

## I.R.C. 6020(b) – Substitute ~~for~~ Return

"SEC. 3176. ... the collector or any deputy collector shall make, according to the best information which he can obtain, including that derived from the evidence elicited by the examination of the collector, and on his own view and information, such list or return, **according to the form prescribed** ..." R.S. 3176

## Agenda

- History
  - Statutes from which 6020(b) is derived
  - I.R.C. 6020(b)
  - Substitute for Return
- Regulation conformity with the Statutes
- Conclusions

# History

- § 6020(b) goes back to 1864.
  - The predecessors of section 6020(b) date back to section 14 of the Act of June 30, 1864, ch. 173, 13 Stat. 226. Revised Statute 3176 provided that the assistant assessor was, under specified circumstances where a taxpayer failed to do so, entitled to prepare a "list or return" for purposes of assessment. *91 T.C. 926; 1988 U.S. Tax Ct. LEXIS 142; 91 T.C. No. 58*
- § 6020(b) mandates that the Secretary make a subscribed return on the form prescribed.
  - **SUBSCRIBE**, v.t. [L. subscribo; sub and scribo, to write.]
    - 1. To sign with one's own hand; to give consent to something written, or to bind one's self by writing one's name beneath; as, parties subscribe a covenant or contract; a man subscribes a bond or articles of agreement.
    - 2. To attest by writing one's name beneath; as, officers subscribe their official acts; and secretaries and clerks subscribe copies of records.
  - “**form prescribed**” - CFR § 1.6012-1
    - (6) *Form of return.* **Form 1040 is prescribed** for general use in making the return required under this paragraph.

## Revised Statute 3176

**“SEC. 3176.** When any person, corporation, company, or association refuses or neglects to render any return or list required by law, or renders a false or fraudulent return or list, the collector or any deputy collector shall make, according to the best information which he can obtain, including that derived from the evidence elicited by the examination of the collector, and on his own view and information, such list or return, according to the form prescribed, of the income, property, and objects liable to tax owned or possessed or under the care or management of such person, or corporation, company, or association and the Commissioner of Internal Revenue shall assess all taxes not paid by stamps, including the amount, if any, due for special tax, income or other tax, and in case of any return of a false or fraudulent list or valuation intentionally he shall add one hundred per centum to such tax; and in case of a refusal or neglect, except in cases of sickness or absence, to make a list or return, or to verify the same as aforesaid, he shall add fifty per centum to such tax. In case of neglect occasioned by sickness or absence as aforesaid the collector may allow such further time for making and delivering such list or return as he may deem necessary, not exceeding thirty days. The amount so added to the tax shall be collected at the same time and in the same manner as the tax unless the neglect or falsity is discovered after the tax has been paid, in which case the amount so added shall be collected in the same manner as the tax; and the list or return so made and subscribed by such collector or deputy collector shall be held prima facie good and sufficient for all legal purposes.”

Return by revenue officer on refusal, etc., of person.

R.S., sec. 3176, p. 610, amended.

Addition for fraudulent list.

Addition for refusal or neglect.

Sickness or absence.

Collection of additional tax.

# Webster's Definition of Subscribe

NOAH WEBSTER'S  
FIRST EDITION OF  
AN AMERICAN DICTIONARY  
OF THE  
ENGLISH LANGUAGE

REPUBLISHED IN FACSIMILE EDITION BY  
FOUNDATION FOR AMERICAN CHRISTIAN EDUCATION  
TO DOCUMENT AND DEMONSTRATE:

- I. THE UNIQUE NATURE OF OUR FORM OF GOVERNMENT AND OF OUR CIVIL INSTITUTIONS WHICH  
"REQUIRES AN APPROPRIATE LANGUAGE OF THE DEFINITION OF WORDS."
- II. "TO THE YOUTH OF THE UNITED STATES" THE BEST AMERICAN AND ENGLISH AUTHORS AS AUTHORITIES  
IN THE USE AND DEFINITION OF LANGUAGE.
- III. TO ALL AMERICANS "THAT THE PRINCIPLES OF REPUBLICAN GOVERNMENT HAVE THEIR  
ORIGIN IN THE SCRIPTURES."

PREFACED BY AN ARTICLE:  
NOAH WEBSTER, FOUNDING FATHER OF  
AMERICAN SCHOLARSHIP AND EDUCATION  
BY ROSALIE J. SLATER, M.A.

