

A '[Cracking the Code- The Fascinating Truth About Taxation In America](#)' Points and Authorities Guide
by Steven Robert Jones

CtC Page	Information	Reference Code	Reference detail
I	<i>"Inclusio unius est exclusio alterius. The inclusion of one is the exclusion of another. The certain designation of one person is an absolute exclusion of all others... This doctrine decrees that where law expressly describes [a] particular situation to which it shall apply, an irrefutable inference must be drawn that what is omitted or excluded was intended to be omitted or excluded."</i>	Blacks Law Dictionary	6th Ed.
I	<i>"There is hereby imposed on the taxable income of...[a tax of varying percentages]."</i>	Internal Revenue Code	1(a)
i	<i>"We must reject... ..the broad contention submitted in behalf of the government that all receipts—everything that comes in—are income..."</i>	US Supreme Court	Southern Pacific v. Lowe 247 U.S. 330 (1918)
iv	<i>"The moment the idea is admitted into society that property is not as sacred as the laws of God, and there is not a force of law and public justice to protect it, anarchy and tyranny commence."</i>	John Adams	
ix	"Cheeks case in 1991" Re: mention of constitutionality of tax laws	PEH	
v	While the wealthy do indeed pay a disproportionate share[of taxes], the aggregate percentage of the total tax extraction paid by households with annual receipts over \$200,000 is less than one third of the total."	PEH	
v	FICA made up more than 34% of total tax extraction	PEH	OMB
vi	Searchable IRC code	Internal Revenue Code	http://www4.law.cornell.edu/uscode/26/
vi	IRC code regulations	Internal Revenue Code	http://www.gpoaccess.gov/nara/index.html
vi	Statutes 1789 - 1875	Internal Revenue Code	http://memory.loc.gov/ammem/amlaw/1wsl.html
1	"No capitation, or other direct, Tax shall be laid, unless in proportion to the Census or Enumeration herein before directed to be taken"	US Constitution	Art.1 Sec.9

2	the taxes which, it is intended, should fall indifferently upon every different species of revenue, are capitation taxes... Capitation taxes, if it is attempted to proportion them to the fortune or revenue of each contributor, become altogether arbitrary. The state of a man's fortune varies from day to day, and without an inquisition more intolerable than any tax, and renewed at least once a year, can only be guessed at. Capitation taxes, so far as they are levied upon the lower ranks of people, are direct taxes upon their wages of labour, and are attended with all the inconveniences of such taxes.... In the capitation which has been levied in France without interruption since the beginning of the present century, the highest orders of people are rates according to their rank by an invariable tariff; the lower orders of people, according to what is supposed to be their fortune, by an assessment which varies from year to year.	Adam Smith	The Wealth of Nations, Book V, Ch II, Art IV
2	CAPITATION: A poll tax; an imposition which is yearly laid on each person according to his estate and ability.	Blacks Law Dictionary	6th Ed.
2	"the state is free to collect that money however it wishes" (subject to the limitations imposed by its own Constitution, of course...)	PEH	
2	"..once someone has come into ownership of money or property, by fulfilling the terms of a contract, through inheritance, by way of a dividend distribution, or however it has been done, that property can only be taxed by means of an apportioned tax.	PEH	
4	A DIRECT TAX: One which is demanded from the very persons who it is intended or desired should pay it .Indirect taxes are those which are demanded from one person in the expectation and intention that he should indemnify himself at the expense of another.	Blacks Law Dictionary	5th Ed.
5	<i>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 they produce. The income is not the subject of the tax: it is the basis for determining the amount of the tax.</i>	House Congressional Record F. Morse Hubbard, Treasury Department Legislative draftsman.	3/27/43 Page 2580
5	<i>When a court refers to an income tax as being in the nature of an excise, it is merely stating that the tax is not on the property itself, but rather it is a fee for the privilege of receiving gain from the property. The tax is based upon the amount of the gain, not on the value of the property.</i> John R Luckey, Legislative attorney with the Library of Congress	Library of Congress	CRS Report for Congress 92-303A(1992)
6	<i>The Congress shall have Power to exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, Dock-Yards and other needful Buildings.</i>	US Constitution	Art.1 Sec.8 Cl. 17

7	Legal jurisdiction, ..involves a government's authority over itself and its own creations...; it is sufficient...to observe that such jurisdiction does not involve (or establish) coercive authority to burden-- by taxation or otherwise -- any natural person in the exercise of his or her Rights.	PEH	
7	<i>"Special provision is made in the Constitution for the cession of jurisdiction from the States over places where the federal government shall establish forts or other military works. And it is only in these places, or in the territories of the United States, where it can exercise a general jurisdiction.</i>	US Supreme Court	New Orleans v. United States, 35 U.S. (10Pet.) 662, 737(1836)
8	<i>"It could hardly be denied that a tax laid specifically on the exercise of those freedoms would be unconstitutional"</i>	US Supreme Court	Murdock v. Pennsylvania 319 U.S. 105 480-487, (1943)
8	<i>"The terms "excise tax" and "privilege tax" are synonymous. The two are often used interchangeably.</i>	US Supreme Court	American Airways v. Wallace 57 F.2d 877, 880 Dist. Ct. M.D. Tenn. (1937)
8	<i>"Excise taxes are laid upon the manufacture, sale or consumption of commodities within the country, upon licenses to pursue certain occupations, and upon corporate privileges... the requirement to pay such taxes involves the exercise of privilege..."</i>	US Supreme Court	Flint v. Stone Tracy Co., 220 U.S. 107 (1911)
8	<i>"A tax upon the privilege of selling property at the exchange... ..differs radically from a tax upon every sale made in any place. A sale at an exchange differs from a sale made at a man's private office or on his farm, or by a partnership, because, although the subject-matter of the sale may be the same in each case, there are at an exchange certain advantages, in the way of finding a market, obtaining a price, the saving of time, and in the security of payment, and other matters, which are more easily obtained there than at an office of a farm"</i>	US Supreme Court	Nicol v. Ames, 173 U.S. 509 (1899)

9	<i>"The 'Government' is an abstraction, and its possession of property largely constructive. Actual possession and custody of Government property nearly always are in someone who is not himself the government but acts in its behalf and for its purposes. He may be an officer, an agent, or a contractor. His personal advantages from the relationship by way of salary, profit, or beneficial personal use of the property may be taxed..."</i>	US Supreme Court	United States v. County of Allegheny, 322 US 174(1944)
9	<i>"All that congress would need to do, hereafter, in seeking to take over to its control any one of the great number of subjects of public interest, jurisdiction of which the states have never parted with, and which are reserved to them by the Tenth Amendment, would be to enact a detailed measure of complete regulation of the subject and enforce it by a so-called tax upon departures from it. To give such magic to the word 'tax' would be to break down all constitutional limitation of the powers of Congress and completely wipe out the sovereignty of the states."</i>	US Supreme Court	Baily v. Drexel Furniture Co., 259 U.S. 20(1922)
10	<i>"the right to follow any of the common occupations of life is an inalienable right,... and, it has been well said that 'the property which every man has in his own labor, as it is the original foundation of all other property, so it is the most sacred and inviolable. The patrimony of the poor man lies in the strength and dexterity of his own hands, and to hinder his employing this strength and dexterity in what manner he thinks proper, without injury to his neighbor, is a plain violation of this most sacred property'.</i>	US Supreme Court	Butcher's Union Co. v. Crescent City Co., 111 U.S. 746(1883)
11	<i>"Since the right to receive income or earnings is a right belonging to every person, this right cannot be taxed as privilege"</i>	Tenn. Supreme Court	Jack Cole Co. v. Alfred T McFarlans, Commissioner, 206 Tenn. 694, 337 S.W.2d 453
11	<i>"Included in the right of personal liberty and the right of private property - partaking of the nature of each - is the right to make contracts for the acquisition of property. Chief among such contracts is that of personal employment, by which labor and other services are exchanged for money or other forms of property"</i>	US Supreme Court	Coppage v. Kansas, 236 U.S. 1 (1915)
11	<i>"An income tax is neither a property tax nor a tax on occupations of common right, but is an excise tax... The legislature may declare as 'privileged' and tax as such for state revenue, those pursuits not matters of common right, but it has no power to declare as a 'privilege' and tax for revenue purposes, occupations that are of common right"</i>	167 Ark. 557	Simms v. Ahrens, 271 SW 720 (1925)

12	<i>"An Act to provide Internal Revenue to support the Government and to pay interest on the Public Debt"</i>	Revenue Act of 1862	
12	<i>"And be it further enacted , That on and after the first day of August, eighteen hundred and sixty-two, there shall be levied, collected and paid on all salaries of officers, or payments to persons in the civil, military, naval or other employment or service of the United States, including senators and representatives and delegates in Congress, when exceeding the rate of six hundred dollars per annum, a duty of three per centum on the excess above the said six hundred dollars; and it shall be the duty of all paymasters, and all disbursing officers, under the duty of all paymasters, and all disbursing officers, under the government of the United States, or in the employ thereof, when making any payments to officers and persons aforesaid, of upon settling or adjusting the accounts of such officers and persons, to deduct and withhold the aforesaid duty of three per centum, and shall at the same time, make a certificate stating the name of the officer or person from whom such deduction was made, and the amount thereof, which shall be transmitted to the office of the Commissioner of the Internal revenue, and entered as part of the internal revenue duties.</i>	Revenue Act of 1862	Sec. 86
12	<i>"And be it further enacted, that there shall be levied, collected, and paid annually, upon the annual gains, profits, or income of every person residing in the United States, whether derived from any kind of property, rents, interest, dividends, salaries, or from any profession, trade, employment, or vocation carried on in the United States or elsewhere, of from any other source whatever, except as hereinafter mentioned, if such annual gains, profits, or income exceed the sum of six hundred dollars, and do not exceed the sum of ten thousand dollars, a duty of three per centum on the amount of such gains, profits, or income over and above the said sum of six hundred dollars; if said income exceeds the sum of ten thousand dollars, a duty of five per centum upon the amount thereof exceeding six hundred dollars;</i>	Revenue Act of 1862	Sec. 90
12	<i>"It is to be noted that, by the language of the Act, it is not salaries, wages, or compensation for personal services that are to be included in gross income. That which is to be included is gains, profits and income derived from salaries, wages, or compensation for personal services.</i>		Lucas v. Earl, 281 U.S. 111, 50 S. Ct. 241, 74 L. Ed. 741 (1930) (from the lower court ruling) Sec. 93
13	<i>And be it further enacted... that any party, in his or her own behalf, ...shall be permitted to declare, under oath or affirmation, the form and manner of which shall be prescribed by the commissioner of Internal revenue, that he or she was not possessed of an income of six hundred dollars, liable to be assessed according to the provisions of this act, or ...has been assessed elsewhere... and shall thereupon be exempt from an income duty; or, if the list or return of any party shall have been increased..... he or she may be permitted to declare, ... the amount of his or her annual income,... liable to be assessed,... and the same so declared shall be received as the sum upon which duties are to be assessed and collected.</i>	Revenue Act of 1862	Later found in CFR 301.6203-1 Also Title 26 Sec 6201(a) (1)

