REQUIREMENT FOR REASONABLE NOTICE

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1 Introduction

The most basic element of "due process of law" is the requirement for "reasonable notice" to the public of the laws they have a legal duty and obligation to obey. The concept of "reasonable notice" is referred to by the courts with many various phrases, such as:

1. "fair warning"
2. "fair notice"
3. "due notice"
4. "notice and opportunity"

The Constitution nowhere explicitly mentions this requirement but it is a requirement that both state and federal courts have consistently implied as a basic right of everyone. That "reasonable notice" or "due notice" or "fair notice" can take many forms. The method of giving formal notice of CIVIL legal obligations is the Federal Register. Anything not published in the Federal Register by default is limited in its ability to enforce to people WITHIN the government ONLY. By this we mean that it is limited to PUBLIC officers on official business and PUBLIC property. This is discussed at length in:

Challenging Jurisdiction Workbook, Form #09.082 https://sedm.org/Forms/09-Procs/ChalJurWorkbook.pdf

It is the goal of this memorandum to carefully explain all of the mechanisms for providing reasonable notice and for proving when it has NOT been provided. An understanding of this subject can often furnish powerful evidence useful in Court:

1. As a defense or justification to a person in explaining why they are not required to obey a specific law because it pertains only to public officers and not them. This ability to recognize the various forms of reasonable notice, for instance, can provide an excellent defense when one is charged with a tax crime, because "willfulness" is a prerequisite to every tax crime, and it is impossible to willfully violate a law that you know doesn't apply to you because you have not received the proper "reasonable notice". See:

Reasonable Belief About Income Tax Liability, Form #05.007 http://sedm.org/Forms/FormIndex.htm

2. In proving the meaning or implied meaning of words. Quite frequently, government employees will try to abuse the word "includes" to violate due process of law by adding whatever they want to the definition of a word in order to unlawfully usurp jurisdiction. An understanding of "reasonable notice" can expose such tactics for what they are: a usurpation and a violation of due process of law. See:

Legal Deception, Propaganda, and Fraud, Form #05.014 http://sedm.org/Forms/FormIndex.htm

3. In proving that the *only* intended audience for a particular statute is only government employees, officers, and instrumentalities and not the private public at large. A thorough understanding of the Constitutional requirement for "reasonable notice" as an element of "due process of law" will allow the reader to easily prove that just based on the way a statute or regulation is published and submitted to the public for notice and comment, that statute or regulation can *only* apply to persons who work for the government as "public officers", government agents, instrumentalities, members of the military, or benefit recipients. This will also provide further evidence to support the hypothesis of our other memorandum of law below:

Why Your Government is Either a Thief or You Are a "Public Officer" for income tax purposes, Form #05.008 http://sedm.org/Forms/FormIndex.htm

As you will learn from reading this pamphlet, most statutes passed by Congress, in fact, are law only for government and *not* the average American. The designer of our three branch system of law, Charles de Montesquieu in his seminal work *The Spirit of Laws*, identified all such enactments as "political law" as opposed to "civil law", and said that the political law should NEVER be used as a substitute for the civil law. In Book XXVI, Section 15 of the Spirit of Laws, Montesquieu says that POLITICAL laws should not be allowed to regulate CIVIL conduct, meaning that POLITICAL laws limited exclusively to the government should not be enforced upon the PRIVATE citizen or made to "appear" as though they are "civil law" that applies to everyone:

The Spirit of Laws, Book XXVI, Section 15

> *15. That we should not regulate by the Principles of political Law those Things which depend on the Principles of civil Law.*
>
> *As men have given up their natural independence to live under political laws, they have given up the natural community of goods to live under civil laws.*
>
> ***By the first, they acquired [PUBLIC] liberty; by the second, [PRIVATE] property. We should not decide by the laws of [PUBLIC] liberty, which, as we have already said, is only the government of the community, what ought to be decided by the laws concerning [PRIVATE] property. It is a paralogism to say that the good of the individual should give way to that of the public; this can never take place, except when the government of the community, or, in other words, the liberty of the subject is concerned; this does not affect such cases as relate to private property, because the public good consists in every one's having his property, which was given him by the civil laws, invariably preserved.***
>
> *Cicero maintains that the Agrarian laws were unjust; because the community was established with no other view than that every one might be able to preserve his property.*
>
> *Let us, therefore, lay down a certain maxim, that* ***whenever the public good happens to be the matter in question, it is not for the advantage of the public to deprive an individual of his property, or even to retrench the least part of it by a law, or a political regulation. In this case we should follow the rigour of the civil law, which is the Palladium of [PRIVATE] property.***
>
> ***Thus when the public has occasion for the estate of an individual, it ought never to act by the rigour of political law; it is here that the civil law ought to triumph, which, with the eyes of a mother, regards every individual as the whole community.***
>
> *If the political magistrate would erect a public edifice, or make a new road, he must indemnify those who are injured by it; the public is in this respect like an individual who treats with an individual. It is fully enough that it can oblige a citizen to sell his inheritance, and that it can strip him of this great privilege which he holds from the civil law, the not being forced to alienate his possessions.*
>
> *After the nations which subverted the Roman empire had abused their very conquests, the spirit of liberty called them back to that of equity. They exercised the most barbarous laws with moderation: and if any one should doubt the truth of this, he need only read Beaumanoir's admirable work on jurisprudence, written in the twelfth century.*
>
> *They mended the highways in his time as we do at present. He says, that when a highway could not be repaired, they made a new one as near the old as possible; but indemnified the proprietors at the expense of those who reaped any advantage from the road.*[43] *They determined at that time by the civil law; in our days, we determine by the law of politics.*
>
> *[*The Spirit of Laws, *Charles de Montesquieu, 1758, Book XXVI, Section 15;*
> *SOURCE: http://famguardian.org/Publications/SpiritOfLaws/sol_11.htm#001]*

What Montesquieu is implying is what we have been saying all along, and he said it in 1758, which was even before the Declaration of Independence was written:

1. The purpose of establishing government is exclusively to protect PRIVATE rights.
2. PRIVATE rights are protected by the CIVIL law. The civil law, in turn is based in EQUITY rather than PRIVILEGE:

> ***"Thus when the public has occasion for the estate of an individual, it ought never to act by the rigour of political law; it is here that the civil law ought to triumph, which, with the eyes of a mother, regards every individual as the whole community."***

3. PUBLIC or government rights are protected by the PUBLIC or POLITICAL or GOVERNMENT law and NOT the CIVIL law.
4. The first and most important role of government is to prevent the POLITICAL or GOVERNMENT law from being used or especially ABUSED as an excuse to confiscate or jeopardize PRIVATE property.

Unfortunately, it is precisely the above type of corruption that Montesquieu describes that is the foundation of the present de facto government, tax system, and money system. ALL of them treat every human being as a PUBLIC officer against their consent, and impose what he calls the "rigors of the political law" upon them, in what amounts to a THEFT and CONFISCATION of otherwise PRIVATE property by enforcing PUBLIC law against PRIVATE people.

For more on the corruption of the civil law by confusing it with the political law, see:

Why Statutory Civil Law is Law for Government and Not Private Persons, Form #05.037, Section 5.7
https://sedm.org/Forms/FormIndex.htm

The Constitution deprives Congress of the ability to "legislate generally upon" life, liberty, and property of the average American. This must be so, because the government cannot perform its only function of protecting private rights which it can remove through the passage of laws that it enacts. This would be a contradiction.

> *"The power to "legislate generally upon" life, liberty, and property, as opposed to the "power to provide modes of redress" against offensive state action, was "repugnant" to the Constitution. Id., at 15. See also United States v. Reese, 92 U.S. 214, 218 (1876); United States v. Harris, 106 U.S. 629, 639 (1883); James v. Bowman, 190 U.S. 127, 139 (1903). Although the specific holdings of these early cases might have been superseded or modified, see, e.g., Heart of Atlanta Motel, Inc. v. United States, 379 U.S. 241 (1964); United States v. Guest, 383 U.S. 745 (1966), their treatment of Congress' §5 power as corrective or preventive, not definitional, has not been questioned."*
> *[City of Boerne v. Florez, Archbishop of San Antonio, 521 U.S. 507 (1997)]*

For further evidence proving why nearly all law is law only for government, read the following:

Federal Enforcement Authority in States of the Union, Form #05.032
http://sedm.org/LibertyU/LibertyU.htm

2 Elements of Due Process

Black's Law Dictionary defines "due process" as follows:

> ***Due process of law***. *Law in its regular course of administration through courts of justice. Due process of law in each particular case means such an exercise of the powers of the government as the settled maxims of law permit and sanction, and under such safeguards for the protection of individual rights as those maxims prescribe for the class of cases to which the one in question belongs.* ***A course of legal proceedings according to those rules and principles which have been established in our systems of jurisprudence for the enforcement and protection of private rights.*** *To give such proceedings any validity, there must be a tribunal competent by its constitution—that is, by the law of the creation—to pass upon the subject-matter of the suit; and, if that involves merely a determination of the personal liability of the defendant,* ***he must be brought within its jurisdiction by service of process within the state, or his voluntary appearance***. *Pennoyer v. Neff, 95 U.S. 714, 24 L.Ed. 565. Due process of law implies the right of the person affected thereby to be present before the tribunal which pronounces judgment upon the question of life, liberty, or property, in its most comprehensive sense; to be heard, by testimony or otherwise, and to have the right of controverting, by proof, every material fact which bears on the question of right in the matter involved.* ***If any question of fact or liability be conclusively be presumed [rather than proven] against him, this is not due process of law.***
>
> ***An orderly proceeding wherein a person with notice, actual or constructive, and has an opportunity to be heard and to enforce and protect his rights before a court having the power to hear and determine the case.*** *Kazubowski v. Kazubowski, 45 Ill.2d. 405, 259 N.E.2d. 282, 290. Phrase means that no person shall be deprived of life, liberty, property or of any right granted him by statute, unless matter involved first shall have been adjudicated against him upon trial conducted according to established rules regulating judicial proceedings, and it forbids condemnation without a hearing. Pettit v. Penn, LaApp., 180 So.2d. 66, 69. The concept of "due process of law" as it is embodied in the Fifth Amendment demands that a law shall not be unreasonable, arbitrary, or capricious and that the means selected shall have a reasonable and substantial relation to the object being sought. U.S. v. Smith, D.C.Iowa, 249 F.Supp. 515, 516. Fundamental requisite of "due process of law" is the opportunity to be heard, to be aware that a matter is pending, to make an informed choice whether to acquiesce or contest, and to assert before the appropriate decision-making body the reasons for such choice. Trinity Episcopal Corp. v. Romney, D.C.N.Y., 387 F.Supp. 1044, 1084. Aside from all else, "due process" means fundamental fairness and substantial justice. Vaughn v. State, 3 Tenn.Crim.App. 54, 456 S.W.2d 879, 883.*
>
> *Embodied in the due process concept are the basic rights of a defendant in criminal proceedings and the requisites for a fair trial. These rights and requirements have been expanded by Supreme Court decisions and include, timely notice of a hearing or trial which informs the accused of the charges against him or her; the opportunity to confront accusers and to present evidence on one's own behalf before an impartial jury or judge; the presumption of innocence under which* ***guilt must be proven by legally obtained evidence*** *and the verdict must be supported by the evidence presented; rights at the earliest stage of the criminal process; and the guarantee that an individual will not be tried more than once for the same offence (double jeopardy).*
> *[Black's Law Dictionary, Sixth Edition, p. 500]*

The basic elements of due process are the following, which shall be treated separately in the subsections which follow:

1. Reasonable notice before the taking of life, liberty, or property.
2. An equal opportunity to be heard and to examine, question, and debate with your accusers.
3. An impartial decision maker.
4. Absence of presumption. All inferences derive from physical evidence and not opinion.

For additional details on the subject of "due process" beyond that described in the following subsections, see:

Requirement for Due Process of Law, Form #05.045 http://sedm.org/Forms/FormIndex.htm

2.1 Reasonable Notice and Hearing

2.1.1 Administrative Law and Process in a Nutshell, Ernest Gellhorn, 1990, West Publishing, p. 214

> *"An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 314 (1950) . Without proper prior notice to those who may be affected by a government decision, all other procedural rights may be nullified. The exact contents of the notice required by due process will, of course, vary with the circumstances.*
> *[Administrative Law and Process in a Nutshell, Ernest Gellhorn, 1990, West Publishing, p. 214]*

2.1.2 Holden v. Hardy, 169 U.S. 366 (1898)

> *"It is sufficient to say that there are certain immutable principles of justice which inhere in the very idea of free government which no member of the Union may disregard, as that* ***no man shall be condemned in his person or property without due notice and an opportunity of being heard in his own defense.*** *"*
> *[Holden v. Hardy, 169 U.S. 366 (1898)]*

2.1.3 Powell v. Alabama, 287 U.S. 45 (1932)

> ***It never has been doubted by this court, or any other, so far as we know, that notice and hearing are preliminary steps essential to the passing of an enforceable judgment,*** *and that they, together with a legally competent tribunal having jurisdiction of the case, constitute basic elements of the constitutional requirement of due process of law. The words of Webster, so often quoted, that, by "the law of the land" is intended "a law which hears before it condemns" have been repeated in varying forms of expression in a multitude of decisions. In Holden v. Hardy, 169 U.S. 366, 389, the necessity of due notice and an opportunity of being heard is described as among the "immutable principles of justice which inhere in the very idea of free government which no member of the Union may disregard." And Mr. Justice Field, in an earlier case, Galpin v. Page, 18 Wall. 350, 368-369, said that the rule that no one shall be personally bound until he has had his day in court was as old as the law, and it meant that he must be cited to appear and afforded an opportunity to be heard.*
>
> > *Judgment without such citation and opportunity wants all the attributes of a judicial determination; it is judicial usurpation and oppression, and never can be upheld where justice is justly administered."*
>
> *[Powell v. Alabama, 287 U.S. 45 (1932)]*

2.1.4 Fuentes v. Shevin, 407 U.S. 67 (1972)

> *For more than a century, the central meaning of procedural due process has been clear: "****Parties whose rights are to be affected are entitled to be heard; and in order that they may enjoy that right, they must first be notified.****" Baldwin v. Hale, 1 Wall. 223, 233. See Windsor v. McVeigh, 93 U.S. 274; Hovey v. Elliott, 167 U.S. 409; Grannis v. Ordean, 234 U.S. 385. It is equally fundamental that the right to notice and an opportunity to be heard "must be granted at a meaningful time and in a meaningful manner." Armstrong v. Manzo, 380 U.S. 545, 552.*
>
> *[. . .]*
>
> ***The constitutional right to be heard is a basic aspect of the duty of government to follow a fair process of decisionmaking when it acts to deprive a person of his possessions.*** *The purpose of this requirement is not [407 U.S. 81] only to ensure abstract fair play to the individual. Its purpose, more particularly, is to protect his use and possession of property from arbitrary encroachment -- to minimize substantively unfair or mistaken deprivations of property, a danger that is especially great when the State seizes goods simply upon the application of and for the benefit of a private party. So viewed,* ***the prohibition against the deprivation of property without***

due process of law reflects the high value, embedded in our constitutional and political history, that we place on a person's right to enjoy what is his, free of governmental interference. *See Lynch v. Household Finance Corp., 405 U.S. 538, 552.*

The requirement of notice and an opportunity to be heard raises no impenetrable barrier to the taking of a person's possessions. But the fair process of decisionmaking that it guarantees works, by itself, to protect against arbitrary deprivation of property. For when a person has an opportunity to speak up in his own defense, and when the State must listen to what he has to say, substantively unfair and simply mistaken deprivations of property interests can be prevented. It has long been recognized that

> *fairness can rarely be obtained by secret, one-sided determination of facts decisive of rights. . . . [And n]o better instrument has been devised for arriving at truth than to give a person in jeopardy of serious loss notice of the case against him and opportunity to meet it.*

Joint Ant-Fascist Refugee Committee v. McGrath, 341 U.S. 123, 170-172 (Frankfurter, J., concurring).

If the right to notice and a hearing is to serve its full purpose, then, it is clear that it must be granted at a time when the deprivation can still be prevented. At a later hearing, an individual's possessions can be returned to him if they were unfairly or mistakenly taken in the first place. Damages may even be [407 U.S. 82] awarded to him for the wrongful deprivation. But no later hearing and no damage award can undo the fact that the arbitrary taking that was subject to the right of procedural due process has already occurred. "This Court has not . . . embraced the general proposition that a wrong may be done if it can be undone." Stanley v. Illinois, 405 U.S. 645, 647.

This is no new principle of constitutional law. The right to a prior hearing has long been recognized by this Court under the Fourteenth and Fifth Amendments. Although the Court has held that due process tolerates variances in the form of a hearing "appropriate to the nature of the case," Mullane v. Central Hanover Tr. Co., 339 U.S. 306, 313, and "depending upon the importance of the interests involved and the nature of the subsequent proceedings [if any]," Boddie v. Connecticut, 401 U.S. 371, 378, the Court has traditionally insisted that, whatever its form, opportunity for that hearing must be provided before the deprivation at issue takes effect. E.g., Bell v. Burson, 402 U.S. 535, 542; Wisconsin v. Constantineau, 400 U.S. 433, 437; Goldberg v. Kelly, 397 U.S. 254; Armstrong v. Manzo, 380 U.S. at 551; Mullane v. Central Hanover Tr. Co., supra, at 313; Opp Cotton Mills v. Administrator, 312 U.S. 126, 152-153; United States v. Illinois Central R. Co., 291 U.S. 457, 463; Londoner v. City & County of Denver, 210 U.S. 373, 385-386. See In re Ruffalo, 390 U.S. 544, 550-551.

> *That the hearing required by due process is subject to waiver, and is not fixed in form does not affect its root requirement that an individual be given an opportunity for a hearing before he is deprived of any significant property interest, except for extraordinary situations where some valid governmental interest is at stake that justifies postponing the hearing until after the event.*

Boddie v. Connecticut, supra, at 379-379 (emphasis in original). [407 U.S. 83]
[Fuentes v. Shevin, 407 U.S. 67, 80 (1972) (quoting Baldwin v. Hale, 1 Wall. 223, 233 (1864); Armstrong v. Manzo, 380 U.S. 545, 552 (1965)]

2.1.5 Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 314 (1950)

"An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections."
[Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 314 (1950)]

2.1.6 Brady v. U.S., 397 U.S. 742 (1970)

"Waivers of constitutional rights not only must be voluntary but must be knowing, intelligent acts done with sufficient awareness [reasonable notice] of the relevant circumstances and likely consequences."
[Brady v. U.S., 397 U.S. 742, at 749, 90 S.Ct. 1463 at 1i469 (1970)]

2.1.7 Brookhart v. Janis, 384 U.S. 1 (1966)

"The question of a waiver of a federally guaranteed constitutional right is, of course, a federal question controlled by federal law. There is a presumption against the waiver of constitutional rights, see, e.g. Glasser v. United States, 314 U.S. 60, 70-71, 86 L.Ed. 680, 699, 62 S.Ct. 457, and for a waiver to be effective it must be clearly established [reasonable notice] that there was an 'intentional relinquishment or abandonment of a known right or privilege.' Johnson v. Zerbst, 304 U.S. 458, 464, 82 L.Ed. 1461, 1466, 58 S.Ct. 1019, 146 A.L.R. 357."
[Brookhart v. Janis, 384 U.S. 1; 86 S.Ct. 1245; 16 L.Ed.2d. 314 (1966)]

2.2 Absence of Presumption

Black's Law Dictionary, Sixth Edition, implies that the OPPOSITE of "due process" is to proceed presumptuously without all the facts:

> ***Due process of law***. *Law in its regular course of administration through courts of justice. Due process of law in each particular case means such an exercise of the powers of the government as the settled maxims of law permit and sanction, and under such safeguards for the protection of individual rights as those maxims prescribe for the class of cases to which the one in question belongs.* ***A course of legal proceedings according to those rules and principles which have been established in our systems of jurisprudence for the enforcement and protection of private rights.*** *To give such proceedings any validity, there must be a tribunal competent by its constitution—that is, by the law of the creation—to pass upon the subject-matter of the suit; and, if that involves merely a determination of the personal liability of the defendant,* ***he must be brought within its jurisdiction by service of process within the state, or his voluntary appearance***. *Pennoyer v. Neff, 95 U.S. 714, 24 L.Ed. 565. Due process of law implies the right of the person affected thereby to be present before the tribunal which pronounces judgment upon the question of life, liberty, or property, in its most comprehensive sense; to be heard, by testimony or otherwise, and to have the right of controverting, by proof, every material fact which bears on the question of right in the matter involved.* ***If any question of fact or liability be conclusively be presumed [rather than proven] against him, this is not due process of law.***
> ***[Black's Law Dictionary, Sixth Edition, p. 500]***

The main, if not the only purpose of the Federal Rules of Procedure is to completely remove presumption from the ascertainment of evidence in a legal trial. This subject is exhaustively covered in our other free memorandum of law below:

Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction, Form #05.017 http://sedm.org/Forms/FormIndex.htm

2.3 Impartial decision maker

> *"Bias or favoritism is utterly irreconcilable with and necessarily perverts the judicial function. The rule of law which provides the framework for our system of justice is thwarted by a judge marching to an unauthorized drummer [the IRS in this case, if he is a "taxpayer"]."*
> *[Summerlin v. Stewart, 267 F.3d 926 (9th Cir. 10/12/2001)]*

> *"A judge should disqualify himself . . . where he has a personal bias or prejudice concerning a party"*
> *[ABA Code of Judicial Conduct, Canon 3C(1)(a) (1980)]*

> *". . .it certainly violates the Fourteenth Amendment . . . to subject [a person's] liberty or [475 U.S. 822] property to the judgment of a court the judge of which has a direct, personal, substantial, pecuniary interest in reaching a conclusion against him in his case."*
> *[Tumey v. Ohio, 273 U.S. 510 (1927)]*

2.4 Biblical Authorities on Due Process

Litigation should be conducted by both sides participating equally in an adversarial proceeding:

> *"The first one to plead his cause seems right, Until his neighbor comes and examines him."*
> *[Prov. 18:17, Bible, NKJV]*

Litigation and confrontation should be public and supervised, rather than secret:

> *"'Cursed is the one who attacks his neighbor secretly.' "And all the people shall say, 'Amen!'"*
> *[Deut. 27:24, Bible, NKJV]*

Resolve the matter administratively and personally so you can avoid Court entirely, especially if it is before unbelievers:

> *"Debate your case with your neighbor, And do not disclose the secret to another;"*
> *[Prov. 25:9, Bible, NKJV]*

Avoid litigation and Court entirely if you can:

"I say this to your shame. *Is it so, that there is not a wise man among you, not even one, who will be able to judge between his brethren? But brother goes to law against brother and that before unbelievers!* ***Now therefore, it is already an utter failure for you that you go to law against one another.*** *"*
[1 Cor. 6:5-7, Bible, NKJV]

3 Examples How Constitutional "Notice" Requirements Are Satisfied

3.1 Laws Generally

The U.S. Supreme Court has ruled that "every citizen of the United States is supposed to know the law":

"Every citizen of the United States is supposed to know the law. . ."
[Floyd Acceptances, 7 Wall (74 U.S. 169) 666 (1869)]

"Every man is supposed to know the law. A party who makes a contract with an officer [of the government] without having it reduced to writing is knowingly accessory to a violation of duty on his part. Such a party aids in the violation of the law."
[Clark v. United States, 95 U.S. 539 (1877)]

The Bible also echoes these same sentiments, when it says:

"One who turns his ear from hearing the law [God's law or man's law], even his prayer is an abomination."
[Prov. 28:9, Bible, NKJV]

"But this crowd that does not know [and quote and follow and use] the law is accursed."
[John 7:49, Bible, NKJV]

"Salvation is far from the wicked, For they do not seek Your statutes."
[Psalm 119:155, Bible, NKJV]

The above authorities confirm that everyone has been provided with "reasonable notice" by both God and the government that they are expected to read and learn both God's laws and man's laws. This is the essence, in fact, of what it means to be a "responsible citizen". The problem is that there is a big difference between "knowing" and being legally required to actually obey and follow a specific law or statute. Furthermore, our deficient, government-run public schools have not demonstrated a commitment to properly preparing every American man and woman to be able to read, learn, know, and follow all laws. How can a government hold a person responsible to "know" what the law requires if it is in charge of the public school system and refuses to teach people ANYTHING about the law? This leads to anarchy, chaos, and injustice in society on a large scale and causes us to deviate from our true nature as a "society of law and not men":

> *"**The government of the United States has been emphatically termed a government of laws, and not of men**. It will certainly cease to deserve this high appellation, if the laws furnish no remedy for the violation of a vested legal right."*
> *[Marbury v. Madison, 5 U.S. 137; 1 Cranch 137, 2 L.Ed. 60 (1803)]*

Some people might argue that the ruling of the Supreme Court above relieves the government of the requirement for "reasonable notice" to the public of the laws they are expected to obey. We have been unable to find any stare decisis or judicial precedent that would corroborate this unsubstantiated and prejudicial presumption.

Finally, we emphasize that in a society such as we have which is in fact "a society of law and not men":

1. "Notice" of what the law requires cannot and should not come from any man, but *only* from the written law clearly and unambiguously says and specifically "includes".

> *"**Expressio unius est exclusio alterius**. A maxim of statutory interpretation meaning that **the expression of one thing is the exclusion of another.** Burgin v. Forbes, 293 Ky. 456, 169 S.W.2d 321, 325; Newblock v. Bowles, 170 Okl. 487, 40 P.2d 1097, 1100. Mention of one thing implies exclusion of another. **When certain persons or things are specified in a law, contract, or will, an intention to exclude all others from its operation may be inferred.** Under this maxim, if statute specifies one exception to a general rule or assumes to specify the effects of a certain provision, other exceptions or effects are excluded."*
> *[Black's Law Dictionary, Sixth Edition, p. 581]*

> *"**It is axiomatic that the statutory definition of the term excludes unstated meanings of that term**. Colautti v. Franklin, 439 U.S. 379, 392, and n. 10 (1979). Congress' use of the term "propaganda" in this statute, as indeed in other legislation, has no pejorative connotation. **As judges, it is our duty to [481 U.S. 485] construe legislation as it is written, not as it might be read by a layman, or as it might be understood by someone who has not even read it.**"*
> *[Meese v. Keene, 481 U.S. 465, 484 (1987)]*

> *"**When a statute includes an explicit definition, we must follow that definition, even if it varies from that term's ordinary meaning.** Meese v. Keene, 481 U.S. 465, 484-485 (1987) ("It is axiomatic that the statutory definition of the term excludes unstated meanings of that term"); Colautti v. Franklin, 439 U.S. at 392-393, n. 10 ("As a rule, `a definition which declares what a term "means" . . . excludes any meaning that is not stated'"); Western Union Telegraph Co. v. Lenroot, 323 U.S. 490, 502 (1945); Fox v. Standard Oil Co. of N.J., 294 U.S. 87, 95-96 (1935) (Cardozo, J.); see also 2A N. Singer, Sutherland on Statutes and Statutory Construction § 47.07, p. 152, and n. 10 (5th ed. 1992) (collecting cases). That is to say, the statute, read "as a whole," post at 998 [530 U.S. 943] (THOMAS, J., dissenting), leads the reader to a definition. That definition does not include the Attorney General's restriction -- "the child up to the head." Its words, "substantial portion," indicate the contrary."*
> *[Stenberg v. Carhart, 530 U.S. 914 (2000)]*

2. Notice *cannot* come *only* from a "judge", who is a "man". Consequently, no judge can extend the definition of a word to *add* things or classes of things that are not "expressly" and "explicitly" included within the statute or law without violating the foundation of our country as a "society of law and not men". See:

Legal Deception, Propaganda, and Fraud, Form #05.014 http://sedm.org/Forms/FormIndex.htm

3. The statute or law which provides the notice must be legally admissible evidence and not "prima facie evidence". "Prima facie evidence" means "presumed", and anything based on "presumption" is a violation of due process of law and is NOT "evidence" in a legal sense, but simply an inadmissible belief or opinion that is excludible from evidence pursuant to Federal Rule of Evidence 610:

> *(1) [8:4993] **Conclusive presumptions affecting protected interests:** A conclusive presumption may be defeated where its application would impair a party's constitutionally-protected liberty or property interests. In such cases, conclusive presumptions have been held to violate a party's due process and equal protection rights. [*Vlandis v. Kline *(1973) 412 U.S. 441, 449, 93 S.Ct 2230, 2235;* Cleveland Bed. of Ed. v. LaFleur *(1974) 414 U.S. 632, 639-640, 94 S.Ct. 1208, 1215-presumption under Illinois law that unmarried fathers are unfit violates process]*
> *[Federal Civil Trials and Evidence, Rutter Group, paragraph 8:4993, p. 8K-34]*
>
> ***". . .a statute which imposes a tax upon an assumption of fact which the taxpayer is forbidden to controvert is so arbitrary and unreasonable that it cannot stand under the Fourteenth Amendment."***

> *[. . .]*

> *This court has held more than once that a statute creating a presumption which operates to deny a fair opportunity to rebut it violates the due process clause of the Fourteenth Amendment. For example, Bailey v. Alabama, 219 U.S. 219 , 238, et seq., 31 S. Ct. 145; Manley v. Georgia, 279 U.S. 1 , 5-6, 49 S. Ct. 215.*
>
> *'It is apparent,' this court said in the Bailey Case (219 U.S. 239 , 31 S. Ct. 145, 151) 'that a constitutional prohibition cannot be transgressed indirectly by the creation of a statutory presumption any more than it can be violated by direct enactment. The power to create presumptions is not a means of escape from constitutional restrictions.'*
>
> *If a legislative body is without power to enact as a rule of evidence a statute denying a litigant the right to prove the facts of his case, certainly the power cannot be made to emerge by putting the enactment in the guise of a rule of substantive law.*
> *[Heiner v. Donnan, 285 U.S. 312 (1932)]*

For further details on this subject, see:

> *Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction*, Form #05.017
> http://sedm.org/Forms/FormIndex.htm

3.2 Retroactive laws

An "ex post facto" law is one that applies retroactively. The United States Constitution forbids what is called "ex post facto laws":

> *U.S. Constitution*
> *Article 1, Section 9, Clause 3*
>
> *No Bill of Attainder or ex post facto Law shall be passed.*
> *[SOURCE: http://caselaw.lp.findlaw.com/data/constitution/article01/]*

The above provision may seem innocuous enough, but what many people fail to realize is that the origins of the above requirement are found mainly in the requirement for "reasonable notice". A retroactive law violates the requirement for reasonable notice by not informing or warning a person BEFORE he chooses a particular conduct that his conduct is illegal and that he should avoid it. Ex post facto laws therefore make it literally impossible for a person to avoid violating a law, because all the government would have to do in order to turn an entire country of people into criminals is choose a common behavior, outlaw it, and then prosecute everyone for things they did ***before*** it became illegal. The U.S. Supreme Court explained it this way:

