

## **PRESS RELEASE — U.S. District Court Judge Gerald E. Rosen & 6<sup>th</sup> Circuit Court of Appeals Reduce Complex Wage Tax Law by a Breathtaking 99% !**

DETROIT, MICHIGAN, February 16, 2015 --- In Case Number 08-20585, the UNITED STATES OF AMERICA v. PETER HENDRICKSON, U.S. District Court Judge Gerald E. Rosen, in concert with the U.S. Treasury Department's DOJ attorneys, and the 6<sup>th</sup> Circuit Court of Appeals plus the Internal Revenue Service, *re-wrote* 7,910 words of congressional law defining '*employers*' employing '*employees*' in the activity of '*employment*' for '*wages*'. [See pages 3-8 of this press release for the *actual* law.]

**Almost 50% of the revised words** came from a **single sentence** covering the 15.3% FICA & Medicare contributions from '*employment*' as defined in 26USC 3121(b). Yes. You read that correctly; 3,759 words in one single sentence! Hiding what?

In a simple-sounding 90 words, Judge Rosen told the jury that:

“The term '*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.”

“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.”

“The term '*employee*' means **ANY** individual who performs services and who has a legal employer-employee relationship with the person for whom he performs services.”

However, the laws, 'on the books', remain the same as they have been for decades. Why? Judge Rosen made it sound 'oh-so-simple'. Oversimplification? Obfuscation? **You be the judge.**

The next page of this Press Release provides you with Judge Rosen's actual words from the trial. The following six pages: **The Real Law.**

Good Reading! RET <http://losthorizons.com/SiteMap.htm>

## From the Trial Transcript: words of Judge Gerald E. Rosen

Case Number 08-20585, the UNITED STATES OF AMERICA v. PETER HENDRICKSON

"Any questions from our jurors?"

[Judge Rosen reads question to himself.]

The answer is; **you'll be instructed on the law**. Let me read the juror's question in *fairness* to the jury and counsel.

The Question is: **'Can we see Section 3401 and 3121?**

And that **would really involve legal inquiry**. As I told all of you of course, **we'll instruct you on the law**. Okay? Any other questions."

### **Once the prosecution and defense rested their case, Judge Rosen instructed the jury.**

"At any rate, I'm giving the *governments* requested jury *instructions* on **wages, employer** and **employee** on those definitions."

As it relates to the charges in this case, *I instruct you* [the jury] that the term "**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.

As it relates to the charges in this case, *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.

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

### **Some time later in events and for whatever reason, Judge Rosen felt it necessary to place the following declaration on the record:** [With or without the jury present?]

"Let me just put on the record the reason why I decided to give those instructions. I gave those instructions because I believe that **IF I gave the jurors the statutes ..... it would invite them to speculate ..... as to what the legal meaning of the statutes were.**"

The next eight pages, in the same government-provided seven-point font, are the actual statutes themselves. **You judge the Judge**. Are his words the same as the words of Congress? **Do they really 'mean' the same thing?**

# The Actual Words of 26USC Sections 3401 and 3121

## 26USC 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—

[retnote: ‘Employment’ means ‘employment’ as defined by section 3121(b). But you guessed that, didn’t you?]

[Below, you will see four uses of the special term, ‘trade or business’ the 7701(a)(26) term of which “includes the performance of the functions of a public office.” ]

(1) in the case of the taxes imposed by sections 3101 (a) and 3111 (a) that part of the remuneration which, after remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) with respect to employment has been paid to an individual by an employer during the calendar year with respect to which such contribution and benefit base is effective, is paid to such individual by such employer during such calendar year. If an employer (hereinafter referred to as successor employer) during any calendar year acquires substantially all the property used in a trade or business of another employer (hereinafter referred to as a predecessor), or used in a separate unit of a trade or business of a predecessor, and immediately after the acquisition employs in his trade or business an individual who immediately prior to the acquisition was employed in the trade or business of such predecessor, then, for the purpose of determining whether the successor employer has paid remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) with respect to employment equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) to such individual during such calendar year, any remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) with respect to employment paid (or considered under this paragraph as having been paid) to such individual by such predecessor during such calendar year and prior to such acquisition shall be considered as having been paid by such successor employer;

(2) the amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of his dependents under a plan or system established by an employer which makes provision for his employees generally (or for his employees generally and their dependents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of—

(A) sickness or accident disability (but, in the case of payments made to an employee or any of his dependents, this subparagraph shall exclude from the term “wages” only payments which are received under a workman’s compensation law), or

(B) medical or hospitalization expenses in connection with sickness or accident disability, or

(C) death, except that this paragraph does not apply to a payment for group-term life insurance to the extent that such payment is includible in the gross income of the employee;