<p>http://www.isthorizons.com/PostAppellateBrief.pdf</p>	<p>§ 301.6203-1 Method of assessment. The district director and the director of the regional service center shall appoint one or more assessment officers. The district director shall also appoint assessment officers in a Service Center servicing his district. The assessment shall be made by an assessment officer signing the summary record of assessment. The summary record, through supporting records, shall provide identification of the taxpayer, the character of the liability assessed, the taxable period, if applicable, and the amount of the assessment. The amount of the assessment shall, in the case of tax shown on a return by the taxpayer, be the amount so shown, and in all other cases the amount of the assessment shall be the amount shown on the supporting list or record. The date of the assessment is the date the summary record is signed by an assessment officer. If the taxpayer requests a copy of the record of assessment, he shall be furnished a copy of the pertinent parts of the assessment which set forth the name of the taxpayer, the date of assessment, the character of the liability assessed, the taxable period, if applicable, and the amounts assessed.</p>		<p>CFR 301.6203-1 Originated from Revenue Act of 1862, Sec. 93 See Also Title 26 Sec 6201(1)</p>
<p>http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=2f3424227ce09544a2564e675b7c132f&rgn=div8&view=text&node=26:18.0.1.1.2.3.56.2&idno=26</p>			<p>26 USC 6201(1)</p>
<p>Title 26 Sec 6201 (a) Authority of the Secretary (1) Taxes shown on return</p>	<p>The Secretary shall asses all taxes determined by the taxpayer or by the secretary as to which returns or lists are made under this title.</p>	<p>IRC</p>	<p>See also: CFR 301.6203-1 Originated from Revenue Act of 1862, Sec. 93</p>
<p>14</p>	<p>"if 'gains, profits or income derived from' pay is the same thing as pay itself, the pay of government workers identified in Section 86 would be being taxed under Section 90 and the relevant portion of Section 86 would be nonsensically superfluous. This clearly lawful distinction will not and could not change through the many less candid re-enactments and modification of the tax since.</p>	<p>PEH</p>	
<p>15</p>	<p><i>"The power to tax real and personal property and the income from both, there being an apportionment, is conceded: that such a tax is a direct tax in the meaning of the Constitution has not been, and in our judgment, cannot be successfully denied:...</i></p>	<p>US Supreme Court</p>	<p>Pollock v. Farmers Loan & Trust, 157 U.S. 429 and 158 U.S. 601 (1895)</p>
<p>16</p>	<p><i>"Ordinarily, all taxes paid primarily by person who can shift the burden upon some one else, or who are under no legal compulsion to pay them, are considered indirect [excise] taxes."</i></p>	<p>US Supreme Court</p>	<p>Pollock v. Farmers Loan & Trust, 157 U.S. 429 and 158 U.S. 601 (1895)</p>
<p>18</p>	<p><i>"The tax imposed by sections 27 to 37, inclusive, of the act of 1894, so far as it falls on the income of real estate, and of personal property, being a direct tax, within the meaning of the Constitution, and therefore unconstitutional and void, because not apportioned according to representation, all those sections, constituting one entire scheme of taxation are necessarily invalid"</i></p>	<p>US Supreme Court</p>	<p>Pollock v. Farmers Loan & Trust, 157 U.S. 429 and 158 U.S. 601 (1895)</p>

19	<i>"The congress shall have the power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several states, and without regard to any census or enumeration."</i>	US Constitution	16th Amendment (1913)
20	<i>"we are of the opinion, however, that the confusion is not inherent, but rather arises from the conclusion that the 16th amendment provides for a hitherto unknown power of taxation; that is, a power to levy an income tax which, although direct, should not be subject to the regulation of apportionment applicable to all other direct taxes. And the far-reaching effect of this erroneous assumption will be made clear by generalizing the many contentions advanced in argument to support it. ...But it clearly results that the proposition and the contentions under it, if acceded to, would cause one provision of the Constitution to destroy another; that is they would result in bringing the provisions of the amendment exempting a direct tax from apportionment into irreconcilable conflict with the general requirement that all direct taxes be apportioned."</i>	US Supreme Court	Brushaber v. Union Pacific R. Co., 240 U.S. 1 (1916)
22	<i>Taxation on "income" is "...in its nature an excise tax entitled to be enforced as such and until it was concluded that to enforce it would amount to accomplishing the result which the requirement as to apportionment of direct taxation was adopted to prevent, in which case the duty would arise to disregard form and consider substance alone, and hence subject the tax to the regulation as to apportionment which otherwise as an excise would not apply to it."</i>	US Supreme Court	Brushaber v. Union Pacific R. Co., 240 U.S. 1 (1916)
22	<i>"Mark, of course, in saying this we are not here considering a tax... entirely beyond the scope of the taxing power of congress, and where consequently no authority to impose a burden, either direct or indirect exists. In other words, we are here dealing solely with the restriction imposed by the 16th amendment on the right to resort to the source whence an income is derived where there is a power to tax."</i>	US Supreme Court	Stanton v. Baltic Mining So, 240 U.S. 103 (1916)
23	<i>"The Treasury cannot by interpretive regulations, make income of that which is not income within the meaning of the revenue acts of Congress, nor can Congress without apportionment, tax as income that which is not income within the meaning of the 16th Amendment."</i>	US Court of appeals	Helvering v. Edison Bros Stores, 133 F2d 575 (1943)
23	<i>"Constitutionally the only thing that can be taxed by congress is "income". And the tax actually imposed by Congress has been on net income as distinct from gross income. The tax is not, never has been, and could not constitutionally be upon "gross receipts"..."</i>	US Court of appeals	Anderson Oldsmobile Inc v. Hofferbert, 102 F Supp 902 (1952)
23	<i>"The sixteenth Amendment, although referred to in argument, has no real bearing and may be put out of view. As pointed out in recent decisions, it does not extend the taxing power to new or excepted subjects, but merely removes all occasion, which otherwise might exist, for an apportionment among the states of taxes laid on income, whether it be derived from one source or another."</i>	US Supreme Court	Peck v. Lowe, 247 U.S. 165 (1918)
23	<i>"The provisions of the Sixteenth Amendment conferred no new power of taxation but simply prohibited the complete and plenary power of income taxation possessed by congress from the beginning from being taken out of the category of indirect taxation to which it inherently belonged."</i>	US Supreme Court	Stanton v. Baltic Mining Co. 240 U.S. 103 (1916)
24	<i>"The general term "income" is not defined in the IRC"</i>	US Supreme Court	US v. Ballard, 535 F2d 400, 404 (1976)

"... 'income', as used in the statute should be given a meaning so as not to include everything that comes in. The true function of the words 'gains' and 'profits' is to limit the meaning of the word income."

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US District Court

Southern Pacific v. Lowe 238 F 847 S.D. New York (1919) (So. Pac. v. Lowe, 247 U.S. 330 (1918))

(i)

(Acknowledged by the Supreme Court on review, and re-stated with the language, "We must reject in this case... the broad contention submitted in behalf of the government that all receipts- everything that comes in- are income within the proper definition of the term 'gross income'.")

(US Supreme Court)

"It is obvious that these decisions in principle rule the case at bar if the word "income" has the same meaning in the Income Tax Act of 1913 that it had in the Corporate Excise Tax Act of 1909, and that it has the same scope of meaning was in effect decided in Southern Pacific Co. v. Lowe 247 US 330,335, where it was assumed for the purposes of decision that there was no difference in its meaning as used in the act of 1909 and in the Income Tax Act of 1913. There can be no doubt that the word must be given the same meaning and content in the Income Tax Acts of 1916 and 1917 that it had in the act of 1913. When to this we add that in Eisner v. Macomber, supra, a case arising under the same Income Tax Act of 1916 which is here involved, the definition of "income" which was applied was adopted from Stratton's Independence v. Howbert, arising under the Corporation Excise Tax Act of 1909, with the addition that it should include "profit gained through sale or conversion of capital assets", there would seem to be no room to doubt that the word must be given the same meaning in all Income Tax Acts of Congress that was given to it in the Corporation Excise Tax Act, and that what that meaning is has now become definitely settled by the decisions of this court."

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US Supreme Court

Merchant's Loan and Trust v. Smietanka 255 US 509 (1921)

SEC. 38. That every corporation, joint stock company or association, organized for profit and having a capital stock represented by shares, and every insurance company, now or hereafter organized under the laws of the United States or of any State or Territory of the United States or under the Acts of Congress applicable to Alaska or the District of Columbia, or now or hereafter organized under the laws of any foreign country and engaged in business in any State or Territory of the United States or in Alaska or in the District of Columbia, shall be subject to pay annually a special excise tax with respect to the carrying on or doing business by such corporation, joint stock company or association, or insurance company, equivalent to one per centum upon the entire net income over and above five thousand dollars received by it from all sources during such year, exclusive of amounts received by it as dividends upon stock of other corporations, joint stock companies or associations, or insurance companies, subject to the tax hereby imposed; or if organized under the laws of

CIC CD

Corporate tax act of 1909

any foreign country, upon the amount of net income over and above five thousand dollars received by it from business transacted and capital invested within the United States and its Territories, Alaska, and the District of Columbia during such year, exclusive of amounts so received by it as dividends upon stock of other corporations, joint stock companies or associations, or insurance companies, subject to the tax hereby imposed: *Provided, however,* That nothing in this

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...and it is important for an overall understanding of lawful taxation to recognize that "income" which can be lawfully taxed must not only be a consequence of the exercise of privilege, but it must also involve meaningful gain.