> *Today's opinion apart, see ante, at 1632, n. 21, **this Court has consistently stressed " 'lack of fair notice' " as one of the "central concerns of the* Ex Post Facto *Clause."** Lynce v. Mathis, *519 U.S. 433, 441, 117 S.Ct. 891, 137 L.Ed.2d. 63 (1997)* (quoting Weaver v. Graham, *450 U.S. 24, 30, 101 S.Ct. 960, 67 L.Ed.2d. 17 (1981)*). See also Landgraf v. USI Film Products, *511 U.S. 244, 266-267, 114 S.Ct. 1483, 128 L.Ed.2d. 229 (1994)*; Miller v. Florida, *482 U.S. 423, 430, 107 S.Ct. 2446, 96 L.Ed.2d. 351 (1987)*; Weaver, *450 U.S., at 28-29, 101 S.Ct. 960;* Marks v. United States, *430 U.S. 188, 191-192, 97 S.Ct. 990, 51 L.Ed.2d. 260 (1977)*.*
> *[Carmell v. Texas, 529 U.S. 513, 120 S.Ct. 1620 (U.S.Tex.,2000)]*
>
> ---
>
> ***"The crime, and the elements constituting it, must be so clearly expressed that the ordinary person can intelligently choose, in advance, what course it is lawful for him to pursue."*** *"*
> *[Connally v. General Construction Co., 269 U.S. 385 (1926)]*
>
> ---
>
> ***"First, because we assume that man is free to steer between lawful and unlawful conduct, we insist that laws give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly.** Vague [or RETROACTIVE] laws may trap the innocent by not providing **fair warning**. Second, if arbitrary and discriminatory enforcement is to be prevented, laws must provide explicit standards for those who apply them. "*
> *[Sewell v. Georgia, 435 U.S. 982 (1978)]*

The most exhaustive treatment of retroactive legislation by the U.S. Supreme Court is found below:

As Justice SCALIA has demonstrated, the presumption against retroactive legislation is deeply rooted in our jurisprudence, and ***embodies a legal doctrine centuries older than our Republic****.*[1] ***Elementary considerations of fairness dictate that individuals should have an opportunity to know [receive advanced "reasonable notice"] what the law is and to conform their conduct accordingly****; settled expectations should not be lightly disrupted.*[2] *For that reason, the "principle that the legal effect of conduct should ordinarily be assessed under the law that existed when the conduct took place has timeless and universal appeal."* Kaiser, *494 U.S., at 855, 110 S.Ct., at 1586 (SCALIA, J., concurring). In *266 a free, dynamic society, creativity in both commercial and artistic endeavors is fostered by a rule of law that gives people confidence about the legal consequences of their actions.*

It is therefore not surprising that the antiretroactivity principle finds expression in several provisions of our Constitution. The Ex Post Facto *Clause flatly prohibits retroactive application of penal legislation.*[3] *Article I, § 10, cl. 1, prohibits States from passing another type of retroactive legislation, laws "impairing the Obligation of Contracts." The Fifth Amendment's Takings Clause prevents the Legislature (and other government actors) from depriving private persons of vested property rights except for a "public use" and upon payment of "just compensation." The prohibitions on "Bills of Attainder" in Art. I, §§ 9-10, prohibit legislatures from singling out disfavored persons and meting out summary punishment for past conduct. See,* e.g., United States v. Brown, *381 U.S. 437, 456-462, 85 S.Ct. 1707, 1719-1722, 14 L.Ed.2d. 484 (1965). The Due Process Clause also protects the interests in fair notice and repose that may be compromised by retroactive legislation; a justification sufficient to validate a statute's prospective application under the Clause "may not suffice" to warrant its retroactive application.* Usery v. Turner Elkhorn Mining Co., *428 U.S. 1, 17, 96 S.Ct. 2882, 2893, 49 L.Ed.2d. 752 (1976).*

*These provisions demonstrate that retroactive statutes raise particular concerns. The Legislature's unmatched powers allow it to sweep away settled expectations suddenly and without individualized consideration. Its responsivity to political pressures poses a risk that it may be tempted to use retroactive legislation as a means of retribution against unpopular groups or individuals. As Justice Marshall observed in his opinion for **1498 the Court in* Weaver v. Graham, *450 U.S. 24, 101 S.Ct. 960, 67 L.Ed.2d. 17 (1981), the* Ex Post Facto *Clause not only ensures*267 that individuals have "fair warning" about the effect of criminal statutes, but also "restricts governmental power by restraining arbitrary and potentially vindictive legislation."* Id., *at 28-29, 101 S.Ct., at 963-964 (citations omitted).* [4]

The Constitution's restrictions, of course, are of limited scope. Absent a violation of one of those specific provisions, the potential unfairness of retroactive civil legislation is not a sufficient reason for a court to fail to give a statute its intended scope.[5] *Retroactivity provisions often serve entirely*268 benign and legitimate purposes, whether to respond to emergencies, to correct mistakes, to prevent circumvention of a new statute in the interval immediately preceding its passage, or simply to give comprehensive effect to a new law Congress considers salutary. However, a requirement that Congress first make its intention clear helps ensure that Congress itself has determined that the benefits of retroactivity outweigh the potential for disruption or unfairness.*

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[1] FN17. See *Kaiser Aluminum & Chemical Corp. v. Bonjorno*, 494 U.S. 827, 842-844, 855-856, 110 S.Ct. 1570, 1579-1581, 1586-1587, 108 L.Ed.2d. 842 (1990) (SCALIA, J., concurring). See also, e.g., *Dash v. Van Kleeck*, 7 Johns. *477, *503 (N.Y.1811) ("It is a principle of the English common law, as ancient as the law itself, that a statute, even of its omnipotent parliament, is not to have a retrospective effect") (Kent, C.J.); Smead, The Rule Against Retroactive Legislation: A Basic Principle of Jurisprudence, 20 Minn.L.Rev. 775 (1936).

[2] FN18. See *General Motors Corp. v. Romein*, 503 U.S. 181, 191, 112 S.Ct. 1105, 1112, 117 L.Ed.2d. 328 (1992) ("Retroactive legislation presents problems of unfairness that are more serious than those posed by prospective legislation, because it can deprive citizens of legitimate expectations and upset settled transactions"); Munzer, A Theory of Retroactive Legislation, 61 Texas L.Rev. 425, 471 (1982) ("The rule of law ... is a defeasible entitlement of persons to have their behavior governed by rules publicly fixed in advance"). See also L. Fuller, The Morality of Law 51-62 (1964) (hereinafter Fuller).

[3] FN19. Article I contains two Ex Post Facto Clauses, one directed to Congress (§ 9, cl. 3), the other to the States (§ 10, cl. 1). We have construed the Clauses as applicable only to penal legislation. See *Calder v. Bull*, 3 Dall. 386, 390-391, 1 L.Ed. 648 (1798) (opinion of Chase, J.).

[4] FN20. See *Richmond v. J. A. Croson Co.*, 488 U.S. 469, 513-514, 109 S.Ct. 706, 732, 102 L.Ed.2d. 854 (1989) ("Legislatures are primarily policymaking bodies that promulgate rules to govern future conduct. The constitutional prohibitions against the enactment of ex post facto laws and bills of attainder reflect a valid concern about the use of the political process to punish or characterize past conduct of private citizens. It is the judicial system, rather than the legislative process, that is best equipped to identify past wrongdoers and to fashion remedies that will create the conditions that presumably would have existed had no wrong been committed") (STEVENS, J., concurring in part and concurring in judgment); *James v. United States*, 366 U.S. 213, 247, n. 3, 81 S.Ct. 1052, 1052, n. 3, 6 L.Ed.2d. 246 (1961) (retroactive punitive measures may reflect "a purpose not to prevent dangerous conduct generally but to impose by legislation a penalty against specific persons or classes of persons").

James Madison argued that retroactive legislation also offered special opportunities for the powerful to obtain special and improper legislative benefits. According to Madison, "[b]ills of attainder, ex post facto laws, and laws impairing the obligation of contracts" were "contrary to the first principles of the social compact, and to every principle of sound legislation," in part because such measures invited the "influential" to "speculat[e] on public measures," to the detriment of the "more industrious and less informed part of the community." The Federalist No. 44, p. 301 (J. Cooke ed. 1961). See Hochman, The Supreme Court and the Constitutionality of Retroactive Legislation, 73 Harv.L.Rev. 692, 693 (1960) (a retroactive statute "may be passed with an exact knowledge of who will benefit from it").

[5] FN21. In some cases, however, the interest in avoiding the adjudication of constitutional questions will counsel against a retroactive application. For if a challenged statute is to be given retroactive effect, the regulatory interest that supports prospective application will not necessarily also sustain its application to past events. See *Pension Benefit Guaranty Corporation v. R. A. Gray & Co.*, 467 U.S. 717, 730, 104 S.Ct. 2709, 2718, 81 L.Ed.2d. 601 (1984); *Usery v. Turner Elkhorn Mining Co.*, 428 U.S. 1, 17, 96 S.Ct. 2882, 2893, 49 L.Ed.2d. 752 (1976). In this case the punitive damages provision may raise a question, but for present purposes we assume that Congress has ample power to provide for retroactive application of § 102.

While statutory retroactivity has long been disfavored, deciding when a statute operates "retroactively" is not always a simple or mechanical task. *Sitting on Circuit, Justice Story offered an influential definition in* Society for Propagation of the Gospel v. Wheeler, *22 F.Cas. 756 (No. 13,156) (CCNH 1814), a case construing a provision of the New Hampshire Constitution that broadly prohibits "retrospective" laws both criminal and civil.*[6] *Justice Story first rejected the notion that the provision bars only explicitly retroactive legislation,* i.e., *"statutes ... enacted to take effect from a time anterior to their passage."* Id., *at 767. Such a construction, he concluded,**1499 would be "utterly subversive of all the objects" of the prohibition.* Ibid. *Instead, the ban on retrospective legislation embraced "all statutes, which, though operating only from their passage, affect vested *269 rights and past transactions."* Ibid. *"Upon principle," Justice Story elaborated,*

> *"every statute, which takes away or impairs vested rights acquired under existing laws, or creates a new obligation, imposes a new duty, or attaches a new disability, in respect to transactions or considerations already past, must be deemed retrospective...."* Ibid. *(citing* Calder v. Bull, *3 Dall. 386, 1 L.Ed. 648 (1798), and* Dash v. Van Kleeck, 7 Johns. 477 (N.Y.1811)*).*

Though the formulas have varied, similar functional conceptions of legislative "retroactivity" have found voice in this Court's decisions and elsewhere.[7]

A statute does not operate "retrospectively" merely because it is applied in a case arising from conduct antedating the statute's enactment, see Republic Nat. Bank of Miami v. United States, *506 U.S. 80, 100, 113 S.Ct. 554, 565-566, 121 L.Ed.2d. 474 (1992) (THOMAS, J., concurring in part and concurring in judgment), or upsets expectations based in prior law.*[8] *Rather, the court must ask *270 whether the new provision attaches new legal consequences to events completed before its enactment. The conclusion that a particular rule operates "retroactively" comes at the end of a process of judgment concerning the nature and extent of the change in the law and the degree of connection between the operation of the new rule and a relevant past event. Any test of retroactivity will leave room for disagreement in hard cases, and is unlikely to classify the enormous variety of legal changes with perfect philosophical clarity. However, retroactivity is a matter on which judges tend to have "sound ... instinct[s]," see* Danforth v. Groton Water Co., *178 Mass. 472, 476, 59 N.E. 1033, 1034 (1901) (Holmes, J.), and familiar considerations of fair notice, reasonable reliance, and settled expectations offer sound guidance.*

Since the early days of this Court, we have declined to give retroactive effect to statutes burdening private rights unless Congress had made clear its intent. *Thus, in* United States v. Heth, *3 Cranch 399, 2 L.Ed. 479 (1806), we refused to apply a federal statute reducing the commissions of customs collectors to collections commenced before the statute's enactment because the statute lacked "clear, strong, and imperative" language requiring retroactive application, **1500* id., *at 413 (opinion of Paterson, J.).* ***The presumption against statutory retroactivity has consistently been explained by reference to the unfairness of imposing new burdens on persons after the fact****. Indeed, at common law a contrary rule applied to statutes that merely* removed *a burden on private rights by repealing a penal provision (whether criminal or civil); such *271 repeals were understood to preclude punishment for acts antedating the repeal. See,* e.g., United States v. Chambers, *291 U.S. 217, 223-224, 54 S.Ct. 434, 435-436, 78 L.Ed. 763 (1934); Gulf, C. & S. F. R. Co. v. Dennis, 224 U.S. 503, 506, 32 S.Ct. 542, 543, 56 L.Ed. 860 (1912); United States v. Tynen, 11 Wall. 88, 93-95, 20 L.Ed. 153 (1871); Norris v. Crocker, 13 How. 429, 440-441, 14 L.Ed. 210 (1852); Maryland ex rel. Washington Cty. v. Baltimore & Ohio R. Co., 3 How. 534, 552, 11 L.Ed. 714 (1845); Yeaton v. United States, 5 Cranch 281, 284, 3 L.Ed. 101 (1809). But see 1 U.S.C. § 109 (repealing common-law rule).*

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[6] FN22. Article 23 of the New Hampshire Bill of Rights provides: "Retrospective laws are highly injurious, oppressive and unjust. No such laws, therefore, should be made, either for the decision of civil causes or the punishment of offenses." At issue in the *Society* case was a new statute that reversed a common-law rule by allowing certain wrongful possessors of land, upon being ejected by the rightful owner, to obtain compensation for improvements made on the land. Justice Story held that the new statute impaired the owner's rights and thus could not, consistently with Article 23, be applied to require compensation for improvements made before the statute's enactment. See 22 F.Cas., at 766-769.

[7] FN23. See, e.g., *Miller v. Florida*, 482 U.S. 423, 430, 107 S.Ct. 2446, 2451, 96 L.Ed.2d. 351 (1987) ("A law is retrospective if it 'changes the legal consequences of acts completed before its effective date' ") (quoting *Weaver v. Graham*, 450 U.S. 24, 31, 101 S.Ct. 960, 67 L.Ed.2d. 17 (1981)); *Union Pacific R. Co. v. Laramie Stock Yards Co.*, 231 U.S. 190, 199, 34 S.Ct. 101, 102, 58 L.Ed. 179 (1913) (retroactive statute gives "a quality or effect to acts or conduct which they did not have or did not contemplate when they were performed"); *Sturges v. Carter*, 114 U.S. 511, 519, 5 S.Ct. 1014, 1018, 29 L.Ed. 240 (1885) (a retroactive statute is one that "takes away or impairs vested rights acquired under existing laws, or creates a new obligation, imposes a new duty, or attaches a new disability"). See also Black's Law Dictionary 1184 (5th ed. 1979) (quoting Justice Story's definition from *Society*); 2 N. Singer, Sutherland on Statutory Construction § 41.01, p. 337 (5th rev. ed. 1993) ("The terms 'retroactive' and 'retrospective' are synonymous in judicial usage.... They describe acts which operate on transactions which have occurred or rights and obligations which existed before passage of the act").

[8] FN24. Even uncontroversially prospective statutes may unsettle expectations and impose burdens on past conduct: a new property tax or zoning regulation may upset the reasonable expectations that prompted those affected to acquire property; a new law banning gambling harms the person who had begun to construct a casino before the law's enactment or spent his life learning to count cards. See Fuller 60 ("If every time a man relied on existing law in arranging his affairs, he were made secure against any change in legal rules, the whole body of our law would be ossified forever"). Moreover, a statute "is not made retroactive merely because it draws upon antecedent facts for its operation." *Cox v. Hart*, 260 U.S. 427, 435, 43 S.Ct. 154, 157, 67 L.Ed. 332 (1922). See *Reynolds v. United States*, 292 U.S. 443, 444-449, 54 S.Ct. 800, 801-803, 78 L.Ed. 1353 (1934); *Chicago & Alton R. Co. v. Tranbarger*, 238 U.S. 67, 73, 35 S.Ct. 678, 680, 59 L.Ed. 204 (1915).

> ***The largest category of cases in which we have applied the presumption against statutory retroactivity has involved new provisions affecting contractual or property rights, matters in which predictability and stability are of prime importance.***[9] *The presumption has not, however, been limited to such cases. At issue in* Chew Heong v. United States, *112 U.S. 536, 5 S.Ct. 255, 28 L.Ed. 770 (1884), for example, was a provision of the "Chinese Restriction Act" of 1882 barring Chinese laborers from reentering the United States without a certificate prepared when they exited this country. We held that the statute did not bar the reentry of a laborer who had left the United States before the certification requirement was promulgated. Justice Harlan's opinion for the Court observed that the law in effect before the 1882 enactment had accorded laborers a right to reenter without a certificate, and invoked the "uniformly" accepted rule against "giv[ing] to statutes a retrospective*272 operation, whereby rights previously vested are injuriously affected, unless compelled to do so by language so clear and positive as to leave no room to doubt that such was the intention of the legislature."* Id., *at 559, 5 S.Ct., at 266-267.*
>
> *Our statement in* Bowen *that "congressional enactments and administrative rules will not be construed to have retroactive effect unless their language requires this result," 488 U.S., at 208, 109 S.Ct., at 471, was in step with this long line of cases.*[10] Bowen *itself was a paradigmatic case of retroactivity in which a federal agency sought to recoup, under cost limit regulations issued in 1984, funds that had been paid to hospitals for services rendered earlier, see* id., *at 207, 109 S.Ct., at 471; our search for clear congressional intent authorizing retroactivity was consistent with the approach taken in decisions spanning two centuries.*
>
> *The presumption against statutory retroactivity had special force in the era in which courts tended to view legislative interference with property and contract rights circumspectly. In this century, legislation has come to supply the dominant means of **1501 legal ordering, and circumspection has given way to greater deference to legislative judgments. See* Usery v. Turner Elkhorn Mining Co., *428 U.S., at 15-16, 96 S.Ct., at 2892-2893;* Home Building & Loan Assn. v. Blaisdell, *290 U.S. 398, 436-444, 54 S.Ct. 231, 239-242, 78 L.Ed. 413 (1934). But while the* constitutional *impediments to retroactive civil legislation are now modest, prospectivity remains the appropriate default rule. Because it accords with widely held intuitions about how statutes ordinarily operate, a presumption against retroactivity will generally coincide with legislative and public expectations. Requiring clear intent assures that Congress itself has affirmatively considered the potential unfairness of retroactive application and determined that it is an acceptable price *273 to pay for the countervailing benefits. Such a requirement allocates to Congress responsibility for fundamental policy judgments concerning the proper temporal reach of statutes, and has the additional virtue of giving legislators a predictable background rule against which to legislate.*
> *[Landgraf v. USI Film Products, 511 U.S. 244, 114 S.Ct. 1483 (U.S.Tex.,1994)]*

3.3 Licenses

Licenses are a method by which the government provides formal "reasonable notice" that rights are being surrendered and that those who apply are basically consenting to be subject to government regulation. This is in fulfillment of the following requirement:

> *"Waivers of Constitutional rights not only must be voluntary, but must be knowing, intelligent acts done with sufficient awareness of the relevant circumstances and likely consequences."*
> *[Brady v. U.S., 397 U.S. 742 (1970)]*

For example see the following Affidavit of Eligibility which must be submitted by all those applying for a government-issued "license" of any kind:

Affidavit of Eligibility, Colorado Department of Regulatory Agencies, SEDM Exhibit #07.007 http://sedm.org/Exhibits/ExhibitIndex.htm

Notice the following language:

[9] FN25. See, e.g., *United States v. Security Industrial Bank*, 459 U.S. 70, 79-82, 103 S.Ct. 407, 413-414, 74 L.Ed.2d. 235 (1982); *Claridge Apartments Co. v. Commissioner*, 323 U.S. 141, 164, 65 S.Ct. 172, 185, 89 L.Ed. 139 (1944); *United States v. St. Louis, S.F. & T.R. Co.*, 270 U.S. 1, 3, 46 S.Ct. 182, 183, 70 L.Ed. 435 (1926); *Holt v. Henley*, 232 U.S. 637, 639, 34 S.Ct. 459, 460, 58 L.Ed. 767 (1914); *Union Pacific R. Co. v. Laramie Stock Yards Co.*, 231 U.S., at 199, 34 S.Ct., at 102; *Twenty Per Cent Cases*, 20 Wall. 179, 187, 22 L.Ed. 339 (1874); *Sohn v. Waterson*, 17 Wall. 596, 599, 21 L.Ed. 737 (1873); *Carroll v. Lessee of Carroll*, 16 How. 275, 14 L.Ed. 936 (1854). While the great majority of our decisions relying upon the antiretroactivity presumption have involved intervening statutes burdening private parties, we have applied the presumption in cases involving new monetary obligations that fell only on the government. See *United States v. Magnolia Petroleum Co.*, 276 U.S. 160, 48 S.Ct. 236, 72 L.Ed. 509 (1928); *White v. United States*, 191 U.S. 545, 24 S.Ct. 171, 48 L.Ed. 295 (1903).

[10] FN26. See also, e.g., *Greene v. United States*, 376 U.S. 149, 160, 84 S.Ct. 615, 621-622, 11 L.Ed.2d. 576 (1964); *White v. United States*, 191 U.S. 545, 24 S.Ct. 171, 48 L.Ed. 295 (1903); *United States v. Moore*, 95 U.S. 760, 762, 24 L.Ed. 588 (1878); *Murray v. Gibson*, 15 How. 421, 423, 14 L.Ed. 755 (1854); *Ladiga v. Roland*, 2 How. 581, 589, 11 L.Ed. 387 (1844).

> *"I understand that this sworn statement is required by law because I have applied for or hold a professional or commercial license regulated by 8 U.S.C. sec. 1621. I understand that state law requires me to provide proof that I am lawfully present in the United States when asked as well as submission of a secure and verifiable document. I may also be required to provide proof of lawful presence."*

One early federal court eloquently explained how the license process serves the requirement for "reasonable notice":

> ***"And here a thought suggests itself. As the Meadors, subsequently to the passage of this act of July 20, 1868, applied for and obtained from the government a license or permit to deal in manufactured tobacco, snuff and cigars, I am inclined to be of the opinion that they are, by this their own voluntary act, precluded from assailing the constitutionality of this law, or otherwise controverting it. For the granting of a license or permit-the yielding of a particular privilege-and its acceptance by the Meadors, was a contract, in which it was implied that the provisions of the statute which governed, or in any way affected their business, and all other statutes previously passed, which were in pari materia with those provisions, should be recognized and obeyed by them. When the Meadors sought and accepted the privilege, the law was before them. And can they now impugn its constitutionality or refuse to obey its provisions and stipulations, and so exempt themselves from the consequences of their own acts?***
>
> *These internal revenue or tax laws were characterized as being not only repugnant to the constitution, but also unreasonably burdensome. With the most minute attention I examined those portions of the acts of July 13, 1866, and July 20, 1868, presented for my consideration; and carefully sought to ascertain *1300 whether they were in conflict with any of the provisions of the constitution. My conclusion on that question has been expressed. I do not concur with counsel, that these laws are unreasonably burdensome. But even if they are, nay, even if they are oppressive, and unjust modes are employed for their enforcement, the remedy lies with congress, and not with the judiciary. By enacting these laws congress has exercised the constitutional power of taxation, and the courts have no power to interfere. Providence Bank v. Billings, 4 Pet. [29 U. S.] 514; Extension of Hancock Street, 18 Pa.St. 26; Kirby v. Shaw, 19 Pa.St. 258; Livingston v. Mayor, etc., of New York, 8 Wend. 85; In re Opening Furman Street, 17 Wend. 649; Herrick v. Randolph, 13 Vt. 525. In McCulloch v. State of Maryland, 4 Wheat. [17 U. S.] 316, 430, Chief Justice Marshall said, that it was unfit for the judicial department to 'inquire what degree of taxation is the legitimate use, and what degree may amount to the abuse of the power.'*
> *[In re Meador, 1 Abb.U.S. 317, 16 F.Cas. 1294, D.C.Ga. (1869)]*

What the court was explaining is that:

1. All licenses involve "privileges".
2. The application for a license is voluntary.
3. The process of applying for a license provides "fair notice" to the public that rights are being surrendered and that they implicitly and voluntarily consent to be bound by all statutes and laws that pertain to those who possess said license.

3.4 Injunctions

An injunction may not be issued against a party if the moving party has not FIRST exhausted their administrative remedies at law. The U.S. Supreme Court explained why this is in the following decision:

> *"The corporation contends that, since it denies that interstate or foreign commerce is involved and claims that a hearing would subject it to irreparable damage, rights guaranteed by the Federal Constitution will be denied unless it be held that the District Court has jurisdiction to enjoin the holding of a hearing by the Board.[11] So to hold would, as the government insists, in effect substitute the District Court for the Board as the tribunal to hear and determine what Congress declared the Board exclusively should hear and determine in the first instance.* ***The contention is at war with the long-settled rule of judicial administration that no one is entitled to judicial relief for a supposed or threatened injury until the pre- [303 U.S. 41, 51] scribed administrative remedy has been***

[11] In support of that contention the following cases were cited: Ohio Valley Water Co. v. Ben Avon Borough, 253 U.S. 287, 289 , 40 S.Ct. 527, 528; Bluefield Water Works Co. v. Public Service Commission, 262 U.S. 679, 683 , 43 S.Ct. 675; Phillips v. Commissioner, 283 U.S. 589, 600 , 51 S.Ct. 608, 612; Crowell v. Benson, 285 U.S. 22, 60 , 64 S., 52 S.Ct. 285, 296, 297; State Corporation Commission v. Wichita Gas Co., 290 U.S. 561, 569 , 54 S.Ct. 321, 324; St. Joseph Stock Yards Co. v. United States, 298 U.S. 38, 51 , 52 S., 56 S.Ct. 720, 725, 726.

exhausted.[12] That rule has been repeatedly acted on in cases where, as here, the contention is made that the administrative body lacked power over the subject matter.[13]

Obviously, the rules requiring exhaustion of the administrative remedy cannot be circumvented by asserting that the charge on which the complaint rests is groundless and that the mere holding of the prescribed administrative hearing would result in irreparable damage.[14] Lawsuits also often prove to have been ground- [303 U.S. 41, 52] less; but no way has been discovered of relieving a defendant from the necessity of a trial to establish the fact. "
*[*Myers v. Bethlehem Shipbuilding Corp., *303 U.S. 41 (1938)]*

The reason for the above ruling is twofold:

1. Exhausting administrative remedies provides the avenue required to give "reasonable notice" to the affected party of the behavior expected of him, and an opportunity to correct it before an injunction is issued.
2. It prevents the Courts from being needlessly clogged with matters that should be resolved administratively and informally. This encourages parties to negotiate a settlement BEFORE pursuing a judicial remedy, which in most cases should only be pursued as a last resort.

3.5 Speed limits

The posting of speed limits on roadways provides the most noticeable example of how the requirement for "reasonable notice is satisfied". If you are driving on a freeway, as you enter a new state, the first sign you see will be something like "Welcome to Nevada". The very next sign you will usually see is "Speed Limit 55". The first sign notified you of the "jurisdiction" or "venue" you are entering, and the second sign notified you of the conduct that was expected of you, which is that you cannot drive your car any faster than 55 MPH on the freeway. Pretty logical, huh?

Now what happens when the speed limits are not properly posted on a roadway so that all persons who could receive a ticket are properly notified of the speed limit? What if, for instance, there is a speed trap where a cop sits behind a bush pointing his RADAR gun at a section of roadway where no speed limits are posted and where it is impossible to know what the speed limit is? Do you think that would stand up in traffic court. NOT!

3.6 Speed traps

The federal government publishes a manual for use by all the states called the *Manual on Uniform Traffic Control Devices* (MUTCD), which is designed to standardize the form of the "notice" that is given to drivers about what conduct is expected

[12] The rule has been most frequently applied in equity where relief by injunction was sought. Pittsburgh &c. Ry. v. Board of Public Works, 172 U.S. 32, 44 , 45 S., 19 S.Ct. 90; Prentis v. Atlantic Coast Line Co., 211 U.S. 210, 230 , 29 S.Ct. 67; Dalton Adding Machine Co. v. State Corporation Commission, 236 U.S. 699, 701 , 35 S.Ct. 480; Gorham Mfg. Co. v. State Tax Commission, 266 U.S. 265, 269 , 270 S., 45 S.Ct. 80, 81; Federal Trade Commission v. Claire Furnace Co., 274 U.S. 160, 174 , 47 S.Ct. 553, 556; Lawrence v. St. Louis-San Francisco Ry. Co., 274 U.S. 588, 592 , 593 S., 47 S.Ct. 720, 722; Chicago, M., St. P. & P.R.R. Co. v. Risty, 276 U.S. 567, 575 , 48 S.Ct. 396, 399; St. Louis-San Francisco Ry. Co. v. Alabama Public Service Commission, 279 U.S. 560, 563 , 49 S.Ct. 383, 384; Porter v. Investors' Syndicate, 286 U.S. 461, 468 , 471 S., 52 S.Ct. 617, 619, 620; United States v. Illinois Central Ry. Co ., 291 U.S. 457, 463 , 464 S., 54 S.Ct. 471, 473, 474; Hegeman Farms Corp. v. Baldwin, 293 U.S. 163, 172 , 55 S.Ct. 7, 10; compare Red 'C' Oil Mfg. Co. v. North Carolina, 222 U.S. 380, 394 , 32 S.Ct. 152; Farncomb v. Denver, 252 U.S. 7, 12 , 40 S.Ct. 271, 273; Milheim v. Moffat Tunnel District, 262 U.S. 710, 723 , 43 S.Ct. 694, 698; McGregor v. Hogan, 263 U.S. 234, 238 , 44 S.Ct. 50, 51; White v. Johnson, 282 U.S. 367, 374 , 51 S.Ct. 115, 118; Petersen Baking Co. v. Bryan, 290 U.S. 570, 575 , 54 S.Ct. 277, 278; Pacific Tel. & Tel. Co. v. Seattle, 291 U.S. 300, 304 , 54 S.Ct. 383, 384. But because the rule is one of judicial administration-not merely a rule governing the exercise of discretion-it is applicable to proceedings at law as well as suits in equity. Compare First National Bank of Fargo v. Board of County Commissioners, 264 U.S. 450, 455 , 44 S.Ct. 385, 387; Anniston Mfg. Co. v. Davis, 301 U.S. 337, 343 , 57 S.Ct. 816, 819.

[13] Dalton Adding Machine Co. v. State Corporation Commission, 236 U.S. 699 , 35 S.Ct. 480; Federal Trade Commission v. Claire Furnace Co., 274 U.S. 160 , 47 S.Ct. 553; Lawrence v. St. Louis-San Francisco Ry. Co., 274 U.S. 588 , 47 S.Ct. 720; St. Louis-San Francisco Ry. Co. v. Alabama Public Service Commission, 279 U.S. 560 , 49 S.Ct. 383. Compare Western & Atlantic R.R. v. Georgia Public Service Commission, 267 U.S. 493, 496 , 45 S.Ct. 409, 410, and case sited in note 1, supra.