[(3) Repealed. Pub. L. 98-21, title III, § 324(a)(3)(B), Apr. 20, 1983, 97 Stat. 123]

(4) any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an employee after the expiration of 6 calendar months following the last calendar month in which the employee worked for such employer;

(5) any payment made to, or on behalf of, an employee or his beneficiary—

(A) from or to a trust described in section 401 (a) which is exempt from tax under section 501 (a) at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust,

(B) under or to an annuity plan which, at the time of such payment, is a plan described in section 403 (a),

(C) under a simplified employee pension (as defined in section 408 (k)(1)), other than any contributions described in section 408 (k)(6),

(D) under or to an annuity contract described in section 403 (b), other than a payment for the purchase of such contract which is made by reason of a salary reduction agreement (whether evidenced by a written instrument or otherwise),

(E) under or to an exempt governmental deferred compensation plan (as defined in subsection (v)(3)),

(F) to supplement pension benefits under a plan or trust described in any of the foregoing provisions of this paragraph to take into account some portion or all of the increase in the cost of living (as determined by the Secretary of Labor) since retirement but only if such supplemental payments are under a plan which is treated as a welfare plan under section 3(2)(B)(ii) of the Employee Retirement Income Security Act of 1974,

(G) under a cafeteria plan (within the meaning of section 125) if such payment would not be treated as wages without regard to such plan and it is reasonable to believe that (if section 125 applied for purposes of this section) section 125 would not treat any wages as constructively received,

(H) under an arrangement to which section 408 (p) applies, other than any elective contributions under paragraph (2)(A)(i) thereof, or

(I) under a plan described in section 457 (e)(11)(A)(ii) and maintained by an eligible employer (as defined in section 457 (e)(1));

(6) the payment by an employer (without deduction from the remuneration of the employee)—

(A) of the tax imposed upon an employee under section 3101, or

(B) of any payment required from an employee under a State unemployment compensation law, with respect to remuneration paid to an employee for domestic service in a private home of the employer or for agricultural labor;

(7)

(A) remuneration paid in any medium other than cash to an employee for service not in the course of the employer’s trade or business or for domestic service in a private home of the employer;

(B) cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer (including domestic service on a farm operated for profit), if the cash remuneration paid in such year by the employer to the employee for such service is less than the applicable dollar threshold (as defined in subsection (x)) for such year;

(C) cash remuneration paid by an employer in any calendar year to an employee for service not in the course of the employer’s trade or business, if the cash remuneration paid in such year by the employer to the employee for such service is less than \$100. As used in this subparagraph, the term “service not in the course of the employer’s trade or business” does not include domestic service in a private home of the employer and does not include service described in subsection (g)(5);

(8)

(A) remuneration paid in any medium other than cash for agricultural labor;

(B) cash remuneration paid by an employer in any calendar year to an employee for agricultural labor unless—

(i) the cash remuneration paid in such year by the employer to the employee for such labor is \$150 or more, or

(ii) the employer’s expenditures for agricultural labor in such year equal or exceed \$2,500, except that clause (ii) shall not apply in determining whether remuneration paid to an employee constitutes “wages” under this section if such employee (I) is employed as a hand harvest laborer and is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment, (II) commutes daily from his permanent residence to the farm on which he is so employed, and (III) has been employed in agriculture less than 13 weeks during the preceding calendar year;

**[(9) Repealed. Pub. L. 98-21, title III, § 324(a)(3)(B), Apr. 20, 1983, 97 Stat. 123]**

**(10)** remuneration paid by an employer in any calendar year to an employee for service described in subsection (d)(3)(C) (relating to home workers), if the cash remuneration paid in such year by the employer to the employee for such service is less than \$100;

**(11)** remuneration paid to or on behalf of an employee if (and to the extent that) at the time of the payment of such remuneration it is reasonable to believe that a corresponding deduction is allowable under section 217 (determined without regard to section 274 (n));

**(12)**

**(A)** tips paid in any medium other than cash;

**(B)** cash tips received by an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is \$20 or more;

**(13)** any payment or series of payments by an employer to an employee or any of his dependents which is paid—

**(A)** upon or after the termination of an employee's employment relationship because of

**(i)** death, or

**(ii)** retirement for disability, and

**(B)** under a plan established by the employer which makes provision for his employees generally or a class or classes of his employees (or for such employees or class or classes of employees and their dependents), other than any such payment or series of payments which would have been paid if the employee's employment relationship had not been so terminated;

**(14)** any payment made by an employer to a survivor or the estate of a former employee after the calendar year in which such employee died;

**(15)** any payment made by an employer to an employee, if at the time such payment is made such employee is entitled to disability insurance benefits under section 223(a) of the Social Security Act and such entitlement commenced prior to the calendar year in which such payment is made, and if such employee did not perform any services for such employer during the period for which such payment is made;