PEH

27	..All tradable good of any kind, including sheep and shoes as well as work (and by extension the notes or tokens, sometimes called money, used to facilitate the trading process), represent a unit of time/labor. If goods could be acquired without an expenditure of time/labor, they would have no value. They might still be desirable, as air is desirable, even necessary, but of no tradable value due to being attainable without any effort.	PEH	
31	...remuneration for work literally IS labor; and the seizure of remuneration that is the result of simply working for a living amounts to slavery. There is no meaningful distinction that can be drawn between the taking of 25% of a worker's pay in taxes with which to purchase his or his competitor's products and services, and forcing that worker into a government factory to produce those products and services for free 2 hours out of every 8-hour workday.	PEH	
32	For someone working FOR the taxing authority, of course, the "tax" would be nothing but a pay-cut, and would represent a voluntarily accepted condition of "employment", all remuneration from which constitutes, by law, profit.	PEH	
38	Law which can only be applied with the assistance of interpretation is therefore improper and void -- such law not only provides no usable notice of its requirement to those for whose interests it is purportedly crafted, but becomes necessarily the law of the interpreter rather than the delegates.	PEH	
42	<i>"The enacting clause of all acts of Congress shall be in the following form: "Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled."</i>	US Code	Title 1, Ch2, Sec101 - Enacting Clause:
43	27 of the 50 US Code laws have not been formally "Enacted". Those un-enacted laws + declarations and Executive Orders only have application within federal entities and federal territories.	PEH	Paraphrased
43	<i>Each agency shall make available to the public information as follows: Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by this agency.</i>	US Code	Title 5, Part 1, CH5 SubCh2 Sec552 Public Information: agency rules, opinions, orders and records and proceedings.
44	<i>"The general rule is that an unconstitutional statute, though having the form and name of law, is in reality no law, but is wholly void and ineffective for any purpose, since it unconstitutionality dates from the time of its enactment.... In legal contemplation, it is as inoperative as if it had never been passed....Since an unconstitutional law is void, the general principles follow that it imposes not duties, confers no right, creates no office, bestows no power or authority on anyone, affords no protection and justifies no acts performed under it....A void act cannot be legally consistent with a valid one. An unconstitutional law cannot operate to supersede an existing valid law. Indeed insofar as a statute runs counter to the fundamental law of the land, it is superseded thereby. No one is bound to obey an unconstitutional law and no courts are bound to enforce it"</i>	US Supreme Court	Norton v. Shelby County 118 US 178, 16 Am Jur 2d 177, late Am Jur 2d 256
46	The for the purposes of this title the term gross income (a) includes gains, profits, and income derived from salaries, wages, and compensation for personal service (including in the case of the President of the United States, the judges of the Supreme and inferior courts of the United States, Alaska, Hawaii, or any political subdivision thereof, or the District of Columbia, the compensation received as such)..[(except as otherwise provided in section 233- Gross income of Corporations Defined, PEH]	Internal Revenue Code	Sec.213 Gross Income Defined

46	<p>"...it becomes essential to distinguish between what is, and what is not 'income'... Congress may not by any definition it may adopt, conclude the matter since it cannot by legislation alter the Constitution, from which alone it derived its powers to legislate, and within whose limitations alone, that power can be lawfully exercised."</p>	US Supreme Court	Eisner v. Macomber, 252 US 189 (1920)
47	<p>"For 1936, taxable income tax returns filed represented only 3.9% of the population." "The largest portion of consumer incomes in the united States is not subject to income taxation. Likewise, only a small proportion of the population of the United States is covered by the income tax."</p>	Collection at Source of the Individual Normal Income Tax, 1941	United States Treasury Dept. Div. of Tax Research
48	<p>That in estimating the gains, profits and income of any person there shall be included... all other gains, profits, and income derived from any source whatever except that portion of the salary, compensation, or pay received for services in the civil military, naval, or other service of the United States, including Senators, representatives and Delegates in Congress, from which the tax has been deducted"... "And provided further, that in cases where the salary or other compensation paid to any person in the employment or service of the United States shall not exceed the rate of four thousand dollars per annum, or shall be by fees, or uncertain or irregular in the amount or in the time during which the same shall have accrued or been earned, such salary or other compensation shall be included in estimating the annual gains, profits or income of the person to whom the same shall have been paid, and shall include that portion of any income or salary upon which a tax has not been paid by the employer, where the employer is required by law to pay on the excess over four thousand dollars.</p>	Revenue Act of 1862 (1894, Sec 28)	
50	<p>Gross Income: (a) General Definition.-"Gross income" includes gains, profits, and income derived from salaries, wages, or compensation for personal service, of whatever kind and in whatever form paid, or from professions, vocations, trades, businesses, commerce, or sales, or dealings in property, whether real or personal, growing out of the ownership or use of or interest in such property; also from interest, rent, dividends, securities, or the transaction of any business carried on for gain or profit, or gains or profits and income derived from any source whatever.</p>	Revenue Act of 1862 (1928, Sec22)	
51	<p>An act to provide for the classification of civilian positions within the district of Columbia and in the field services: Be it enacted by the Senate and House of representatives of the United States of America in Congress Assembled, that this Act may be cited as "The Classification Act of 1923'. Sec.2 That the term "compensation schedules" means the schedules of positions, grades, and salaries, as contained in section 13 of the Act. The term "department" means an executive department of the United States Government, a governmental establishment in the executive branch of the United States Government which is not a part of an executive department, the municipal government of the District of Columbia, the Botanic Garden, Library of Congress, Library building and Grounds, Government Printing Office, and the Smithsonian Institution. That the term "the head of the department" means the officer of group of officers in the department who are not subordinate or responsible to any other officer of the department. The term "board" means the Personal Classification Board established by section 3 hereof. The term "position" means a specific civilian office or employment, whether occupied or vacant, in a department other than the following: Offices of employments in the Postal Service; teachers, librarians, school attendance officers, and employees of the community center department under the Board of Education of the District of Columbia; officers and members of the metropolitan police, the fire department of the District of Columbia, and the United States park police, and the commissioned personnel of the Coast Guard, the public Health Services, and the Coast and Geodetic survey. The term "employee" means any person temporarily or permanently in a position. The term "service" means the broadest division of related offices and employments. The term "grade" means a subdivision of service, including one or more positions for which approximately the same basic qualifications and compensation are prescribed, the distinction between grades being based upon differences in the importance, difficulty, responsibility, and value of the work. The term "class" means a group of positions to be established under this Act sufficiently similar in respect to the duties and responsibilities thereof that the same requirements as to education, experience, knowledge and ability are demanded of incumbents, and the same schedule of compensation is made to apply with equity. The term "compensation" means any salary , wage, fee , allowance, or other emolument paid to an employee for service in a position. [The remainder of this act is omitted]</p>	IRC	Classification act of 1923 42 Stat.1488 March 4 1923 (HR8928) Public, No.516 Chapter 256 – <i>An act to provide for the classification of civilian positions within the district of Columbia and in the field services</i>

	Introduction:		
54	(1) Out system of taxation is dependant on taxpayer’s belief that the laws they follow apply to everyone and that the Internal Revenue Service will respect and protect the rights under the law. These are the fundamental principles of voluntary compliance.	IRC	Internal Revenue Manual., Part 5, Collection Activity 105.4.1.2 (7/27/98)
54	It is axiomatic (and the law) that terms and phrases within a statute for which definitions are provided DO NOT have their common meanings as used therein.	PEH	
55	<i>“The [state supreme] court also considered that the word ‘including’ was used as a word of enlargement, the learned court being of the opinion that such was its ordinary sense. With this we cannot concur.”</i>	US Supreme Court	Montello Salt Co. v. Utah, 221 US 452 (1911)
56	(26) Trade or business: The term “Trade or Business” includes the performance of the functions of a public office	IRC	
56	Include and Including: The terms “includes” and “including” when used in a definition contained in this title shall not be deemed to exclude other things otherwise within the meaning of the term defined	IRC	Section 7701(c)
58	Meaning of terms: The terms “Includes and including” do not exclude things not enumerated which are in the same general class.	IRC	36 CFR 170.59
59	<i>“Where Congress includes particular language in one section of a statute but omits it in another..., it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion.”</i>	US Supreme Court	Rusello v United States, 464 US 16, 23, 78, L Ed 2d 17, 104 S Ct. 296 (1983) (Quoting United States v Wong Kim Bo, 472 F.2d 720,722(CA 1972))
59	3401(c) Employee: For the purposes of this chapter, the term “employee” includes an officer, employee, or an 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.	IRC	3401(c)
60	3401(d) Employer For the 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(as defined above-SJ) or such person.	IRC	26USC3401(d)

60	3121(e)(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.	IRC	3121(e)(2)
60	Title 26, Subtitle D, Chapter 38, Subchapter A, Section 4612[Petroleum tax] For the purposes of this subchapter – (4) United States: In general the term "United States" means the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, any possession of the United States, the Commonwealth of the Northern Mariana Islands, and the Trust territory of the Pacific Islands,	IRC	Title 26, Subtitle D, Chapter 38, Subchapter A, Section 4612 [Petroleum tax]
60	Title 20, Chapter 69, Section 6013(Education) As used in the chapter: (8) Employer – The term "employer" includes both public and private employers.	IRC	Title 20, Chapter 69, Section 6013(Education)
61	Meaning of terms: The terms "includes and including" do not exclude things not enumerated which are in the same general class	IRC	Title 27, 27CFR 72.11
	http://www.1osthorizons.com/Newsletter.htm		
	<i>"...a statute which imposes a tax upon an assumption of fact which the [presumed] taxpayer is forbidden to controvert is so arbitrary and unreasonable that it cannot stand under the Fourteenth Amendment."</i>	US Supreme Court	Heiner v. Donnan 285 U.S. 312 (1932)
	http://www.1osthorizons.com/Newsletter.htm		
	<i>"...irrebuttable presumptions have long been disfavored under the Due Process Clauses of the Fifth and Fourteenth Amendments."</i>	US Supreme Court	Vlandis v. Kline, 412 U.S. 441 (1973)
	http://www.1osthorizons.com/Newsletter.htm		
	<i>"A fundamental requirement of due process is "the opportunity to be heard." Grannis v. Ordean, 234 U.S. 385, 394 . It is an opportunity which must be granted at a meaningful time and in a meaningful manner."</i>	US Supreme Court	Armstrong v. Manzo, 380 U.S. 545 (1965)
	http://www.1osthorizons.com/Newsletter.htm		
	<i>"The right to be heard before being condemned to suffer grievous loss of any kind, even though it may not involve the stigma and hardships of a criminal conviction, is a principle basic to our society."</i>	US Supreme Court	Joint Anti-Fascist Comm. v. McGrath, 341 U.S. 123, 168 (1951)
61	<i>"[W]here general words follow specific words in a statutory enumeration, the general words are construed to embrace only objects similar in nature to those objects enumerated by the preceding specific words"</i>	US Supreme Court	Circuit City Stores v. Adams, 532 US 105, 114-115 (2001)
61	<i>"Under the principle of ejusdem generis, when a general term follows a specific one, the general term should be understood as a reference to subjects akin to the one with specific enumeration."</i> <i>ejusdem generis (eh-you-se-dem generous) adj. Latin for "of the same kind," used to interpret loosely written statutes. Where a law lists specific classes of persons or things and then refers to them in general, the general statements only apply to the same kind of persons or things specifically listed. Example: if a law refers to automobiles, trucks, tractors, motorcycles and other motor-powered vehicles, "vehicles" would not include airplanes, since the list was of land-based transportation.</i>	US Supreme Court	Norfolk & Western R. Co. v. Train Dispatchers, 499 US 117 (1991)