[14] Such contentions were specifically rejected in Bradley Lumber Co. v. National Labor Relations Board, 5 Cir., 84 F.2d. 97; Clark v. Lindemann & Hoverson Co., 7 Cir., 88 F.2d. 59; Chamber of Commerce v. Federal Trade Commission, 8 Cir., 280 F. 45; Heller Bros. Co. v. Lind, 66 App.D.C. 306, 86 F.2d. 862; and Pittsburgh & W. Va. Ry. Co. v. Interstate Commerce Commission, 52 App.D.C. 40, 280 F. 1014. Compare United States v. Los Angeles & S.L.R.R. Co., 273 U.S. 299, 314 , 47 S.Ct. 413, 416; Lawrence v. St. Louis-San Francisco Ry. Co., 274 U.S. 588 , 47 S.Ct. 720; Dalton Adding Machine Co. v. State Corporation Commission, 236 U.S. 699 , 35 S.Ct. 480; McChord v. Louisville & Nashville Ry. Co., 183 U.S. 483 , 22 S.Ct. 165; Richmond Hosiery Mills v. Camp, 5 Cir., 74 F.2d. 200, 201.

of them. This ensures that the message will not be misunderstood or misinterpreted. You can read this free manual yourself below:

Manual on Uniform Traffic Control Devices (MUTCD) http://famguardian.org/Subjects/Freedom/Travel/mutcd.pdf

When the county government is going to enforce the speed limit via aircraft, then they have to post signs to warn you that they are doing it. For instance, there are large stretches of highway 5 in California that are patrolled by aircraft. Every few miles, there is a sign that reads "Speed Enforced Aircraft". They photograph your license plate from the airplane and mail you the ticket. Since they warned you, then you can't blame them later if you get caught.

Likewise, before local police can enforce the speed limit via RADAR, they must post signs going in both directions entering any area where they are going to enforce stating "Speed Enforced Via RADAR". If you get a ticket within such an area and you can prove, with photographs and testimony, that there was no "reasonable notice", the judge has to throw out the speeding ticket.

3.7 Service of Legal Process

Before a person can be expected to participate in judicial process or obey the orders of a Court of competent jurisdiction, he must be brought within the jurisdiction of the tribunal through a valid personal service of legal process. This process serves the following purposes:

1. Establishes that the proper defendant has been served.
2. Establishes physical presence of the defendant within the judicial district.
3. Notifies the defendant of the existence of the lawsuit and his role within it.
4. Notifies him that his presence is required at the first hearing, and the date and time of the hearing.

Without valid and proper service of legal process within 120 days after a federal lawsuit is filed, the Federal Rule of Civil Procedure 4 requires that the case must be automatically dismissed.

3.8 Legal Process

The Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure require notice and comment at every step of the legal proceeding. For instance:

1. The initial summons that commences the action must be personally served to the correct individual in a place within the territorial jurisdiction of the Court.
2. Every motion filed with the court must be served upon the other party and a certificate of service must be provided to the Court of same. Pursuant to local rules, motions be filed no sooner than 28 days before the hearing and served upon the opposing party at that time.
3. The party receiving the motion must file a responsive answer to the motion not later than 14 days before the hearing minimum and serve it upon the opposing party, pursuant to local rules.
4. The moving party must file his reply brief in response to the responding answer not later than 5 court days before the hearing and serve it upon the opposing party.
5. The hearing of motions before the court gives the parties the opportunity to comment on the actions being demanded and contemplated by the court. Parties to the hearing have an opportunity to cross-examine each other and call witnesses in their defense.
6. Before trial, the parties must agree on a proposed pretrial order, which fixes the evidence they will present and all the arguments they will make during the trial. This gives the parties reasonable notice of what will be discussed so they can prepare for it and competently defend themselves against it.

3.9 Debt Collection

The Fair Debt Collection Practices Act, 15 U.S.C. Chapter 41, Subchapter V, requires that debt collectors MUST give you reasonable notice, upon demand, of the original copy of the debt instrument which is the basis of their collection. This is designed to notify you of why you are the target of collection so that if the information is erroneous, you can fix it.

> *TITLE 15 > CHAPTER 41 > SUBCHAPTER V > § 1692g*
> *§ 1692g. Validation of debts*
>
> *(a) Notice of debt; contents*
>
> *Within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall, unless the following information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing—*
>
> *(1) the amount of the debt;*
>
> *(2) the name of the creditor to whom the debt is owed;*
>
> *(3) a statement that unless the consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector;*
>
> *(4) a statement that if the consumer notifies the debt collector in writing within the thirty-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector; and*
>
> *(5) a statement that, upon the consumer's written request within the thirty-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor.*
>
> *(b) Disputed debts*
>
> *If the consumer notifies the debt collector in writing within the thirty-day period described in subsection (a) of this section that the debt, or any portion thereof, is disputed, or that the consumer requests the name and address of the original creditor, the debt collector shall cease collection of the debt, or any disputed portion thereof, until the debt collector obtains verification of the debt or a copy of a judgment, or the name and address of the original creditor, and a copy of such verification or judgment, or name and address of the original creditor, is mailed to the consumer by the debt collector.*
>
> *(c) Admission of liability*
>
> *The failure of a consumer to dispute the validity of a debt under this section may not be construed by any court as an admission of liability by the consumer.*

3.10 Telephonic recording

The Fourth Amendment of the United States Constitution requires the government to honor your right to privacy. In furtherance of this objective, many states have enacted telephonic recording laws which require that one or more of the parties to the telephone recording must be notified and give their consent to be recorded before they can lawfully be recorded. The laws also require that if consent and notice is not given, the recording is not admissible as evidence in a Court of law. Below is an example:

> *California Penal Code*
> *PART 1. OF CRIMES AND PUNISHMENTS*
> *TITLE 15. MISCELLANEOUS CRIMES*
> *CHAPTER 1.5. INVASION OF PRIVACY*
>
> *632. (a) Every person who, intentionally and without the consent of all parties to a confidential communication, by means of any electronic amplifying or **recording** device, eavesdrops upon or records the confidential communication, whether the communication is carried on among the parties in the presence of one another or by means of a telegraph, telephone, or other device, except a radio, shall be punished by a fine not exceeding two thousand five hundred dollars ($2,500), or imprisonment in the county jail not exceeding one year, or in the state prison, or by both that fine and imprisonment. If the person has previously been convicted of a violation of this*

section or Section 631, 632.5, 632.6, 632.7, or 636, the person shall be punished by a fine not exceeding ten thousand dollars ($10,000), by imprisonment in the county jail not exceeding one year, or in the state prison, or by both that fine and imprisonment.

*(b) The term "person" includes an individual, business association, partnership, corporation, limited liability company, or other legal entity, and an individual acting or purporting to act for or on behalf of any government or subdivision thereof, whether federal, state, or local, but excludes an individual known by all parties to a confidential communication to be overhearing or **recording** the communication.*

(c) The term "confidential communication" includes any communication carried on in circumstances as may reasonably indicate that any party to the communication desires it to be confined to the parties thereto, but excludes a communication made in a public gathering or in any legislative, judicial, executive or administrative proceeding open to the public, or in any other circumstance in which the parties to the communication may reasonably expect that the communication may be overheard or recorded.

*(d) Except as proof in an action or prosecution for violation of this section, no evidence obtained as a result of eavesdropping upon or **recording** a confidential communication in violation of this section shall be admissible in any judicial, administrative, legislative, or other proceeding.*

(e) This section does not apply (1) to any public utility engaged in the business of providing communications services and facilities, or to the officers, employees or agents thereof, where the acts otherwise prohibited by this section are for the purpose of construction, maintenance, conduct or operation of the services and facilities of the public utility, or (2) to the use of any instrument, equipment, facility, or service furnished and used pursuant to the tariffs of a public utility, or (3) to any telephonic communication system used for communication exclusively within a state, county, city and county, or city correctional facility.

(f) This section does not apply to the use of hearing aids and similar devices, by persons afflicted with impaired hearing, for the purpose of overcoming the impairment to permit the hearing of sounds ordinarily audible to the human ear.

3.11 Fictitious Business Names

Before a person may use a fictitious business name, they must publish a legal notice of its creation in a newspaper and obtain from the newspaper an affidavit of publication. This method puts the public on official notice of the existence of the business, its particulars, and the area that it will be operating.

3.12 Tax Collection

Before the IRS may institute collection actions against you, it must notify you of the debt with a Notice of Proposed Assessment.

3.12.1 Notice before Levy: 26 U.S.C. §6330

26 U.S.C. §6330 requires notice before levy may be made upon the wages of a worker:

TITLE 26 > Subtitle F > CHAPTER 64 > Subchapter D > PART I > § 6330
§ 6330. Notice and opportunity for hearing before levy

a) Requirement of notice before levy

(1) In general

No levy may be made on any property or right to property of any person unless the Secretary has notified such person in writing of their right to a hearing under this section before such levy is made. Such notice shall be required only once for the taxable period to which the unpaid tax specified in paragraph (3)(A) relates.

(2) Time and method for notice

The notice required under paragraph (1) shall be—

(A) given in person;

(B) left at the dwelling or usual place of business of such person; or

(C) sent by certified or registered mail, return receipt requested, to such person's last known address;

not less than 30 days before the day of the first levy with respect to the amount of the unpaid tax for the taxable period.

(3) Information included with notice

The notice required under paragraph (1) shall include in simple and nontechnical terms—

(A) the amount of unpaid tax;

(B) the right of the person to request a hearing during the 30-day period under paragraph (2); and

(C) the proposed action by the Secretary and the rights of the person with respect to such action, including a brief statement which sets forth—

(i) the provisions of this title relating to levy and sale of property;

(ii) the procedures applicable to the levy and sale of property under this title;

(iii) the administrative appeals available to the taxpayer with respect to such levy and sale and the procedures relating to such appeals;

(iv) the alternatives available to taxpayers which could prevent levy on property (including installment agreements under section 6159); and

(v) the provisions of this title and procedures relating to redemption of property and release of liens on property.

3.12.2 Public inspection of Written Determination: 26 U.S.C. 6110

26 U.S.C. §6110 requires that all written determinations of the IRS that might affect your rights must be made available for public inspection. This is the government's method of putting you on notice of what you are being held accountable for.

TITLE 26 > Subtitle F > CHAPTER 61 > Subchapter B > § 6110
§ 6110. Public inspection of written determinations

(a) General rule

Except as otherwise provided in this section, the text of any written determination and any background file document relating to such written determination shall be open to public inspection at such place as the Secretary may by regulations prescribe.

3.12.3 Notice of Deficiency Procedures: 26 U.S.C. §6212

26 U.S.C. §6212 requires that if a deficiency of payment of tax occurs, the Secretary should send out a Notice of Deficiency, which usually is an IRS letter 3219. This is the government's way of putting you on notice of the tax you owe before it pursues collection activities that might deprive you of your rights or property.

TITLE 26 > Subtitle F > CHAPTER 63 > Subchapter B > § 6212
§ 6212. Notice of deficiency

(a) In general

If the Secretary determines that there is a deficiency in respect of any tax imposed by subtitles A or B or chapter 41, 42, 43, or 44 he is authorized to send notice of such deficiency to the taxpayer by certified mail or registered mail. Such notice shall include a notice to the taxpayer of the taxpayer's right to contact a local office of the taxpayer advocate and the location and phone number of the appropriate office.

(b) Address for notice of deficiency

(1) Income and gift taxes and certain excise taxes

In the absence of notice to the Secretary under section 6903 of the existence of a fiduciary relationship, notice of a deficiency in respect of a tax imposed by subtitle A, chapter 12, chapter 41, chapter 42, chapter 43, or chapter 44 if mailed to the taxpayer at his last known address, shall be sufficient for purposes of subtitle A, chapter 12, chapter 41, chapter 42, chapter 43, chapter 44, and this chapter even if such taxpayer is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence.

(2) Joint income tax return

In the case of a joint income tax return filed by husband and wife, such notice of deficiency may be a single joint notice, except that if the Secretary has been notified by either spouse that separate residences have been established, then, in lieu of the single joint notice, a duplicate original of the joint notice shall be sent by certified mail or registered mail to each spouse at his last known address.

(3) Estate tax

In the absence of notice to the Secretary under section 6903 of the existence of a fiduciary relationship, notice of a deficiency in respect of a tax imposed by chapter 11, if addressed in the name of the decedent or other person subject to liability and mailed to his last known address, shall be sufficient for purposes of chapter 11 and of this chapter.

3.13 Federal Rule of Civil Procedure 83(b)

Pursuant to Federal Rule of Civil Procedure 83, 28 U.S.C. §§2072, 2075, federal courts may make their own local rules. Fed.Rul.Civ.Proc. 83(b) says that no person may be penalized unless they have been give "reasonable notice" of said rules.

XI. GENERAL PROVISIONS > ***Rule 83.***
Rule 83. Rules by District Courts; Judge's Directives

(a) Local Rules.

*(1) Each district court, acting by a majority of its district judges, may, **after giving appropriate public notice and an opportunity for comment,** make and amend rules governing its practice. A local rule shall be consistent with -- but not duplicative of -- Acts of Congress and rules adopted under 28 U.S.C. §§ 2072 and 2075, and shall conform to any uniform numbering system prescribed by the Judicial Conference of the United States. A local rule takes effect on the date specified by the district court and remains in effect unless amended by the court or abrogated by the judicial council of the circuit. Copies of rules and amendments shall, upon their promulgation, be furnished to the judicial council and the Administrative Office of the United States Courts and be made available to the public.*

(2) A local rule imposing a requirement of form shall not be enforced in a manner that causes a party to lose rights because of a nonwillful failure to comply with the requirement.

(b) Procedures When There is No Controlling Law

*A judge may regulate practice in any manner consistent with federal law, rules adopted under 28 U.S.C. §§ 2072 and 2075, and local rules of the district. **No sanction or other disadvantage may be imposed for noncompliance with any requirement not in federal law, federal rules, or the local district rules unless the alleged violator has been furnished in the particular case with actual notice of the requirement.***

3.14 Minimum Contacts Doctrine

The Minimum Contacts Doctrine is a doctrine established by the U.S. Supreme Court in International Shoe Co. v. Washington, 326 U.S. 310 (1945). It defines the minimum constitutional requirements for "reasonable notice" in connection with how laws of a foreign state may be enforced outside it borders against those not resident within it. The U.S. Supreme Court describes the doctrine as follows:

*The Due Process Clause protects an individual's liberty interest in not being subject to the binding judgments of a 472*472 forum with which he has established no meaningful "contacts, ties, or relations."* International Shoe Co. *v.* Washington, *326 U. S., at 319.*[13] ***By requiring that individuals have "fair warning that a particular activity may subject [them] to the jurisdiction of a foreign sovereign," Shaffer v. Heitner, 433 U. S. 186, 218 (1977) (STEVENS, J., concurring in judgment), the Due Process Clause "gives a degree of predictability to the legal system that allows potential defendants to structure their primary conduct with some minimum assurance as to where that conduct will and will not render them liable to suit," World-Wide Volkswagen Corp. v. Woodson, 444 U. S. 286, 297 (1980).***

Where a forum seeks to assert specific jurisdiction over an out-of-state defendant who has not consented to suit there,[14] this "fair warning" requirement is satisfied if the defendant has "purposefully directed" his activities at residents of the forum, Keeton *v.* Hustler Magazine, Inc., *465 U. S. 770, 774 (1984),* *and the litigation results from alleged injuries that "arise out of or relate to" those activities,* Helicopteros Nacionales de Colombia, S. A. *v.* Hall, *466 U. S. 408, 414* 473*473 *(1984).[15] Thus "[t]he forum State does not exceed its powers under the Due Process Clause if it asserts personal jurisdiction over a corporation that delivers its products into the stream of commerce with the expectation that they will be purchased by consumers in the forum State" and those products subsequently injure forum consumers.* World-Wide Volkswagen Corp. *v.* Woodson, supra, *at 297-298. Similarly, a publisher who distributes magazines in a distant State may fairly be held accountable in that forum for damages resulting there from an allegedly defamatory story.* Keeton *v.* Hustler Magazine, Inc., supra; *see also* Calder *v.* Jones, *465 U. S. 783 (1984) (suit against author and editor). And with respect to interstate contractual obligations, we have emphasized that parties who "reach out beyond one state and create continuing relationships and obligations with citizens of another state" are subject to regulation and sanctions in the other State for the consequences of their activities.* Travelers Health Assn. *v.* Virginia, *339 U. S. 643, 647 (1950). See also* McGee *v.* International Life Insurance Co., *355 U. S. 220, 222-223 (1957).*

We have noted several reasons why a forum legitimately may exercise personal jurisdiction over a nonresident who "purposefully directs" his activities toward forum residents. A State generally has a "manifest interest" in providing its residents with a convenient forum for redressing injuries inflicted by out-of-state actors. Id., *at 223; see also* Keeton *v.* Hustler Magazine, Inc., supra, *at 776. Moreover, where individuals "purposefully derive benefit" from their interstate activities,* Kulko *v.* California Superior Court, 474*474 *436 U. S. 84, 96 (1978), it may well be unfair to allow them to escape having to account in other States for consequences that arise proximately from such activities; the Due Process Clause may not readily be wielded as a territorial shield to avoid interstate obligations that have been voluntarily assumed. And because "modern transportation and communications have made it much less burdensome for a party sued to defend himself in a State where he engages in economic activity," it usually will not be unfair to subject him to the burdens of litigating in another forum for disputes relating to such activity.* McGee *v.* International Life Insurance Co., supra, *at 223.*

Notwithstanding these considerations, the constitutional touchstone remains whether the defendant purposefully established "minimum contacts" in the forum State. International Shoe Co. *v.* Washington, supra, *at 316. Although it has been argued that foreseeability of causing* injury *in another State should be sufficient to establish such contacts there when policy considerations so require,[16] the Court has consistently held that this kind of foreseeability is not a "sufficient benchmark" for exercising personal jurisdiction.* World-Wide Volkswagen Corp. *v.* Woodson, *444 U. S., at 295. Instead, "the foreseeability that is critical to due process analysis . . . is that the defendant's conduct and connection with the forum State are such that he should reasonably anticipate being haled into court there."* Id., *at 297. In defining when it is that a potential defendant should "reasonably anticipate" out-of-state litigation, the Court frequently has drawn from the reasoning of* Hanson *v.* Denckla, *357 U. S. 235, 253 (1958):*

*"The unilateral activity of those who claim some relationship with a nonresident defendant cannot satisfy the requirement of contact with the forum State. The application 475*475 of that rule will vary with the quality and nature of the defendant's activity, but it is essential in each case that there be some act by which the defendant purposefully avails itself of the privilege of conducting activities within the forum State, thus invoking the benefits and protections of its laws."*

This "purposeful availment" requirement ensures that a defendant will not be haled into a jurisdiction solely as a result of "random," "fortuitous," or "attenuated" contacts, Keeton *v.* Hustler Magazine, Inc., *465 U. S., at 774;* World-Wide Volkswagen Corp. *v.* Woodson, supra, *at 299, or of the "unilateral activity of another party or a third person,"* Helicopteros Nacionales de Colombia, S. A. *v.* Hall, supra, *at 417.[17] Jurisdiction is proper, however, where the contacts proximately result from actions by the defendant* himself *that create a "substantial connection" with the forum State.* McGee *v.* International Life Insurance Co., supra, *at 223; see also* Kulko *v.* California Superior Court, supra, *at 94, n. 7.[18] Thus where the defendant "deliberately" has 476*476 engaged in significant activities within a State,* Keeton *v.* Hustler Magazine, Inc., supra, *at 781, or has created "continuing obligations" between himself and residents of the forum,* Travelers Health Assn. *v.* Virginia, *339 U. S., at 648, he manifestly has availed himself of the privilege of conducting business there, and because his activities are shielded by "the benefits and protections" of the forum's laws it is presumptively not unreasonable to require him to submit to the burdens of litigation in that forum as well.*

Jurisdiction in these circumstances may not be avoided merely because the defendant did not physically *enter the forum State. Although territorial presence frequently will enhance a potential defendant's affiliation with a State and reinforce the reasonable foreseeability of suit there, it is an inescapable fact of modern commercial life that a substantial amount of business is transacted solely by mail and wire communications across state lines, thus obviating the need for physical presence within a State in which business is conducted. So long as a commercial actor's efforts are "purposefully directed" toward residents of another State, we have consistently rejected the notion that an absence of physical contacts can defeat personal jurisdiction there.* Keeton *v.* Hustler Magazine, Inc., supra, *at 774-775; see also* Calder *v.* Jones, *465 U. S., at 788-790;* McGee *v.* International Life Insurance Co., *355 U. S., at 222-223. Cf.* Hoopeston Canning Co. *v.* Cullen, *318 U. S. 313, 317 (1943).*

Once it has been decided that a defendant purposefully established minimum contacts within the forum State, these contacts may be considered in light of other factors to determine whether the assertion of personal

jurisdiction would comport with "fair play and substantial justice." International Shoe Co. *v.* Washington, *326 U. S., at 320*. *Thus 477*477 courts in "appropriate case[s]" may evaluate "the burden on the defendant," "the forum State's interest in adjudicating the dispute," "the plaintiff's interest in obtaining convenient and effective relief," "the interstate judicial system's interest in obtaining the most efficient resolution of controversies," and the "shared interest of the several States in furthering fundamental substantive social policies."* World-Wide Volkswagen Corp. *v.* Woodson, *444 U. S., at 292*. *These considerations sometimes serve to establish the reasonableness of jurisdiction upon a lesser showing of minimum contacts than would otherwise be required. See, e. g.,* Keeton *v.* Hustler Magazine, Inc., supra, *at 780*; Calder *v.* Jones, supra, *at 788-789*; McGee *v.* International Life Insurance Co., supra, *at 223-224*. *On the other hand, where a defendant who purposefully has directed his activities at forum residents seeks to defeat jurisdiction, he must present a compelling case that the presence of some other considerations would render jurisdiction unreasonable. Most such considerations usually may be accommodated through means short of finding jurisdiction unconstitutional. For example, the potential clash of the forum's law with the "fundamental substantive social policies" of another State may be accommodated through application of the forum's choice-of-law rules.*[19] *Similarly, a defendant claiming substantial inconvenience may seek a change of venue.*[20] *Nevertheless, minimum requirements inherent in the concept of "fair play and substantial 478*478 justice" may defeat the reasonableness of jurisdiction even if the defendant has purposefully engaged in forum activities.* World-Wide Volkswagen Corp. *v.* Woodson, supra, *at 292*; *see also Restatement (Second) of Conflict of Laws §§ 36-37 (1971). As we previously have noted, jurisdictional rules may not be employed in such a way as to make litigation "so gravely difficult and inconvenient" that a party unfairly is at a "severe disadvantage" in comparison to his opponent.* The Bremen *v.* Zapata Off-Shore Co., *407 U. S. 1, 18 (1972) (re forum-selection provisions);* McGee *v.* International Life Insurance Co., supra, *at 223-224*.

[Burger King Corp. v. Rudzewicz, 471 U.S. 462 (1985)]

4 Reasonable Notice in Publishing Statutes

All statutes which prescribe a penalty must be published in the Federal Register. This is a requirement of 5 U.S.C. §552(a)(1), which says:

TITLE 5 > PART I > CHAPTER 5 > SUBCHAPTER II > § 552
§ 552. Public information; agency rules, opinions, orders, records, and proceedings

(a) Each agency shall make available to the public information as follows:

(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public—

(A) descriptions of its central and field organization and the established places at which, the employees (and in the case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

(E) each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

The people who write the Code of Federal Regulations provide annotations at the bottom of every C.F.R. section identifying whether that section has been published in the Federal Register. Unfortunately, those who write the United States Code DO NOT do the same thing, thus making it impossible for the average person to determine which sections of the code may be enforced against them.

4.1 United States Code

There are two types of law published in the titles of the U.S. Code: "positive law" and "prima facie" law. These two designations are identified in 1 U.S.C. §204 as follows:

> *TITLE 1 > CHAPTER 3 > § 204*
> *§ 204. Codes and Supplements as evidence of the laws of United States and District of Columbia; citation of Codes and Supplements*
>
> *In all courts, tribunals, and public offices of the United States, at home or abroad, of the District of Columbia, and of each State, Territory, or insular possession of the United States—*
>
> *(a) United States Code.— **The matter set forth in the edition of the Code of Laws of the United States current at any time shall, together with the then current supplement, if any, establish prima facie the laws of the United States, general and permanent in their nature, in force on the day preceding the commencement of the session following the last session the legislation of which is included: Provided, however, That whenever titles of such Code shall have been enacted into positive law the text thereof shall be legal evidence of the laws therein contained, in all the courts of the United States, the several States, and the Territories and insular possessions of the United States.***
>
> *(b) District of Columbia Code.— The matter set forth in the edition of the Code of the District of Columbia current at any time shall, together with the then current supplement, if any, establish prima facie the laws, general and permanent in their nature, relating to or in force in the District of Columbia on the day preceding the commencement of the session following the last session the legislation of which is included, except such laws as are of application in the District of Columbia by reason of being laws of the United States general and permanent in their nature.*
>
> *(c) District of Columbia Code; citation.— The Code of the District of Columbia may be cited as "D.C. Code".*
>
> *(d) Supplements to Codes; citation.— Supplements to the Code of Laws of the United States and to the Code of the District of Columbia may be cited, respectively, as "U.S.C., Sup. ", and "D.C. Code, Sup. ", the blank in each case being filled with Roman figures denoting the number of the supplement.*
>
> *(e) New edition of Codes; citation.— New editions of each of such codes may be cited, respectively, as "U.S.C., ed.", and "D.C. Code, ed.", the blank in each case being filled with figures denoting the last year the legislation of which is included in whole or in part.*

The above section then goes on to identify which Titles of the U.S. Code are "Positive law" and which are not. The classification of a specific Title of the U.S. Code into either of the two categories dictates its weight for use as legal evidence in a court of law. Statutes from a title that is "positive law" are legal evidence. Statutes from a Title that is "prima facie", such as the Internal Revenue Code, for instance, is "presumed" to be law but this presumption is rebuttable and may be challenged by any party whose rights are adversely affected by the presumption.

Any presumption which prejudices a constitutionally protected right is unconstitutional and may not be allowed against a party protected by the Constitution. To wit:

> *(1) [8:4993] **Conclusive presumptions affecting protected interests:** A conclusive presumption may be defeated where its application would impair a party's constitutionally-protected liberty or property interests. In such cases, conclusive presumptions have been held to violate a party's due process and equal protection rights. [*Vlandis v. Kline *(1973) 412 U.S. 441, 449, 93 S.Ct 2230, 2235;* Cleveland Bed. of Ed. v. LaFleur *(1974) 414 U.S. 632, 639-640, 94 S.Ct. 1208, 1215-presumption under Illinois law that unmarried fathers are unfit violates process]*
> *[Federal Civil Trials and Evidence, Rutter Group, paragraph 8:4993, p. 8K-34]*

The implication of the above are that the Internal Revenue Code may *not* lawfully be admitted as legal evidence or "prima facie evidence" against a party protected by the Constitution. Such persons would include anyone domiciled in a state of the Union. Conversely, only "U.S. persons" as defined in 26 U.S.C. §7701(a)(30) domiciled in the federal zone who are subject to the plenary, exclusive jurisdiction of the national government and who are not protected by the Bill of Rights may have "prima facie" evidence such as the Internal Revenue Code cited against them without violating the Constitution and without violating due process of law. Such persons would also include all persons who are serving as "public officials" as well, because public officials are representing the federal corporation called the "United States".

*"Corporations are also of all grades, and made for varied objects; **all governments are corporations, created by usage and common consent, or grants and charters which create a body politic for prescribed purposes; but whether they are private, local or general, in their objects, for the enjoyment of property, or the exercise of power, they are all governed by the same rules of law, as to the construction and the obligation of the instrument by which the incorporation is made. One universal rule of law protects persons and property**. It is a fundamental principle of the common law of England, that the term freemen of the kingdom, includes 'all persons,' ecclesiastical and temporal, incorporate, politique or natural; it is a part of their magna charta (2 Inst. 4), and is incorporated into our institutions. The persons of the members of corporations are on the same footing of protection as other persons, and their corporate property secured by the same laws which protect that of individuals. 2 Inst. 46-7. 'No man shall be taken,' 'no man shall be disseised,' without due process of law, is a principle taken from magna charta, infused into all our state constitutions, and is made inviolable by the federal government, by the amendments to the constitution."*
[Proprietors of Charles River Bridge v. Proprietors of Warren Bridge, 36 U.S. 420 (1837)]

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART VI - PARTICULAR PROCEEDINGS
CHAPTER 176 - FEDERAL DEBT COLLECTION PROCEDURE
SUBCHAPTER A - DEFINITIONS AND GENERAL PROVISIONS

Sec. 3002. Definitions

*(15) **"United States" means** -*
*(A) **a Federal corporation**;*
(B) an agency, department, commission, board, or other entity of the United States; or
(C) an instrumentality of the United States.

Therefore, "public officials", including federal "state employees", contractors, agents, and their instrumentalities, are completely subject to the laws of the place where the "United States" federal corporation, or "U.S. Inc", was incorporated, pursuant to Federal Rule of Civil Procedure 17(b), regardless of where they physically reside:

IV. PARTIES > ***Rule 17.***
Rule 17. Parties Plaintiff and Defendant; Capacity

(b) Capacity to Sue or be Sued.

The capacity of an individual, other than one acting in a representative capacity, to sue or be sued shall be determined by the law of the individual's domicile. The capacity of a corporation to sue or be sued shall be determined by the law under which it was organized. In all other cases capacity to sue or be sued shall be determined by the law of the state in which the district court is held, except (1) that a partnership or other unincorporated association, which has no such capacity by the law of such state, may sue or be sued in its common name for the purpose of enforcing for or against it a substantive right existing under the Constitution or laws of the United States, and (2) that the capacity of a receiver appointed by a court of the United States to sue or be sued in a court of the United States is governed by Title 28, U.S.C., §§ 754 and 959(a).

4.2 How to determine what jurisdiction a federal law applies to

A very important skill to develop is the ability to determine, by reading the law for yourself, what jurisdiction a law applies to. This is done not only by looking at the definitions found in the statute, but also by looking at the method by which it is published and noticed by the federal government. The method of providing "reasonable notice", e.g.: publication to the public at large and the classification of a specific Title as either "positive law" or "prima facie" law, in fact, determines the jurisdiction to which it applies. Once you know the jurisdiction, it is easier to discern whether you should expend the time to learn what that law says. It's a waste of time to learn laws that don't even apply to the jurisdiction that you maintain a domicile within.

1 U.S.C. §204 describes the applicability of statutes within the U.S. Code based on whether they are "positive law", which we will now show below. We have broken 1 U.S.C. §204(a) into two clauses, with each one numbered in the cite below. Everything after the "[1]" would be clause 1 and everything after the "[2]" would be clause 2.