**(16)** remuneration paid by an organization exempt from income tax under section 501 (a) (other than an organization described in section 401 (a)) or under section 521 in any calendar year to an employee for service rendered in the employ of such organization, if the remuneration paid in such year by the organization to the employee for such service is less than \$100;

**(17)** any contribution, payment, or service provided by an employer which may be excluded from the gross income of an employee, his spouse, or his dependents, under the provisions of section 120 (relating to amounts received under qualified group legal services plans);

**(18)** any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 127, 129, 134 (b)(4), or 134 (b)(5);

**(19)** the value of any meals or lodging furnished by or on behalf of the employer if at the time of such furnishing it is reasonable to believe that the employee will be able to exclude such items from income under section 119;

**(20)** any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from income under section 74 (c), 108 (f)(4), 117, or 132;

**(21)** in the case of a member of an Indian tribe, any remuneration on which no tax is imposed by this chapter by reason of section 7873 (relating to income derived by Indians from exercise of fishing rights);

**(22)** remuneration on account of—

**(A)** a transfer of a share of stock to any individual pursuant to an exercise of an incentive stock option (as defined in section 422 (b)) or under an employee stock purchase plan (as defined in section 423 (b)), or

**(B)** any disposition by the individual of such stock; or

**(23)** any benefit or payment which is excludable from the gross income of the employee under section 139B (b).

Nothing in the regulations prescribed for purposes of chapter 24 (relating to income tax withholding) which provides an exclusion from "wages" as used in such chapter shall be construed to require a similar exclusion from "wages" in the regulations prescribed for purposes of this chapter. Except as otherwise provided in regulations prescribed by the Secretary, any third party which makes a payment included in wages

solely by reason of the parenthetical matter contained in subparagraph (A) of paragraph (2) shall be treated for purposes of this chapter and chapter 22 as the employer with respect to such wages.

Znext

## **26USC 3121(b) Employment [\*\*\*\*\* WARNING \*\*\*\*\* Buckle Up! The next sentence is 3,759 words long!]**

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

[That's a 3121(d) 'employee' employed in the activity of 3121(b) 'employment' within the 3121(e)(2) 'United States' as opposed to the 7701(a)(1) 'United States'. The ONLY 'person employing him' is a 3121(h) 'American Employer'. But you already knew that, didn't you?]

**(ii)** on or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the employee is employed on the vessel or aircraft it touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft when outside the United States, 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)), or (C) if it is service, regardless of where or by whom performed, which is designated as employment or recognized as equivalent to employment under an agreement entered into under section 233 of the Social Security Act; except that such term shall not include—

**(1)** service performed by foreign agricultural workers lawfully admitted to the United States from the Bahamas, Jamaica, and the other British West Indies, or from any other foreign country or possession thereof, on a temporary basis to perform agricultural labor;

**(2)** domestic service performed in a local college club, or local chapter of a college fraternity or sorority, by a student who is enrolled and is regularly attending classes at a school, college, or university;

**(3)**

**(A)** service performed by a child under the age of 18 in the employ of his father or mother;

**(B)** service not in the course of the employer's trade or business, or domestic service in a private home of the employer, performed by an individual under the age of 21 in the employ of his father or mother, or performed by an individual in the employ of his spouse or son or daughter; except that the provisions of this subparagraph shall not be applicable to such domestic service performed by an individual in the employ of his son or daughter if—

**(i)** the employer is a surviving spouse or a divorced individual and has not remarried, or has a spouse living in the home who has a mental or physical condition which results in such spouse's being incapable of caring for a son, daughter, stepson, or stepdaughter (referred to in clause (ii)) for at least 4 continuous weeks in the calendar quarter in which the service is rendered, and

**(ii)** a son, daughter, stepson, or stepdaughter of such employer is living in the home, and

**(iii)** the son, daughter, stepson, or stepdaughter (referred to in clause (ii)) has not attained age 18 or has a mental or physical condition which requires the personal care and supervision of an adult for at least 4 continuous weeks in the calendar quarter in which the service is rendered;

**(4)** service performed by an individual on or in connection with a vessel not an American vessel, or on or in connection with an aircraft not an American aircraft, if

**(A)** the individual is employed on and in connection with such vessel or aircraft, when outside the United States and

**(B)**

**(i)** such individual is not a citizen of the United States or

**(ii)** the employer is not an American employer;

**(5)** service performed in the employ of the United States or any instrumentality of the United States, if such service—

**(A)** would be excluded from the term "employment" for purposes of this title if the provisions of paragraphs (5) and (6)

of this subsection as in effect in January 1983 had remained in effect, and

**(B)** is performed by an individual who—

**(i)** has been continuously performing service described in subparagraph (A) since December 31, 1983, and for purposes of this clause—