61	"...a word is known by the company it keeps (the doctrine of noscitur a sociis). This rule we rely upon to avoid ascribing to one word a meaning so broad that it inconsistent with its accompanying words, thus giving unintended breadth to the Acts of Congress." <i>Jarecki v. G.D. Searle & Co.</i> , 367 US 303 (1961)." (See ABDUS-SHAHID M. S. ALI, PETITIONER v. FEDERAL BUREAU OF PRISONS et al. regarding a JAN2008 decision re: ejusdem generis and noscitur a sociis, specifically "Any")	US Supreme Court	<i>Gustafson v. Alloyd Co.</i> (93-404), 513 US 561 (1995)
Loose citation	"Anyone entering into an arrangement with the government takes the risk of having accurately ascertained that he who purports to act for the government stays within the bounds of his authority, even though the agent himself may be unaware of the limitations upon his authority."	US Supreme Court	<i>Federal Crop Insurance v Merrill</i> 332 US 380 (1947)
Loose citation	The Hobbs Act defines "extortion" as "the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right"		18 USC 1951(b)(2)
Loose citation	Mail Fraud		18 USC 1951(b)(2)
Loose citation	Where a state official receives money for a tax paid under duress with notice of its illegality, he has no right to it and the name of the state does not protect him from suit	US Supreme Court	<i>Atchison T.& S.F.R. Co. v. O'Connor</i> , 233 US 280
Loose citation	"The taxpayer must be liable for the tax. Tax liability is a condition precedent to the demand. Merely demanding payment, even repeatedly, does not cause liability."		<i>Bothke v Terry</i> 713 F.2d 1405, 1414 (1983)
Loose citation	"Consonant alike with ordinary notions of fair-play and settled rules of law; and a statute which either forbids or requires the doing of an act so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application violates the first essential of due process of law"	US Supreme Court	<i>Connally et al v. General Construction company</i> , 269 US 385, 391 (1926)
Loose citation	Witness tampering: The Federal Victim and Witness Protection Act prohibits retaliation or threats of retaliation against witnesses after they testify.		18 USC ss1512
Loose citation	Deprivation of rights under color of law: makes it a crime for any public official to violate a law related to his office, or to exert an authority he does not expressly have, or fail to perform a duty he is required to perform.		18 USC 242
Loose citation	Official misconduct, abuse of process. Penal code ss918, Grand Jury (access). Also: Public officials conspiring to do things that act in violation of law and perpetuate ongoing schemes, in the furtherance of an ongoing criminal conspiracy.		RICO 18 USC ss1961

62	“For the 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 of the foregoing. The term “employee” also includes a [paid] officer of a corporation.”	IRS Code	26 USC 3401(c)
63	<i>“It is axiomatic that the statutory definition of the term excludes unstated meanings of that term.”</i>	US Supreme Court	Meese v. Keene, 481 US 465 (1987)
63	(a) For the purposes of this chapter (1) the terms “includes” and “including are not limiting;	US Code	28 USC 3003 Rules of Construction
63	In this title - (3) “includes” and “including” are not limiting.	US Code	11 USC 102 Rules of Construction
64	<i>“The construction of a statute by those charged with its execution should be followed unless there are compelling reasons that it is wrong, especially when Congress has refused to alter the administrative construction, and such deference is particularly appropriate where an agency’s interpretation involves issues of considerable public controversy and Congress has not acted to correct any misperception of its statutory objectives.”</i>	US Supreme Court	CBS INC. v. FCC, 453 US 367 (1981)
65	“Employee” as defined in 26 USC 1641(c) came from Current Tax Payment act of 1943	US Code	26 USC 1641(c)
65	Subchapter D – Collection of Wages at Source of Wages Sec.1621 Definitions As used in this subchapter – (c)Employee. The term “employee” includes an officer, employee, or elected official of the United States, a State, Territory, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one of the foregoing. The term “employee” also includes an officer of a corporation.	Federal Register	9/7/43 Page 12,267
65	404.104 Employee. The term “employee” includes every individual performing services if the relationship between him and the person for whom he performs such services is the legal relationship of employer and employee. The term specifically includes officers and employee’s weather elected of appointed, of the United States, a State, Territory, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one of the foregoing.	Federal Register	404.104 Employee.
67	<i>“When the words of a statute are unambiguous, the first canon of statutory construction [that courts must presume that a legislature says in a statute what it means, and means in a statute what it says there] it is also the last, and judicial inquiry is complete.”</i>	US Supreme Court	Bank v. Germain, 503 US 249 (1992)
67	<i>“In the interpretation of statutes levying taxes it is the established rule not to extend their provisions. By implication, beyond the clear import of the language used, or to enlarge their operations so as to embrace matters not specifically pointed out. In case of doubt they are to be construed most strongly against the government and in favor of the citizen.”</i>	US Supreme Court	Gould v. Gould, 245 US 151(1917)

68	On Feb 10 th 1939 the first Internal Revenue Code was published. It was mostly just a compilation of all revenue acts then in force. Any changes in the language of those earlier acts resulting from that compiling (which were myriad) were not enacted into law. Consequently, except where subsequent formal enactments have explicitly amended or otherwise modified language found therein, such language is subordinate to the older, original laws.	PEH	IRC 1939
68	<i>“The Internal Revenue title, which comprises all of the Code except the preliminary sections relating to its enactment, is intended to contain all the United States statutes of a general and permanent nature relating exclusively to internal revenue, in force on January 2nd 1939, also such of the temporary statutes of that description as relate to taxes the occasion of which may arise after the enactment of the Code. These statutes are codified without substantive change and with only such change of form as is required by arrangement and consolidation. The title contains no provision, except for the effective date, not derived from a law approved prior to January 3rd 1939... The whole body of internal revenue law in effect on January 2, 1939, therefore, has its ultimate origin in 164 separate enactments of Congress. The earliest of these was approved July 1, 1862; the latest, June 16th 1938...”</i>	Preamble, IRC 1939	IRC 1939
69	Sec 7806 – Construction of Title: (b) Arrangement and classification No inference, implication, or presumption of legislative construction shall be drawn or made by reason of the location or grouping of any particular section of provision or portion of this title, nor shall any table of contents, table of cross references, or similar outline, analysis, or descriptive manner relating to the contents of this title be given any legal effect.	IRC 1939	IRC 1939
69	Section 22(a): Gross Income includes gains, profits, and income derived from salaries, wages or compensation for personal service, of whatever kind and in whatever form paid, or from professions, vocations, trades, businesses, commerce or sales, or dealings in property, whether real or personal; also from interest, rent, dividends, securities, or the transaction of any business carried on for gain or profits, or gains or profits from any source whatever.	IRC 1939	IRC 1939
70	SECTION 1. Section 22(a) of the Internal Revenue Code (relating to the definition of “gross income”) is amended by inserting after the words “compensation for personal service” the following: “including personal service as an officer or employee of a State, or any political subdivision thereof, or any agency or instrumentality of the forgoing”.	IRC 1939	IRC 1939
70	(10) 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	IRC	26 USC 7701
71	Sec.7651 – Administration and collection of taxes in possessions. (1) Applicability of administrative provisions. All provisions of the laws of the United States applicable to the assessment and collection of any tax imposed by this title or of any other liability arising under this title (including penalties) shall, in respect of such tax or liability, extend to and be applicable in any possession of the United States in the same manner and to the same extent as if such possession were a State, and as if the term “United States” when used in the geographical sense included such a possession.	IRC	26 USC 7651(1) Contents also found in 26 USC 3401
72	Sec.61 – Gross Income Defined (a) General Definition Except as otherwise provided in this subtitle, gross income means all income from whatever source derived, including (but not limited to) the following items. (1) Compensation for services, including fees, commissions, fringe benefits, and similar items;	IRC	26 USC 61(a)

74	<p><i>"All legislation is prima facie territorial [citations omitted]. Words having universal scope, such as "every contract in restraint of trade", "every person who shall monopolize" etc., will be taken, as a matter of course, to mean only everyone subject to such legislation, not all that the legislator subsequently may be able to catch."</i></p>	US Supreme Court	American Banana Co. v. United Fruit Co., 213 US 347 (1909)
74	<p>Section 86 if the Internal Revenue Act of 1862:...and it shall be the duty of all paymasters, and all disbursing officers, under the duty of all paymasters, and all disbursing officers, under the government of the United States, or in the employ thereof, when making any payments to officers and persons aforesaid, of upon settling or adjusting the accounts of such officers and persons, to deduct and withhold the aforesaid duty of three per centum, and shall at the same time, make a certificate stating the name of the officer or person from whom such deduction was made, and the amount thereof, which shall be transmitted to the office of the Commissioner of the Internal revenue, and entered as part of the internal revenue duties.</p>		
	<p>Section 3402(a) Requirement of withholding: (1) In General Except as otherwise provided in this section, every employer making payment of wages shall deduct and withhold upon such wages a tax determined in accordance with tables or computational procedures prescribed by the Secretary. Any tables or procedures prescribed under this paragraph shall...</p>	IRC	26 USC 3402
74	<p>Sec. 3401 – Definitions (a) Wages For the 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,...</p>	IRC	26 USC 3401
74	<p>Sec. 3401 – Definitions (c) Employee For the 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 the foregoing. The term "employee" also includes an officer of a corporation.</p>		26 USC 3401
	<p>(d) Employer For the 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...</p>		
75	<p>A "United States Corporation", defined in Sec. 207 of the Public Salary Tax Act as, "a corporate agency or instrumentality, is one (a) a majority of the stock of which is owned by or on behalf of the United States, or (b) the power to appoint or select a majority of the Board of Directors of which is exercisable by or on behalf of the United States..." [PEH: However we are instructed by the IRS in Pub. 15A that corporate officers are only to be considered "employees" if they are paid as a consequence of their positions.]</p>	Public Salary Tax Act Pub.15A, (d) [Employee definition]	Section 207 of Public Salary Tax Act
Loose citation	<p>The term "United States" may be used in any one of several senses. [1] It may be merely the name of a sovereign* occupying the position analogous to that of other sovereigns in the family of nations. [2] It may designate the territory over which the sovereignty of the United States** extends, or [3] it may be the collective name of the states*** which are united by and under the Constitution.</p>	US Supreme Court	Hooven & Allison Co. v. Evatt, 324 U.S. 652 (1945)
77	<p>FICA Sec.3101 – Rate of tax (a) Old age, survivors, and disability insurance In addition to other taxes, there is hereby imposed on the income of every individual a tax equal to the following percentages of the wages (as defined in section 3121(a)) received by him with respect to employment (as defined in section 3121(b))</p>	IRC	26 USC 3101(a)

Sec. 3121(a) – Definitions

(a) Wages

For the 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 [various pre-tax deductions]

(b) Employment

For the 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))...

