) within the United States, or*

*(ii) on or in connection with an American vessel or American aircraft... or*

*(B) outside the United States by a citizen or resident of the United States as an employee for an American employer (as defined in subsection (h))*

3121(e) State, United States and Citizen

*For purposes of this chapter -*

*(1) State*

*The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.*

*(2) United States*

*The term "United States" when used in a geographical sense includes the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.*

*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.*

3121(h) American Employer

*For purposes of this chapter, the term "American employer" means an employer which is -*

*(1) the United States or any instrumentality thereof,*

*(2) an individual who is a resident of the United States,*

*(3) a partnership, if two-thirds or more of the partners are residents of the United States,*

*(4) a trust, if all of the trustees are residents of the United States, or*

*(5) a corporation organized under the laws of the United States or of any State.*

6051 Receipts for employees (what is to be reported on a W-2 or 4852-- nothing about this was given to the jury in any form)

*Sec. 6051. - Receipts for employees*

*(a) Requirement*

*Every person required to deduct and withhold from an employee a tax under section 3101 or 3402, or who would have been required to deduct and withhold a tax under section 3402 (determined without regard to subsection (n)) if the employee had claimed no more than one withholding exemption, or every employer engaged in a trade or business who pays remuneration for services performed by an employee, including the cash value of such remuneration paid in any medium other than cash, shall furnish to each such employee...a written statement showing the following:*

*(1) the name of such person,*

*(2) the name of the employee (and his social security account number if wages as defined in section 3121(a) have been paid),*

*(3) the total amount of wages as defined in section 3401(a),*

*(4) the total amount deducted and withheld as tax under section 3402,*

*(5) the total amount of wages as defined in section 3121(a),*

*(6) the total amount deducted and withheld as tax under section 3101,*

*(d) Statements to constitute information returns*

*A duplicate of any statement made pursuant to this section and in accordance with regulations prescribed by the Secretary shall, when required by such regulations, be filed with the Secretary.*

**The instructions actually given by the court:**

10           As it relates to the charges in this case,  
11 I instruct you that the term "wages" means all  
12 payments for services performed by an employee for  
13 his employer.

14           The term "wages" applies to all employees  
15 and is not restricted to persons working for the  
16 government.

17           As it relates to the charges in this case,  
18 I instruct you that the term "employer" means the  
19 person for whom an individual performs or performed  
20 any service of whatever nature, as the employee of  
21 such person.

22           This definition applies to all employers,  
23 whether private or government.

24           As it relates to the charges in this case,  
25 I instruct you that the term "employee" means any  
1 individual who performs services and who has a legal  
2 employer-employee relationship with the person for  
3 whom he performs these services.

Of course, the judge DID relieve everyone from any concern about the accuracy of these "interpretations" when he reassured the jury that, [\*"If I make a mistake on the law, there's an appellate court down in Cincinnati that reviews my decisions."\*](#) This reflects an interesting perspective, when one considers that simply giving the jury the actual words of the statutes would make "a mistake on the law" in regard to these definitions impossible...