**(I)** if an individual performing service described in subparagraph (A) returns to the performance of such service after being separated therefrom for a period of less than 366 consecutive days, regardless of whether the period began before, on, or after December 31, 1983, then such service shall be considered continuous,

**(II)** if an individual performing service described in subparagraph (A) returns to the performance of such service after being detailed or transferred to an international organization as described under section 3343 of subchapter III of chapter 33 of title 5, United States Code, or under section 3581 of chapter 35 of such title, then the service performed for that organization shall be considered service described in subparagraph (A),

**(III)** if an individual performing service described in subparagraph (A) is reemployed or reinstated after being separated from such service for the purpose of accepting employment with the American Institute in Taiwan as provided under section 3310 of chapter 48 of title 22, United States Code, then the service performed for that Institute shall be considered service described in subparagraph (A),

**(IV)** if an individual performing service described in subparagraph (A) returns to the performance of such service after performing service as a member of a uniformed service (including, for purposes of this clause, service in the National Guard and temporary service in the Coast Guard Reserve) and after exercising restoration or reemployment rights as provided under chapter 43 of title 38, United States Code, then the service so performed as a member of a uniformed service shall be considered service described in subparagraph (A), and

**(V)** if an individual performing service described in subparagraph (A) returns to the performance of such service after employment (by a tribal organization) to which section 105(e)(2) 11 of the Indian Self-Determination Act applies, then the service performed for that tribal organization shall be considered service described in subparagraph (A); or

**(ii)** is receiving an annuity from the Civil Service Retirement and Disability Fund, or benefits (for service as an employee) under another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed service); except that this paragraph shall not apply with respect to any such service performed on or after any date on which such individual performs—

**(C)** service performed as the President or Vice President of the United States,

**(D)** service performed—

**(i)** in a position placed in the Executive Schedule under sections 5312 through 5317 of title 5, United States Code,

**(ii)** as a noncareer appointee in the Senior Executive Service or a noncareer member of the Senior Foreign Service, or

**(iii)** in a position to which the individual is appointed by the President (or his designee) or the Vice President under section 105 (a)(1), 106 (a)(1), or 107 (a)(1) or (b)(1) of title 3, United States Code, if the maximum rate of basic pay for such position is at or above the rate for level V of the Executive Schedule,

**(E)** service performed as the Chief Justice of the United States, an Associate Justice of the Supreme Court, a judge of a United States court of appeals, a judge of a United States district court (including the district court of a territory), a judge of the United States Court of Federal Claims, a judge of the United States Court of International Trade, a judge of the United States Tax Court, a United States magistrate judge, or a referee in bankruptcy or United States bankruptcy judge,

**(F)** service performed as a Member, Delegate, or Resident Commissioner of or to the Congress,

**(G)** any other service in the legislative branch of the Federal Government if such service—

**(i)** is performed by an individual who was not subject to subchapter III of chapter 83 of title 5, United States Code, or to another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services), on December 31, 1983, or

**(ii)** is performed by an individual who has, at any time after December 31, 1983, received a lump-sum payment under section 8342 (a) of title 5, United States Code, or under the

corresponding provision of the law establishing the other retirement system described in clause (i), or

**(iii)** is performed by an individual after such individual has otherwise ceased to be subject to subchapter III of chapter 83 of title 5, United States Code (without having an application pending for coverage under such subchapter), while performing service in the legislative branch (determined without regard to the provisions of subparagraph (B) relating to continuity of employment), for any period of time after December 31, 1983,

and for purposes of this subparagraph (G) an individual is subject to such subchapter III or to any such other retirement system at any time only if

**(a)** such individual's pay is subject to deductions, contributions, or similar payments (concurrent with the service being performed at that time) under section 8334(a) of such title 5 or the corresponding provision of the law establishing such other system, or (in a case to which section 8332(k)(1) of such title applies) such individual is making payments of amounts equivalent to such deductions, contributions, or similar payments while on leave without pay, or

**(b)** such individual is receiving an annuity from the Civil Service Retirement and Disability Fund, or is receiving benefits (for service as an employee) under another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services), or

**(H)** service performed by an individual—

**(i)** on or after the effective date of an election by such individual, under section 301 of the Federal Employees' Retirement System Act of 1986, section 307 of the Central Intelligence Agency Retirement Act (50 U.S.C. 2157), or the Federal Employees' Retirement System Open Enrollment Act of 1997 21 to become subject to the Federal Employees' Retirement System provided in chapter 84 of title 5, United States Code, or

**(ii)** on or after the effective date of an election by such individual, under regulations issued under section 860 of the Foreign Service Act of 1980, to become subject to the Foreign Service Pension System provided in subchapter II of chapter 8 of title I of such Act;