(e) State, United States and [Puerto Rican] citizen

For the 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.

(h) American Employer

For the 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, or

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

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

FUTA

Section 3301 – Rate of Tax

There is hereby imposed on every employer (as defined in section 3306(a)) for each calendar year an excise tax, with respect to having individuals in his employ, equal to – [rate of tax]

Section 3306 – Definitions

(a) Employer

For the purposes of this chapter –

(1) In general, the term “employer” means, with respect to any calendar year, any person who –

(A) during any calendar quarter in the calendar year of the preceding calendar year paid wages of \$1,500 or more, or

(B) On each of some 20 days during the calendar year or the preceding calendar year, each day being in a different calendar week, employed at least one individual in employment for some portion of the day.

(b) Wages

For the 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;

(c) Employment

For the purposes of this chapter, the term “Employment” means any service performed prior to 1955, which was employment for purposes of subchapter C of chapter 9 of the IRC of 1939 under the law applicable to the period in which such service was performed, and

(A) any service, of whatever nature, performed after 1954 by an employee for the person employing him, irrespective of the citizenship or residence or either,

77

IRC

26 USC 3121(a) –
(h)

79

IRC

26 USC 3301

(i) within the United States, or...

Remaining definitions generally duplicate those of Sec 3121...

FICA

Section 3501 – Collection and Payment of Taxes

81 (a) General rule
The taxes imposed by this subtitle shall be collected by the Secretary and shall be paid into the Treasury of the United States as internal-revenue collections. IRC 26 USC 3501

SELF EMPLOYMENT INCOME TAX

Sec 1401 – Rate of tax

(a) Old age, survivors, and disability insurance, in addition to other taxes, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax equal to the following percent of the amount of the self-employment income for such taxable year...

Sec.1402 – Definitions

(a) Net earnings from self-employment

82 The term “net earnings from self-employment” means the gross income derived by an individual from any trade or business carried on by such an individual, less the deductions allowed by this subtitle which are attributable to such trade or business... IRC 26 USC 1401

(b) Self-Employment Income

The term “self-employment income” means the net earnings from self-employment derived by an individual...

Sec.7701 – Definitions

(a) When used in the title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof –

(26) Trade or Business

The term “trade or business” includes the performance of the functions of a public office.

(there is a narrower definition at 1402(c))

1099 Submission

Sec 6401 – Information at source

(a) Payments of \$600 or more

All persons engaged in a trade or business and making payment in the course of such trade or business to another person, or rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed and determinable gains, profits and income... of \$600 or more... shall render a true and accurate return...

Sec.6041A Returns regarding payments of remuneration for services and direct sales

84 (a) Returns regarding remuneration for services if – IRC 26 USC 6041
(1) any service-recipient engaged in a trade or business pays in the course of such trade or business during any calendar year remuneration to any person for services performed by such person, and
(2) The aggregate of such remuneration paid to such person during such calendar year is \$600 or more, then the service-recipient shall make a return...

(C1C Pg86)

(d) Applications to governmental units

(1) Treated as persons

The term “persons” includes any governmental unit (and any agency or instrumentality thereof)

ON THE 1099 FORM ITSELF:

Trade or business reporting only. Report on form 1099-MISC only when payments are made in the course of your trade or business.

Regarding the 1099 NOT being used....

85 Is there any reasonable justification for not requiring a homeowner paying Joe the plumber \$1500 to outfit the new addition on the house to file a 1099 when the owner of Sam's Bar & Grill, paying Joe the plumber \$1500 to outfit the new addition on the bar, must ?

Because to create the mis-understanding needed to plug this particular gap, would mean giving up the "trade or business" connection...

86 Sec. 6017 – Self-employment tax returns

Every individual (other than a nonresident alien individual) having net earnings from self-employment of \$400 or more for the taxable year shall make a return with respect to the self-employment tax imposed by chapter 2.

I am confident that that are those reading this book who still , even at this point, harbor lingering doubts as to the truth of the limited reach of the "income" tax revealed here. This is understandable and readily forgiven, as the habits of a lifetime are not quickly and easily overcome—especially habits of thought. Habits of thought that are reinforced day-in and day-out by dedicated beneficiaries of the status quo are particularly persistent. Such doubts will express themselves as one or another version of the, "How can this be true when I hear so much to the contrary, and the law appears to be enforced in defiance of what you say?"

92 I must point out to such doubters that they are obliged by self-honesty to find themselves on the horns of a dilemma. In light of the Supreme Court's clear and repeated expressions regarding the un-taxable nature of private activities, the virtually moot effect of the 16th Amendment, and the restricted meaning of the term "income"—along with the sufficiently clear written letter of the law—there are only a couple of possible truths to compete with that presented here.

CtC

One, of course, is that you personally are simply incapable of understanding the law—either because it is possessed of a mystical character incomprehensible to normal persons, or because there is something wrong with you. As to the latter, I will assure you that if you have made it to this point in this book, you are perfectly OK, at least so insofar as your intellectual and academic capacities are concerned.

As to the former, we have already discussed the nature of proper law. If you have disagreed with me on the subject, and are content that the law should be a mysterious, self-contradictory thing accessible only through the scryings of a priestly class, go from us now, for no words or evidence will sway you from your surrender to the blandishments and ambitions of the corrupt and powerful. Their lust is your law, and you will not raise your bowed head.

107 *"The revenue laws are a code or system in regulation of tax assessment and collection. They relate to taxpayers, and not to nontaxpayers. The latter are without their scope. No procedure is prescribed for nontaxpayers, and no attempt is made to annul any of their rights and remedies in due course of law. With them Congress does not assume to deal. And they are neither of the subject nor the object of the revenue laws"*

US Court of Claims

Economy Plumbing and Heating v. United States, 470 F.2d 585, at 589 (1972)

107 "The IRS's primary task is to collect taxes under a voluntary compliance system"
Jerome Kurtz, IRS commissioner
5/5/1977 - 10/31/1980

Quote

Jerome Kurtz, IRS commissioner

107 "Our tax system is based on individual self-assessment and voluntary compliance"
Mortimer Caplin, IRS Commissioner
2/7/1961 - 7/10/1964

Quote

Mortimer Caplin, IRS Commissioner

107	<p>“Each year American taxpayers voluntarily file their tax returns...” Johnnie Walters, IRS Commissioner 8/6/1971 - 4/30/1973</p>	Quote	Johnnie Walters, IRS Commissioner
108	<p>The income tax system is based on voluntary compliance, not distraint.”</p>	US Supreme Court	Flora v. United States, 362 US 145
109	<p>“Let me point this out now. Your income tax is 100 percent voluntary tax, and your liquor tax is 100 percent enforced tax. Now the situation is as different as day and night. Consequently, your same rules just will not apply”</p> <p>Dwight E. Avis Head of Alcohol & Tobacco Tax Division of the Bureau of Internal Revenue, before the House Ways and Means committee on Restructuring the IRS</p>	Congressional record	83 rd Congress, 1953
110	<p>In its legal aspect, and as commonly used in law, the word ‘voluntary’ is defined as meaning gratuitous; without valuable consideration; acting, or done, without any present legal obligation to do the thing done.”</p>	Corpus Juris Secundum	CJS 92: 1029, 1030, 1031
111	<p>Sec 7701 (30) (30) United States person The term “United States person” means – (A) a citizen or resident of the United States, (B) a domestic partnership, (C) a domestic corporation (D) any estate (other than a foreign estate, within the meaning of paragraph (31)), and, (E) ant trust if – (i) a court within the United States is able to exercise primary supervision over the administration of the trust, and (ii) one or more United States persons have authority to control all substantial decisions of the trust.</p> <p>NOTE all qualifying entities are so based on geographical circumstances.</p>	IRC	26 USC 7701 (30)
112	<p>§ 7701 (USED IN 7701(30) above) (9) United States The term “United States” when used in a geographical sense includes only the States and the District of Columbia.</p>	IRC	26 USC 7701(9)
112	<p>§ 7701(10) 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.</p>	IRC	26 USC 7701(10)
112	<p>§ 7651. Administration and collection of taxes in possessions (2)(B) Applicable Laws All provisions of the laws of the United States applicable to the administration, collection, and enforcement of such tax (including penalties) shall, in respect of such tax, extend to and be applicable in such possession of the United States in the same manner and to the same extent as if such possession were a State, and as if the term “United States” when used in a geographical sense included such possession.</p>	IRC	26 USC 7651(2)(B)

Statutes without clarifying regulations:

113	<p>[PEH] Regulations are subordinate to statutes, and the statutes are subordinate to the Constitution. Regulations cannot exceed the authority of the statute. Regulations <i>can</i> fall short of that authority, to the citizen's advantage, because one need only satisfy ones legal duty, even if the statute requires more. But one cannot be required to do more or other than the statute provides.</p> <p><i>"... we cannot but regard this treasury Regulation as... .. an attempted addition to the statute of something which is not there. As such the regulation can furnish no sustenance to the statute"</i></p>	US Supreme Court	US v. Calamaro, 354 US 351 (1957)
114	<p>§6045 – Returns of Brokers (a) General rule Every person doing business as a broker shall, when required by the secretary, make a return, in accordance with such regulation as the Secretary may prescribe, showing the name and address of each customer, with such details regarding gross proceeds and such other information as the secretary may by forms or regulations require with respect to such business. 1.6045-1 returns of information of brokers and barter exchanges.</p>	IRC	6045(a)
114	<p>(a) Definitions. The following definitions apply for the purposes of this section and § 1.6045-2 (1) The term "broker" means any person (other than a person who is required to report a transaction under section 6043), US or foreign, that, in the ordinary course of a trade or business during the calendar year, stands ready to effect sales to be made by others. 6042 – Returns regarding payments of dividends and corporate earnings and profits. (a) Requirement of reporting (1) In general Every person – (A) who makes payments of dividends aggregating \$10 or more to any other person during any calendar year,... shall make a return according to the forms or regulations prescribed by the Secretary, setting forth the aggregate amount of such payments, and the name and address of the person to whom paid. 1.6402-2 Returns of information as to dividends paid. (a) requirement of reporting (1)In general. An information return on Form 1099 shall be made under section 6042(a) by: (i) Every person who makes a payment of dividends (as defined in §1.6042-3) to any other person during the calendar year.</p>	IRC	26 USC 1.6045-1
115	<p>§1.6042-3 Dividends subject to reporting (b) Exceptions – (1) In general For the purposes of §§1.6042-2 and 1.6042-4, the amounts described in paragraphs (b)(1)(i) through (vii) of this section are not dividends. (iv) Distributions or payments from sources outside the United States paid outside the United States** by a non-US payor, or a non-US middleman. For a definition of non-US payor or non-US middleman see § 1.6049-5(c)(5)</p>	IRC	26 USC 6042
	<p>** (as determined under the provisions of part I, subchapter N, chapter 1 of the Code and regulations under those provisions) [PEH says this reference is irrelevant and doubters are encouraged to check Sec862 for themselves]</p>		
	<p>1.6049-5(c)(5) US payor, US middleman, non-US payor, and .non-US middleman The terms "payor" and "middleman" have the meanings ascribed to them under 1.6049-4(a). A non-US payor or non-US middleman means a payor or middleman other than a US payor or US middleman. The term US payor or US middleman means - (i) A person described in section 7701(a)(30) (including a foreign branch or office of such person);[a US person] (ii) The government of the united States or the government of any State or Political subdivision thereof (or any agency or instrumentality of any of the foregoing); (iii) A controlled foreign corporation within the meaning of section 957(a);[controlled by "United States" shareholders] (iv) A foreign partnership, if at any time during its tax year, one or more of its partners are US persons (as defined in 1.1441-1(c)(2)) who, in the aggregate hold more than 50 percent of the income or capital interest in the partnership or if, at any time during the tax year, it is engaged in the conduct of a trade or business in the United States' (v) A foreign person 50 percent or more of the gross income of which, from all sources for the three-year period ending with the close of its</p>		