"IF THE FOUNDATIONS BE DESTROYED, WHAT CAN THE RIGHTEOUS DO?" PSALM XI:4

FOUNDATION FOR AMERICAN CHRISTIAN EDUCATION  
SAN FRANCISCO, CALIFORNIA

**SUBSCRIBE**, *v. t.* [*L. subscribo; sub and scribo, to write; Fr. souscrire; It. soscrivere; Sp. subscribir.*] Literally, to write underneath. Hence,

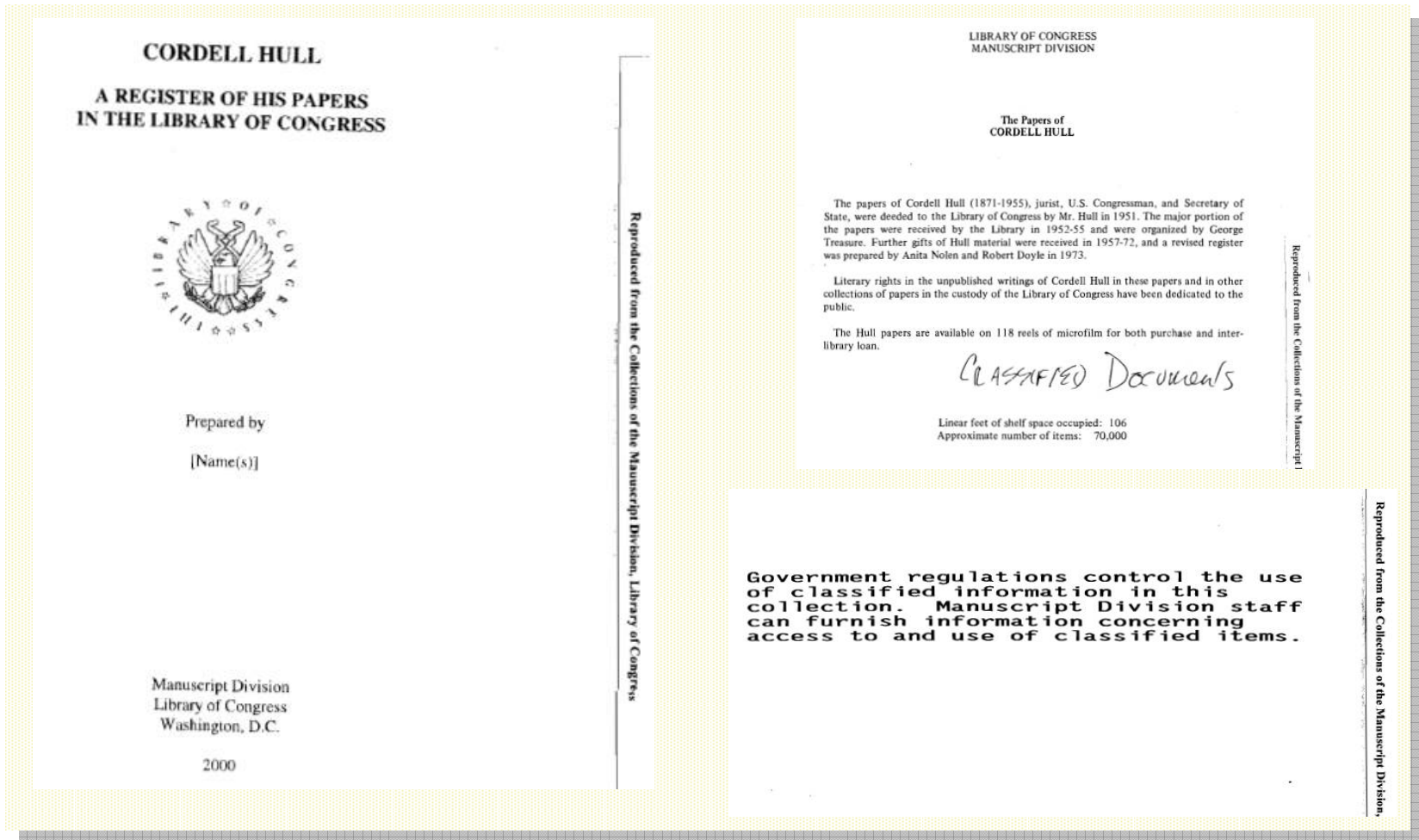
1. To sign with one's own hand; to give consent to something written, or to bind one's self by writing one's name beneath; as, parties *subscribe* a covenant or contract; a man *subscribes* a bond or articles of agreement.
2. To attest by writing one's name beneath; as, officers *subscribe* their official acts; and secretaries and clerks *subscribe* copies of records.

*Hartman v Commissioner 65 TC 526* filed in Dec. 15, 1975 claims to use Webster's definition for subscribed. The definition show here is the definition Congress used and understood when it enacted the Law.

## 1916 Ways and Means Committee

- Cordell Hull
  - In his distinguished career in Congress, Hull was a member of the powerful House Ways and Means Committee for eighteen years, the leader of the movement for low tariffs, **the author of the first Federal Income Tax Bill** (1913), **the Revised Act** (1916) ...  
<http://nobelprize.org/peace/laureates/1945/hull-bio.html>
  - Considering the word “return” means “form prescribed” by the collector or deputy collector it is redundant to use both (1916 Ways and Means Committee notes).  
(From the classified records of Cordell Hull marked as September 1916 Way and Means committee notes).