**(6)** service performed in the employ of the United States or any instrumentality of the United States if such service is performed—

**(A)** in a penal institution of the United States by an inmate thereof;

**(B)** by any individual as an employee included under section 5351 (2) of title 5, United States Code (relating to certain interns, student nurses, and other student employees of hospitals of the Federal Government), other than as a medical or dental intern or a medical or dental resident in training; or

**(C)** by any individual as an employee serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency;

**(7)** service performed in the employ of a State, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned thereby, except that this paragraph shall not apply in the case of—

**(A)** service which, under subsection (j), constitutes covered transportation service,

**(B)** service in the employ of the Government of Guam or the Government of American Samoa or any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, performed by an officer or employee thereof (including a member of the legislature of any such Government or political subdivision), and, for purposes of this title with respect to the taxes imposed by this chapter—

**(i)** any person whose service as such an officer or employee is not covered by a retirement system established by a law of the United States shall not, with respect to such service, be regarded as an employee of the United States or any agency or instrumentality thereof, and

**(ii)** the remuneration for service described in clause (i) (including fees paid to a public official) shall be deemed to have been paid by the Government of Guam or the Government of American Samoa or by a political subdivision thereof or an instrumentality of any one or more of the foregoing which is wholly owned thereby, whichever is appropriate,

**(C)** service performed in the employ of the District of Columbia or any instrumentality which is wholly owned thereby, if such service is not covered by a retirement system established by a law of the United States (other than the Federal Employees

Retirement System provided in chapter [84](#) of title [5](#), United States Code); except that the provisions of this subparagraph shall not be applicable to service performed—

- (i)** in a hospital or penal institution by a patient or inmate thereof;
- (ii)** by any individual as an employee included under section [5351 \(2\)](#) of title [5](#), United States Code (relating to certain interns, student nurses, and other student employees of hospitals of the District of Columbia Government), other than as a medical or dental intern or as a medical or dental resident in training;
- (iii)** by any individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood or other similar emergency; or
- (iv)** by a member of a board, committee, or council of the District of Columbia, paid on a per diem, meeting, or other fee basis;
- (D)** service performed in the employ of the Government of Guam (or any instrumentality which is wholly owned by such Government) by an employee properly classified as a temporary or intermittent employee, if such service is not covered by a retirement system established by a law of Guam; except that
  - (i)** the provisions of this subparagraph shall not be applicable to services performed by an elected official or a member of the legislature or in a hospital or penal institution by a patient or inmate thereof, and
  - (ii)** for purposes of this subparagraph, clauses (i) and (ii) of subparagraph (B) shall apply,
- (E)** service included under an agreement entered into pursuant to section 218 of the Social Security Act, or
- (F)** service in the employ of a State (other than the District of Columbia, Guam, or American Samoa), of any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, by an individual who is not a member of a retirement system of such State, political subdivision, or instrumentality, except that the provisions of this subparagraph shall not be applicable to service performed—
  - (i)** by an individual who is employed to relieve such individual from unemployment;
  - (ii)** in a hospital, home, or other institution by a patient or inmate thereof;
  - (iii)** by any individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency;
  - (iv)** by an election official or election worker if the remuneration paid in a calendar year for such service is less than \$1,000 with respect to service performed during any calendar year commencing on or after January 1, 1995, ending on or before December 31, 1999, and the adjusted amount determined under section 218(c)(8)(B) of the Social Security Act for any calendar year commencing on or after January 1, 2000, with respect to service performed during such calendar year; or
  - (v)** by an employee in a position compensated solely on a fee basis which is treated pursuant to section [1402 \(c\)\(2\)\(E\)](#) as a trade or business for purposes of inclusion of such fees in net earnings from self-employment;for purposes of this subparagraph, except as provided in regulations prescribed by the Secretary, the term "retirement system" has the meaning given such term by section 218(b)(4) of the Social Security Act;
- (8)**
  - (A)** service performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order, except that this subparagraph shall not apply to service performed by a member of such an order in the exercise of such duties, if an election of coverage under subsection (r) is in effect with respect to such order, or with respect to the autonomous subdivision thereof to which such member belongs;
  - (B)** service performed in the employ of a church or qualified church-controlled organization if such church or organization has in effect an election under subsection (w), other than service in an unrelated trade or business (within the meaning of section [513 \(a\)](#));
  - (9)** service performed by an individual as an employee or employee representative as defined in section [3231](#);
  - (10)** service performed in the employ of—
    - (A)** a school, college, or university, or
    - (B)** an organization described in section [509 \(a\)\(3\)](#) if the organization is organized, and at all times thereafter is