1 U.S.C. §204: Codes and Supplements as evidence of the laws of United States and District of Columbia; citation of Codes and Supplements

Sec. 204. - Codes and Supplements as evidence of the laws of United States and District of Columbia; citation of Codes and Supplements

> *In all courts, tribunals, and public offices of the United States, at home or abroad, of the District of Columbia, and of each State, Territory, or insular possession of the United States -*
>
> *(a) United States Code. -*
>
> ***[1] The matter set forth in the edition of the Code of Laws of the United States current at any time shall**, together with the then current supplement, if any, **establish prima facie [by presumption] the laws of the United States, general and permanent in their nature**, in force on the day preceding the commencement of the session following the last session the legislation of which is included:*
>
> *[2] Provided, however, **That whenever titles of such Code shall have been enacted into positive law the text thereof shall be legal evidence of the laws therein contained, in all the courts of the United States, the several States, and the Territories and insular possessions of the United States.***

The above statute shows three jurisdictions: (1) Clause 1 shows the "United States", which is defined as the District of Columbia under 4 U.S.C. §72; (2) Clause 2 adds the States of the Union and Territories to the jurisdiction. We have therefore created a table to show each of the three jurisdictions and the applicability of "positive law" and "prima facie law" in each of the three cases based on the foregoing discussion.

Table 1: Applicability of laws of United States to various jurisdictions

#	Description	Applicable Jurisdiction		
		District of Columbia Only ("United States")	***States of the Union ("several States")***	***Territories and Insular Possessions***
1	***Jurisdiction of Clause 1 of 1 U.S.C. §204(a) above***	X		
2	***Jurisdiction of Clause 2 of 1 U.S.C. §204(a) above***	X	X	X
3	***Type of law***	Prima facie law Not "positive law"	Positive law	Positive law
4	***Regulations must be published in Federal Register?***	No	Yes	Yes
5	***"State" defined in***	28 U.S.C. §1332(d)	Constitution 40 U.S.C. §319c(a)	4 U.S.C. §110(d)
6	***When no implementing regulations published in the Federal Register, statutes can only apply to***	Federal employees, agencies, military, and benefit recipients (see 44 U.S.C. §1505(a)(1) and 5 U.S.C. §553(a))	No one	No one
7	***Jurisdiction of federal district courts assigned to this area by***	These laws *are* excluded by 28 U.S.C. §1366 28 U.S.C. §1603	Not excluded by 28 U.S.C. §1366	Not excluded by 28 U.S.C. §1366
8	***Sections from U.S. Code that are applicable exclusively here are called***	"Code section"	"Statute" "Legislation" "Law"	"Statute" "Legislation" "Law"
9	***Type of law applying here is***	Private law	Public law	Public law

An example of wording that can be used to make law positive is in the Fifth Amendment to the U.S. Constitution. By starting out "No person…" it is clear that no one is excluded. In statutes, a phrase such as "any person is required" is used to indicate that the statute applies to anyone. When Congress omits the word "is" from such a phrase, making it read "any person required" (as in 26 U.S.C. §7203), it is saying that this law only applies to a specific person. This is not a positive law, it is a "special law" or "private law" which became "law" by virtue of the consent of that specific individual. It only applies to the person who exercised his personal choice (sovereignty) to become effectively connected with it by accepting some duty that made him a "person required," i.e. the person in section 7343 of the I.R. Code who is under a duty to perform the act in respect of which the violation occurs.

4.3 Public v. Private law

As was said earlier in sections 3.3 and 4.3.3 of the *Great IRS Hoax*, the purpose of law, like the purpose of government, is to protect us from harming each other, in fulfillment of the second great commandment to love our neighbor found in the Bible in Matt. 22:39. The only means by which law can afford that protection is to:

1. Prohibit and punish harmful behaviors.
2. Leave men otherwise free to regulate and fully control their own lives.

Thomas Jefferson agreed with the above conclusions when he said:

> *"With all [our] blessings, what more is necessary to make us a happy and a prosperous people? Still one thing more, fellow citizens--a wise and frugal Government, which shall restrain men from injuring one another, shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned. This is the sum of good government, and this is necessary to close the circle of our felicities."*
> *[Thomas Jefferson: 1st Inaugural, 1801. ME 3:320]*

In the above sense, law is a ***negative concept***: It ***prevents*** harm but has no moral authority to ***promote*** or mandate any other type of behavior, including the public good. The very basis of the government's police powers, in fact, is only to prevent harm but not to compel any other behavior. Since the Constitution in the Fourteenth Amendment, Section 1 mandates "equal protection of the laws" to everyone, then all laws dealing with such protection must be "public" and affect everyone equally in society:

> *"**Public law**. A general classification of law, consisting generally of constitutional, administrative, criminal, and international law, concerned with the organization of the state, the relations between the state and the people who compose it, the responsibilities of public officers to the state, to each other, and to private persons, and the relations of states to one another. An act which relates to the public as a whole. It may be (1) general (applying to all persons within the jurisdiction), (2) local (applying to a geographical area), or (3) special (relating to an organization which is charged with a public interest).*
>
> *That portion of law that defines rights and duties with either the operation of government, or the relationships between the government and the individuals, associations, and corporations.*
>
> *That branch or department of law which is concerned with the state in its political or sovereign capacity, including constitutional and administrative law, and with the definition, regulation, and enforcement of rights in cases where the state is regarded as the subject of the right or object of the duty, --including criminal law and criminal procedure, --and the law of the state, considered in its quasi private personality, i.e., as capable of holding or exercising rights, or acquiring and dealing with property, in the character of an individual. That portion of law which is concerned with political conditions; that is to say, with the powers, rights, duties, capacities, and incapacities which are peculiar to political superiors, supreme and subordinate. In one sense, a designation given to international law, as distinguished from the laws of a particular nation or state. In another sense, a law or statute that applies to the people generally of the nation or state adopting or enacting it, is denominated a public law, as contradistinguished from a private law, affecting an individual or a small number of persons.*
>
> *See also General law. Compare Private bill; Private law; Special law."*
> *[Black's Law Dictionary, Sixth Edition, p. 1230]*

In a Republican form of government, passage of all public laws requires the explicit consent of the governed. That consent is provided through our elected representatives and is provided ***collectively*** rather than individually. Any measure passed by a legislature:

1. Which does not limit itself to prohibiting and punishing harmful behaviors.
2. Does not apply to everyone ***equally*** (equal protection of the laws).
3. Was passed without the consent of the governed.

. . .is therefore voluntary and cannot be called a "Public law". Any law that does not confine itself strictly to public protection and which is enforced through the police powers of the state is classified as "Private Law", "Special Law", "Administrative Law", or "Civil Law". The only way that such measures can adversely affect our rights or become enforceable against anyone is by the exercise of our private right to contract. We must ***consent individually*** to anything that does not demonstrably prevent harm. Anything that we privately consent to and which affects only those who consent is called "private law".

> *"Private law. That portion of the law which defines, regulates, enforces, and administers relationships among individuals, associations, and corporations. As used in contradistinction to public law, the term means all that part of the law which is administered between citizen and citizen, or which is concerned with the definition, regulation, and enforcement of rights in cases where both the person in whom the right inheres and the person upon whom the obligation is incident are private individuals. See also Private bill; Special law. Compare Public Law."*
> *[Black's Law Dictionary, Sixth Edition, p. 1196]*

Those who consent individually to a private law are the only ones subject to its provisions. For them, this enactment is referred to as "special law":

> ***"special law.*** *One relating to particular persons or things; one made for individual cases or for particular places or districts; one operating upon a selected class, rather than upon the public generally. A private law. A law is "special" when it is different from others of the same general kind or designed for a particular purpose, or limited in range or confined to a prescribed field of action or operation. A "special law" relates to either particular persons, places, or things or to persons, places, or things which, though not particularized, are separated by any method of selection from the whole class to which the law might, but not such legislation, be applied. Utah Farm Bureau Ins. Co. v. Utah Ins. Guaranty Ass'n, Utah, 564 P.2d 751, 754. A special law applies only to an individual or a number of individuals out of a single class similarly situated and affected, or to a special locality. Board of County Com'rs of Lemhi County v. Swensen, Idaho, 80 Idaho 198, 327 P.2d 361, 362. See also Private bill; Private law. Compare General law; Public law."*
> *[Black's Law Dictionary, Sixth Edition, pp. 1397-1398]*

All "special laws" are by individual consent of the parties ***only***. "Special law" is a subset of and a type of "private law". An example of "special law" is a private contract between individuals.

In the context of the government, "special laws" usually deal with procuring "privileges" or "benefits" relating to a regulated or licensed activity. An example would be Social Security. You can only become subject to the provisions of the Social Security Act by signing up for it using the SS-5 form. Those who never signed up for it or who quit the program are not subject to any of the codes relating to it. For those who never signed up for or consented to Social Security by applying:

1. The Social Security Act is NOT "law" and is irrelevant.
2. The Social Security Act is not enforceable against them and may not adversely affect their rights. It is "foreign" and "alien" to the jurisdiction and forum within which they live.

The same arguments apply to Subtitle A of the Internal Revenue Code, which is the individual income tax:

1. Only certain selected groups of people are even allowed to consent to the provisions of the code under Subtitle A. Nearly all of these people hold a "public office" in the United States government and are engaged in a "trade or business", which is a privileged, regulated, and taxable activity.
2. Those who consented to the I.R.C. by procuring the privilege of taking any kind of deductions or credits under 26 U.S.C. sections 32 or 162 or who signed a "contract" called a W-4 or a 1040 become subject to its provisions.
3. Those subject to the provisions of the I.R.C. are defined as "taxpayers" in 26 U.S.C. §7701(a)(14) and they must comply with ALL of its provisions, including the criminal provisions.
4. Those who never consented to be subject to the Internal Revenue Code are called "nontaxpayers". For them:
   4.1. Its provisions are not "law" and are irrelevant.
   4.2. They may not be the target of IRS enforcement actions.
   4.3. All IRS notices directed at "taxpayers" may not be sent to them.
5. A government which wants to STEAL your money through fraud will try to hide the mandatory requirement for consent so that you falsely believe compliance is mandatory:
   5.1. They will try to make the process of consenting "invisible" and keep you unaware that you are consenting.
   5.2. They will remove references to "nontaxpayers" off their website.
   5.3. When asked about whether the "code" is voluntary, they will lie to you and tell you that it isn't.
   5.4. They will pretend like a "private law" is a "public law".
   5.5. They will ensure that all paperwork, such as the W-4, in which you consent hides the fact that it is a contract or agreement. Look at the W-4 form: Do you see any reference to the word "agreement" on it? Well guess what, it's an agreement and you didn't even know. The regulations at 26 C.F.R. §31.3401(a)-3(a) say it's an "agreement", which is a contract. Why didn't your public SERVANTS tell you this? Because they want to fool you into thinking that participation is mandatory and that the I.R.C. is a "public law", when in fact, it is a "private law" that you must consent to in order to be subject to.

On a few very rare occasions, some people have gotten employees of the IRS to admit some of the above facts. Below is a link to a remarkable letter signed by an IRS Disclosure Officer, Cynthia Mills, which admits that the Internal Revenue Code is "special law" and is essentially voluntary and avoidable:

Cynthia Mills Letter, Exhibit #09.023 http://sedm.org/Exhibits/ExhibitIndex.htm

The other interesting thing to observe about our deceitful public servants is that if they want to trick you into complying, then they will:

1. Want to label everything they pass, including "private law", as "public law".
2. Mix and confuse private law with public law and make the two indistinguishable. For instance, when they propose a bill, they will call it a "public law" and then load it down with a bunch of pork barrel "private law" provisions.
3. Make it so confusing and difficult to distinguish what is public law from what is private law, that people will just give up and be forced to assume falsely that everything is "public law". The result is the equivalent of "government idolatry": Assuming authority that does not lawfully exist.

Since the foundation of this country, the U.S. Congress has had two sections of laws they pass in the Statutes at Large: Public Law and Private Law. Every year, the Statutes at Large are published in two volumes: Public Law and Private Law. In many cases, a bill they pass will identify itself as "public law" and be published in the volume labeled "Public law" when in fact it has provisions that are actually "private law". Then they will obfuscate the definitions or not include definitions, called "words of art", so as to fool you into thinking that what is actually a private law is a public law. In effect, they will procure your consent through constructive fraud and deceit using the very words of the law itself.

> *"**Shall the throne of iniquity, which devises evil by law, have fellowship with You?** They gather together against the life of the righteous, and condemn innocent blood. But the Lord has been my defense, and my God the rock of my refuge. He has brought on them their own iniquity, and shall cut them off in their own wickedness; **the Lord our God shall cut them off.**"*
> *[Psalm 94:20-23, Bible, NKJV]*

Question: Who else but wicked lawmakers could the Bible be referring to in the above scripture? Now do you know why the book of Revelations refers to the "kings of the earth" as "the Beast" in Rev. 19:19?

We'll now provide an enlightening table comparing "public law" and "private law" as a way to summarize what we have learned so far:

Table 2: Public Law v. Private Law

#	Characteristic	Public law	Private/Special law
1	***Consent provided***	Collectively	Individually
2	***Party consenting***	Elected representatives	Individuals
3	***Your consent provided***	Indirectly	Directly
4	***Consent procured through***	Offer of enhanced protection/security	Offer of special "privilege" or benefits, which are usually financial in nature
5	***Consent manifested by you through***	Voting for your elected representatives	Signing the contract Engaging in certain regulated, or licensed activities. E.g.: Contractor's License, Business License, Marriage License, etc.
6	***When consent procured through fraud or duress or absent constitutional authority or fully informed consent, law is called***	"Decree under legislative form" (see *Loan Assoc. v. Topeka*, 87 U.S. 655 (1974)) Unconstitutional act Tyranny	Adhesion contract Usury Extortion Racketeering
7	***Tyranny and dishonesty in government manifested by***	Confusing Public law with private law Obfuscating law using "words of art"	Refusing to identify the privileged activities Making "excise taxes" on privileges appear like unavoidable "direct taxes" Making that which is a "code" and not positive law to appear as though it is
8	***Proposed version that has not yet been ratified is called***	"Bill"	Offer Proposal Bid
9	***Ratified/enacted version called***	"Statute" "Legislation" "Enactment" "Positive law"	"Contract" "Code"
10	***Law affects***	Everyone equally within the territorial jurisdiction of the government (equal protection)	Only parties who provided consent
11	***Those subject to the law are called***	"Subject to" "Liable"	"Liable"
12	***Limits upon content of law?***	Limited by Constitution	Limited only by what parties will agree/consent to
13	***Enforceability of enacted/ratified version***	Requires implementing regulations published in the federal register	May be enforced by statute and without implementing regulations
14	***Territorial enforcement authority***	Limited to territorial jurisdiction of enacting government	Can be enforced only in federal court if Federal government is party. Can be enforced only in state court if state government is a party. This is a result of the Separation of Powers Doctrine.
15	***Examples of language within such a law***	"All persons…" "Every person…" "All individuals…"	"A person…" "An individual…" "A person subject to…"

Now let's apply what we have learned in this section to a famous example: The Ten Commandments. We will demonstrate for you how to deduce the nature of each commandment as being either "public law" or "private law". The rules are simple:

1. Everything that says "thou shalt NOT" or uses the word "no" and carries with it a punishment is a "public law".
2. Everything that says "thou shalt" is a "private law" that is essentially a voluntary contract. It has no punishment for disobedience but usually has a blessing for obedience.

To start off, we will list each of the ten commandments, from Exodus 20:3-17, NKJV:

1. "You shall have no other gods before Me.
2. "You shall not make for yourself a carved image--any likeness of anything that is in heaven above, or that is in the earth beneath, or that is in the water under the earth; [5]you shall not bow down to them nor serve them. For I, the LORD your God, am a jealous God, visiting the iniquity of the fathers upon the children to the third and fourth generations of those who hate Me, [6]but showing mercy to thousands, to those who love Me and keep My commandments.
3. "You shall not take the name of the LORD your God in vain, for the LORD will not hold him guiltless who takes His name in vain.
4. "Remember the Sabbath day, to keep it holy. Six days you shall labor and do all your work, but the seventh day is the Sabbath of the LORD your God. In it you shall do no work: you, nor your son, nor your daughter, nor your male servant, nor your female servant, nor your cattle, nor your stranger who is within your gates. For in six days the LORD made the heavens and the earth, the sea, and all that is in them, and rested the seventh day. Therefore the LORD blessed the Sabbath day and hallowed it.
5. "Honor your father and your mother, that your days may be long upon the land which the LORD your God is giving you.
6. "You shall not murder.
7. "You shall not commit adultery.
8. "You shall not steal.
9. "You shall not bear false witness against your neighbor.
10. "You shall not covet your neighbor's house; you shall not covet your neighbor's wife, nor his male servant, nor his female servant, nor his ox, nor his donkey, nor anything that is your neighbor's."

Now some statistics on the above commandments based on our analysis in this section:

1. Commandments 1,2,3,6,7,8,9,10 are "public law". They are things you ***cannot*** do and which apply equally to ***everyone***. Disobeying these laws will harm either ourself or our neighbor, will offend God, and carry with them punishments for disobedience.
2. Commandments 4 and 5 are "private law", and apply only to those who consent. Blessings flow from obeying them but no punishment is given for disobeying them anywhere in the Bible. Below is an example of the blessings of obedience to this "private law":

> *"Honor your father and your mother, **that your days may be long upon the land which the LORD your God is giving you**"*
> *[Exodus 20:12, Bible, NKJV].*

> *"Honor your father and your mother, as the LORD your God has commanded you, **that your days may be long, and that it may be well with you in the land which the LORD your God is giving you.**"*
> *[Deut. 5:16, Bible, NKJV]*

3. The first four commandments deal with our ***vertical*** relationship with God, our Creator, in satisfaction of the first Great Commandment to love our God found in Matt. 22:37.
4. The last six commandments deal with our ***horizontal***, earthly relationship with our neighbor, in satisfaction of the second of two Great Commandments to love our neighbor found in Matt. 22:39.

How do we turn a "private law" into a "public law"? Let's use the fifth commandment above to "honor your father and mother". Below is a restatement of that "private law" that makes it a "public law". A harmful behavior of "cursing" is being given the punishment of death:

> *"He who curses father or mother, let him be put to death."*
> *[Exodus 21:17, Bible, NKJV]*

One last important concept needs to be explained about how to distinguish Public Law or Private law. When reading a statute or code, if the law uses such phrases as "All persons.." or "Everyone.." or "All individuals..", then it applies equally to everyone and therefore is most likely a "public law". If the code uses such phrases as "An individual…" instead of "All

individuals..", then it is probably a private or special law that only applies to those who consent to it. The only element necessary in addition to such language in order to make such a section of code into "law" is the consent of the governed, which means the section of code must be formally enacted by the sovereigns within that system of government. If it was never enacted through such consent of the governed, then it can't be described as "law", except possibly to those specific individuals who, through either and explicit signed written agreement or their conduct, express their consent to be bound by it.

4.4 Titles of the U.S. Code that are "Private/Contract law"

1 U.S.C. §204 says that the Internal Revenue Code is not "positive law". Some say that while the Internal Revenue Code may not be "positive law", there ARE or at least MAY BE sections within it that ARE positive law. They will look at the legislative notes on a section of the code and find the Congressional Acts that it references and conclude that because the Act that the section was based on was a positive law and because it was passed AFTER the Internal Revenue Code was repealed in 1939, then that section and only that section is "positive law". That may very well be true. However, the government has the burden of proving in each case, usually as the moving party, that the section they are citing is positive law for each case or instance where they use it. To do otherwise would be to violate due process of law and disrespect the requirement for consent in every aspect of government..

Acquiescence to the legal consequence of non-positive law legislation is possible only when a person makes himself subject to that legislation, i.e. a Federal Government "employee" or contractor, as to income belonging to the U.S. Government. A person makes themself subject to the legislation by availing themselves of a "privilege" or benefit associated with it:

> *California Civil Code*
> *DIVISION 3. OBLIGATIONS*
> *PART 2. CONTRACTS*
> *TITLE 1. NATURE OF A CONTRACT*
> *CHAPTER 3. CONSENT*
>
> *1589. A voluntary acceptance of the benefit of a transaction is equivalent to a consent to all the obligations arising from it, so far as the facts are known, or ought to be known, to the person accepting.*
>
> *[SOURCE: http://www.leginfo.ca.gov/cgi-bin/displaycode?section=civ&group=01001-02000&file=1565-1590]*

Once a person is "effectively connected" with a law by either signing a contract or availing himself of the benefits of it, he is required to obey it. If a person is not "effectively connected" with such a law, a violation of that law is not legally possible. For example, it is impossible for a person who is not connected with the U.S. Government's (called a "trade or business") income or within federal jurisdiction to be under a legal obligation or condition to perform some act or duty with regard to such income. When no legal duty exists, the consequences of section 7203 cannot be legally forced upon him.

If you are engaged in litigation against "the Beast", be very careful in your use of the word "law". Anyone who refers to any code section within the Internal Revenue Code as "law" during a court trial:

1. Is making a "presumption" that cannot be supported with evidence. All "presumption" is a violation of due process in the legal realm. An unchallenged presumption becomes ***fact*** in any legal proceeding. Watch out!

> *"The principle that there is a presumption of innocence in favor of the accused is the undoubted law, axiomatic and elementary, and its enforcement lies at the foundation of the administration of our criminal law." [Coffin v. United States, 156 U.S. 432, 453 (1895)]*
>
> ---
>
> *"It is apparent,' this court said in the Bailey Case (* 219 U.S. 239 *, 31 S. Ct. 145, 151) 'that* ***a constitutional prohibition cannot be transgressed indirectly by the creation of a statutory presumption any more than it can be violated by direct enactment. The power to create presumptions is not a means of escape from constitutional restrictions.*** *" [Heiner v. Donnan, 285 U.S. 312 (1932)]*
>
> ---

> ***Thus the Court held that presumptions, while often valid (and some of which, I think, like the presumption of death based on long unexplained absence, may perhaps be even salutary in effect), must not be allowed to stand where they abridge or deny a specific constitutional guarantee.*** *It is one thing to rely on a presumption to justify conditional administration of the estate of a person absent without explanation for seven years, see Cunnius v. Reading School District, 198 U.S. 458 ; compare Scott v. McNeal, 154 U.S. 34 ; it would be quite another to use the presumption of death from seven years' absence to convict a man of murder. I do not think it can be denied that use of the statutory presumptions in the case before [380 U.S. 63, 81] us at the very least seriously impaired Gainey's constitutional right to have a jury weigh the facts of his case without any congressional interference through predetermination of what evidence would be sufficient to prove the facts necessary to convict in a particular case. [. . .]*
>
> ***For all the foregoing reasons, I think that these two statutory presumptions by which Congress has tried to relieve the Government of its burden of proving a man guilty and to take away from courts and juries the function and duty of deciding guilt or innocence according to the evidence before them, unconstitutionally encroach on the functions of courts and deny persons accused of crime rights which our Constitution guarantees them.*** *The most important and most crucial action the courts take in trying people for crime is to resolve facts. This is a judicial, not a legislative, function. I think that in passing these two sections Congress stepped over its constitutionally limited bounds and encroached on the constitutional power of courts to try cases. I would therefore affirm the judgment of the court below and grant Gainey a new trial by judge and jury with all the protections accorded by the law of the land.*
> *[United States v. Gainly, 380 U.S. 63 (1965)]*
>
> ---
>
> ***Legislation declaring that proof of one fact of group of facts shall constitute prima facie evidence of an ultimate fact in issue is valid if there is a rational connection between what is proved and what is to be inferred. A prima facie presumption casts upon the person against whom it is applied the duty of going forward with his evidence on the particular point to which the presumption relates. A statute creating a presumption that is arbitrary, or that operates to deny a fair opportunity to repel it, violates the due process clause of the Fourteenth Amendment.*** *Legislative fiat may not take the place of fact in the judicial determination of issues involving life, liberty, or property. Manley v. Georgia, 279 U.S. 1 , 49 S. Ct. 215, 73 L. Ed. -, and cases cited.*
> *[Western and Atlantic Railroad v. Henderson, 279 U.S. 639 (1929)]*
>
> ---
>
> *"**[I]t is unconstitutional for a legislature to remove from the jury the assessment of facts that increase the prescribed range of penalties to which a criminal defendant is exposed. It is equally clear that such facts must be established by proof beyond a reasonable doubt.**"*
> *[McMillan v. Pennsylvania, 477 U.S. 79 (1986)]*

2. Has transformed "prima facie evidence" of law into legally admissible evidence if unchallenged. See 1 U.S.C. §204, which says that the I.R.C. is "prima facie" evidence, which means "presumed to be true" unless rebutted.
3. Is implying that you, the litigant, gave your consent in some form to be bound by the legal provision which they are referring to. This makes you look like a bad American and a criminal if you don't challenge their presumption.
4. When their presumption of the existence of "law" is challenged, the moving party must shoulder the burden of showing what form the consent was given. If they do not meet the burden of proof, then you should object to their use of the word "law" in any and all cases. You should refer to all statements about such "law" as "hearsay" until proven with other than "prima facie evidence".

Let us now summarize some important things we have learned about positive law:

1. Whether a statute is positive law is helpful in establishing WHERE it may lawfully be enforced. Statutes which are not positive law may not be lawfully enforced in states of the Union.
2. Statutes which are not positive law may be enforced only in the District of Columbia.
3. The Internal Revenue Code is not positive law. Therefore, it is "law" but may not be lawfully enforced inside states of the Union, except possibly against "federal employees", who according to Federal Rule of Procedure Rule 17(b) are subject to the laws of the District of Columbia when acting in a representative capacity for the federal corporation called the "United States", and which is defined in 28 U.S.C. §3002(15)(A). That federal corporation is a "U.S. citizen" under 8 U.S.C. §1401, and so they become "U.S. citizens" when representing the corporation as federal "employees".

4.5 Rebutted government lies about the fact that the Internal Revenue Code is not "positive law"

IRS employees and government welfare recipients such as tax attorneys have invented a number of specious and false arguments relating to the fact that the I.R.C. is not "positive law". They will try to exploit your legal ignorance in order to

deceive you into thinking that it IS positive law by any one of the following statements. Family Guardian observed these false statements being made by Mr. Rookyard (http://www.geocities.com/b_rookard/) as he was debated on the Sui Juris Forums (http://suijuris.net). Family Guardian used the information below to "checkmate" him on each of these issues and thereby exposed his fraud to the large audience there. His false statements have been catalogued and rebutted one by one in the list below, which is provided for your reuse.

1. **FALSE STATEMENT #1**: "Everything in the Statutes at Large is 'positive law'. The IRC was published in the Statutes at Large. Therefore, the I.R.C. MUST be positive law."
2. **REBUTTAL TO FALSE STATEMENT #1**: Not everything in the Statutes at Large is "positive law", in fact. Both the current Social Security Act and the current Internal Revenue Code (the 1986 code) were published in the Statutes at Large and 1 U.S.C. §204 indicate that NEITHER Title 26 (the I.R.C.) nor Title 42 (the Social Security Act) of the U.S. Code are "positive law". Therefore, this is simply a false statement. If you would like to see the evidence for yourself, here it is:
   2.1. 1 U.S.C. §204: http://assembler.law.cornell.edu/uscode/html/uscode01/usc_sec_01_00000204----000-.html
   2.2. 1986 Internal Revenue Code, 100 Stat 2085: http://www.famguardian.org/Disks/LawDVD/Federal/RevenueActs/Revenue%20Act%20of%201986.pdf
   2.3. Current Social Security Act: http://www.ssa.gov/OP_Home/ssact/comp-toc.htm
3. **FALSE STATEMENT #2**: "The Statutes at Large, 53 Stat 1, say the 1939 Internal Revenue Code was 'enacted'. Anything that is 'enacted' is 'law'. Therefore, the 1939 I.R.C. and all subsequent versions of it MUST be positive law."
4. **REBUTTAL TO FALSE STATEMENT #2**: A repeal of a statute can be enacted, and it produces no new "law". Seeing the word "enacted" in the Statutes of Law does not therefore necessarily imply that new "law" was created. In fact, you can go over both the current version of 1 U.S.C. §204 and all of its predecessors all the way back to 1939 and you will not find a single instance where the Internal Revenue Code has ever been identified as "positive law". If you think we are wrong, then show us the proof or shut your presumptuous and deceitful mouth.
5. **FALSE STATEMENT #3**: "The Internal Revenue Code does not need to be 'positive law' in order to be enforceable. Federal courts and the I.R.S. call it 'law' so it must be 'law'. This was pointed out, for instance, in Ryan v. Bilby, 764 F.2d. 1325, 1328"
6. **REBUTTAL TO FALSE STATEMENT #3**: The federal courts are a foreign jurisdiction with respect to a state national domiciled in his state on land not subject to exclusive federal jurisdiction under Article 1, Section 8, Clause 17 and who has no contracts or fiduciary relationships with the federal government. This is covered extensively in the Tax Fraud Prevention Manual, Chapter 7. Your statement represents an abuse of case law for political rather than legal purposes as a way to deceive people. Even the IRS' own Internal Revenue Manual (I.R.M.), Section 4.10.7.2.9.8 says that cases below the Supreme Court may not be cited to sustain a position. Furthermore, if you read the cases to which you are referring, you will find out that the party they were talking about was a "taxpayer". Because the Internal Revenue Code has no liability statute under Subtitle A, then the only way a person can become a "taxpayer" is by consenting to abide by the Code. If he consented, then the code becomes "law" for him. This is why even the U.S. Supreme Court itself refers to the income tax as "voluntary" in *Flora v. United States*, 362 U.S. 145 (1960). Consent is the ONLY thing that can produce "law", as we covered in previous sections. The I.R.C. is private law, special law, and contract law that only applies to those who explicitly consent by signing a contract vehicle, such as a W-4, an SS-5, or a 1040. Since all of these forms produce an obligation, then all of them are contracts. The obligation cannot exist without signing them, nor can the IRS lawfully or unilaterally assess a person on a 1040 form under 26 U.S.C. §6020(b) who does not first consent.

5 Reasonable Notice in Publishing Implementing Regulations

The Constitutional requirement for reasonable notice is also reflected in the very structured way that implementing regulations are created, published, and changed by the federal government. The following subsections will break that process down.