# Cordell Hulls documents now classified



## I.R.M. Published § 6020(b) Authority

### **IRM 5.1.11.6.10 (05-27-1999) IRC 6020(b) Authority**

- **The following returns may be prepared, signed and assessed under the authority of IRC 6020(b):**
  - **Form 940, Employer's Annual Federal Unemployment Tax Return**
  - **Form 941, Employer's Quarterly Federal Tax Return**
  - **Form 943, Employer's Annual Tax Return for Agricultural Employees**
  - **Form 720, Quarterly Federal Excise Tax Return**
  - **Form 2290, Heavy Vehicle Use Tax Return**
  - **Form CT-1, Employer's Annual Railroad Retirement Tax Return**
  - **Form 1065, U.S. Return of Partnership Income.**
- Pursuant to IRM 1.2.2.97, Delegations of Authority, Order Number 182 (rev. 7), dated 5/5/1997, revenue officers GS-09 and above, and Collection Support Function managers GS-09 and above, have the authority to prepare and execute returns under IRC 6020(b).

**There is no authority prescribed in the IRM to make a Form 1040 return.**

# SFR does NOT exist in Law

- The Substitute for Return (SFR) concept does NOT exist in Law.
- It appears that the sole purpose of the SFR and the Form 13496 (IRC 6020(b)) certification document is to skirt the lawful requirement of having the Secretary or his delegate sign a Form 1040.

3611	1926, Feb. 26	44	118	27	R. S. 3173. 1115.
3612 (a)-(c)	*1926, Feb. 26	44	112	27	R. S. 3176. 1103.
3612 (d) (1)	*1926, Feb. 26 1935, Aug. 30	44 49	112 1027	27 829	R. S. 3176. 1103. 406.
3612 (d) (2)	*1926, Feb. 26	44	112	27	R. S. 3176. 1103.
3612 (d) (3)					
3612 (e), (f)	*1926, Feb. 26	44	112	27	R. S. 3176. 1103.
3613					R. S. 3180.
3614 (a)	1926, Feb. 26	44	113	27	1104.
3614 (b)	*1928, May 29 1934, May 10	45 43	878 737	852 277	618. 507.
3615 (a)-(c)	1926, Feb. 26	44	118, 119	27	R. S. 3173. 1115.
3615 (d)					R. S. 3174.
3615 (e)					R. S. 3175.
3616 (a), (b)	1901, Mar. 2	31	956	814	
3616 (c)					R. S. 3179.
3617	1934, May 10	48	759	277	514.
3630					R. S. 3181.
3631	*1875, Feb. 18 1926, Feb. 26	18 44	319 113	80 27	1. 1105.
3632 (a) (1)	1926, Feb. 26	44	117	27	R. S. 3165. 1115.
3632 (a) (2)					R. S. 3162.
3632 (b)	1926, Feb. 26	44	112	27	1102 (d).
3633 (a)	1938, May 28	52	574	289	805.
3633 (b)	1928, May 29	45	877	852	617 (a).
3634	*1926, Feb. 26 *1928, May 29	44 45	112 878	27 852	R. S. 3176. 1103. 619 (d).
3640					R. S. 3182.
3641					R. S. 3182.

## Regulation conformity with the Statutes

This Box Represents the Statutory Limitations of the Law. All Regulations are confined to fit within the limits of the Statutes.

The Statutory Requirements of an I.R.C. 6020(b) return are as follows:

A lawful return can only be made on the form prescribed, which the "Secretary" subscribes (in the form of an attestation) his name thereto.

Hence the Secretary has already made regulations dictating the form prescribed, and the time and manner in which the form is submitted.

Does the proposed regulation fall within the statutory limitations?

**No** – The Secretary is attempting to "substitute" the statutory requirements made by congress with his own self made law. **This is unconstitutional.**

## Proposed Reg. Vs. Statutory Requirements.

### 6020(b) Statutory Requirement

1. A return must be made on the form prescribed.
2. A return must be subscribed, in an attested manner, by the “collector” [Secretary].
3. The proposed regulations lack the specificity required by the statute.

### Propose Regulations

- Uses a “substitute” group of documents. **Not Lawful!**
- Uses an unattested Form 13496 document to purport a return was made. **Not Lawful!**
- The proposed regulations do not specify or list the Forms prescribed by the Secretary which constitute a Return.

## Proposed Regulations lack Specificity

- “the temporary regulations provide that a document (or set of documents) signed by an authorized internal revenue officer or employee is a return under section 6020(b) if the document (or set of documents) identifies the taxpayer by name and taxpayer identification number, contains sufficient information from which to compute the taxpayer's tax liability, and the document (or set of documents) purport to be a return under section 6020(b).”
- Where is the Statute that says a "document (or set of documents)" constitutes a return under 6020(b)?

## Conclusion

- Why won't the Commissioner and his delegates just sign the lawful forms prescribed by the Secretary?

## Cordell Hull – Direct Taxes

- “While the federal government has the exclusive right to impose custom duties, the state governments have the exclusive right to impose direct taxes on both the real and personal property of this country”.

(Non-public records of Cordell Hull obtained by the Honorable Ron Paul from the Library of Congress marked as 383, Cordell Hull SUBJECT FILE Taxation 1916-33, page 7).