taxable year preceding the collection of payment (or such part of such period as the person has been in existence), was effectively connected with the conduct of trade or business within the United States; or
 (vi) A US Branch of a foreign bank or a foreign insurance company described in 1.1441-1(b)(2)(iv)

128	Sec 1461 – requirement to furnish TIN		
130	<i>“The individual may stand upon his constitutional rights as a citizen. He is entitled to carry on his private business in his own way. His power to contract is unlimited. He owes no duty to the state or to his neighbors to divulge his business, or to open his doors to an investigation, so far as it may stand to criminate him. He owes no such duty to the state, since he receives nothing from therefrom, beyond the protections of his life and property. His rights are such as existed by the law of the land long antecedent to the organization of the state, and can only be taken from him by due process of law, and in accordance with the Constitution.”</i>	US Supreme Court	Hale v. Henkel, 201 US 43 (1906)
133	<i>301.6109-1(b)(1) US Persons ...for provisions dealing with specifically the duty of employees with respect to their social security numbers, see section 31.6011(b)-2(a) and (b) of this chapter(Employment tax regulations). For provisions dealing specifically with the duty of employers with respect to employer identification numbers, see section 31.6011(b)-1 of this chapter (Employment tax regulations)</i>	CFR	301.6019-1(b)(1)
133	Section 6011 (b) Identification of Taxpayer The secretary is authorized to require such information with respect to persons subject to the taxes imposed by chapter 21 or chapter 24 as is necessary or helpful in securing proper identification of such persons.	IRC	26 USC 6011
134	31.6011(b)-2 Employee’s account numbers. (a)requirement of application (1) In General: (ii) On or after November 1, 1962. Every employee who on any day after October 31, 1962, is in employment for wages which are subject to the taxes imposed by the Federal Insurance Contributions Act or which are subject to the withholding of income tax from wages under section 3402 but who prior to such day has neither secured an account number nor made application therefore, shall make an application on Form SS-5 for [a SSN] account number. (3) Furnishing of account number by employee to employer. See 31.6109-1 for additional provisions relating to the furnishing of an account number by the employee to his employer.	CFR	
134	The Social Security Act does not require a person to have an SSN to live and work in the United States, not does it require an SSN simply for the purpose of having one. However, if someone works without an SSN, we cannot properly credit the earnings for the work performed.	Charles H. Mullen Assoc. Commissioner, Office of Public Inquiries	A scan is in the CtC Appendix Pg 227
135	<i>301.6109-1 Identifying Numbers (d) Obtaining a taxpayer number – (1) Social Security Number ...Individuals who are ineligible for or do not wish to participate in the benefits of the social security program shall nevertheless obtain a social security number if they are required to furnish such a number pursuant to paragraph (b) of this section.</i> Clearly the law is instructing us that one does not need a number to be a worker and get paid for it, but one does need one to be an “employee” or to receive “wages”-- because they’re two different things.	CFR	
136	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:	IRC	26 USC 6051(a)

- (1) the name of such person,
- (2) the name of the employee (an 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.

regulations

n. rules and administrative codes issued by governmental agencies at all levels, municipal, county, state and federal. Although they are not laws, regulations have the force of law, since they are adopted under authority granted by statutes, and often include penalties for violations. One problem is that regulations are not generally included in volumes containing state statutes or federal laws but often must be obtained from the agency or located in volumes in law libraries and not widely distributed. The regulation-making process involves hearings, publication in governmental journals which supposedly give public notice, and adoption by the agency. The process is best known to industries and special interests concerned with the subject matter, but only occasionally to the general public. Federal regulations are adopted in the manner designated in the Administrative Procedure Act (A.P.A.) and states usually have similar procedures.

DEFINITION

<http://dictionary.law.com/default.asp?typed=regulation&type=1&submit1.x=93&submit1.y=17>

statute

n. a federal or state written law enacted by the Congress or state legislature, respectively. Local statutes or laws are usually called "ordinances." Regulations, rulings, opinions, executive orders and proclamations are not statutes.

DEFINITION

<http://dictionary.law.com/default.asp?selected=2010&bold=III>

2002 Forms W-2 & W-3 Instructions

The following penalties generally apply to the person required to file Form W-2. The penalties apply to paper filers as well as to magnetic media/electronic filers.

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Use of a reporting agent or other third-party payroll service does not relieve an employer of the responsibility to ensure that forms W-2 are furnished to employees and filed correctly and on time.

Failure to file correct information returns by the due date.

If you fail to file a correct Form W-2 by the due date and cannot show reasonable cause, you may be subject to a penalty. The penalty applies if you:

- Include incorrect information on Form W-2,

The amount of the penalty is based on when you file the correct form W-2. The penalty is:

- \$15 per Form W-2 if you correctly file within 30 days (by March 30 if due date is February 28th); maximum penalty \$75,000 per year (\$25,000 for small businesses, defined later)

- \$30 per Form W-2 if you correctly file more than 30 days after the due date but by August 1; maximum penalty \$150,000 per year (\$50,000 for small businesses)

- \$50 per Form W-2 if you file after August 1 or you do not file required Forms W-2; maximum penalty \$250,000 per year (\$100,000 for small businesses).

!

If you do not file corrections and you do not meet any of the exceptions to the penalty stated below, the penalty is \$50 per information return.

Exceptions to the penalty. The following are exceptions to the failure to file penalty:

1. The penalty will not apply to any failure that you can show was due to reasonable cause and not to willful neglect. In general, you must be able to show that your failure was due to an event beyond your control or due to significant mitigating factors. You must also be able to show that you acted in a responsible manner and took steps to avoid the failure.

2. An inconsequential error or omission is not considered a failure to include correct information.

Errors and omissions that are never inconsequential are those relating to:

c. Any money amounts.

Intentional disregard of filing requirements. If any failure to file a correct Form W-2 is due to intentional disregard of the filing or correct information requirements, the penalty is at least \$100 per Form W-2 with no maximum penalty.

Failure to furnish correct payee statements. If you fail to provide correct payee statements (Forms W-2) to your employees and cannot

2002 Forms W-2 & W-3 Instructions

show reasonable cause, you may be subject to a penalty. The penalty applies if you fail to provide the statement by January 31, you fail to include all information required to be shown on the statement, or you include incorrect information on the statement. The penalty is \$50 per statement, no matter when the correct statement is furnished, with a maximum of \$100,000 per year. The penalty is not reduced for furnishing a correct statement by August 1.

Exception. An inconsequential error or omission is not considered a failure to include correct information. An inconsequential error or omission cannot reasonably be expected to prevent or hinder the payee from timely receiving correct information and reporting it on his or her income tax return or from otherwise putting the statement to its intended use.

Errors and omissions that are never inconsequential are those relating to:

1. Dollar amount,

Intentional disregard of payee statement requirements.

If any failure to provide a correct payee statement (Form W-2) to an employee is due to intentional disregard of the requirements to furnish a correct payee statement, the penalty is at least \$100 per Form W-2 with no maximum penalty.

Civil damages for fraudulent filing of Forms W-2. If you willfully file a fraudulent Form W-2 for payments you claim you made to another person, that person may be able to sue you for damages. You may have to pay \$5,000 or more [Pursuant to IRS sec. 7434]

Sec. 7434 – Civil damages for fraudulent filing of information returns.

(a) In general

If any person willfully files a fraudulent information return with respect to payments purported to be made to any other person, such other person may bring a civil action for damages against the person so filing such return.

(b) Damages

141 In any action brought in subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the greater sum of \$5,000 or the sum of –

IRC

26 USC 7343

(1) any actual damages sustained by the plaintiff as a proximate result for the filing of the fraudulent information return (including any costs attributable to resolving deficiencies asserted as a result of such filing),

(2) the costs of the action, and

(3) in the court’s discretion, reasonable attorneys’ fees.

Sec 912. – Officer or Employee of the United States.

143 Whoever falsely assumes or pretends to be an officer or employee acting under the authority of the United States or any department, agency or officer thereof, and acts as such, or in such pretended character demands or obtains any money, paper, document, or thing of value, shall be fined under this title or imprisoned not more than three years, or both.

USC

18 USC 912

Sec 6331

(a) Authority of the Secretary –

If any person liable to pay any tax neglects or refuses to pay the same within 10 days after notice and demand, it shall be lawful for the Secretary to collect such tax (and further sum as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under section 6334) belonging to the such person or on which there is a lien provided in this chapter for the payment of such tax. Levy may be made upon the accrued salary or wages of any officer, employee, or elected official , of the United States, the District of Columbia, or any agency or instrumentality of the United States or District of Columbia, by serving notice of levy on the employer (as defined in section 3401(d)) of such officer, employee, or elected official. If the Secretary make a finding that the collection of such tax is in jeopardy, notice and demand for immediate payment of such tax may be made by the secretary and , upon failure or refusal to pay such tax, collection thereof by levy shall be lawful without regard to the 10-day period provided in this section.

144

(b) Seizure and sale of property.

The term “levy” as used in this title includes the power of distraint and seizure by any means. Except as otherwise provided in subsection (e), a levy shall extend only to the property possessed and obligations existing at the time thereof. In any case in which the Secretary may levy upon property or rights to property, he may seize and sell such property or rights to property (whether real or personal , tangible, or intangible)

Form W-4

Purpose:

147

Complete Form W-4 so that your employer can withhold the correct Federal income tax from your pay. Because your tax situation may change, you may want to refigure your withholdings each year.