Generally, regulations are called "rules" in the legal field. The process of publishing and writing "rules" is called "rulemaking". An short and concise and excellent book that describes how this process is the following:

Administrative Law and Process in a Nutshell, Ernest Gellhorn, Ronald M. Levin, West Publishing, 1997, ISBN 0-314-06683-7

5.1 Notice and Comment Generally

The Federal Register is the means by which the public at large who are outside of the District of Columbia and federal employment, agency, or office are notified of the passage of regulations which might adversely affect their rights. Federal "regulations" are also called "rules" by the U.S. Supreme Court, in furtherance of the language found in Article 4, Section 3, Clause 2 of the Constitution, which says:

> *U.S. Constitution*
> *Article 4, Section 3, Clause 2*
>
> *The **Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States**; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.*
> *[SOURCE: http://caselaw.lp.findlaw.com/data/constitution/article04/]*

The Federal Register Act, 44 U.S.C. §1505, requires that all laws "having general applicability and legal effect" must be published in the Federal Register. It then indicates that any law which prescribes a penalty as having "general applicability and legal effect":

> *TITLE 44 > CHAPTER 15 > § 1505*
> *§ 1505. Documents to be published in Federal Register*
>
> *(a) Proclamations and Executive Orders; Documents Having General Applicability and Legal Effect; Documents Required To Be Published by Congress. There shall be published in the Federal Register—*
>
> *(1) Presidential proclamations and Executive orders, except those not having general applicability and legal effect or effective only against Federal agencies or persons in their capacity as officers, agents, or employees thereof;*
>
> *(2) documents or classes of documents that the President may determine from time to time have general applicability and legal effect; and*
>
> *(3) documents or classes of documents that may be required so to be published by Act of Congress.*
>
> ***For the purposes of this chapter every document or order which prescribes a penalty has general applicability and legal effect.***

The U.S. Supreme Court has indicated the purpose of providing publication of the regulations (e.g. "rules") in the Federal Register when it said the following. Note that the terms "reasonable notice", "fair notice", "fair warning", and "inform those", etc. are all equivalent:

> ***Fair notice is the object of the APA requirement that a notice of proposed rulemaking contain "either the terms or substance of the proposed rule** or a description of the subjects and issues involved," 5 U.S.C. § 553(b)(3).*
> *[Long Island Care at Home, Ltd. v. Coke, 127 S.Ct. 2339 (U.S.,2007)]*
>
> ---
>
> *As we said in Grayned v. City of Rockford, 408 U.S. 104, 108 (1972):*
>
> *"It is a basic principle of due process that an enactment [435 U.S. 982 , 986] is void for vagueness if its prohibitions are not clearly defined. Vague laws offend several important values. **First, because we assume that man is free to steer between lawful and unlawful conduct, we insist that laws give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly.** Vague laws may trap the innocent by not providing **fair warning**. Second, if arbitrary and discriminatory enforcement is to be prevented, laws must provide explicit standards for those who apply them. A vague law impermissibly delegates basic policy matters to policemen, judges, and juries for resolution on an ad hoc and subjective basis, with the attendant dangers of arbitrary and discriminatory application." (Footnotes omitted.)*
>
> *See al Papachristou v. City of Jacksonville, 405 U.S. 156 (1972); Cline v. Frink Dairy Co., 274 U.S. 445, 47 S. Ct. 681 (1927); Connally v. General Construction Co., 269 U.S. 385 (1926).*
> *[Sewell v. Georgia, 435 U.S. 982 (1978)]*
>
> ---

> *"**That the terms of a penal statute creating a new offense must be sufficiently explicit to inform those who are subject to it what conduct on their part will render them liable to its penalties is a well- recognized requirement, consonant alike with ordinary notions of fair play and the settled rules of law; and a statute which either forbids or requires the doing of an act in terms 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. International Harvester Co. v. Kentucky, 234 U.S. 216, 221 , 34 S. Ct. 853; Collins v. Kentucky, 234 U.S. 634, 638 , 34 S. Ct. 924***
>
> *[...]*
>
> *[269 U.S. 385, 393] ... **The dividing line between what is lawful and unlawful cannot be left to conjecture.** The citizen cannot be held to answer charges based upon penal statutes whose mandates are so uncertain that they will reasonably admit of different constructions. A criminal statute cannot rest upon an uncertain foundation. **The crime, and the elements constituting it, must be so clearly expressed that the ordinary person can intelligently choose, in advance, what course it is lawful for him to pursue.** Penal statutes prohibiting the doing of certain things, and providing a punishment for their violation, should not admit of such a double meaning that the citizen may act upon the one conception of its requirements and the courts upon another.'*
> *[Connally v. General Construction Co., 269 U.S. 385 (1926)]*

The Constitution, Article 1, Section 9, Clause 3, prohibits administrative penalties without a court trial in the case of anyone who is protected by the Constitution:

> *U.S. Constitution,*
> *Article 1, Section 9, Clause 3:*
>
> *"'No State shall pass any **bill of attainder**, ex post facto law, or law impairing the obligation of contracts.'"*

If the punishment be less than death, the act is termed a bill of pains and penalties. Within the meaning of the Constitution, bills of attainder include bills of pains and penalties.

> ***Bill of attainder**. Legislative acts, no matter what their form, that apply either to named individuals or to easily ascertainable members of a group in such a way as to inflict punishment on them without a judicial trial. United States v. Brown, 381 U.S. 437, 448-49, 85 S.Ct. 1707, 1715, 14 L.Ed. 484, 492; United States v. Lovett, 328 U.S. 303, 315, 66 S.Ct. 1073, 1079, 90 L.Ed. 1252. An act is a "bill of attainder" when the punishment is death and a "bill of pains and penalties" when the punishment is less severe; both kinds of punishment fall within the scope of the constitutional prohibition. U.S.Const. Art. I, Sect 9, Cl. 3 (as to Congress);' Art. I, Sec, 10 (as to state legislatures).*
> *[Black's Law Dictionary, Sixth Edition, p. 165]*

In the cases of a bill of attainder, the legislative body, in addition to its legitimate functions, exercises the powers and office of judge; it assumes, in the language of the text-books, judicial magistracy; it pronounces upon the guilt of the party, without any of the forms or safeguards of trial; it determines the sufficiency of the proofs produced, whether conformable to the rules of evidence or otherwise; and it fixes the degree of punishment in accordance with its own notions of the enormity of the offence.

One exception to the prohibition against bills of attainder is persons who have exercised their unlimited right to contract by relinquishing their constitutional rights in procuring government franchises or benefits in which the laws that administer them prescribe penalties. This is confirmed by Cal.Civil.Code §1589.

> *California Civil Code*
> *DIVISION 3. OBLIGATIONS*
> *PART 2. CONTRACTS*
> *TITLE 1. NATURE OF A CONTRACT*
> *CHAPTER 3. CONSENT*
>
> *1589. A voluntary acceptance of the benefit of a transaction is equivalent to a consent to all the obligations arising from it, so far as the facts are known, or ought to be known, to the person accepting.*
> *[SOURCE:*
> *http://www.leginfo.ca.gov/cgi-bin/displaycode?section=civ&group=01001-02000&file=1565-1590]*

If you would like to know all of the legal ramifications associated with participating in government franchises and benefits, please consult the following:

5.2 Place of publication and public comment/review for proposed federal regulations

Proposed federal regulations are subjected to public review on the regulations.gov website below:

http://regulations.gov

Unfortunately, this website does not provide any historical data so that a person can go back over historical comments for a particular regulation and review them. This information is also not typically available at Federal Depository Libraries either. These libraries are listed on the website below:

http://www.gpoaccess.gov/libraries.html

5.3 Effect of Failure to Publish Enforcement provisions of the Statutes or Implementing Regulations in the Federal Register

The effect of failure to publish regulations and statutes in the Federal Register is that they are unenforceable against the general public. The following subsections prove this.

5.3.1 Regulations Generally: 5 U.S.C. §552(a)

All laws which will be enforced against persons who are protected by the Constitution and who are not members of any of the groups specifically exempted from publication in the Federal Register may not lawfully have any enforcement attempted against them. The statute below proves this, and it is positive law, so it applies to all regulations published by the Executive branch.

> *TITLE 5 > PART I > CHAPTER 5 > SUBCHAPTER II > § 552*
> *§ 552. Public information; agency rules, opinions, orders, records, and proceedings*
>
> *(a) Each agency shall make available to the public information as follows:*
>
> *(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public—*
>
> *(A) descriptions of its central and field organization and the established places at which, the employees (and in the case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;*
>
> *(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;*
>
> *(C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;*
>
> ***(D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and***
>
> *(E) each amendment, revision, or repeal of the foregoing.*
>
> *Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.*

5.3.2 Treasury Regulations specifically: 26 C.F.R. §601.701(a)(2)(ii)

26 C.F.R. §601.702(a)(2)(ii)
Effect of failure to publish.

Except to the extent that a person has actual and timely notice of the terms of any matter referred to in subparagraph (1) of this paragraph which is required to be published in the Federal Register, such person is not required in any manner to resort to, or be adversely affected by, such matter if it is not so published or is not incorporated by reference therein pursuant to subdivision (i) of this subparagraph. Thus, for example, any such matter which imposes an obligation and which is not so published or incorporated by reference will not adversely change or affect a person's rights.

6 Exemptions from the Constitutional Requirement for Reasonable Notice

Certain selected groups of individuals are specifically exempted from the requirement for reasonable notice through publication in the Federal Register.

6.1 Government Instrumentalities: Federal employees, contractors, benefit recipients, and members of the military

6.1.1 5 U.S.C. §552(a): Requires "substantive" rules to be published

The Administrative Procedures Act requires all "substantive" rules, meaning regulations, to be published in the Federal Register. A "substantive rule" is one that imposes a penalty and is "legislative" rather than procedural in nature.

TITLE 5 > PART I > CHAPTER 5 > SUBCHAPTER II > § 552
§ 552. Public information; agency rules, opinions, orders, records, and proceedings

(a) Each agency shall make available to the public information as follows:

(1) ***Each agency shall separately state and currently publish in the Federal Register*** *for the guidance of the public—*

(A) descriptions of its central and field organization and the established places at which, the employees (and in the case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

(E) each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

(2) Each agency, in accordance with published rules, shall make available for public inspection and copying—

(A) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register;

(C) administrative staff manuals and instructions to staff that affect a member of the public;

(D) copies of all records, regardless of form or format, which have been released to any person under paragraph (3) and which, because of the nature of their subject matter, the agency determines have become or are likely to become the subject of subsequent requests for substantially the same records; and

(E) a general index of the records referred to under subparagraph (D);

unless the materials are promptly published and copies offered for sale. For records created on or after November 1, 1996, within one year after such date, each agency shall make such records available, including by computer telecommunications or, if computer telecommunications means have not been established by the agency, by other electronic means. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, staff manual, instruction, or copies of records referred to in subparagraph (D). However, in each case the justification for the deletion shall be explained fully in writing, and the extent of such deletion shall be indicated on the portion of the record which is made available or published, unless including that indication would harm an interest protected by the exemption in subsection (b) under which the deletion is made. If technically feasible, the extent of the deletion shall be indicated at the place in the record where the deletion was made. Each agency shall also maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published. Each agency shall promptly publish, quarterly or more frequently, and distribute (by sale or otherwise) copies of each index or supplements thereto unless it determines by order published in the Federal Register that the publication would be unnecessary and impracticable, in which case the agency shall nonetheless provide copies of such index on request at a cost not to exceed the direct cost of duplication. Each agency shall make the index referred to in subparagraph (E) available by computer telecommunications by December 31, 1999. A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency only if—

(i) it has been indexed and either made available or published as provided by this paragraph; or

(ii) the party has actual and timely notice of the terms thereof.

The U.S Supreme Court in Chrysler v. Brown, 441 U.S. 281 (1979), established the meaning of a "substantive rule" or "substantive regulation". By "force and effect of law", they mean law that can be enforced against those who are subject to it:

> ***In order for a regulation to have the "force and effect of law," it must have certain substantive characteristics and be the product of certain procedural requisites.*** *The central distinction among agency regulations found in the APA is that between "substantive rules" on the one hand and "interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice" on the other.*[15] ***A "substantive*302 rule" is not defined in the APA, and other authoritative sources essentially offer definitions by negative inference.***[16] ***But in Morton v. Ruiz, 415 U.S. 199, 94 S.Ct. 1055, 39 L.Ed.2d. 270 (1974), we **1718 noted a characteristic inherent in the concept of a "substantive rule." We described a substantive rule-or a "legislative-type rule," id., at 236, 94 S.Ct., at 1074-as one "affecting individual rights and obligations." Id., at 232, 94 S.Ct., at 1073. This characteristic is an important touchstone for distinguishing those rules that may be "binding" or have the "force of law." Id., at 235, 236, 94 S.Ct., at 1074.***
>
> ***That an agency regulation is "substantive," however, does not by itself give it the "force and effect of law."*** *The legislative power of the United States is vested in the Congress, and the exercise of quasi-legislative authority by governmental departments and agencies must be rooted in a grant of such power by the Congress and subject to limitations which that body imposes. As this Court noted in Batterton v. Francis, 432 U.S. 416, 425 n. 9, 97 S.Ct. 2399, 2405 n. 9, 53 L.Ed.2d. 448 (1977):*

[15] 5 U.S.C. §§ 553(b), (d).

[16] Neither the House nor Senate Report attempted to expound on the distinction. In prior cases, we have given some weight to the Attorney General's Manual on the Administrative Procedure Act (1947), since the Justice Department was heavily involved in the legislative process that resulted in the Act's enactment in 1946. See *Vermont Yankee Nuclear Power Corp. v. Natural Resources Defense Council, Inc.*, 435 U.S. 519, 546, 98 S.Ct. 1197, 1213, 55 L.Ed.2d. 460 (1978); *Power Reactor Co. v. Electricians*, 367 U.S. 396, 408, 81 S.Ct. 1529, 1535, 6 L.Ed.2d. 924 (1961); *United States v. Zucca*, 351 U.S. 91, 96, 76 S.Ct. 671, 674, 100 L.Ed. 964 (1956). The Manual refers to substantive rules as rules that "implement" the statute. "Such rules have the force and effect of law." Manual, *supra*, at 30 n. 3. In contrast it suggests that "interpretive rules" and "general statements of policy" do not have the force and effect of law. Interpretive rules are "issued by an agency to advise the public of the agency's construction of the statutes and rules which it administers." *Ibid.* General statements of policy are "statements issued by an agency to advise the public prospectively of the manner in which the agency proposes to exercise a discretionary power." *Ibid.* See also Final Report of Attorney General's Committee on Administrative Procedure 27 (1941).

*"Legislative, or substantive, regulations are 'issued by an agency pursuant to statutory authority and . . . implement*303 the statute, as, for example, the proxy rules issued by the Securities and Exchange Commission. . . . Such rules have the force and effect of law.' "* [17]

Likewise the promulgation of these regulations must conform with any procedural requirements imposed by Congress. Morton v. Ruiz, supra, 415 U.S. at 232, 94 S.Ct. at 1073. For agency discretion is limited not only by substantive, statutory grants of authority, but also by the procedural requirements which "assure fairness and mature consideration of rules of general application." NLRB v. Wyman-Gordon Co., 394 U.S. 759, 764, 89 S.Ct. 1426, 1429, 22 L.Ed.2d. 709 (1969). The pertinent procedural limitations in this case are those found in the APA.

[Chrysler v. Brown, 441 U.S. 281, 301-303 (1979)]

6.1.2 31 C.F.R. §1.3(a): Requires "substantive rules" (enforceable law) to be published in Federal Register

Title 31: Money and Finance: Treasury
PART 1—DISCLOSURE OF RECORDS
Subpart A—Freedom of Information Act
§ 1.3 Publication in the Federal Register.

(a) Requirement. Subject to the application of the exemptions and exclusions in 5 U.S.C. 552(b) and (c) and subject to the limitations provided in 5 U.S.C. 552(a)(1), each Treasury bureau shall, in conformance with 5 U.S.C. 552(a)(1), separately state, publish and maintain current in the Federal Register for the guidance of the public the following information with respect to that bureau:

(1) Descriptions of its central and field organization and the established places at which, the persons from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(2) Statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(3) Rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(4) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the bureau; and

(5) Each amendment, revision, or repeal of matters referred to in paragraphs (a)(1) through (4) of this section.

(b) The United States Government Manual. The functions of each bureau are summarized in the description of the Department and its bureaus in the United States Government Manual, which is issued annually by the Office of the Federal Register.

6.1.3 44 U.S.C. §1505(a): Federal Register Act: Requirement to Publish in Federal Register and exempts federal agencies, officers, agents, or employees

The Federal Register Act establishes the requirement to publish in the Federal Register. It says that all laws and regulations that may impose a penalty MUST be published in the Federal Register:

TITLE 44 > CHAPTER 15 > § 1505
§ 1505. Documents to be published in Federal Register

(a) Proclamations and Executive Orders; Documents Having General Applicability and Legal Effect; Documents Required To Be Published by Congress. There shall be published in the Federal Register—

*(1) Presidential proclamations and Executive orders, **except those not having general applicability and legal effect or effective only against Federal agencies or persons in their capacity as officers, agents, or employees thereof;***

*(2) documents or classes of documents that the President may determine from time to time have **general applicability and legal effect**; and*

[17] Quoting Attorney General's Manual on the Administrative Procedure Act, *supra*, at 30 n. 3.

(3) documents or classes of documents that may be required so to be published by Act of Congress.

For the purposes of this chapter every document or order which prescribes a penalty has general applicability and legal effect.

Note the groups exempted by this regulation include the following from 44 U.S.C. §1505(a)(1):

1. Applicable only to federal agencies or persons in their capacity as officers, agents, or employees of the U.S. government.
2. Do not have enforcement or penalty provisions.

6.1.4 5 U.S.C. §553(a): Administrative Procedure Act: Exempts military, foreign affairs, or federal agencies from publication requirement

TITLE 5 > PART I > CHAPTER 5 > SUBCHAPTER II > § 553
§ 553. Rule making

(a) This section applies, according to the provisions thereof, except to the extent that there is involved—

*(1) **a military or foreign affairs function of the United States; or***

*(2) **a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts.***

6.2 Procedural rules and regulations

Procedural rules are regulations which only affect policies and procedures internal to a government agency. An example of procedural rules are regulations written to implement some (but not all) parts of Subtitle F of the Internal Revenue Code, which is entitled "Procedures and Administration". All such regulations are exempt from the requirement for publication in the Federal Register.

Finally, §553(b)(A) [of U.S.C. Title 5] permits agencies to issue procedural rules without prior notice. This exemption reflects "the congressional judgment that such rules, because they do not directly guide public conduct, do not merit the administrative burdens of public input proceedings.
[Administrative Law and Process in a Nutshell, Ernest Gellhorn, 1990, West Publishing, p. 307]

6.3 Statutory "U.S. persons" domiciled on federal territory

Persons domiciled in areas within the exclusive/plenary jurisdiction of the national government are not protected by the Bill of Rights, which is the first ten amendments to the United States Constitution. These people are collectively called "U.S. persons" and are defined in 26 U.S.C. §7701(a)(30). Parties domiciled within a state of the Union are NOT STATUTORY "U.S. persons" as legally defined, but instead are classified as STATUTORY "non-resident non-persons" if not engaged in a public office or "nonresident aliens" as defined in 26 U.S.C. §7701(b)(1)(B) if engaged in a public office. The U.S. Supreme Court hinted at this dichotomy when it said:

*"Indeed, the practical interpretation put by Congress upon the Constitution has been long continued and uniform to the effect [182 U.S. 244, 279] that **the Constitution is applicable to territories acquired by purchase or conquest, only when and so far as Congress shall so direct. Notwithstanding its duty to 'guarantee to every state in this Union a republican form of government' (art. 4, 4), by which we understand, according to the definition of Webster, 'a government in which the supreme power resides in the whole body of the people, and is exercised by representatives elected by them,' Congress did not hesitate, in the original organization of the territories of Louisiana, Florida, the Northwest Territory, and its subdivisions of Ohio, Indiana, Michigan, Illinois, and Wisconsin and still more recently in the case of Alaska, to establish a form of government bearing a much greater analogy to a British Crown colony than a republican state of America**, and to vest the legislative power either in a governor and council, or a governor and judges, to be appointed by the President. It was not until they had attained a certain population that power was given them to organize a legislature by vote of the people. In all these cases, as well as in territories subsequently organized west of the Mississippi, Congress thought it necessary either to extend to Constitution and laws of the United States over them, or to declare that the inhabitants should be entitled to enjoy the right of trial by jury, of bail, and of the privilege of the writ of habeas corpus, as well as other privileges of the bill of rights."*
[Downes v. Bidwell, 182 U.S. 244 (1901)]

Because "U.S. persons" are domiciled where there are no constitutional protections, then they are not entitled to "due process of law". Nearly all "taxpayers" under the Internal Revenue Code, for instance, maintain a domicile within this area, which we call "the federal zone". This may explain why the U.S. Supreme Court confirmed below that it has never defined a requirement for "due process" in the assessment or collection of taxes: because "taxpayers" are persons who have no Constitutional rights because they voluntarily forfeited them in the process of procuring government "privileges":

> *"Exactly what due process of law requires in the assessment and collection of general taxes has never been decided by this court, although we have had frequent occasion to hold that, in proceedings for the condemnation of land under the laws of eminent domain, or for the imposition of special taxes for local improvements, notice to the owner at some stage of the proceedings, as well as an opportunity to defend, is essential. [Cites omitted.] But laws for the assessment and collection of general taxes stand upon a somewhat different footing, and are construed with the utmost liberality, sometimes even to the extent of holding that no notice whatever is necessary. Due process of law was well defined by Mr. Justice Field in Hagar v. Reclamation Dist., No. 108, 111 U.S. 701, 28 L.Ed. 569, 4 Sup.Ct.Rep. 663, in the following words: "It is sufficient to observe here, that by 'due process' is meant one which, following the forms of law, is appropriate to the case, and just to the parties to be affected. It must be pursuant in the ordinary mode prescribed by the law; it must be adapted to the end to be attained; and wherever it is necessary for the protection of the parties, it must give them an opportunity to be heard respecting the justice of the judgment sought. The clause in question means, therefore, that there can be no proceeding against life, liberty, or property which may result in deprivation of either, without the observance of those general rules established in our system of jurisprudence for the security of private rights."*
>
> *Under the Fourth Amendment, the legislature is bound to provide a method for the assessment and collection of taxes that shall not be inconsistent with natural justice; but it is not bound to provide that the particular steps of a procedure for the collection of such taxes shall be proved by written evidence; and it may properly impose upon the taxpayer the burden of showing that in a particular case the statutory method was not observed."*
> *[Turpin v. Lemon, 187 U.S. 51; 23 S.Ct. 20 (1902)]*

6.4 "Franchisees" exempted from publication requirement[18]

The requirement for "reasonable notice" is an important component of "due process of law". This section will establish that those who participate in federal franchises and thereby become "public officers" within the government are not entitled to due process of law, and therefore are also not entitled to "reasonable notice".

"Due process of law" is defined as follows:

> ***Due process of law***. *Law in its regular course of administration through courts of justice. Due process of law in each particular case means such an exercise of the powers of the government as the settled maxims of law permit and sanction, and* ***under such safeguards for the protection of individual rights as those maxims prescribe for the class of cases to which the one in question belongs.*** *A course of legal proceedings according to those rules and principles which have been established in our systems of jurisprudence* ***for the enforcement and protection of private rights.*** *To give such proceedings any validity, there must be a tribunal competent by its constitution—that is, by the law of the creation—to pass upon the subject-matter of the suit; and, if that involves merely a determination of the personal liability of the defendant, he must be brought within its jurisdiction by service of process within the state, or his voluntary appearance. Pennoyer v. Neff, 95 U.S. 714, 24 L.Ed. 565. Due process of law implies the right of the person affected thereby to be present before the tribunal which pronounces judgment upon the question of life, liberty, or property, in its most comprehensive sense; to be heard, by testimony or otherwise, and to have the right of controverting, by proof, every material fact which bears on the question of right in the matter involved.* ***If any question of fact or liability be conclusively be presumed [rather than proven] against him, this is not due process of law.***
>
> *An orderly proceeding wherein a person with notice, actual or constructive, and has an opportunity to be heard and to enforce and protect his rights before a court having the power to hear and determine the case. Kazubowski v. Kazubowski, 45 Ill.2d. 405, 259 N.E.2d. 282, 290. Phrase means that no person shall be deprived of life, liberty, property or of any right granted him by statute, unless matter involved first shall have been adjudicated against him upon trial conducted according to established rules regulating judicial proceedings, and it forbids condemnation without a hearing. Pettit v. Penn, LaApp., 180 So.2d. 66, 69. The concept of "due process of law" as it is embodied in the Fifth Amendment demands that a law shall not be unreasonable, arbitrary, or capricious and that the means selected shall have a reasonable and substantial relation to the object being sought. U.S. v. Smith, D.C.Iowa, 249 F.Supp. 515, 516. Fundamental requisite of "due process of law" is the opportunity to be heard, to be aware that a matter is pending, to make an informed choice whether to acquiesce or contest, and to assert before the appropriate decision-making body the reasons for such choice. Trinity Episcopal Corp. v. Romney, D.C.N.Y., 387 F.Supp. 1044, 1084. Aside from all else, "due process" means fundamental fairness and substantial justice. Vaughn v. State, 3 Tenn.Crim.App. 54, 456 S.W.2d 879, 883.*

[18] Adapted from *Government Instituted Slavery Using Franchises*, Form #05.030, Section 16.4; http://sedm.org/Forms/FormIndex.htm.

> ***Embodied in the due process concept are the basic rights of a defendant in criminal proceedings and the requisites for a fair trial.*** *These rights and requirements have been expanded by Supreme Court decisions and include, timely notice of a hearing or trial which informs the accused of the charges against him or her; the opportunity to confront accusers and to present evidence on one's own behalf before an impartial jury or judge; the presumption of innocence under which* ***guilt must be proven by legally obtained evidence*** *and the verdict must be supported by the evidence presented; rights at the earliest stage of the criminal process; and the guarantee that an individual will not be tried more than once for the same offence (double jeopardy).*
> *[Black's Law Dictionary, Sixth Edition, p. 500]*

As indicated above, the purpose of due process of law is:

1. To protect rights identified within but not granted by the Constitution of the United States.

> *"**The rights of individuals and the justice due to them, are as dear and precious as those of states.** Indeed the latter are founded upon the former; and the great end and object of them must be to secure and support the rights of individuals, or else vain is government."*
> *[Chisholm v. Georgia, 2 U.S. (2 Dall.) 419, 1 L.Ed. 440 (1793)]*

2. To protect private rights but not public rights. Those engaged in any of the following are not exercising private rights, but public rights:
   2.1. Government franchises.

Government Instituted Slavery Using Franchises, Form #05.030 http://sedm.org/Forms/FormIndex.htm

   2.2. Government "benefits". See:

The Government "Benefits" Scam, Form #05.040 http://sedm.org/Forms/FormIndex.htm

   2.3. Public office.
   2.4. "trade or business", which is defined in 26 U.S.C. §7701(a)(26) as "the functions of a public office".
   2.5. Licensed activities, which are franchises.
3. To prevent litigants before a court of being deprived of their property by the court or their opponent without just compensation. In law, all rights are property and any deprivation of rights without consideration is a deprivation of property in violation of the Fifth Amendment takings clause. Those who violate due process essentially are STEALING from their opponent.

> *"Men are endowed by their Creator with certain unalienable rights,-'life, liberty, and the pursuit of happiness;' and to 'secure,' not grant or create, these rights, governments are instituted.* ***That property [or income] which a man has honestly acquired he retains full control of, subject to these limitations: First, that he shall not use it to his neighbor's injury,*** ***and that does not mean that he must use it for his neighbor's benefit [e.g. SOCIAL SECURITY, Medicare, and every other public "benefit"];*** ***second, that if he devotes it to a public use, he gives to the public a right to control that use; and third, that whenever the public needs require, the public may take it upon payment of due compensation."***
> *[Budd v. People of State of New York, 143 U.S. 517 (1892)]*

4. Prevent presumptions, and especially conclusive presumptions, that may injure the rights of the litigants by insisting that only physical evidence with foundational testimony may form the basis for any inferences by the court or the jury.

> ***"If any question of fact or liability be conclusively be presumed [rather than proven] against him, this is not due process of law."***
> *[Black's Law Dictionary, Sixth Edition, p. 500]*

> *(1) [8:4993]* ***Conclusive presumptions affecting protected interests:***
>
> *A conclusive presumption may be defeated where its application would impair a party's constitutionally-protected liberty or property interests. In such cases, conclusive* ***presumptions have been held to violate a party's due process and equal protection rights.*** *[Vlandis v. Kline (1973) 412 U.S. 441, 449, 93 S.Ct 2230, 2235; Cleveland Bed. of Ed. v. LaFleur (1974) 414 US 632, 639-640, 94 S.Ct. 1208, 1215-presumption under Illinois law that unmarried fathers are unfit violates process]*
> *[Federal Civil Trials and Evidence, Rutter Group, paragraph 8:4993, p. 8K-34]*

From the above, we can see that if the controversy being litigated involves a franchise, which means a public and not private right, then those representing the "public office" personified by the franchise:

1. Are NOT entitled to due process of law in a constitutional sense because public offices are domiciled on federal territory not protected by the constitution. As an example, see the following holding of the Supreme Court, in which the "trade or business" franchise was at issue. The reason the U.S. Supreme Court in Turpin below had never ruled on "due process" in the context of tax collection up to that time should be obvious: Income taxation is a franchise and a public right, rather than a private right:

> ***"Exactly what due process of law requires in the assessment and collection of general taxes has never been decided by this court**, although we have had frequent occasion to hold that, in proceedings for the condemnation of land under the laws of eminent domain, or for the imposition of special taxes for local improvements, notice to the owner at some stage of the proceedings, as well as an opportunity to defend, is essential. [Cites omitted.] **But laws for the assessment and collection of general taxes stand upon a somewhat different [meaning statutory rather than constitutional] footing, and are construed with the utmost liberality, sometimes even to the extent of holding that no notice whatever is necessary.** Due process of law was well defined by Mr. Justice Field in Hagar v. Reclamation Dist., No. 108, 111 U.S. 701, 28 L.Ed. 569, 4 Sup.Ct.Rep. 663, in the following words: "It is sufficient to observe here, that by 'due process' is meant one which, following the forms of law, is appropriate to the case, and just to the parties to be affected. It must be pursuant in the ordinary mode prescribed by the law; it must be adapted to the end to be attained; and wherever it is necessary for the protection of the parties, it must give them an opportunity to be heard respecting the justice of the judgment sought. The clause in question means, therefore, that there can be no proceeding against life, liberty, or property which may result in deprivation of either, without the observance of those general rules established in our system of jurisprudence for the security of private rights."*
>
> *Under the Fourth Amendment, the legislature is bound to provide a method for the assessment and collection of taxes that shall not be inconsistent with natural justice; but it is not bound to provide that the particular steps of a procedure for the collection of such taxes shall be proved by written evidence; and it may properly impose upon the taxpayer the burden of showing that in a particular case the statutory method was not observed."*
> *[Turpin v. Lemon, 187 U.S. 51, 23 S.Ct. 20 (1902)]*
>
> ---
>
> *"**We can hardly find a denial of due process in these circumstances, particularly since it is even doubtful that appellee's burdens under the program outweigh his benefits. It is hardly lack of due process for the Government to regulate that which it subsidizes.**"*
> *[Wickard v. Filburn, 317 U.S. 111, 63 S.Ct. 82 (1942)]*

2. Are subject to the arbitrary whims of whatever bureaucrat administers the franchise and may not pursue recourse in a true, constitutional Article III court. Instead, their case must be heard in an Article IV territorial franchise court, because the case involves public property. All franchises are public property of the grantor, which is the government.