- operated, exclusively for the benefit of, to perform the functions of, or to carry out the purposes of a school, college, or university and is operated, supervised, or controlled by or in connection with such school, college, or university, unless it is a school, college, or university of a State or a political subdivision thereof and the services performed in its employ by a student referred to in section 218(c)(5) of the Social Security Act are covered under the agreement between the Commissioner of Social Security and such State entered into pursuant to section 218 of such Act;
- if such service is performed by a student who is enrolled and regularly attending classes at such school, college, or university;
- (11)** service performed in the employ of a foreign government (including service as a consular or other officer or employee or a nondiplomatic representative);
- (12)** service performed in the employ of an instrumentality wholly owned by a foreign government—
  - (A)** if the service is of a character similar to that performed in foreign countries by employees of the United States Government or of an instrumentality thereof; and
  - (B)** if the Secretary of State shall certify to the Secretary of the Treasury that the foreign government, with respect to whose instrumentality and employees thereof exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States Government and of instrumentalities thereof;
- (13)** service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to State law;
- (14)**
  - (A)** service performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;
  - (B)** service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back;
  - (15)** service performed in the employ of an international organization, except service which constitutes "employment" under subsection (y);
  - (16)** service performed by an individual under an arrangement with the owner or tenant of land pursuant to which—
    - (A)** such individual undertakes to produce agricultural or horticultural commodities (including livestock, bees, poultry, and fur-bearing animals and wildlife) on such land,
    - (B)** the agricultural or horticultural commodities produced by such individual, or the proceeds therefrom, are to be divided between such individual and such owner or tenant, and
    - (C)** the amount of such individual's share depends on the amount of the agricultural or horticultural commodities produced;
  - (17)** service in the employ of any organization which is performed
    - (A)** in any year during any part of which such organization is registered, or there is in effect a final order of the Subversive Activities Control Board requiring such organization to register, under the Internal Security Act of 1950, as amended, as a Communist-action organization, a Communist-front organization, or a Communist-infiltrated organization, and
    - (B)** after June 30, 1956;
  - (18)** service performed in Guam by a resident of the Republic of the Philippines while in Guam on a temporary basis as a nonimmigrant alien admitted to Guam pursuant to section 101(a)(15)(H)(ii) of the Immigration and Nationality Act ([8 U.S.C. 1101 \(a\)\(15\)\(H\)\(ii\)](#));
  - (19)** Service which is performed by a nonresident alien individual for the period he is temporarily present in the United States as a nonimmigrant under subparagraph (F), (J), (M), or (Q) of section 101(a)(15) of the Immigration and Nationality Act, as amended, and which is performed to carry out the purpose specified in subparagraph (F), (J), (M), or (Q), as the case may be;
  - (20)** service (other than service described in paragraph (3)(A)) performed by an individual on a boat engaged in catching fish or other forms of aquatic animal life under an

arrangement with the owner or operator of such boat pursuant to which—

- (A) such individual does not receive any cash remuneration other than as provided in subparagraph (B) and other than cash remuneration—
- (i) which does not exceed \$100 per trip;
  - (ii) which is contingent on a minimum catch; and
  - (iii) which is paid solely for additional duties (such as mate, engineer, or cook) for which additional cash remuneration is traditional in the industry,
- (B) such individual receives a share of the boat's (or the boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life or a share of the proceeds from the sale of such catch, and
- (C) the amount of such individual's share depends on the amount of the boat's (or the boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life, but only if the operating crew of such boat (or each boat from which the individual receives a share in the case of a fishing operation involving more than one boat) is normally made up of fewer than 10 individuals; or
- (21) domestic service in a private home of the employer which—
- (A) is performed in any year by an individual under the age of 18 during any portion of such year; and
  - (B) is not the principal occupation of such employee.
- [PERIOD!] [\*\*\*\*\* Warning \*\*\*\*\* End of 3,759 word long sentence #1]

[... And the last 46 words of this two paragraph definition of 3121(b) 'employment]

For purposes of paragraph (20), the operating crew of a boat shall be treated as normally made up of fewer than 10 individuals if the average size of the operating crew on trips made during the preceding 4 calendar quarters consisted of fewer than 10 individuals.

Znext

#### 26USC 3121(d) Employee

For purposes of this chapter, the term "employee" means—

- (1) any officer of a corporation; or
- (2) any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee; or [???? retnote: 'common law rules applicable determining the 3121(???) 'employer' - 3121(d) 'employee' relationship ????. How's your 'knowledge and belief' on THAT!!!]
- (3) any individual (other than an individual who is an employee under paragraph (1) or (2)) who performs services for remuneration for any person—
  - (A) as an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or dry-cleaning services, for his principal;
  - (B) as a full-time life insurance salesman;
  - (C) as a home worker performing work, according to specifications furnished by the person for whom the services are performed, on materials or goods furnished by such person which are required to be returned to such person or a person designated by him; or
  - (D) as a traveling or city salesman, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his principal (except for side-line sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations;if the contract of service contemplates that substantially all of such services are to be performed personally by such individual; except that an individual shall not be included in the term "employee" under the provisions of this paragraph if such individual has a substantial investment in facilities used in connection with the performance of such services (other than in facilities for transportation), or if the services are in the nature of a single transaction not part of a continuing relationship with the person for whom the services are performed; or
- (4) any individual who performs services that are included under an agreement entered into pursuant to section 218 of the Social Security Act.