Form W-4

and,

Privacy Act and Paperwork reduction Act Notice.

We ask for the information on this form to carry out the Internal Revenue laws of the United States. The Internal revenues Code requires this information under sections 3402(f)(2)(A)

Sec 3402 – income tax collected at source

(f)...

(2) Exemption certificates

147 (A) On commencement of employment.

On or before the date of the commencement of employment with an employer, the employee shall furnish the employer with a signed withholding exemption certificate relating to the number of withholding exemptions which he claims, which shall in no event exceed the number to which he is entitled.

Sec 3402 – Income tax collected at source

(p) Voluntary withholding agreements

(3) Authority for other voluntary withholding

The Secretary is authorized by regulations to provide for withholding

149 (A) from remuneration for services performed by an employee for the employee’s employer which (without regard to this paragraph) does not constitute wages, and

(B) from any other type of payment with respect to which the Secretary finds that withholding would be appropriate under the provisions of this chapter, if the employer and employee, or the person making and the person receiving such other type of payment, agree to such withholding. Such agreement shall be in such form and manner as the Secretary may by regulations prescribe. For the purposes of this chapter (and so much of subtitle F as relates to this chapter), remuneration or other payments with respect to which such agreement is made shall be treated as if they were wages paid by an employer to an employee to the extent that such remuneration is paid or other payments are made during that period for which the agreement is in effect.

153 “We must note here, as a matter of judicial knowledge, that most lawyers have only scant knowledge of tax law.”

US Court of appeals

Bursten v US, 395 F
2d 976, 981 (5th Cir.
1968)

Self-Employment Quarterly taxes...

161 Form SS-4
Form 941
Form 8109

163 “The revenue laws are a code or system in regulation of tax assessment and collection. They relate to taxpayers, and not to nontaxpayers. The latter are without their scope.”

United States Court of
Claims

Economy Plumbing
and Heating v.
United States, 470
F.2d 585, at 589
(1972)

163 Sec 7701 (a)(14): Taxpayer:
The term “taxpayer” means any person subject to any internal revenue law.

IRC

26 USC 7701(a)(14)

164 Subject to: Liable, subordinate, subservient, inferior, obedient to; governed or affected by; provided that; provided; answerable for.

Blacks Law Dictionary,
5th Edition

Human v.
Employers
Reinsurance Corp.,
345 Mo. 650, 136
S.W. 2d 289,
302 Blacks Law
Dictionary, 5th
Edition.

From 1862 IRC Sec.93
Now as 26USC 6012:

167	6012 Person required to make returns of income (a) General rule Returns with respect to income taxes under subtitle A shall be made by the following: (1) (A) Every individual having for the taxable year gross income which equals or exceed the exemption amount (currently \$2,000 – PEH) Sec 6020. Returns prepared for or executed by Secretary (a) Preparation of return by Secretary	IRC	26 USC 6012(a)(1)(A)
167	If any person shall fail to make a return required by this title or by regulations proscribed thereunder, but shall consent to disclose all information necessary for the preparation thereof, then, and in that case, the Secretary may prepare such return, which, being signed by such person, may be received by the Secretary as the return of such person. Sec6201 – Assessment authority (a) The Secretary is authorized and required to make the inquiries, determinations, and assertions of all taxes (including interest, additional amounts, additions to the tax, and assessable penalties) imposed by this title, or accruing under any former internal revenue law, which have not been duly paid by stamp at the time and in the manner provided by law. Such authority shall extend to and include the following: (1) Taxes shown on Return The Secretary shall assess all taxes determined by the taxpayer or by the Secretary as to which returns or lists are made under this title	IRC	26 USC 6020(a)
168	IMPORTANT: 6201 only provides authority for the Secretary to assess the <u>tax</u> , NOT THE INCOME.	IRC	26 USC 6201(a)
169	...one of the primary functions of a Form 1040 is unchanged: the making of a legally definitive statement as to amount of “income” , either proactively or reactively, and either by or on behalf of, a citizen. The law still provides no authority by which the government is empowered to override the definitive assertion of a private, non-governmentally-connected citizen as to amount of “income” received. Sec 6020. Returns prepared for or executed by Secretary (b) Execution of return by Secretary. (!) Authority of Secretary to execute return. If any person fails to make any return required by any internal revenue law or regulation made thereunder at the time prescribed therefore, or makes, willfully or otherwise, a false or fraudulent return, the Secretary shall make such return from his own knowledge <u>and</u> from such information as he can obtain through testimony or otherwise.	CtC	PEH
169	(2) Status of returns Any return so made and subscribed by the Secretary shall be Prima facie good and sufficient for all legal purposes. “Prima facie” = A fact presumed to be true unless disproved by some evidence to the contrary – Black’s law Dictionary 6 th Edition.	IRC	26 USC 6020(b)
171	5.1.11.6.8 (03-01-2007) IRC 6020(b) Authority 1. The following returns may be prepared, signed and assessed under the authority of IRC 6020(b): A. Form 940, Employer’s Annual Federal Unemployment Tax return B. Form 941, Employer’s Quarterly Federal Income Tax return C. Form 942,Employer’s Quarterly Return for Household Employees D. Form 943, Employer’s Annual Tax Return for Agricultural Employees E. Form 720, Quarterly Federal Excise tax return F. Form 2290, Heavy vehicle Use Tax Return G. Form CT-1, Employer’s Annual Railroad Retirement Tax Return H. Form 1065, US Partnership return of Income 2> the following are authorized to execute returns under IRC 6020(b): A. Revenue Officers.	2007 IRS Manual	

B. Automated Collection Systems (ACS) and Collection Support Function (CSF) managers GS-9 and above.

172	LEVY: There is no corresponding authority to seize property from private citizens by mere “notice” to be found within the law.	CtC	PEH
173	Even if you do not otherwise have to file a return. You should file one to get a refund of any federal income tax withheld	Form 1040 instructions (y.2002)	
173	<p>Sec 6042 Authority to make credits or refunds (a) General rule In the case of any overpayment, the Secretary, within the applicable period of limitations, may credit the amount of such overpayment, including any interest allowed thereon, against any liability in respect of an internal revenue tax on the part of the person who made the overpayments and shall, subject to subsections (c), (d) and (e) [deduction for past due obligations – PEH] refund any balance to such person.</p>	IRC	26USC6042
173	<p>Sec. 30136402-3 Special rules applicable to income tax. (a) In the case of a claim for credit or refund filed after June 30, 1976 – (1) In general, in the case of an overpayment of income taxes, a claim for credit or refund of such overpayment shall be made on the appropriate income tax return.</p> <p>...</p> <p>(5) A properly executed individual, fiduciary, or corporation original income tax return or an amended return (on 1040X or 1120X if applicable) shall constitute a claim for refund or credit within the meaning of section 6402 and section 6511 for the amount of the overpayment disclosed by such return (or amended return).</p>	CRF ?	CRF ?
174	<p>The term “overpayment” includes that part of the amount of the payment of any internal revenue tax which is assessed or collected after the expiration of the period of limitation properly applied thereto.</p> <p>Section 6401 – Amounts treated as overpayments (b) Excessive credits (1) In general If the amount allowable as credits under subpart C of part IV or chapter A of chapter 1 (relating to refundable credits) exceeds the tax imposed by subtitle A (reduced by the credits allowable under subparts A,B,D and G of such part IV), the amount of such excess shall be considered an overpayment. (c) Rule where no tax liability</p>	IRC somewhere...	
174	<p>An amount paid as tax shall not be considered not to constitute an overpayment solely by reason of the fact that there was no tax liability in respect of which such amount was paid.</p> <p>(Subpart C of part IV SubCh A of Ch 1: 6401(b)(1) Sec 31 tax withheld on wages (a) Wage withholding for income tax purposes (1) In general The amount withheld as tax under chapter 24 shall be allowed to the recipient of the income as a credit against the tax imposed by this</p>		

subtitle.)

176	<p>I'm not a CPA or a tax attorney. Consequently, I can only describe what I and my wife have done in this regard – The reader is welcome to do exactly the same, but should not consider themselves to be being advised or encouraged to do so. It is possible that consultation with an honest and well informed specialist in this field will reveal more appropriate methods for any particular reader, or consideration suggesting the virtues of an alternative approach. Any election to forgo that possibility is the reader's responsibility.</p> <p>2002 general instructions for Forms 1099, 1098, 5498, and W-2G</p> <p>2. Incorrect money amount(s), incorrect address, or a return was filed when one should not have been filed. This error requires only one return to make the correction.</p> <p>A. Form 1098,1099,5498, or W-2G:</p> <p>1. Prepare a new information return</p> <p>2. Enter an "X" in the "CORRECTED" box (and date (optional)) at the top of the form.</p> <p>3. Enter the payer, recipient, and account number information exactly as it appeared on the original incorrect return; however, enter all correct money amounts in the correct boxes as they should have appeared on the original return, and enter the recipient's correct address.</p> <p>NOTE: A custom declaration should be made stating: <i>"No payments were received by the party identified hereon as "the recipient" from the party identified hereon as "the payer" which were connected with the performance of the functions of public office, or otherwise constituted gains, profit, or income within the meaning of relevant law"</i></p>	CtC	PEH
177	<p>Form W-2</p> <p>Purpose of form – Form 4852 is completed by taxpayers or their representatives when their employer gives them an incorrect Form W-2 or an incorrect Form 1099-R. This form is also used when the employer or payer does not give the taxpayer a Form W-2 or Form 1099-R. This form serves as a substitute for Form W-2, W-2C, or 1099-R. Use this form to file your income tax return.</p>	Form W-2	
178	<p>Form 4852</p> <p>Those wanting to use Form 4852 should not be put off by the reference in these instructions to "employer" and "taxpayer" – there is nothing about "taxpayers" on the form itself, and where "employer" appears, "or payer" immediately follows. The instructions on the back, which were only added to the form in 1998, seem calculated to discourage its use by non-"taxpayers", and I suspect there were added for no other purpose.</p>	Form 4852	
179	<p>Form 4852</p> <p>Whenever filling out the Form 4852, I have modified the "I have notified the Internal Revenue Service of this fact." By striking "have notified" and substituting "hereby notify".</p>	Form 4852	
180	<p>Certified mail with return receipt requested.</p>	CtC	PEH
181	<p>Sec. 6702 – Frivolous income tax return</p> <p>(a) Civil Penalty</p> <p>If –</p> <p>(1) any individual files what purports to be a return of the tax imposed by subtitle A but which –</p> <p>(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or</p> <p>(B) contains information that is on its face indicates that the self-assessment is substantially incorrect; and</p> <p>(2) the conduct referred to in paragraph (a) is due to –</p> <p>(A) a position which is frivolous, or</p> <p>(B) a desire (which appears on the purported return) to delay or impede the administration of Federal income tax laws, then such individual shall pay a penalty of \$500.</p> <p>(b) Penalty in addition to other penalties</p>	IRC	26 USC 6702