> ***"These general rules are well settled: (1) That the United States, when it creates rights in individuals against itself [a "public right", which is a euphemism for a "franchise" to help the court disguise the nature of the transaction], is under no obligation to provide a remedy through the courts.** United States ex rel. Dunlap v. Black, 128 U.S. 40, 9 Sup.Ct. 12, 32 L.Ed. 354; Ex parte Atocha, 17 Wall. 439, 21 L.Ed. 696; Gordon v. United States, 7 Wall. 188, 195, 19 L.Ed. 35; De Groot v. United States, 5 Wall. 419, 431, 433, 18 L.Ed. 700; Comegys v. Vasse, 1 Pet. 193, 212, 7 L.Ed. 108. (2) That where a statute creates a right and provides a special remedy, that remedy is exclusive. Wilder Manufacturing Co. v. Corn Products Co., 236 U. S. 165, 174, 175, 35 Sup.Ct. 398, 59 L.Ed. 520, Ann. Cas. 1916A, 118; Arnson v. Murphy, 109 U. S. 238, 3 Sup.Ct. 184, 27 L.Ed. 920; Barnet v. National Bank, 98 U. S. 555, 558, 25 L.Ed. 212; Farmers' & Mechanics' National Bank v. Dearing, 91 U.S. 29, 35, 23 L.Ed. 196. Still the fact that the right and the remedy are thus intertwined might not, if the provision stood alone, require us to hold that the remedy expressly given excludes a right of review by the Court of Claims, where the decision of the special tribunal involved no disputed question of fact and the denial of compensation was rested wholly upon the construction of the act. See Medbury v. United States, 173 U. S. 492, 198, 19 Sup.Ct. 503, 43 L.Ed. 779; Parish v. MacVeagh, 214 U. S. 124, 29 Sup.Ct. 556, 53 L.Ed. 936; McLean v. United States, 226 U.S. 374, 33 Sup.Ct. 122, 57 L.Ed. 260; United States v. Laughlin (No. 200), 249 U. S. 440, 39 Sup.Ct. 340, 63 L.Ed. 696, decided April 14, 1919. But here Congress has provided:*
> *[U.S. v. Babcock, 250 U.S. 328, 39 S.Ct. 464 (1919)]*

3. Should not be arguing that due process of law has been violated, unless:
   3.1. They have stated under penalty of perjury that the controversy does not involve a franchise.
   3.2. They have stated under penalty of perjury that they are not representing a public officer nor acting as a public officer in the context of the proceeding.

3.3. They have rebutted all evidence that might connect them to the franchise, such as government identifying numbers, statutory "citizen" or resident status, and all information returns (e.g. IRS Forms 1042-s, 1098, 1099, and W-2).

3.4. They have evidence to show that they do not consent to receive any of the "benefits" of the franchise. The following form ensures this, if attached to all tax forms you fill out:

Tax Form Attachment, Form #04.201 http://sedm.org/Forms/FormIndex.htm

3.5. They were not domiciled on federal territory at the time and therefore were not eligible to participate in the franchise.

6.5 Emergency measures to protect the public

Although prior notice of threatened adverse action is generally required, there are some exceptions to this principle. Most involve a demonstrated need for immediate action to protect the public from serious harm. An example may be found in 44 U.S.C. §1505(c), in which the President may temporarily waive the requirement for publication in the Federal Register in the event of an attack or threatened attack on the Continental U.S.:

> *TITLE 44 > CHAPTER 15 > § 1505*
> *§ 1505. Documents to be published in Federal Register*
>
> *(c) Suspension of Requirements for Filing of Documents; Alternate Systems for Promulgating, Filing, or Publishing Documents; Preservation of Originals. In the event of an attack or threatened attack upon the continental United States and a determination by the President that as a result of an attack or threatened attack—*
>
> *(1) publication of the Federal Register or filing of documents with the Office of the Federal Register is impracticable, or*
>
> *(2) under existing conditions publication in the Federal Register would not serve to give appropriate notice to the public of the contents of documents, the President may, without regard to any other provision of law, suspend all or part of the requirements of law or regulation for filing with the Office or publication in the Federal Register of documents or classes of documents.*
>
> *The suspensions shall remain in effect until revoked by the President, or by concurrent resolution of the Congress. The President shall establish alternate systems for promulgating, filing, or publishing documents or classes of documents affected by such suspensions, including requirements relating to their effectiveness or validity, that may be considered under the then existing circumstances practicable to provide public notice of the issuance and of the contents of the documents. The alternate systems may, without limitation, provide for the use of regional or specialized publications or depositories for documents, or of the press, the radio, or similar mediums of general communication. Compliance with alternate systems of filing or publication shall have the same effect as filing with the Office or publication in the Federal Register under this chapter or other law or regulation. With respect to documents promulgated under alternate systems, each agency shall preserve the original and two duplicate originals or two certified copies for filing with the Office when the President determines that it is practicable.*

Thus, pre-hearing seizures of potentially dangerous or mislabeled consumer products have been upheld. Ewing v. Mytinger, & Casselberry, Inc., 339 U.S. 594 (1950); North American Cold Storage Co. v. Chicago, 211 U.S. 306 (1908). Serious financial risks to the public or to the government's revenues may also justify summary action. See, e.g., FDIC v. Mallen, 486 U.S. 230 (1988) (upholding statute providing for summary suspension of bank officer who has been indicted for a felony involving dishonesty);Phillips v. Commissioner, 283 U.S. 589 (1931) (summary seizure of taxpayer's property to assure payment of taxes upheld against due process challenge). Even a threat to the integrity of state-sanctioned wagering on horse races has been held sufficient to justify summary suspension of the license of a trainer suspected of drugging horses. Barry v. Barchi, 443 U.S. 55 (1979).

In Barchi, the Court added an important qualification: due process required a prompt post-suspension hearing, so that the horse trainer would have a reasonable opportunity to clear his name and the deprivation would not be unnecessarily prolonged. However, the state in that case had not attempted to justify its failure to grant a prompt hearing; and in subsequent cases, where government interest have been more clearly articulated, the Court has been reluctant to extend the Barchi holding. For example, in Mallen, the Court held that a ninety day wait between the bank officer's request for a hearing and the final decision would not necessarily violate due process, because of the public's strong interest in having the agency reach a well-considered decision about whether to reinstate him. Thus, the question of how quickly an agency must proceed with adjudication following a summary action depends on a careful weighing of competing interests. See United States v. $8,850 in U.S. Currency, 461 U.S. 555 (1983) (applying balancing test to delay in filing of proceedings for forfeiture of illegally

imported currency). Even a nine-months wait for adjudication to run its course is not necessarily too lengthy. Cleveland Board of Education v. Loudermill, 470 U.S. 532 (1985) (no unconstitutional delay in decision on whether to reinstate suspended public employee).

7 How Public Servants Unlawfully Interfere with the Constitutional Requirement for Reasonable Notice

7.1 Franchises

Throughout our website, we identify government franchises as the main tool for destroying constitutional rights. By "franchises", we mean the following:

> *FRANCHISE. **A special privilege conferred by government on individual or corporation, and which does not belong to citizens of country generally of common right.** Elliott v. City of Eugene, 135 Or. 108, 294 P. 358, 360. In England it is defined to be a royal privilege in the hands of a subject.*
>
> *A "franchise," as used by Blackstone in defining quo warranto, (3 Com. 262 [4th Am. Ed.] 322), had reference to a royal privilege or branch of the king's prerogative subsisting in the hands of the subject, and must arise from the king's grant, or be held by prescription, but today we understand a franchise to be some special privilege conferred by government on an individual, natural or artificial, which is not enjoyed by its citizens in general. State v. Fernandez, 106 Fla. 779, 143 So. 638, 639, 86 A.L.R. 240.*
>
> ***In this country a franchise is a privilege or immunity of a public nature, which cannot be legally exercised without legislative grant. To be a corporation is a franchise.** The various powers conferred on corporations are franchises. The execution of a policy of insurance by an insurance company **[e.g. Social Insurance/Socialist Security]**, and the issuing a bank note by an incorporated bank **[such as a Federal Reserve NOTE]**, are franchises. People v. Utica Ins. Co.. 15 Johns., N.Y., 387, 8 Am.Dec. 243. But it does not embrace the property acquired by the exercise of the franchise. Bridgeport v. New York & N. H. R. Co., 36 Conn. 255, 4 Arn.Rep. 63. Nor involve interest in land acquired by grantee. Whitbeck v. Funk, 140 Or. 70, 12 P.2d. 1019, 1020. **In a popular sense, the political rights of subjects and citizens are franchises, such as the right of suffrage. etc. Pierce v. Emery, 32 N.H. 484; State v. Black Diamond Co., 97 Ohio.St. 24, 119 N.E. 195, 199, L.R.A. 1918E, 352.***
>
> *Elective Franchise. The right of suffrage: the right or privilege of voting in public elections.*
>
> *Exclusive Franchise. See Exclusive Privilege or Franchise.*
>
> *General and Special. The charter of a corporation is its "general" franchise, while a "special" franchise consists in any rights granted by the public to use property for a public use but-with private profit. Lord v. Equitable Life Assur. Soc., 194 N.Y. 212, 81 N.E. 443, 22 L.R.A.,N.S., 420.*
>
> *Personal Franchise. A franchise of corporate existence, or one which authorizes the formation and existence of a corporation, is sometimes called a "personal" franchise. as distinguished from a "property" franchise, which authorizes a corporation so formed to apply its property to some particular enterprise or exercise some special privilege in its employment, as, for example, to construct and operate a railroad. See Sandham v. Nye, 9 Misc.Rep. 541, 30 N.Y.S. 552.*
>
> *Secondary Franchises. The franchise of corporate existence being sometimes called the "primary" franchise of a corporation, its "secondary" franchises are the special and peculiar rights, privileges, or grants which it may, receive under its charter or from a municipal corporation, such as the right to use the public streets, exact tolls, collect fares, etc. State v. Topeka Water Co., 61 Kan. 547, 60 P. 337; Virginia Canon Toll Road Co. v. People, 22 Colo. 429, 45 P. 398 37 L.R.A. 711. The franchises of a corporation are divisible into (1) corporate or general franchises; and (2) "special or secondary franchises. The former is the franchise to exist as a corporation, while the latter are certain rights and privileges conferred upon existing corporations. Gulf Refining Co. v. Cleveland Trust Co., 166 Miss. 759, 108 So. 158, 160.*
>
> *Special Franchisee. See Secondary Franchises, supra.*
> *[Black's Law Dictionary, Fourth Edition, pp. 786-787]*

For a complete definition of "franchise", see the *SEDM Website Disclaimer*, Section 4: Meaning of Words at https://sedm.org/disclaimer.htm.

As we prove in Form #05.030, all government franchises are based upon temporary loans of government property to the participant with legal strings, meaning "obligations", attached. The things that make such franchises insidious and evil are that:

1. The government is not obligated to notify you when or if you are engaging in a strictly commercial transaction or "sale" when you deal with them. All such transactions are in effect private business activity designed to take as much of your property as they can, that should be identified as such.
2. The government is not required to disclose that it is acting effectively as a "Merchant" (U.C.C. §2-104(1)) and you as the "Buyer" (U.C.C. §2-103(1)(a)) under the U.C.C.
3. The government is not obligated to explicitly disclose that what it is giving you as "property" as legally defined and that it is a SALE, instead of a GIFT. You in effect are PROCURING government property with either your money or your services of some kind.
4. The government is not obligated to warn you that what they are giving you continues to be their property after you receive it, and thus, that they can regulate you using the property.
5. The government is not obligated to warn you that by accepting or using the property, you have in effect consented to all the legal obligations associated with doing so.
6. The government isn't required to provide a way to AVOID any implied obligations that attach to the loan of property they are giving you or you are requesting.
7. If you, as someone who has been studying the law, confront the clerk offering you a government service about the above, they will always claim legal ignorance and even claim that you can't trust anything they say on the subject.
8. Even if the government admitted any of the above in its publications or forms offering the program, the courts have held that you can't trust ANYTHING the government says or publishes about ANYTHING!

Legal Deception, Propaganda, and Fraud, Form #05.014
https://sedm.org/Forms/FormIndex.htm

Caveat emptor! You better learn the law or you are GUARANTEED to fall prey to the predatory tactics of your de facto government. Below is the proof of the above:

> *"How, then, are purely equitable obligations created? For the most part, either by the acts of third persons or by equity alone.* ***But how can one person impose an obligation upon another? By giving property to the latter on the terms of his assuming an obligation in respect to it. At law there are only two means by which the object of the donor could be at all accomplished, consistently with the entire ownership of the property passing to the donee, namely: first, by imposing a real obligation upon the property; secondly, by subjecting the title of the donee to a condition subsequent.*** *The first of these the law does not permit; the second is entirely inadequate. Equity, however, can secure most of the objects of the doner, and yet avoid the mischiefs of real obligations by imposing upon the donee (and upon all persons to whom the property shall afterwards come without value or with notice)* ***a personal obligation with respect to the property; and accordingly this is what equity does.*** *It is in this way that all trusts are created, and all equitable charges made (i.e., equitable hypothecations or liens created) by testators in their wills. In this way, also, most trusts are created by acts inter vivos, except in those cases in which the trustee incurs a legal as well as an equitable obligation.* ***In short, as property is the subject of every equitable obligation, so the owner of property is the only person whose act or acts can be the means of creating an obligation in respect to that property. Moreover, the owner of property can create an obligation in respect to it in only two ways: first, by incurring the obligation himself, in which case he commonly also incurs a legal obligation; secondly, by imposing the obligation upon some third person; and this he does in the way just explained."***
> *[Readings on the History and System of the Common Law, Second Edition, Roscoe Pound, 1925, p. 543]*

> ***"When Sir Matthew Hale, and the sages of the law in his day, spoke of property as affected by a public interest, and ceasing from that cause to be juris privati solely, that is, ceasing to be held merely in private right, they referred to***
>
> ***[1] property dedicated [DONATED] by the owner to public uses, or***
> ***[2] to property the use of which was granted by the government [e.g. Social Security Card], or***
> ***[3] in connection with which special privileges were conferred [licenses].***
>
> ***Unless the property was thus dedicated [by one of the above three mechanisms], or some right bestowed by the government was held with the property, either by specific grant or by prescription of so long a time as to imply a grant originally, the property was not affected by any public interest so as to be taken out of the category of property held in private right."***
> *[Munn v. Illinois, 94 U.S. 113, 139-140 (1876)]*

"The State in such cases exercises no greater right than an individual may exercise over the use of his own property when leased or loaned to others. The conditions upon which the privilege shall be enjoyed being stated or implied in the legislation authorizing its grant, no right is, of course, impaired by their enforcement. The recipient of the privilege, in effect, stipulates to comply with the conditions. It matters not how limited the privilege conferred, its acceptance implies an assent to the regulation of its use and the compensation for it."
[Munn v. Illinois, 94 U.S. 113 (1876)]

Note the key language in the last quote above:

> ***"The recipient of the privilege, in effect, stipulates to comply with the conditions. It matters not how limited the privilege conferred, its acceptance implies an assent to the regulation of its use and the compensation for it."***

To "stipulate" is to AGREE or CONSENT! What they are identifying above is called "implied consent". We also call it "invisible consent". The consent is not explicit but IMPLICIT. It can be given without even knowing that it is BEING given or HAS already been given!

> *"Implied consent. That manifested by signs, actions, or facts, **or by inaction or silence**, which raise a presumption that the consent has been given. For example, when a corporation does business in a state it impliedly consents to be subject to the jurisdiction of that state's courts in the event of tortious conduct, even though it is not incorporated in that state. Most every state has a statute implying the consent of one who drives upon its highways to submit to some type of scientific test or tests measuring the alcoholic content of the driver's blood. In addition to implying consent, these statutes usually provide that if the result of the test shows that the alcohol content exceeds a specified percentage, then a rebuttable presumption of intoxication arises."*
> *[Black's Law Dictionary, Fifth Edition, pp. 276-277]*

> *CALIFORNIA CIVIL CODE*
> *DIVISION 3. OBLIGATIONS*
> *PART 2. CONTRACTS*
> *CHAPTER 3. CONSENT*
> *Section 1589*
>
> *1589. A voluntary acceptance of the benefit of a transaction is equivalent to a consent to all the obligations arising from it, so far as the facts are known, or ought to be known, to the person accepting.*

> *"SUB SILENTIO. Under silence; without any notice being taken. Passing a thing sub silentio may be evidence of consent"*
> *[Black's Law Dictionary, Fourth Edition, p. 1593]*
>
> *"Qui tacet consentire videtur.*
> *He who is silent appears to consent. Jenk. Cent. 32."*
> *[Bouvier's Maxims of Law, 1856;*
> *SOURCE: http://famguardian.org/Publications/BouvierMaximsOfLaw/BouviersMaxims.htm]*

What other private business can contract with you so implicitly and so deviously? Why do judges allow this type of commercial business by any government? It ought to be illegal and even criminal. We cover the subject of implied consent in the following:

Requirement for Consent, Form #05.003, Sections 5.3 and 8.11.6 https://sedm.org/Forms/FormIndex.htm

So how does one AVOID incurring any legal "obligations" in the loan of "property", privileges, "benefits", exemptions, or immunities of any kind? Here are the ONLY ways that we know of:

1. Read and thoroughly understand what a legal "obligation" is and how to avoid them.

Lawfully Avoiding Government Obligations Course, Form #12.040 https://sedm.org/Forms/FormIndex.htm

2. Be aware of all the very devious traps on government forms designed to procure your "implied consent":

Avoiding Traps in Government Forms Course, Form #12.023 https://sedm.org/Forms/FormIndex.htm

3. If you are filling out a government application, then include a mandatory attachment defining all terms on the form to EXCLUDE any and all loans or gifts of government property. You can probably find an attachment for your specific circumstance below:

SEDM Forms/Pubs Page, Section 1.6: Avoiding Government Franchises https://sedm.org/Forms/FormIndex.htm

4. Identify the interaction as one where YOU are the Merchant, and they are the Buyer, rather than the other way around.
5. Because you are the Merchant, then you get to make ALL the rules for the interaction.
6. Attach or reference the rules for the interaction, which in the case of Members is the following:

Injury Defense Franchise and Agreement, Form #06.027 https://sedm.org/Forms/FormIndex.htm

More on the above tactics can be found in:

Path to Freedom, Form #09.015, Section 5 https://sedm.org/Forms/FormIndex.htm

The approach described in this section is also described in the Bible:

> ***"You shall make no covenant [contract or franchise] with them [foreigners, pagans], nor with their [pagan government] gods [laws or judges]**. They shall not dwell in your land [and you shall not dwell in theirs **by becoming a "resident" or domiciliary in the process of contracting with them**], lest they make you sin against Me [God]. For if you serve their [government] gods [under **contract or agreement or franchise**], it will surely be a snare to you."*
> *[Exodus 23:32-33, Bible, NKJV]*
>
> ---
>
> *"I [God] brought you up from Egypt [slavery] and brought you to the land of which I swore to your fathers; and I said, 'I will never break My covenant with you. And **you shall make no covenant [contract or franchise or agreement of ANY kind] with the inhabitants of this [corrupt pagan] land; you shall tear down their [man/government worshipping socialist] altars.**' But you have not obeyed Me. Why have you done this?*
>
> *"Therefore I also said, '**I will not drive them out before you; but they will become as thorns [terrorists and persecutors] in your side and their gods will be a snare [slavery!] to you.'"***
>
> *So it was, when the Angel of the LORD spoke these words to all the children of Israel, that the people lifted up their voices and wept.*
> *[Judges 2:1-4, Bible, NKJV]*

The Bible also forbids believers from ever being borrowers or surety, and hence, from ever being a Buyer. It says you can LEND, meaning offer as a Merchant, but that you cannot borrow, meaning be a "Buyer" under the U.C.C., in relation to any and every government:

> *"For the Lord your God will bless you just as He promised you; **you shall lend to many nations, but you shall not borrow**; you shall reign over many nations, but they shall not reign over you."*
> *[Deut. 15:6, Bible, NKJV]*
>
> *"The Lord will open to you His good treasure, the heavens, to give the rain to your land in its season, and to bless all the work of your hand. **You shall lend to many nations, but you shall not borrow**."*
> *[Deut. 28:12, Bible, NKJV]*
>
> *"**You shall not charge interest to your brother**--interest on money or food or anything that is lent out at interest."*
> *[Deut. 23:19, Bible, NKJV]*
>
> *"To a foreigner you may charge interest, but to your brother you shall not charge interest, that the Lord your God may bless you in all to which you set your hand in the land which you are entering to possess."*
> *[Deut. 23:20, Bible, NKJV]*

God even warned His followers in the Bible what would happen if they DIDN'T follow the above commandments:

Curses of Disobedience [to God's Laws]

"The alien [Washington, D.C. is legislatively "alien" in relation to states of the Union] who is among you shall rise higher and higher above you, and you shall come down lower and lower [malicious destruction of EQUAL PROTECTION and EQUAL TREATMENT by abusing FRANCHISES]. He shall lend to you [Federal Reserve counterfeiting franchise], but you shall not lend to him; he shall be the head, and you shall be the tail.

"Moreover ***all these curses shall come upon you and pursue and overtake you, until you are destroyed, because you did not obey the voice of the LORD your God, to keep His commandments and His statutes which He commanded you****. And they shall be upon you for a sign and a wonder, and on your descendants forever.*

"Because you did not serve [ONLY] the LORD your God with joy and gladness of heart, for the abundance of everything, therefore you shall serve your [covetous thieving lawyer] enemies, whom the LORD will send against you, in hunger, in thirst, in nakedness, and in need of everything; and He will put a yoke of iron [franchise codes] on your neck until He has destroyed you. The LORD will bring a nation against you from afar [the District of CRIMINALS], from the end of the earth, as swift as the eagle flies [the American Eagle], a nation whose language [LEGALESE] you will not understand, a nation of fierce [coercive and fascist] countenance, which does not respect the elderly [assassinates them by denying them healthcare through bureaucratic delays on an Obamacare waiting list] nor show favor to the young [destroying their ability to learn in the public FOOL system]. And they shall eat the increase of your livestock and the produce of your land [with "trade or business" franchise taxes], until you [and all your property] are destroyed [or STOLEN/CONFISCATED]; they shall not leave you grain or new wine or oil, or the increase of your cattle or the offspring of your flocks, until they have destroyed you. [Deut. 28:43-51, Bible, NKJV]

For further details on government franchises, see:

1. *Sovereignty Forms and Instructions Online*, Form #10.014, Cites by Topic: "franchise"
   http://famguardian.org/TaxFreedom/CitesByTopic/franchise.htm
2. *Government Franchises Course*, Form #12.012
   Slides: https://sedm.org/LibertyU/GovFranchises.pdf
   Video: http://youtu.be/vnDcauqlbTQ
3. *Government Instituted Slavery Using Franchises*, Form #05.030
   https://sedm.org/Forms/05-MemLaw/Franchises.pdf

For information on how to avoid franchise, quit them, or use your own PERSONAL franchises to DEFEND yourself against illegal government franchise administration or enforcement, usually against ineligible parties, see:

1. *Avoiding Traps on Government Forms Course*, Form #12.023
   https://sedm.org/LibertyU/AvoidingTrapsGovForms.pdf
2. *Path to Freedom*, Form #09.015, Section 5
   https://sedm.org/Forms/09-Procs/PathToFreedom.pdf
3. *Injury Defense Franchise and Agreement*, Form #06.027
   https://sedm.org/Forms/06-AvoidingFranch/InjuryDefenseFranchise.pdf
4. *SEDM Forms/Pubs Page*, Section 1.6: Avoiding Government Franchises
   https://sedm.org/Forms/FormIndex-Singlepg.htm#1.6._AVOIDING_GOVERNMENT_FRANCHISES_AND_LICENSES
5. *The Government "Benefits" Scam*, Form #05.040 (Member Subscription form)
   https://sedm.org/Forms/FormIndex.htm
6. *Why the Government is the Only Real Beneficiary of All Government Franchises*, Form #05.051 (Member Subscription form)
   https://sedm.org/Forms/FormIndex.htm

7.2 Vague laws

Deliberately vague laws deprive the public of the ability to unambiguously know in advance the exact conduct that is expected of them as law abiding citizens. This was confirmed by the U.S. Supreme Court, which said of this subject:

As we said in Grayned v. City of Rockford, 408 U.S. 104, 108 (1972):

"It is a basic principle of due process that an enactment is void for vagueness if its prohibitions are not clearly defined. Vague laws offend several important values. First, because we assume that man is free to steer between

> *lawful and unlawful conduct, **we insist that laws give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly.** Vague laws may trap the innocent by not providing **fair warning**. Second, if arbitrary and discriminatory enforcement is to be prevented, laws must provide explicit standards for those who apply them. A vague law impermissibly delegates basic policy matters to policemen, judges, and juries for resolution on an ad hoc and subjective basis, with the attendant dangers of arbitrary and discriminatory application." (Footnotes omitted.)*
>
> *See al Papachristou v. City of Jacksonville, 405 U.S. 156 (1972); Cline v. Frink Dairy Co., 274 U.S. 445, 47 S. Ct. 681 (1927); Connally v. General Construction Co., 269 U.S. 385 (1926).*
> *[Sewell v. Georgia, 435 U.S. 982 (1978)]*

When politicians and legislators know they lack jurisdiction to implement a particular law, they typically will write in such a vague manner that the courts will have to decide what it means. This, in effect, amounts to a license to the Judicial Branch to expand federal jurisdiction. The two branches of government are supposed to be sovereign and separate and act as checks on each other, but when they want to collude against the rights of Americans, vague laws are the method of choice. The U.S. Supreme Court said the effect of vague laws is to turn judges and juries essentially into "policy boards" and political, rather than judicial or legal, tribunals. Note the phrase above from the U.S. Supreme Court again:

> *"A vague law impermissibly delegates basic policy matters [political rather than legal choices] to policemen, judges, and juries for resolution on an ad hoc and subjective basis, with the attendant dangers of arbitrary and discriminatory application."*

You will note that Black's law dictionary says that such "political questions" are completely outside of the jurisdiction of any court:

> *"Political questions. Questions of which courts will refuse to take cognizance, or to decide, on account of their purely political character, or because their determination would involve an encroachment upon the executive or legislative powers.*
>
> *"Political questions doctrine" holds that certain issues should not be decided by courts because their resolution is committed to another branch of government and/or because those issues are not capable, for one reason or another, of judicial resolution. Islamic Republic of Iran v. Pahlavi, 116 Misc.2d. 590, 455 N.Y.S.2d. 987, 990.*
>
> *A matter of dispute which can be handled more appropriately by another branch of the government is not a "justiciable" matter for the courts. However, a state apportionment statute is not such a political question as to render it nonjusticiable. Baker v. Carr, 369 U.S. 186, 208-210, 82 S.Ct. 691, 705-706, 7 L.Ed.2d. 663.*
> *[Black's Law Dictionary, Sixth Edition, pp. 1158-1159]*

Therefore, codes or laws that are deliberately written in a vague manner, such as the Internal Revenue Code, have the affect of compelling Courts into the role of a political panel or policy board, rather than their legitimate, Constitutional role. Their de jure role is as a fact finder and judge, but vague laws compel them into a de facto role of being a political organization. See the article below for an exhaustive analysis of why they are not authorized to act in this role.

Political Jurisdiction, Form #05.004 http://sedm.org/LibertyU/LibertyU.htm

Judges in most Courts know that when it comes to "taxes", they are really unlawfully acting in a de facto "political" rather than de jure "legal" capacity. That is why:

1. Many federal judges do not allow "law" to be discussed in the Courtroom in the context of income taxes.
2. Many federal judges will insist, along with their buddy the U.S. Attorney, that all jurists are "taxpayers" and therefore federal "employees" who are subject to their jurisdiction.
3. Many federal judges will not address the requirements of the law in their rulings, but instead simply state "policy" and use other Court rulings instead of the law itself as their authority.
4. Many federal judges will not insist that the sections of the I.R.C. cited by the U.S. Attorney must be proven to be "positive law", and therefore "law". See:
   Requirement for Consent, Form #05.003
   http://sedm.org/Forms/FormIndex.htm

The U.S. Supreme Court admitted that income taxation is largely a "political matter" rather than "legal matter" which is therefore beyond the jurisdiction of any court, when it said the following:

> *"Thus, the Court has frequently held that domicile or residence, more substantial than mere presence in transit or sojourn, is an adequate basis for taxation, including income, property, and death taxes. Since the Fourteenth Amendment makes one a citizen of the state wherein he resides,* ***the fact of residence creates universally reciprocal duties of protection by the state and of allegiance and support by the citizen. The latter obviously includes a duty to pay taxes, and their nature and measure is largely a political matter.*** *Of course, the situs of property may tax it regardless of the citizenship, domicile, or residence of the owner, the most obvious illustration being a tax on realty laid by the state in which the realty is located."*
> *[Miller Brothers Co. v. Maryland, 347 U.S. 340 (1954)]*

Notice the phrase "*The latter obviously includes a duty to pay taxes, and* ***their nature and measure is largely a political matter***". Well, the way our courts handle liability in a "Willful Failure to File" (under 26 U.S.C. §7203) trial, in fact, is *also* handled as a "political matter" or "political question". The Constitution reserves all such "political questions" to the jurisdiction of the Executive, and not Judicial Branch. Therefore, our courts have become nothing less than angry lynch mobs of "taxpayers" who insist that others "pay their fair share", rather than objective assemblies of impartial persons who have read, understand, and will apply the law consistent with what the Constitution says. This abuse of "democracy" to prejudice and injure rights is the heart of socialism, which has become "The New American Civil Religion" that is quickly supplanting the influence of Christianity in our culture. Please read our Memorandum of law entitled "Socialism: The New American Civil Religion" for exhaustive proof that the "state" has become the new pagan false god, and replaced the true God as the sovereign who rules from above, rather than serves from below, as our Constitution ordains.

Socialism: The New American Civil Religion, Form #05.016 http://sedm.org/Forms/FormIndex.htm

The U.S. Supreme Court also warned about the evil affects of allowing judges to become involved in "political matters" when it said the following prophetic words that exactly describe how tax matters are held in federal courts all around the country, every day, and all day:

> ***Another evil, alarming and little foreseen, involved in regarding these as questions for the final arbitrament of judges would be that, in such an event, all political privileges and rights would, in a dispute among the people, depend on our decision finally. We would possess the power to decide against, as well as for, them, and, under a prejudiced or arbitrary judiciary, the public liberties and popular privileges might thus be much perverted, if not entirely prostrated.*** *But, allowing the people to make constitutions and unmake them, allowing their representatives to make laws and unmake them, and without our interference as to their principles or policy in doing it, yet, when constitutions and laws are made and put in force by others, then the courts, as empowered by the State or the Union, commence their functions and may decide on the rights which conflicting parties can legally set up under them, rather than about their formation itself.* ***Our power begins after theirs [the Sovereign People] ends. Constitutions and laws precede the judiciary, and we act only under and after them, and as to disputed rights beneath them, rather than disputed points in making them. We speak what is the law, jus dicere, we speak or construe what is the constitution, after both are made, but we make, or revise, or control neither. The disputed rights beneath constitutions already made are to be governed by precedents, by sound legal principles, by positive legislation [e.g. "positive law"], clear contracts, moral duties, and fixed rules; they are per se questions of law, and are well suited to the education and habits of the bench.*** *But the other disputed points in making constitutions, depending often, as before shown, on policy, inclination, popular resolves and popular will and arising not in respect to private rights, not what is meum and tuum, but in relation to politics, they belong to politics, and they are settled by political tribunals, and are too dear to a people bred in the school of Sydney and Russel for them ever to intrust their final decision, when disputed, to a class of men who are so far removed from them as the judiciary, a class also who might decide them erroneously, as well as right, and if in the former way,* ***the consequences might not be able to be averted except by a revolution, while a wrong decision by a political forum can often be peacefully corrected by new elections or instructions in a single month; and if the people, in the distribution of powers under the constitution, should ever think of making judges supreme arbiters in political controversies when not selected by nor, frequently, amenable to them nor at liberty to follow such various considerations in their judgments as [48 U.S. 53] belong to mere political questions, they will dethrone themselves and lose one of their own invaluable birthrights; building up in this way -- slowly, but surely -- a new sovereign power in the republic, in most respects irresponsible and unchangeable for life, and one more dangerous, in theory at least, than the worst elective oligarchy in the worst of times. Again, instead of controlling the people in political affairs, the judiciary in our system was designed rather to control individuals, on the one hand, when encroaching, or to defend them, on the other, under the Constitution and the laws, when they are encroached upon.*** *And if the judiciary at times seems to fill the important station of a check in the government, it is rather a check on the legislature, who may attempt to pass laws contrary to the Constitution, or on the executive, who may violate both the laws and Constitution, than on the people themselves in their primary capacity as makers and amenders of constitutions."*
> *[Luther v. Borden, 48 U.S. 1 (1849)]*

When you remove law from its central role in the Courtroom and put people individually in charge of deciding cases based on "what feels good", the only thing left to decide with are the following evil forces:

1. Ignorance
2. Prejudice
3. Conflict of interest
4. Bias on the part of the judge
5. The opinions of biased "experts" who are subject to IRS and judicial extortion.