Znext

#### 26USC 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.

#### 26USC 7701(a)(9) United States

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

#### 26USC 7701(a)(10) State

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

Znext

#### Section 3401 Chapter 24 Withholding Taxes

#### 26USC 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—

[retnote: That's a 3401(c) **employee** working for a 3401(d) 'employer'.]

- (1) for active service performed in a month for which such employee is entitled to the benefits of section 112 (relating to certain combat zone compensation of members of the Armed Forces of the United States) to the extent remuneration for such service is excludable from gross income under such section; or
- (2) for agricultural labor (as defined in section 3121 (g)) unless the remuneration paid for such labor is wages (as defined in section 3121 (a)); or
- (3) for domestic service in a private home, local college club, or local chapter of a college fraternity or sorority; or
- (4) for service not in the course of the employer's trade or business performed in any calendar quarter by an employee, unless the cash remuneration paid for such service is \$50 or more and such service is performed by an individual who is regularly employed by such employer to perform such service. For purposes of this paragraph, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if—
  - (A) on each of some 24 days during such quarter such individual performs for such employer for some portion of the day service not in the course of the employer's trade or business; or
  - (B) such individual was regularly employed (as determined under subparagraph (A)) by such employer in the performance of such service during the preceding calendar quarter; or
- (5) for services by a citizen or resident of the United States for a foreign government or an international organization; or
- (6) for such services, performed by a nonresident alien individual, as may be designated by regulations prescribed by the Secretary; or
- [(7) Repealed. Pub. L. 89-809, title I, § 103(k), Nov. 13, 1966, 80 Stat. 1554]
- (8)
  - (A) for services for an employer (other than the United States or any agency thereof)—
    - (i) performed by a citizen of the United States if, at the time of the payment of such remuneration, it is reasonable to believe that such remuneration will be excluded from gross income under section 911; or
    - (ii) performed in a foreign country or in a possession of the United States by such a citizen if, at the time of the payment

of such remuneration, the employer is required by the law of any foreign country or possession of the United States to withhold income tax upon such remuneration; or

**(B)** for services for an employer (other than the United States or any agency thereof) performed by a citizen of the United States within a possession of the United States (other than Puerto Rico), if it is reasonable to believe that at least 80 percent of the remuneration to be paid to the employee by such employer during the calendar year will be for such services; or

**(C)** for services for an employer (other than the United States or any agency thereof) performed by a citizen of the United States within Puerto Rico, if it is reasonable to believe that during the entire calendar year the employee will be a bona fide resident of Puerto Rico; or

**(D)** for services for the United States (or any agency thereof) performed by a citizen of the United States within a possession of the United States to the extent the United States (or such agency) withholds taxes on such remuneration pursuant to an agreement with such possession; or

**(9)** for services performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order; or

**(10)**

**(A)** for services performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution; or

**(B)** for services performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such services, or is entitled to be credited with the unsold newspapers or magazines turned back; or

**(11)** for services not in the course of the employer's trade or business, to the extent paid in any medium other than cash; or

**(12)** to, or on behalf of, an employee or his beneficiary—

**(A)** from or to a trust described in section 401 (a) which is exempt from tax under section 501 (a) at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust; or

**(B)** under or to an annuity plan which, at the time of such payment, is a plan described in section 403 (a); or

**(C)** for a payment described in section 402 (h)(1) and (2) if, at the time of such payment, it is reasonable to believe that the employee will be entitled to an exclusion under such section for payment; or

**(D)** under an arrangement to which section 408 (p) applies; or

**(E)** under or to an eligible deferred compensation plan which, at the time of such payment, is a plan described in section 457 (b) which is maintained by an eligible employer described in section 457 (e)(1)(A), [1] or

**(13)** pursuant to any provision of law other than section 5(c) or 6(1) of the Peace Corps Act, for service performed as a volunteer or volunteer leader within the meaning of such Act; or

**(14)** in the form of group-term life insurance on the life of an employee; or

**(15)** to or on behalf of an employee if (and to the extent that) at the time of the payment of such remuneration it is reasonable to believe that a corresponding deduction is allowable under section 217 (determined without regard to section 274 (n)); or