The penalty imposed by subsection (a) shall be in addition to any other penalty provided by law

		DEFINITION	Merriam-Webster Dictionary of Law ©2006
182	Assess 1: to determine the rate or amount of (as a tax) 2 a: to impose (as a tax) according to an established rate B: to subject to a tax, charge, or levy Example; each property owner was assessed an additional five dollars Sec.6211 – Definition of a deficiency (a) In general		
182	For the purposes of this title in the case of income, estate, and gift taxes imposed by subtitles A & B and excise taxes imposed by chapters 41,42,43, and 44 the term “deficiency” means the amount by which the tax imposed by subtitle A or B, or chapter 41,42,43, or 44 exceeds the excess of [a ridiculously complicated page-and-a-half of bureaucratase determining the difference btwx the tax & your return] Sec 6201 (d) Required reasonable verification of information returns	IRC	26 USC 6211
183	In any court proceeding, if a taxpayer asserts a reasonable dispute with respect to any item of income reported on an information return filed with the Secretary under subpart B or C of part III of subchapter A of chapter 61 by a third party... the Secretary shall have the burden of producing reasonable and probative information concerning such deficiency in addition to such information return.	IRC	26 USC 6201
184	+ CtC references to Sec’s 6041 – 6050S, 6051, 6052 & 6053 Sec. 7491 – Burden of proof (a) Burden shifts where taxpayer produces credible evidence (1) General rule If, in any court proceeding, a taxpayer introduces credible evidence with respect to any factual issue relevant to ascertaining the liability of the taxpayer for any tax imposed by subtitle A or B, the Secretary shall have the burden or proof with respect to such issue. "It [is argued that] the word "including" means "moreover", or "as well as"; but if this was the meaning of the legislature, it was a very embarrassing mode of expressing the idea." Chief Justice Marshall of the United States Supreme Court, United States v. The Schooner Betsey and Charlotte, 8 U.S. 443 (1808). Marshall proceeds to observe that the proposition that "moreover" or "as well as" is, in fact, what is meant by the legislative use of "including" (or, by extension, includes) is nonsense.	IRC	26 USC 7491
	http://www.1osthorizons.com/TaxTip.htm	US Supreme Court	United States v. The Schooner Betsey and Charlotte, 8 U.S. 443 (1808).
	"Section 6702 of the Code was enacted by the Tax Equity and Fiscal Responsibility Act of 1982, P.L. 97-248, 96 Stat. 324. According to the Senate Report, S. Rep. No. 97-494, Vol. 1, 97th Cong., 2d. Sess. 277 (1982), the penalty is intended to attack a variety of tax protest activities including: (1) irregular forms 1040 not in processible form because of altered or incorrect descriptions of line items or other provisions; (2) references to spurious constitutional arguments instead of required completion of a tax form; (3) forms on which there is incomplete information to calculate tax liability; (4) presentation of information which is clearly inconsistent, such as the listing of only a few dependents by a person who claims 99 exemptions; (5) “gold standard “ or “war tax” deductions; and (6) deliberate use of incorrect tax tables." and, "Virtually all of the authority for treating a signed Form 1040 as a nullity relies upon the fact that the taxpayer refused to provide any information pertaining to his or her income, or provided de minimis income information and accompanied the purported return with tax protestor type arguments."	IRS Memo	Internal Revenue Service Office of Chief Counsel Memorandum 200107035:
	http://www.1osthorizons.com/TaxTip.htm	IRS Memo	Internal Revenue Service Office of Chief Counsel Memorandum 200114033:

<http://www.losthorizons.com/MidEditionUpdate.htm>

Chief Justice John Marshall when expressing that fact in one of the earliest cases ever ruled on by the United States Supreme Court-- that of United States v. The Schooner Betsey and Charlotte in 1808. Disparaging (before flatly denying) the proposition that "including" was to be taken as being "expansive" in its effect, rather than restrictive, Marshall says, "It [is argued that] the word "including" means "moreover", or "as well as"; but if this was the meaning of the legislature, it was a very embarrassing mode of expressing the idea."

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<http://www.losthorizons.com/MidEditionUpdate.htm>

Stenberg v. Carhart, for instance, in 2000, the court says, "When a statute includes an explicit definition, we must follow that definition, even if it varies from that term's ordinary meaning."

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In the 1987 case of Meese v. Keene, the court is even more declaratory: "It is axiomatic that the statutory definition of the term excludes unstated meanings of that term."

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<http://www.tax-freedom.com/ta05011.htm>

"The extension of tax by implication is not favored"

US Supreme Court [Reinecke v. Gardner, 277 U.S. 239](#)

"It is the duty of the courts to be watchful for the Constitutional rights of the citizen and against any stealthy encroachments thereon"

[Boyd v. United States, 116 U.S. 616, 635](#)

"The 16th Amendment does not justify the taxation of persons or things previously immune. It was intended only to remove all occasions for any apportionment of income taxes among the states. It does not authorize a tax on a salary"

[Evans V. Gore, 253 U.S. 245](#)

"In numerous cases where the IRS has sought enforcement of its summons pursuant to statute, courts have held that a taxpayer may refuse production of personal books and records by assertion of his privilege against self-incrimination."

Hill v. Philpott, 445 F2d 144, 146

"Income means gains/profit from property severed from capitol, however invested or employed. Income is not a wage or compensation from any type of labor"

Stapler v. United States, 21 F.Supp 737 at 739

"If the defendant had a subjective good faith belief, no matter how unreasonable, that he was not required to file a tax return, the government cannot establish that the defendant acted willfully"

[Cheek v. United States, 498 U.S. 192](#)

"No sanction can be imposed absent proof of jurisdiction"

[Stanard v. Olesen,
74 S. Ct.768]

"Once challenged, jurisdiction cannot be 'assumed', it must be proved to exist."

US Supreme Court

[Stuck v. Medical
Examiners, 94 Ca2d
751.211 P2s 389]

"Jurisdiction, once challenged, cannot be assumed and must be decided."

US Supreme Court

[Maine v.
Thiboutot, 100 S.
Ct. 250]

"A personal right that is not transferable or assignable is also not taxable. Damages for alienation of affections, defamation of personal character do not constitute income"

US Supreme Court

United States v.
Kaiser, 80 S.Ct.
1264

Tax liability is a condition precedent to the demand. Merely demanding payment, even repeatedly, does not cause liability. For the condition precedent of liability to be met, there must be a lawful assessment, either a voluntary one by the taxpayer or one procedurally proper by the IRS."

Bothke v. Terry,
713 F. 2d 1405, at
1414 (1983)

"...a statute which imposes a tax upon an assumption of fact which the [presumed] taxpayer is forbidden to controvert is so arbitrary and unreasonable that it cannot stand under the Fourteenth Amendment."

US Supreme Court

Heiner v. Donnan
285 U.S. 312 (1932)

"...irrebuttable presumptions have long been disfavored under the Due Process Clauses of the Fifth and Fourteenth Amendments."

US Supreme Court

Vlandis v. Kline,
412 U.S. 441 (1973)

"A fundamental requirement of due process is "the opportunity to be heard." Grannis v. Ordean, 234 U.S. 385, 394 . It is an opportunity which must be granted at a meaningful time and in a meaningful manner."

US Supreme Court

Armstrong v.
Manzo, 380 U.S.
545 (1965)

"Section 6201, the first part of which we looked at earlier, contains a useful subsection if IRS recalcitrance should force anyone into court:

(d) Required reasonable verification of information returns

In any court proceeding, if a taxpayer asserts a reasonable dispute with respect to any item of income reported on an information return filed with the Secretary under subpart B or C of part III of subchapter A of chapter 61 by a third party ... the Secretary shall have the burden of producing reasonable and probative information concerning such deficiency in addition to such information return.

("Subpart B or C of part III of subchapter A of chapter 61" refers to sections 6041 - 6050S, among which are those we examined 'Crafting A Trade Or Business Plan' and "'W' Is For Weapon'; and section 6051, which we examined in 'Lies, Damned Lies, And W-2's'; as well as sections 6052- payment of wages in the form of group-term life insurance, and 6053- Reporting of Tips).")

CtC

[T]he legislative history of § 6702... ..indicates that the frivolous return penalty was meant to apply to returns "in which many or all of the line items are not filled in except for reference to spurious constitutional objections."

S.Rep. No. 494,
97th Cong., 2d Sess.
278, reprinted in
1982 U.S.Code
Cong. & Ad.News

781, 1024.
Leogrande v. U.S.
811 F.2d 147 C.A.2
(N.Y.) (1987)

<http://www4.law.cornell.edu/uscode/26/6065.html>

TITLE 26 > Subtitle F > CHAPTER 61 > Subchapter A > PART IV > § 6065 Verification of returns

Except as otherwise provided by the Secretary, any return, declaration, statement, or other document required to be made under any provision of the internal revenue laws or regulations shall contain or be verified by a written declaration that it is made under the penalties of perjury.

26 USC 6065

“[T]he Commissioner's determination that Portillo had received unreported income of \$24,505 from Navarro was arbitrary. The Commissioner's determination was based solely on a Form 1099 Navarro sent to the I.R.S. indicating that he paid Portillo \$24,505 more than Portillo had reported on his return. The Commissioner merely matched Navarro's Form 1099 with Portillo's Form 1040 and arbitrarily decided to attribute veracity to Navarro and assume that Portillo's Form 1040 was false.” “Therefore, the judgment below regarding unreported income must be reversed.”

Portillo v.
Commissioner of
Internal Revenue,
Fifth Circuit, 932
F.2d 1128 (1991)

“[T]he verb "includes" imports a general class, some of whose particular instances are those specified in the definition. This view finds support in § 2(b) of the Act, which reads: "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.””

US
Supreme Court

Helvering v.
Morgan's, Inc, 293
U.S. 121, 126 fn. 1
(1934) (Emphasis
added)

“The Commissioner's determination that Portillo had received unreported income of \$24,505 from Navarro was arbitrary. The Commissioner's determination was based solely on a Form 1099 Navarro sent to the I.R.S. indicating that he paid Portillo \$24,505 more than Portillo had reported on his return. The Commissioner merely matched Navarro's Form 1099 with Portillo's Form 1040 and arbitrarily decided to attribute veracity to Navarro and assume that Portillo's Form 1040 was false.”

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