The U.S. Supreme Court described the above travesty of justice by saying that when the liberty of someone is subject to the purely arbitrary will of another, then this is the very essence of slavery itself, when it said:

> *"When we consider the nature and the theory of our institutions of government, the principles on which they are supposed to rest, and review the history of their development, we are constrained to conclude that they do not mean to leave room for the play and action of purely personal and arbitrary power. Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts. And the law is the definition and limitation of power. It is, indeed, quite true that there must always be lodged somewhere, and in some person or body, the authority of final decision; and in many cases of mere administration, the responsibility is purely political, no appeal lying except to the ultimate tribunal of the public judgment, exercised either in the pressure of opinion, or by means of the suffrage. But the fundamental rights to life, liberty, and the pursuit of happiness, considered as individual possessions, are secured by those maxims of constitutional law which are the monuments showing the victorious progress of the race in securing to men the blessings of civilization under the reign of just and equal laws, so that, in the famous language of the Massachusetts bill of rights, the government of the commonwealth 'may be a government of laws and not of men.' **For the very idea that one man may be compelled to hold his life, or the means of living, or any material right essential to the enjoyment of life, at the mere will of another, seems to be intolerable in any country where freedom prevails, as being the essence of slavery itself.**"*
> *[Yick Wo v. Hopkins, 118 U.S. 356 (1886)]*

Our founding fathers bequeathed to us a "society of law and not of men":

> *"**The historic phrase 'a government of laws and not of men' epitomized the distinguishing character of our political society.** When John Adams put that phrase into the Massachusetts Declaration of Rights, pt. 1, art. 30, he was not indulging in a rhetorical flourish. **He was expressing the aim [330 U.S. 258, 308] of those who, with him, framed the Declaration of Independence and founded the Republic. 'A government of laws and not of men' was the rejection in positive terms of rule by fiat, whether by the fiat of governmental or private power.**[or a judge or an arbitrary jury of ignorant Americans unjustly manipulated by a judge]. Every act of government may be challenged by an appeal to law, as finally pronounced by this Court. Even this Court has the last say only for a time. Being composed of fallible men, it may err. But revision of its errors must be by orderly process of law. The Court may be asked to reconsider its decisions, and this has been done successfully again and again throughout our history. Or, what this Court has deemed its duty to decide may be changed by legislation, as it often has been, and, on occasion, by constitutional amendment.*
>
> *"But from their own experience and their deep reading in history, **the Founders knew that Law alone saves a society from being rent by internecine strife or ruled by mere brute power however disguised. 'Civilization involves subjection of force to reason, and the agency of this subjection is law.' 1** The conception of a government by laws dominated the thoughts of those who founded this Nation and designed its Constitution, although they knew as well as the belittlers of the conception that laws have to be made, interpreted and enforced by men. To that end, they set apart a body of men, who were to be the depositories of law, who by their disciplined training and character and by withdrawal from the usual temptations of private interest may reasonably be expected to be 'as free, impartial, and independent as the lot of humanity will admit'. So strongly were the framers of the Constitution bent on securing a reign of law that they endowed the judicial office with extraordinary safeguards and prestige. **No one, no matter how exalted his public office or how righteous [330 U.S. 258, 309] his private motive, can be judge in his own case. That is what courts are for. And no type of controversy is more peculiarly fit for judicial determination than a controversy that calls into question the power of a court to decide.** Controversies over 'jurisdiction' are apt to raise difficult technical problems. They usually involve judicial presuppositions, textual doubts, confused legislative history, and like factors hardly fit for final determination by the self-interest of a party.*
> *[United States v. United Mine Workers of America, 330 U.S. 258 (1947)]*

The Bible also described the travesty of justice that occurs when we throw out this "society of laws" and replace it with a "society of men", which is chaos and injustice. Below is a direct quote from the Open Bible on this very subject:

> *The Book of Judges stands in stark contrast to Joshua. In Joshua an obedient people conquered the land through trust in the power of God.* ***In Judges, however, a disobedient and idolatrous people are defeated time and time again because of their rebellion against God.***
>
> *In seven distinct cycles of sin to salvation, Judges shows how Israel had set aside God's law and in its place substituted "what was right in his own eyes" (21:25).* ***The recurring result of abandonment from God's law is corruption from within and oppression from without****. During the nearly four centuries spanned by this book, God raises up military champions to throw off the yoke of bondage and to restore the nation to pure worship. But all too soon the "sin cycle" begins again as the nation's spiritual temperance grows steadily colder.*
>
> *…*
>
> *The Book of Judges could also appropriately be titled "The Book of Failure."*
>
> ***Deterioration*** *(1:1-3:4). Judges begins with short-lived military successes after Joshua's death, but quickly turns to the repeated failure of all the tribes to drive out their enemies. The people feel the lack of a unified central leader, but the primary reasons for their failure are a lack of faith in God and lack of obedience to Him (2:1-2). Compromise leads to conflict and chaos. Israel does not drive out the inhabitants (1:21, 27, 29, 30); instead of removing the moral cancer [IRS, Federal Reserve?] spread by the inhabitants of Canaan, they contract the disease. The Canaanite gods [money, sex, covetousness] literally become a snare to them (2:3). Judges 2:11-23 is a microcosm of the pattern found in Judges 3-16.*
>
> ***Deliverance*** *(3:5-16:31). In verses 3:5 through 16:31 of the Book of Judges, seven apostasies (fallings away from God) are described, seven servitudes, and seven deliverances.* ***Each of the seven cycles has five steps: sin, servitude, supplication, salvation, and silence. These also can be described by the words rebellion, retribution, repentance, restoration, and rest. The seven cycles connect together as a descending spiral of sin (2:19).*** *Israel vacillates between obedience and apostasy as the people continually fail to learn from their mistakes. Apostasy grows, but the rebellion is not continual. The times of rest and peace are longer than the times of bondage. The monotony of Israel's sins can be contrasted with the creativity of God's methods of deliverance.*
>
> ***Depravity*** *(17:1-21:25). Judges 17:1 through 21:25 illustrate (1) religious apostasy (17 and 18) and (2) social and moral depravity (19-21) during the period of the judges. Chapters 19-21 contain one of the worst tales of degradation in the Bible.* ***Judges closes with a key to understanding the period: "everyone did what was right in his own eyes" (21:25) [a.k.a. "what FEELS good"].*** *The people are not doing what is wrong in their own eyes, but what is "evil in the sight of the Lord" (2:11).*
> *[The Open Bible, New King James Version, Thomas Nelson Publishers, Copyright 1997, pp. 340-341]*

So the question then becomes:

> *"Why are we allowing the Congress to compel the Courts to be used to effect slavery , and isn't this a violation of the Thirteenth Amendment prohibition against involuntary servitude? Why are we allowing Congress to use ambiguity of law to turn our Courts essentially into perpetual 'Constitutional conventions', and placing the decision makers at the mercy of the very source of injustice that the courts are supposed to be protecting us from, which is the IRS? Isn't this a violation of 28 U.S.C. §455 and a conflict of interest?"*

The Bible also says that Christians cannot associate with or be part of this type of evil, when it said:

> *"****Shall the throne of iniquity, which devises evil by law, have fellowship with You?*** *They gather together against the life of the righteous, and condemn innocent blood. But the Lord has been my defense, and my God the rock of my refuge. He has brought on them their own iniquity, and shall cut them off in their own wickedness;* ***the Lord our God shall cut them off.****"*
> *[Psalm 94:20-23, Bible, NKJV]*

Who else but legislators and lawyers could "devise evil by law" as described above by using vague laws and "words of art" to deceive and entrap people? The "throne of iniquity" they are talking about is our political rulers and any judiciary that allows itself to rule on "political questions".

7.3 Creating and exploiting ignorance about law in the public schools

In today's overwhelmingly government-run public schools, the following deficiencies are commonplace and they contribute to a legally illiterate society that is dysfunctional because it is simply not equipped to hold public servants accountable to obey the Constitution and the laws that implement it:

1. Not offering any courses on law.

2. Not offering any courses on Constitutional law.
3. Not taking students to courtrooms for field trips to see how the courts operate.
4. Not teaching students how to do legal research.
5. Not teaching students how to prepare legal briefs so that they aren't compelled to rely on the services of a high priced attorney whenever they have a problem.

The reason for the above severe deficiencies of our public education system are obvious: Your public servants want to manufacture docile sheep who are easy to control, and who have been taught to live in a privileged state devoid of rights. This makes them easier to govern. The pernicious and evil consequences of such a corruption of our republican system of government are well documented in the following resources, if you would like to investigate further:

1. *Woe To You Lawyers*, Fred Rodell: http://famguardian.org/Publications/WoeToYouLawyers/woe_unto_you_lawyers.pdf
2. *Socialism: The New American Civil Religion*, Form #05.016: http://sedm.org/Forms/05-MemLaw/SocialismCivilReligion.pdf
3. *How Scoundrels Corrupted Our Republican Government, Family Guardian Fellowship*: http://famguardian.org/Subjects/Taxes/Evidence/HowScCorruptOurRepubGovt.htm

7.4 Making Court Pleadings, motions, and judgments relating to taxes unpublished

The purpose for publishing the pleadings and rulings for court proceedings is to put the public on notice of the policies of the courts on specific issues. Any attempt to interfere with the publication of pleadings, motions, and rulings relating to any specific case is an attempt to deprive the public of the opportunity to obtain reasonable notice about the conduct that is expected of them by the courts.

A popular technique in federal courts is to make the pleadings and judgments for selected cases "unpublished". The types of cases that receive such treatment by federal judges are those which relate to government corruption which the government has an interest in covering up as a way to prevent the public from losing confidence in their public servants.

If you are interested in this subject, a whole website has been devoted to the task of reforming our judicial system to eliminate the malicious and unlawful practice of making cases unpublished:

http://nonpublication.com/

7.5 Not providing historical information from the Federal Register any further back than about two years

The United States Government Printing Office is the agency responsible for publication of the Federal Register. The Federal Register is made available electronically on the GPO website at:

http://www.gpoaccess.gov/fr/index.html

The severe handicap of the above is that only the current year's Federal Register publications are available. Even worse:

1. There is NO PLACE on the internet where ALL of the publications in the Federal Register are made available to the public going back to the beginning.
2. No private service for any amount of money makes this information available as a subscription.
3. None of the Federal Depository Libraries maintain this historical data.
4. The ONLY place you can go to get this information is the National Archives in Washington, D.C. Very little of the information available through the National Archives is published electronically online.

As a consequence of the above, the public at large is deprived of the ability to examine historical publications in the Federal Register, which is the ONLY vehicle for informing them of the laws they can be held accountable to obey. This makes it virtually impossible for the average person to determine with certainty by looking at the legally admissible evidence with their own two eyes, exactly what laws can be enforced against them, as indicated in 5 U.S.C. §552(a)(1). This is a disgrace!

8 Common mistakes that Freedom Lovers Make by Over-Emphasizing the Need for Implementing Regulations

A common pitfall that many budding freedom lovers fall into is to use the following argument in Court or in their administrative correspondence with the IRS, which is a ***very bad idea*** because it completely and presumptuously mis-states the information in this memorandum out of context and misapplies the law in a way that will lose every time. We made this mistake very early on in our own studies of law and liberty, in fact, so don't feel alone:

> *"26 C.F.R. §601.702(a)(2)(ii) cited earlier in section 5.3 says that the failure of the IRS to publish implementing regulations in the Federal Register shall cause that persons rights to be unaffected in respect to the statutes cited as authority by the IRS for pursuing the collection action. There are no implementing regulations, in fact, that authorize any kind of collection activity for the Internal Revenue Code, and therefore, it may not be enforced against anyone. See for yourself:*
>
> *http://famguardian.org/TaxFreedom/Forms/TaxExamAudit/IRSDueProcMtgWorksheet.pdf*
>
> *Because there are not implementing regulations, then the code cannot lawfully be enforced against me by the IRS and if they do, they are violating my Constitutional rights."*

You will not succeed in court with the above argument until you study what is in this pamphlet and incorporate the requirement for "reasonable notice" into your argument described in this pamphlet. Below are some important reasons why:

1. Nearly all "taxpayers" within Internal Revenue Code, Subtitle A are engaged in a "public office" and a "trade or business", as defined in 26 U.S.C. §7701(a)(26). See: http://sedm.org/Forms/05-MemLaw/TradeOrBusScam.pdf
2. Because nearly all "taxpayers" described in Internal Revenue Code, Subtitle A are engaged in a "public office" and a "trade or business", then they are "officers of a corporation", and the "corporation" is the "United States", as defined in 28 U.S.C. §3002(15)(A). As such, they are the equivalent of federal employees, contractors, or instrumentalities, who are the proper subject of "levies" as described in 26 U.S.C. §6331(a). These public official fit the statutory description of "person" found in 26 U.S.C. §6671(b) and 26 U.S.C. §7343 who are without question subject to the penalty provisions and criminal provisions of the Internal Revenue Code.
3. Federal contractors, public officials, federal benefit recipients, members of the military, and federal employees are groups *specifically exempted* from the requirement for implementing regulations by 44 U.S.C. §1505(a) and 5 U.S.C. §553(a). Pursuant to 26 U.S.C. §7805(a) , the Secretary of the Treasury ***MAY*** provide regulations to implement the enforcement provisions of the I.R.C. against groups exempted from the requirement for implementing regulations, but he is *not* required by law to do so *before* he has the authority to enforce the I.R.C. against these groups. The reason is that all such persons are "U.S. persons" as defined in 26 U.S.C. §7701(a)(30) by virtue of their voluntary agency in representing a federal corporation called the "United States" pursuant to Federal Rule of Civil Procedure 17(b). As such, they are *not* protected by the Constitution or the Bill of Rights in the context of their employment duties representing this federal corporation as officers of that corporation.

> *"The restrictions that the Constitution places upon the government in its capacity as lawmaker, i.e., as the regulator of private conduct, are not the same as the restrictions that it places upon the government in its capacity as employer. We have recognized this in many contexts, with respect to many different constitutional guarantees. Private citizens perhaps cannot be prevented from wearing long hair, but policemen can. Kelley v. Johnson, 425 U.S. 238, 247 (1976). Private citizens cannot have their property searched without probable cause, but in many circumstances government employees can. O'Connor v. Ortega, 480 U.S. 709, 723 (1987) (plurality opinion); id., at 732 (SCALIA, J., concurring in judgment). Private citizens cannot be punished for refusing to provide the government information that may incriminate them, but government employees can be dismissed when the incriminating information that they refuse to provide relates to the performance of their job. Gardner v. Broderick, [497 U.S. 62, 95] 392 U.S. 273, 277 -278 (1968). With regard to freedom of speech in particular: Private citizens cannot be punished for speech of merely private concern, but government employees can be fired for that reason. Connick v. Myers, 461 U.S. 138, 147 (1983). Private citizens cannot be punished for partisan political activity, but federal and state employees can be dismissed and otherwise punished for that reason. Public Workers v. Mitchell, 330 U.S. 75, 101 (1947); Civil Service Comm'n v. Letter Carriers, 413 U.S. 548, 556 (1973); Broadrick v. Oklahoma, 413 U.S. 601, 616 -617 (1973)."*
> *[Rutan v. Republican Party of Illinois, 497 U.S. 62 (1990)]*

The real problem is *not* the requirement for implementing regulations at all. The problem instead is the following:

1. That "reasonable notice" by publication in the federal register is only required in the case of those who are not members of specifically exempted groups. You are a member of these groups and you don't even realize it because you haven't been reading the law carefully enough.
2. That the IRS publications contain deception and falsehood that even the Courts say you aren't allowed to believe, and yet you ignorantly and presumptuously believed them anyway. Shame on you! See: http://famguardian.org/Subjects/Taxes/Articles/IRSNotResponsible.htm
3. That the government forms you are filling out are being filled out improperly by you or by others helping you because you believed the LIES of the IRS. For instance, you are acting like a "taxpayer" and a "U.S. person" when you file tax returns, open bank accounts, and conduct your employment affairs, even though you are not, and you haven't notified the IRS that if you did these things, you did them under duress and that they are false but not fraudulent because of the duress.
4. That because of the erroneous information you are sending into the IRS on government forms, the IRS is being mislead into making false presumptions that you are a federal "public official" engaged in a "trade or business", even though you are not.
5. That third parties are filing false "information returns" connecting you to a "trade or business" because of the false information you gave them or because of their own legal ignorance, and that:
   5.1. You have not taken the time to educate them about what the law requires.
   5.2. You have not taken the time to provide them corrected forms that truthfully represent your status as a STATUTORY "non-resident non-person" not engaged in a "trade or business". See Form #05.020.
   5.3. You have not rebutted any false information returns they may have prepared in the past, which means that you are the victim of a "prima facie" presumption about your status as a "taxpayer" and a "public official".

   See: http://sedm.org/Forms/05-MemLaw/TradeOrBusScam.pdf
6. That whenever you interact with the IRS, financial institutions, government agencies, and employers, you are providing a Social Security Number and consenting to allow it to ALSO be used as a Taxpayer Identification Number. In fact IT IS NOT, according to 26 C.F.R. §301.6109-1(d)(3).

> *26 C.F.R. §301.6109-1(d)(3): Identifying Numbers*
>
> *(3) IRS individual taxpayer identification number –*
>
> *(i) Definition. The term IRS individual taxpayer identification number means a taxpayer identifying number issued to an alien individual by the Internal Revenue Service, upon application, for use in connection with filing requirements under this title. The term IRS individual taxpayer identification number does not refer to a social security number or an account number for use in employment for wages. For purposes of this section, the term alien individual means an individual who is not a citizen or national of the United States.*

   A Taxpayer Identification Number (TIN) can ONLY lawfully be issued to STATUTORY aliens. You aren't a STATUTORY "alien" as defined in 26 U.S.C. §7701(b)(1)(A). A STATUTORY "nonresident alien" as defined in 26 U.S.C. §7701(b)(1)(B) is ***not*** the same thing as an STATUTORY alien either. By giving them an SSN instead of the proper TIN and consenting to use it as a TIN, you consented to forfeit your Constitutional rights and become an "alien" in your own country! The IRS Form 1042-S instructions imply that the TIN number creates a prima facie presumption that you are a privileged "public official" engaged in a "trade or business" who has devoted his private property to a public use. If you want to be sovereign, you can't do this! The IRS has no lawful authority to convert an SSN into use as a TIN, and you shouldn't be helping them violate the law by presumptuously consenting to allow them to do this either. See:

Resignation of Compelled Social Security Trustee, Form #06.002 https://sedm.org/Forms/FormIndex.htm

7. That you are not challenging the false presumptions of the IRS about your status using their own codes and regulations, in order to establish exculpatory evidence proving that they are violating the law to enforce against you and which will cause them to leave you alone.

The problem is YOU, ***NOT*** the government. Garbage in, garbage out. When you help the government violate the law and lie on government forms about your true status, then you are going to get a result you won't be happy with, guaranteed. The only thing the government did wrong was believe what you told them under penalty of perjury on a government form that you filled out with false information that didn't accurately reflect your true status, because you believed the LIES on their website and in their publications.

There is a way, however, to transform the regulations issue into a "reasonable notice" issue using information in this memorandum that will expose their fraud and give you standing to sue. Below is a summary:

1. They are enforcing laws without implementing regulations. This is a sign that they are presuming you are part of one of the groups that is exempted from the requirement for implementing regulations as described in 44 U.S.C. §1505(a) and 5 U.S.C. §553(a). You must point out to them that this is NOT the case using an affidavit under penalty of perjury.
2. You should go back and correct all the forms you sent them previously that reflect your status and send these to them:
   2.1. Give them a copy of the pamphlet "Why you are a 'national' or a 'state national' and not a 'U.S. citizen'", and demand that they rebut the questions at the end. This pamphlet proves you are a STATUTORY "non-resident non-person" and not an "alien". See Form #05.006 below:
   http://sedm.org/Forms/FormIndex.htm
   2.2. Send them an Affidavit of Citizenship and Domicile, and Tax Status describing you as a STATUTORY "non-resident non-person" (Form #05.020) not engaged in a STATUTORY "trade or business" (public office per 26 U.S.C. §7701(a)(26)). See Form #02.001 below:
   http://sedm.org/Forms/FormIndex.htm
3. Quit the Social Security program and quit using the number. You don't need the STINKING number. You can open bank accounts, pursue employment, and function just fine without it. Tell them that any number they have for you is wrong and that you don't consent to use an SSN as a TIN and that there is no law that allows them to do this. See:
   Resignation of Compelled Social Security Trustee, Form #06.002
   http://sedm.org/Forms/FormIndex.htm
4. Go back and correct every false information return ever filed on you to remove the false association of you with a "trade or business", which is a "public office". Send them:
   4.1. Corrected W-2's along with an affidavit of duress showing that your private employer was warned that they can't withhold or report and they did so anyway. See:
   Correcting Erroneous IRS Form W-2's, Form #04.006
   https://sedm.org/Forms/FormIndex.htm
   4.2. Corrected 1098 Mortgage Interest reports.
   Correcting Erroneous IRS Form 1098's, Form #04.004
   https://sedm.org/Forms/FormIndex.htm
   4.3. Corrected 1099's.
   Correcting Erroneous IRS Form 1099's, Form #04.005
   https://sedm.org/Forms/FormIndex.htm
5. Once you have quit Social Security, corrected government records to reflect your true status as a STATUTORY "non-resident non-person" and a "national" per 8 U.S.C. §1101(a)(21) but not STATUTORY "U.S.** citizen" per 8 U.S.C. §1401 who is not engaged in a STATUTORY "trade or business" (26 U.S.C. §7701(a)(26)), then you:
   5.1. Are no longer a privileged person. The government can no longer lawfully treat you as a "public official" who has no constitutional rights. Once you surrender all the benefits, you are no longer party to the "contract" with the government to be part of them:

> *California Civil Code*
> *DIVISION 3. OBLIGATIONS*
> *PART 2. CONTRACTS*
> *TITLE 1. NATURE OF A CONTRACT*
> *CHAPTER 3. CONSENT*
>
> *1589. A voluntary acceptance of the benefit of a transaction is equivalent to a consent to all the obligations arising from it, so far as the facts are known, or ought to be known, to the person accepting.*
> *[SOURCE:*
> *http://www.leginfo.ca.gov/cgi-bin/displaycode?section=civ&group=01001-02000&file=1565-1590]*

   5.2. Have restored the requirement for "reasonable notice" of all laws they are enforcing against you by publication in the Federal Register because you are no longer part of any of the groups exempted from the requirement for publication in the Federal Register, such as public officials, federal contractors, benefit recipients, and members of the military. Now, every law they cite MUST:
   5.2.1. Be positive law.
   5.2.2. Be published in the Federal Register.
   5.2.3. Have implementing regulations before it can be enforced.

5.3. Have destroyed their ability to quote any provision of the I.R.C. against you in Court. 1 U.S.C. §204 says that the I.R.C. is "prima facie" evidence of law, which means it is "presumed" to be evidence. A person protected by the Constitution cannot lawfully have any presumption used against him without violating due process of law.

5.4. Have changed your status from a STATUTORY "U.S. person" to a STATUTORY "non-resident non-person" as described in Form #05.020. This destroyed the IRS' ability to investigate your liability. 26 U.S.C. §7601 says that revenue agents may inquire within internal revenue districts about persons liable for tax. There are no remaining internal revenue districts except the District of Columbia because Treasury Order 150-02 abolished them. The Treasury knows this, which is why they REMOVED this treasury order from their website: so you can't quote it. They are hiding the truth from you. See: http://www.ustreas.gov/regs/td00-02.htm

Consequently, IRS cannot lawfully inquire outside of the District of Columbia about your liability, and since you aren't a "U.S. person" with a domicile in the "United States", which is defined in 26 U.S.C. §7701(a)(9) and (a)(10) as the District of Columbia, then they have no jurisdiction to even investigate your liability. You are a SOVEREIGN. They are really going to squirm at an audit if you demand proof from them of why they think you reside in an internal revenue district as someone who is not a "U.S. person" and quote 26 U.S.C. §7601, which limits their authority to investigate to internal revenue districts.

6. If they write you a collection notice, you might want to include the above Affidavit of Citizenship, Domicile, and Tax Status, and then demand:
   6.1. Court admissible evidence of publication in the Federal Register for all the statutes and regulations they are attempting to enforce.
   6.2. Court admissible evidence why they think you are a "public official".
   6.3. The law that allows them to treat an SSN as a TIN. We'll give you a hint: There ain't no such thing!
   6.4. Court admissible evidence showing why you should believe anything they say on their website, in any form or publication, or on the telephone. The Courts have said you can't trust any of this and that you can, in fact, be PENALIZED for doing so. See: http://famguardian.org/Subjects/Taxes/Articles/IRSNotResponsible.htm

9 Summary and Conclusions

Below is a summary of the things we have learned in this memorandum of law:

1. All statutes and the regulations that implement them which have general applicability and legal affect must be published in the Federal Register. "General applicability and legal effect" means that the statute or regulation prescribes a penalty.
2. Implementing regulations are ***not*** required in the case of statutes which apply only to federal employees, federal contractors, federal benefit recipients, and members of the military. These persons are specifically exempted by statute from the requirement for implementing regulations. See 44 U.S.C. §1505(a) and 5 U.S.C. §553(a).
3. The Secretary of the Treasury is authorized to publish implementing regulations which enforce the Internal Revenue Code, pursuant to 26 U.S.C. §7805(a). He is not REQUIRED to write implementing regulations or to publish them in the Federal Register in the case of any enforcement action which only affects those in the exempted groups, such as federal employees, federal contractors, federal benefit recipients, and members of the military, even for statutes which prescribe penalties.
4. The only way for a person who is not part of the groups specifically exempted from the requirement for "reasonable notice" by publication in the Federal Register to determine whether a law applies to him is to look whether the statutes that enforce it have been published in the Federal Register and whether they have implementing regulations. If any of the requirements below have been met, then he cannot be held accountable to obey the statute or regulations that implement it and may not be the target of the enforcement action:
   4.1. The statutes have not been published in the Federal Register.
   4.2. There are no implementing regulations. See 26 C.F.R. §601.702(a)(2)(ii).
   4.3. There are implementing regulations, but they were not published in the Federal Register as required.
5. When you bring up these issues in Court, the judge is likely to stonewall you and try to ignore them. He will do this because he knows that if he addresses them truthfully and enforces the requirement for reasonable notice through publication in the Federal Register of every statute and regulation that he seeks to enforce against you, then he will blow up the income tax and make his job largely irrelevant.

10 Resources for Further Study and Rebuttal

If you would like to study the subjects covered in this short pamphlet in further detail, may we recommend the following authoritative sources, and also welcome you to rebut any part of this pamphlet after your have read it and studied the subject carefully yourself just as we have:

Table 3: Resources for further study and rebuttal

Reference	*Type*	*Available at:*
Federal Register Act, 44 U.S.C. Chapt. 15	Legal reference	http://www4.law.cornell.edu/uscode/html/uscode44/usc_sup_01_44_10_15.html
Administrative Procedures Act, 5 U.S.C., Part 1, Chapt. 5, Subchapter II	Legal Reference	http://www4.law.cornell.edu/uscode/html/uscode05/usc_sup_01_5_10_I_30_5_40_II.html
Federal Register	Place to look at new publications in the Federal Register during the current calendar year.	http://www.gpoaccess.gov/fr/index.html
Regulations.gov	Place to review proposed new regulations before publication in the Federal Register.	http://regulations.gov
Liberty University	Free educational materials for regaining your sovereignty as an entrepreneur or private person	http://sedm.org/LibertyU/LibertyU.htm
Family Guardian Website, Taxes page	Free website	http://famguardian.org/Subjects/Taxes/taxes.htm
Reasonable Belief About Income Tax Liability	Free memorandum of law	http://sedm.org/Forms/05-MemLaw/ReasonableBelief.pdf

11 Questions that Readers, Grand Jurors, and Petit Jurors Should be Asking the Government

> *"For this is the will of God, that by doing good you may put to silence the ignorance of foolish men— as free, yet not using liberty as a cloak for vice, but as bondservants of God."*
> *[1 Peter 2:15-17, Bible, NKJV]*

These questions are provided for readers, Grand Jurors, and Petit Jurors to present to the government or anyone else who would challenge the facts and law appearing in this pamphlet, most of whom work for the government or stand to gain financially from perpetuating the fraud. If you find yourself in receipt of this pamphlet, you are demanded to answer the questions within 10 days. Pursuant to Federal Rule of Civil Procedure 8(b)(6), failure to deny within 10 days constitutes an admission to each question. Pursuant to 26 U.S.C. §6065, all of your answers must be signed under penalty of perjury. We are not interested in agency policy, but only sources of reasonable belief identified in the pamphlet below:

Reasonable Belief About Income Tax Liability, Form #05.007 http://sedm.org/Forms/FormIndex.htm

Your answers will become evidence in future litigation, should that be necessary in order to protect the rights of the person against whom you are attempting to unlawfully enforce federal law.

1. Admit that reasonable notice is a fundamental requirement of due process of law.

> *"It is sufficient to say that there are certain immutable principles of justice which inhere in the very idea of free government which no member of the Union may disregard, as that* ***no man shall be condemned in his person or property without due notice and an opportunity of being heard in his own defense.*** *"*
> *[Holden v. Hardy, 169 U.S. 366 (1898)]*

YOUR ANSWER (circle one): Admit/Deny

2. Admit that the "due notice" is required before a man's property may be seized to enforce any provision of any law or contract.