**(16)**

**(A)** as tips in any medium other than cash;

**(B)** as cash tips to an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is \$20 or more; [2]

**(17)** for service described in section 3121 (b)(20); [2]

**(18)** for any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 127, 129, 134 (b)(4), or 134 (b)(5); [2]

**(19)** for any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from income under section 74 (c), 108 (f)(4), 117, or 132; [2]

**(20)** for any medical care reimbursement made to or for the benefit of an employee under a self-insured medical reimbursement plan (within the meaning of section 105 (h)(6)); [2]

**(21)** for any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106 (b); [2]

**(22)** any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106 (d); or

**(23)** for any benefit or payment which is excludable from the gross income of the employee under section 139B (b). The term "wages" includes any amount includible in gross income of an employee under section 409A and payment of such amount shall be treated as having been made in the taxable year in which the amount is so includible.

znex

#### **26USC 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.

Znext

#### **26USC 3401(d) Employer**

For purposes of this chapter, the term "employer" means the person for whom an individual performs or performed any service, of whatever nature, as the employee of such person, except that—

[retnote: That's a **3401(c) employee ONLY**, not ALL employees, although Judge Rosen said, "The term 'employee' means ANY individual who performs services and who has a legal employer-employee relationship with the person for whom he performs services." [Whatever the hell 'legal-employer-employee' relationship means. Excuse me your honor. That sounds like bullshit and humma-humma to me.] Or does 'includes' include anything in which case we probably could not even need to define a special term. "Includes": A Separate Subject All by Itself.]

**(1)** if the person for whom the individual performs or performed the services does not have control of the payment of the wages [3401(a) 'wages'] for such services, the term "employer" (except for purposes of subsection (a)) means the person having control of the payment of such wages, and

**(2)** in the case of a person paying wages on behalf of a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, the term "employer" (except for purposes of subsection (a)) means such person.

[retnote: Gawd! We continue to have to instruct you on the actual meaning of the law's terms!! ]

[Retnote: 26USC7701(a)(26) The term "trade or business" includes the performance of the functions of a public office.]

Znext

#### **26USC 7701(a)(1) Person**

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

**26USC 7343 Person** The term "person" as used in this chapter [Chapter75, Crimes, for sections 7201, 7202, 7203, 7204, 7205, 7206 et. al. ] includes an officer or [1402(d?)] employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs. [retnote: Note that this is a sub-list of the global 7701(a)(1) definition and should exclude all persons falling outside the 7343 sub-group. Unless the Judge says you are not outside that group, says "Objection overruled!" and "move on."]

**END OF CURRENT IRC SECTIONS**



**United States District Court Judge Gerald E. Rosen's  
Oh-So-Simple Revisions to IRC sections 3401 & 3121.  
*If it sounds too good to be true, it probably isn't.***

**26USC 3401(a) by [6th Circuit Court of Appeals/GER] Wages ---** “The term ‘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.”

**26USC 3401(d) by [6th Circuit Court of Appeals/GER] Employer ---** “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.”

**26USC 3401(c) by [6th Circuit Court of Appeals/GER] Employee ---** “The term ‘**employee**’ means **ANY** individual who performs services and who has a legal employer-employee relationship with the person for whom he performs services.”  
[Prior version did not use “means”, it used “includes” complete with a 36 item list of seemingly federal entities, depending upon the meaning of “includes”.]

**26USC 3121(a) by [6th Circuit Court of Appeals/GER] Wages ---** “The term ‘**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.”  
[Note: Prior 3121(a) version said “ .. the term ‘wages’ means all remuneration for 3121(b) ‘employment’. ...”]

**26USC 3121(h) by [6th Circuit Court of Appeals/GER] Employer ---**  
(Replaces prior 3121(h) ‘American Employer’, the only 3121 ‘employer’.)  
“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.”

**26USC 3121(d)[6th Circuit Court of Appeals/GER] Employee ---**  
“The term ‘employee’ means **ANY** individual who performs services and who has a legal employer-employee relationship with the person for whom he performs services.” 90 Net Words!

Ahhh, but it’s not quite as simple as the above. The six sections referenced by the Judge, in response to the juror’s refused request to SEE, TOUCH and FEEL Sections 3121-FICA & 3401 4-Withholding Tax, interrelate to many other sections of the Internal Revenue Code.

The prime interrelationship is the other side of the ‘employment’ coin for those working for companies which is Chapter 2’s tax on ‘**self-employment**’. One of the most spectacular things that Self-Employment definitions achieve, ***is in immediately deleting in it’s entirety, the global, seven word definition for the omnipresent ‘trade or business’ found at 7701(a)(26)! Why?***

Further, Judge Rosen's definitions, with 4 "**ALL**'s" and two **ANY**'s, entirely avoids just what the hell did congress intend when it used '**includes**' or '**including**'? Are you '*Included*'?'

ZEND