*For more than a century, the central meaning of procedural due process has been clear: "**Parties whose rights are to be affected are entitled to be heard; and in order that they may enjoy that right, they must first be notified.**" Baldwin v. Hale, 1 Wall. 223, 233. See Windsor v. McVeigh, 93 U.S. 274; Hovey v. Elliott, 167 U.S. 409; Grannis v. Ordean, 234 U.S. 385. It is equally fundamental that the right to notice and an opportunity to be heard "must be granted at a meaningful time and in a meaningful manner." Armstrong v. Manzo, 380 U.S. 545, 552.*

[. . .]

***The constitutional right to be heard is a basic aspect of the duty of government to follow a fair process of decisionmaking when it acts to deprive a person of his possessions.** The purpose of this requirement is not [407 U.S. 81] only to ensure abstract fair play to the individual. Its purpose, more particularly, is to protect his use and possession of property from arbitrary encroachment -- to minimize substantively unfair or mistaken deprivations of property, a danger that is especially great when the State seizes goods simply upon the application of and for the benefit of a private party. So viewed, **the prohibition against the deprivation of property without due process of law reflects the high value, embedded in our constitutional and political history, that we place on a person's right to enjoy what is his, free of governmental interference.** See Lynch v. Household Finance Corp., 405 U.S. 538, 552.*

The requirement of notice and an opportunity to be heard raises no impenetrable barrier to the taking of a person's possessions. But the fair process of decisionmaking that it guarantees works, by itself, to protect against arbitrary deprivation of property. For when a person has an opportunity to speak up in his own defense, and when the State must listen to what he has to say, substantively unfair and simply mistaken deprivations of property interests can be prevented. It has long been recognized that

> *fairness can rarely be obtained by secret, one-sided determination of facts decisive of rights. . . . [And n]o better instrument has been devised for arriving at truth than to give a person in jeopardy of serious loss notice of the case against him and opportunity to meet it.*

Joint Ant-Fascist Refugee Committee v. McGrath, 341 U.S. 123, 170-172 (Frankfurter, J., concurring).

If the right to notice and a hearing is to serve its full purpose, then, it is clear that it must be granted at a time when the deprivation can still be prevented. At a later hearing, an individual's possessions can be returned to him if they were unfairly or mistakenly taken in the first place. Damages may even be [407 U.S. 82] awarded to him for the wrongful deprivation. But no later hearing and no damage award can undo the fact that the arbitrary taking that was subject to the right of procedural due process has already occurred. "This Court has not . . . embraced the general proposition that a wrong may be done if it can be undone." Stanley v. Illinois, 405 U.S. 645, 647.

This is no new principle of constitutional law. The right to a prior hearing has long been recognized by this Court under the Fourteenth and Fifth Amendments. Although the Court has held that due process tolerates variances in the form of a hearing "appropriate to the nature of the case," Mullane v. Central Hanover Tr. Co., 339 U.S. 306, 313, and "depending upon the importance of the interests involved and the nature of the subsequent proceedings [if any]," Boddie v. Connecticut, 401 U.S. 371, 378, the Court has traditionally insisted that, whatever its form, opportunity for that hearing must be provided before the deprivation at issue takes effect. E.g., Bell v. Burson, 402 U.S. 535, 542; Wisconsin v. Constantineau, 400 U.S. 433, 437; Goldberg v. Kelly, 397 U.S. 254; Armstrong v. Manzo, 380 U.S. at 551; Mullane v. Central Hanover Tr. Co., supra, at 313; Opp Cotton Mills v. Administrator, 312 U.S. 126, 152-153; United States v. Illinois Central R. Co., 291 U.S. 457, 463; Londoner v. City & County of Denver, 210 U.S. 373, 385-386. See In re Ruffalo, 390 U.S. 544, 550-551.

> *That the hearing required by due process is subject to waiver, and is not fixed in form does not affect its root requirement that an individual be given an opportunity for a hearing before he is deprived of any significant property interest, except for extraordinary situations where some valid governmental interest is at stake that justifies postponing the hearing until after the event.*

Boddie v. Connecticut, supra, at 379-379 (emphasis in original). [407 U.S. 83]
[Fuentes v. Shevin, 407 U.S. 67, 80 (1972) (quoting Baldwin v. Hale, 1 Wall. 223, 233 (1864); Armstrong v. Manzo, 380 U.S. 545, 552 (1965)]

YOUR ANSWER (circle one): Admit/Deny

3. Admit that failure to provide "reasonable notice" or "due notice" in advance of a enforcement government action that adversely affects rights to life, liberty, and property may nullify the action and make the government enforcement agent personally liable for violation of Constitutional rights.

"An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 314 (1950). Without proper prior notice to those who may be affected by a government decision, all other procedural rights may be nullified. The exact contents of the notice required by due process will, of course, vary with the circumstances.
[Administrative Law and Process in a Nutshell, Ernest Gellhorn, 1990, West Publishing, p. 214]

TITLE 5 > PART I > CHAPTER 5 > SUBCHAPTER II > § 552
§ 552. Public information; agency rules, opinions, orders, records, and proceedings

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

YOUR ANSWER (circle one): Admit/Deny

4. Admit that in the case of persons domiciled in states of the Union, one method for providing "reasonable notice" is the requirement that any law having "general applicability and legal affect" MUST be published in the Federal Register.

TITLE 44 > CHAPTER 15 > § 1505
§ 1505. Documents to be published in Federal Register

(a) Proclamations and Executive Orders; Documents Having General Applicability and Legal Effect; Documents Required To Be Published by Congress. There shall be published in the Federal Register—

(1) Presidential proclamations and Executive orders, except those not having general applicability and legal effect or effective only against Federal agencies or persons in their capacity as officers, agents, or employees thereof;

(2) documents or classes of documents that the President may determine from time to time have general applicability and legal effect; and

(3) documents or classes of documents that may be required so to be published by Act of Congress.

For the purposes of this chapter every document or order which prescribes a penalty has general applicability and legal effect.

TITLE 5 > PART I > CHAPTER 5 > SUBCHAPTER II > § 552
§ 552. Public information; agency rules, opinions, orders, records, and proceedings

(a) Each agency shall make available to the public information as follows:

(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public—

(A) descriptions of its central and field organization and the established places at which, the employees (and in the case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

(E) each amendment, revision, or repeal of the foregoing.

> *Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.*

YOUR ANSWER (circle one): Admit/Deny

5. Admit no federal law may prescribe a penalty against the general public domiciled in states of the Union unless and until it has been published in the Federal Register as required by 44 U.S.C. §1505(a), 5 U.S.C. §553(a), and 5 U.S.C. §552(a).

YOUR ANSWER (circle one): Admit/Deny

6. Admit that 44 U.S.C. §1505(a), 5 U.S.C. §553(a) specifically exempt the following groups from the requirement for publication in the Federal Register of laws or regulations that prescribe a penalty (e.g.: result in some kind of enforcement action).

    1. Federal agencies or persons in their capacity as officers, agents, or employees thereof. See 44 U.S.C. §1505(a)(1).
    2. A military or foreign affairs function of the United States. See 5 U.S.C. §553(a)(1).
    3. A matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts. See 5 U.S.C. §553(a)(2).

YOUR ANSWER (circle one): Admit/Deny

7. Admit that a person who is a member of one of the exempted groups or activities mentioned above does not enjoy the full protection of the Bill of Rights in the context of their employment duties with the federal government.

> *"The restrictions that the Constitution places upon the government in its capacity as lawmaker, i.e., as the regulator of private conduct, are not the same as the restrictions that it places upon the government in its capacity as employer. We have recognized this in many contexts, with respect to many different constitutional guarantees. Private citizens perhaps cannot be prevented from wearing long hair, but policemen can. Kelley v. Johnson, 425 U.S. 238, 247 (1976). Private citizens cannot have their property searched without probable cause, but in many circumstances government employees can. O'Connor v. Ortega, 480 U.S. 709, 723 (1987) (plurality opinion); id., at 732 (SCALIA, J., concurring in judgment). Private citizens cannot be punished for refusing to provide the government information that may incriminate them, but government employees can be dismissed when the incriminating information that they refuse to provide relates to the performance of their job. Gardner v. Broderick, [497 U.S. 62, 95] 392 U.S. 273, 277 -278 (1968). With regard to freedom of speech in particular: Private citizens cannot be punished for speech of merely private concern, but government employees can be fired for that reason. Connick v. Myers, 461 U.S. 138, 147 (1983). Private citizens cannot be punished for partisan political activity, but federal and state employees can be dismissed and otherwise punished for that reason. Public Workers v. Mitchell, 330 U.S. 75, 101 (1947); Civil Service Comm'n v. Letter Carriers, 413 U.S. 548, 556 (1973); Broadrick v. Oklahoma, 413 U.S. 601, 616 -617 (1973)."*
> *[Rutan v. Republican Party of Illinois, 497 U.S. 62 (1990)]*

YOUR ANSWER (circle one): Admit/Deny

8. Admit that the reason why exempted groups may be penalized without the need for publication of statutes and/or implementing regulations published in the Federal Register is because they are members of the Executive Branch of the government, and are therefore subject to the direct command of Congress.

YOUR ANSWER (circle one): Admit/Deny

9. Admit that if all commands of the Congress to the Executive Branch required publication of the statute in the Federal Register by someone in the Executive Branch, or if every command had to be interpreted by the Executive Branch with an implementing regulation before Congress could enforce it, then the servant, which is the Executive Branch, would have a legal avenue to lawfully disobey the direct commands of Congress by refusing to either write an implementing regulation or refusing to publish the laws of Congress in the Federal Register.

YOUR ANSWER (circle one): Admit/Deny

10. Admit that all persons who are not members of the groups specifically exempted from the requirement for publication in the Federal Register mentioned in question 6 above may ***only*** lawfully become the target of an administrative agency enforcement action which prescribes a penalty if the ***statute*** sought to be enforced is published as required in the Federal Register.

    YOUR ANSWER (circle one): Admit/Deny

11. Admit that all persons who are not members of the above groups specifically exempted from the requirement for publication in the Federal Register may ***only*** lawfully become the target of an administrative agency enforcement action which prescribes a penalty if the ***regulations*** sought to be enforced are published as required in the Federal Register.

    YOUR ANSWER (circle one): Admit/Deny

12. Admit that any government official who is involved in any kind of law enforcement against persons domiciled in states of the Union who are not members of the exempted groups listed above must produce one of the following two things in order to demonstrate lawful enforcement authority and if he can't, he is violating rights:

    1. Evidence of publication in the Federal Register of the statutes and implementing regulations for the statute authorizing the enforcement action.

    > *"...the Act's **civil and criminal penalties attach only upon violation of the regulation** promulgated by the Secretary; **if the Secretary were to do nothing, the Act itself would impose no penalties on anyone**...The Government urges that since only those who violate these regulations [not the Code] may incur civil or criminal penalties, it is the actual regulations issued by the Secretary of the Treasury, and not the broad authorizing language of the statute, which are to be tested against the standards of the Fourth Amendment; and that when so tested they are valid*
    > *[Calif. Bankers Assoc. v. Shultz, 416 U.S. 21, 44, 39 L.Ed. 2d 812, 94 S.Ct 1494]*

    > *"Although the relevant statute **authorized** the Secretary to impose such a duty, his implementing regulations did not do so. Therefore we held that **there was no duty** to disclose..."*
    > *[United States v. Murphy, 809 F.2d. 142, 1431]*

    > "...for federal tax purposes, federal regulations govern."
    > *[Dodd v. United States, 223 F Supp 785]*

    > *"Here the statute is not complete by itself, since it merely declares the range of its operation and leaves to its progeny the means to be utilized in the effectuation of its command. But it is the statute which creates the offense of the willful removal of the labels of origin and provides the punishment for violations. The regulations, on the other hand, prescribe the identifying language of the label itself, and assign the resulting tags to their respective geographical areas. Once promulgated, [361 U.S. 431, 438] these regulations, called for by the statute itself, have the force of law, and violations thereof incur criminal prosecutions, just as if all the details had been incorporated into the congressional language.* **The result is that neither the statute nor the regulations are complete without the other, and only together do they have any force. In effect, therefore, the construction of one necessarily involves the construction of the other.***"*
    > *[U.S. v. Mersky, 361 U.S. 431 (1960)]*

    2. Evidence proving that the target of the enforcement action is a member of one of the groups specifically exempted from the requirement for publication of statutes and regulations in the Federal Register, as described in question 6 earlier, and against whom implementing regulations are therefore not required.

    > *"Federal income tax regulations governing filing of income tax returns do not require Office of Management and Budget control numbers because **requirement to file tax return is mandated by statute, not by regulation.**"*
    > *[U.S. v. Bartrug, E.D.Va.1991, 777 F.Supp. 1290 , affirmed 976 F.2d. 727, certiorari denied 113 S.Ct. 1659, 507 U.S. 1010, 123 L.Ed.2d. 278]*

    YOUR ANSWER (circle one): Admit/Deny

13. Admit that in the case of the person who submitted this form to the recipient, the government as the moving party in this case who is attempting an enforcement action against the submitter has not provided either of the two required forms of proof of jurisdiction mentioned above to the submitter.

> *TITLE 5 > PART I > CHAPTER 5 > SUBCHAPTER II > § 556*

§ 556. Hearings; presiding employees; powers and duties; burden of proof; evidence; record as basis of decision

(d) *Except as otherwise provided by statute,* ***the proponent of a rule or order has the burden of proof. Any oral or documentary evidence may be received, but the agency as a matter of policy shall provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence. A sanction may not be imposed or rule or order issued except on consideration of the whole record or those parts thereof cited by a party and supported by and in accordance with the reliable, probative, and substantial evidence.*** *The agency may, to the extent consistent with the interests of justice and the policy of the underlying statutes administered by the agency, consider a violation of section 557 (d) of this title sufficient grounds for a decision adverse to a party who has knowingly committed such violation or knowingly caused such violation to occur. A party is entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. In rule making or determining claims for money or benefits or applications for initial licenses an agency may, when a party will not be prejudiced thereby, adopt procedures for the submission of all or part of the evidence in written form.*

YOUR ANSWER (circle one): Admit/Deny

14. Admit that in the case of the person who submitted this form to the recipient, the government as the moving party in this case who is attempting an enforcement action against the submitter positively and willfully REFUSES its legal duty to provide evidence of lawful jurisdiction before proceeding with the enforcement action it is attempting, and therefore is involved in willful deprivation of Constitutional rights of the submitter.

YOUR ANSWER (circle one): Admit/Deny

15. Admit that in the case of the Internal Revenue Code, all persons who are not members of the groups specifically exempted from the requirement for publication in the Federal Register mentioned in question 6 may *only* lawfully be the target of an administrative agency enforcement action which prescribes a penalty if the statute sought to be enforced has an implementing regulation.

26 C.F.R. §601.702(a)(2)(ii)
Effect of failure to publish.

Except to the extent that a person has actual and timely notice of the terms of any matter referred to in subparagraph (1) of this paragraph which is required to be published in the Federal Register TA \s "Federal Register" , such person is not required in any manner to resort to, or be adversely affected by, such matter if it is not so published or is not incorporated by reference therein pursuant to subdivision (i) of this subparagraph. Thus, for example, any such matter which imposes an obligation and which is not so published or incorporated by reference will not adversely change or affect a person's rights.

YOUR ANSWER (circle one): Admit/Deny

16. Admit that none of the enforcement statutes of the Internal Revenue Code have been published in the Federal Register.

YOUR ANSWER (circle one): Admit/Deny

17. Admit that there are no implementing regulations published in the Federal Register for any of the enforcement provisions found in the Internal Revenue Code.

See: http://famguardian.org/TaxFreedom/Forms/TaxExamAudit/IRSDueProcMtgWorksheet.pdf

YOUR ANSWER (circle one): Admit/Deny

18. Admit that because none of the enforcement provisions of the Internal Revenue Code have been published in the Federal Register, the code may only prescribe a penalty against persons who are members of the groups specifically exempted from the requirement for publication in the Federal Register described in question #6 above.

YOUR ANSWER (circle one): Admit/Deny

19. Admit that for an enforceable contract to be formed and for rights to be forfeited in the context of that contract, there must be: 1. An offer; 2. Reasonable and explicit notice to all parties of all the terms and conditions arising out of the

contract; 3. An acceptance of the fully disclosed terms and conditions; 4. Mutual consideration for both parties to the contract.

YOUR ANSWER (circle one): Admit/Deny

20. Admit that in the case of any contract or agreement between a private party and the government that adversely affects or waives a Constitutionally protected right must be intentional and fully informed:

> *"Waivers of constitutional rights not only must be voluntary but must be knowing, intelligent acts done with sufficient awareness [reasonable notice] of the relevant circumstances and likely consequences."*
> *[Brady v. U.S., 397 U.S. 742, at 749, 90 S.Ct. 1463 at 1i469 (1970)]*

> *"The question of a waiver of a federally guaranteed constitutional right is, of course, a federal question controlled by federal law. There is a presumption against the waiver of constitutional rights, see, e.g. Glasser v. United States, 314 U.S. 60, 70-71, 86 L.Ed. 680, 699, 62 S.Ct. 457, and for a waiver to be effective it must be clearly established that there was an 'intentional relinquishment or abandonment of a known right or privilege.' Johnson v. Zerbst, 304 U.S. 458, 464, 82 L.Ed. 1461, 1466, 58 S.Ct. 1019, 146 A.L.R. 357."*
> *[Brookhart v. Janis, 384 U.S. 1; 86 S.Ct. 1245; 16 L.Ed.2d. 314 (1966)]*

YOUR ANSWER (circle one): Admit/Deny

21. Admit that the ***only*** reasonable way that a Constitutional right can be waived "knowingly and intelligently" is to fully disclose in the agreement or contract itself ***all*** of the rights that are individually being relinquished or surrendered and thereby give "reasonable notice" to all parties concerned of exactly what is being surrendered in exchange for the privilege or right being procured as a result of the contract or agreement.

YOUR ANSWER (circle one): Admit/Deny

22. Admit that it is a violation of Constitutionally protected rights for the government to "assume" or "presume" consent to a contract, agreement, or private law absent proof in writing of fully informed consent to all of its provisions.

YOUR ANSWER (circle one): Admit/Deny

23. Admit that a contract entered into under the influence of duress is voidable but not void.

> *"An agreement [consent] obtained by duress, coercion, or intimidation is invalid, since the party coerced is not exercising his free will, and the test is not so much the means by which the party is compelled to execute the agreement as the state of mind induced.[19] Duress, like fraud, rarely becomes material, except where a contract or conveyance has been made which the maker wishes to avoid. As a general rule, duress renders the contract or conveyance voidable, not void, at the option of the person coerced,[20] and it is susceptible of ratification. Like other voidable contracts, it is valid until it is avoided by the person entitled to avoid it. [21] However, duress in the form of physical compulsion, in which a party is caused to appear to assent when he has no intention of doing so, is generally deemed to render the resulting purported contract void. [22][4]"*
> *[American Jurisprudence 2d, Duress, §21 (1999)]*

YOUR ANSWER (circle one): Admit/Deny

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[19] Brown v. Pierce, 74 U.S. 205, 7 Wall 205, 19 L Ed 134

[20] Barnette v. Wells Fargo Nevada Nat'l Bank, 270 U.S. 438, 70 L Ed 669, 46 S Ct 326 (holding that acts induced by duress which operate solely on the mind, and fall short of actual physical compulsion, are not void at law, but are voidable only, at the election of him whose acts were induced by it); Faske v. Gershman, 30 Misc.2d. 442, 215 N.Y.S.2d. 144; Glenney v. Crane (Tex Civ App Houston (1st Dist)), 352 S.W.2d. 773, writ ref n r e (May 16, 1962); Carroll v. Fetty, 121 W Va 215, 2 S.E.2d. 521, cert den 308 U.S. 571, 84 L Ed 479, 60 S Ct 85.

[21] Faske v. Gershman, 30 Misc.2d. 442, 215 N.Y.S.2d. 144; Heider v. Unicume, 142 Or. 416, 20 P.2d. 384; Glenney v. Crane (Tex Civ App Houston (1st Dist)), 352 S.W.2d. 773, writ ref n r e (May 16, 1962)

[22] Restatement 2d, Contracts §174, stating that if conduct that appears to be a manifestation of assent by a party who does not intend to engage in that conduct is physically compelled by duress, the conduct is not effective as a manifestation of assent.

24. Admit that if any terms or conditions of a contract or agreement are deliberately and knowingly concealed by one or more of the parties to the agreement at the time consent is provided by the other parties, and if the terms concealed are material to the benefits or consent provided, then ***constructive fraud*** has occurred which may render the contract void and unenforceable.

> *Unquestionably, the concealment of material facts that one is, under the circumstances, bound to disclose may constitute actionable fraud. 3 Indeed, one of the fundamental tenets of the Anglo-American law of fraud is that fraud may be committed by a suppression of the truth (suppressio veri) as well as by the suggestion of falsehood (suggestio falsi). 4 It is, therefore, equally competent for a court to relieve against fraud whether it is committed by suppression of the truth–that is, by concealment–or by suggestion of falsehood. 5*
>
> *[…]*
>
> *Where failure to disclose a material fact is calculated to induce a false belief, the distinction between concealment and affirmative misrepresentation is tenuous. Both are fraudulent. 11* ***An active concealment has the same force and effect as a representation which is positive in form****. 12 The one acts negatively, the other positively; both are calculated, in different ways, to produce the same result. 13* ***The former, as well as the latter, is a violation of the principles of good faith.*** *It proceeds from the same motives and is attended with the same consequences; 14 and the deception and injury may be as great in the one case as in the other. [37 American Jurisprudence 2d, Fraud and Deceit, §144 (1999)]*

> *"****Fraud vitiates every transaction and all contracts.*** *Indeed, the principle is often stated, in broad and sweeping language, that fraud destroys the validity of everything into which it enters, and that it vitiates the most solemn contracts, documents, and even judgments. 8* ***Fraud, as it is sometimes said, vitiates every act, which statement embodies a thoroughly sound doctrine when it is properly applied to the subject matter in controversy and to the parties thereto and in a proper forum.*** *As a general rule, fraud will vitiate a contract notwithstanding that it contains a provision to the effect that no representations have been made as an inducement to enter into it, or that either party shall be bound by any representation not contained therein, or a similar provision attempting to nullify extraneous representations. Such provisions do not, in most jurisdictions, preclude a charge of fraud based on oral representations."*
> *[37 American Jurisprudence 2d, Fraud and Deceit, §144 (1999)]*

YOUR ANSWER (circle one): Admit/Deny

25. Admit that the existence of fiduciary duty on the part of the party who concealed the facts gives rise not only to standing to sue for breach of fiduciary duty, but also to standing to ask for "estoppel in pais" or "equitable estoppel" against the fiduciary who instituted the breach:

> *"Silence is a species of conduct, and constitutes an implied representation of the existence of the state of facts in question , and the estoppel is accordingly a species of estoppel by misrepresentation. When silence is of such a character and under such circumstances that it would become a fraud upon the other party to permit the party who has kept silent to deny what his silence has induced the other to believe and act upon, it will operate as an estoppel."*
> *[Carmine v. Bowen, 64 A. 932 (1906)]*

> *"Equitable estoppel, or estoppel in pais, is a term applied usually to a situation where, because of something which he has done or omitted to do, a party is denied the right to plead or prove an otherwise important fact. 2 The term has also been variously defined, frequently by pointing out one or more of the elements of, or prerequisites to, 3 the application of the doctrine or the situations in which the doctrine is urged. 4 The most comprehensive definition of equitable estoppel or estoppel in pais is that it is the principle by which a party who knows or should know the truth is absolutely precluded, both at law and in equity, from denying, or asserting the contrary of, any material fact which, by his words or conduct, affirmative or negative, intentionally or through culpable negligence, he has induced another, who was excusably ignorant of the true facts and who had a right to rely upon such words or conduct, to believe and act upon them thereby, as a consequence reasonably to be anticipated, changing his position in such a way that he would suffer injury if such denial or contrary assertion was allowed. 5 In the final analysis, however, an equitable estoppel rests upon the facts and circumstances of the particular case in which it is urged, 6 considered in the framework of the elements, requisites, and grounds of equitable estoppel, 7 and consequently, any attempted definition usually amounts to no more than a declaration of an estoppel under those facts and circumstances. 8 The cases themselves must be looked to and applied by way of analogy rather than rule. 9"*
> *[American Jurisprudence 2d, Estoppel and Waiver, §27: Definitions and Nature (1999)]*

"The doctrine of estoppel is based upon the grounds of public policy, fair dealing, good faith, and justice, and its purpose is to forbid one to speak against his own act, representations, or commitments to the injury of one to whom they were directed and who reasonably relied thereon. 11 The doctrine of estoppel springs from equitable principles and the equities in the case. 12 It is designed to aid the law in the administration of justice where without its aid injustice might result. 13 Thus, the doctrine of equitable estoppel or estoppel in pais is founded upon principles of morality and fair dealing and is intended to subserve the ends of justice. 14 It always presupposes error on one side and fault or fraud upon the other and some defect of which it would be inequitable for the party against whom the doctrine is asserted to take advantage. 15 It concludes the truth in order to prevent fraud and falsehood and imposes silence on a party only when in conscience and honesty he should not be allowed to speak. 16

The proper function of equitable estoppel is the prevention of fraud, actual or constructive, 17 and the doctrine should always be so applied as to promote the ends of justice and accomplish that which ought to be done between man and man. 18 Such an estoppel cannot arise against a party except when justice to the rights of others demands it 19 and when to refuse it would be inequitable. 20 The doctrine of estoppel should be applied cautiously and only when equity clearly requires it to be done. 1 Hence, in determining the application of the doctrine, the counterequities of the parties are entitled to due consideration. 2 It is available only in defense of a legal or equitable right or claim made in good faith and can never be asserted to uphold crime, fraud, injustice, or wrong of any character. 3 Estoppel is to be applied against wrongdoers, not against the victim of a wrong, 4 although estoppel is never employed as a means of inflicting punishment for an unlawful or wrongful act. 5"
[American Jurisprudence 2d, Estoppel and Waiver, §28: Basis, function, and purpose (1999)]

YOUR ANSWER (circle one): Admit/Deny

26. Admit that "public officers", including all federal employees, have a fiduciary duty to the public as trustees of the public trust.

*"As expressed otherwise, the powers delegated to a public officer are held in trust for the people and are to be exercised in behalf of the government or of all citizens who may need the intervention of the officer. [23] **Furthermore, the view has been expressed that all public officers, within whatever branch and whatever level of government, and whatever be their private vocations, are trustees of the people, and accordingly labor under every disability and prohibition imposed by law upon trustees relative to the making of personal financial gain from a discharge of their trusts**. [24] **That is, a public officer occupies a fiduciary relationship to the political entity on whose behalf he or she serves. [25] and owes a fiduciary duty to the public. [26] It has been said that the fiduciary responsibilities of a public officer cannot be less than those of a private individual. [27]** Furthermore, it has been stated that any enterprise undertaken by the public official which tends to weaken public confidence and undermine the sense of security for individual rights is against public policy.[28]"*
[63C American Jurisprudence 2d, Public Officers and Employees, §247 (1999)]

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*"Fraud in its elementary common law sense of deceit -- and this is one of the meanings that fraud bears [483 U.S. 372] in the statute, see United States v. Dial, 757 F.2d. 163, 168 (7th Cir.1985) -- includes the deliberate concealment of material information in a setting of fiduciary obligation. **A public official is a fiduciary toward the public, including, in the case of a judge, the litigants who appear before him, and if he deliberately conceals material information from them, he is guilty of fraud. When a judge is busily soliciting loans from counsel to one party, and not telling the opposing counsel (let alone the public), he is concealing material information in violation of his fiduciary obligations."***
[McNally v. United States, 483 U.S. 350 (1987)]

[23] State ex rel. Nagle v. Sullivan, 98 Mont. 425, 40 P.2d. 995, 99 A.L.R. 321; Jersey City v. Hague, 18 NJ 584, 115 A2d 8.

[24] Georgia Dep't of Human Resources v. Sistrunk, 249 Ga. 543, 291 S.E.2d. 524. A public official is held in public trust. Madlener v. Finley (1st Dist) 161 Ill.App.3d. 796, 113 Ill.Dec. 712, 515 N.E.2d. 697, app gr 117 Ill.Dec. 226, 520 N.E.2d. 387 and revd on other grounds 128 Ill.2d. 147, 131 Ill.Dec. 145, 538 N.E.2d. 520.

[25] Chicago Park Dist. v. Kenroy, Inc., 78 Ill.2d. 555, 37 Ill.Dec. 291, 402 N.E.2d. 181, appeal after remand (1st Dist) 107 Ill.App.3d. 222, 63 Ill.Dec. 134, 437 N.E.2d. 783.

[26] United States v. Holzer (CA7 Ill) 816 F.2d. 304 and vacated, remanded on other grounds 484 U.S. 807, 98 L Ed 2d 18, 108 S Ct 53, on remand (CA7 Ill) 840 F.2d. 1343, cert den 486 U.S. 1035, 100 L Ed 2d 608, 108 S Ct 2022 and (criticized on other grounds by United States v. Osser (CA3 Pa) 864 F.2d. 1056) and (superseded by statute on other grounds as stated in United States v. Little (CA5 Miss) 889 F.2d. 1367) and (among conflicting authorities on other grounds noted in United States v. Boylan (CA1 Mass) 898 F.2d. 230, 29 Fed.Rules.Evid.Serv. 1223).

[27] Chicago ex rel. Cohen v. Keane, 64 Ill.2d. 559, 2 Ill.Dec. 285, 357 N.E.2d. 452, later proceeding (1st Dist) 105 Ill.App.3d. 298, 61 Ill.Dec. 172, 434 N.E.2d. 325.

[28] Indiana State Ethics Comm'n v. Nelson (Ind App) 656 N.E.2d. 1172, reh gr (Ind App) 659 N.E.2d. 260, reh den (Jan 24, 1996) and transfer den (May 28, 1996).

YOUR ANSWER (circle one): Admit/Deny

27. Admit that even though "citizens" are required to know the law, the requirement to know the law does waive or otherwise satisfy the requirement for "reasonable notice" in the case of any contract or arrangement with the government that might adversely affect a Constitutionally protected right.

> *"Every citizen of the United States is supposed to know the law. . ."*
> *[Floyd Acceptances, 7 Wall (74 U.S. 169) 666 (1869)]*

> *"Every man is supposed to know the law. A party who makes a contract with an officer [of the government] without having it reduced to writing is knowingly accessory to a violation of duty on his part. Such a party aids in the violation of the law."*
> *[Clark v. United States, 95 U.S. 539 (1877)]*

YOUR ANSWER (circle one): Admit/Deny

28. Admit that in the case of Social Security, the payment of benefits is not a contractual obligation to the government, and that therefore, there are no benefits or rights to benefits accruing by virtue of participating in the program and no "consideration" in the sense of a true contract:

> *"... railroad benefits, like social security benefits, are not contractual and may be altered or even eliminated at any time."*
> *[United States Railroad Retirement Board v. Fritz, 449 U.S. 166)1980)]*

> *"We must conclude that **a person covered by the Act has not such a right in benefit payments**... This is not to say, however, that Congress may exercise its power to modify the statutory scheme free of all constitutional restraint."*
> *[Flemming v. Nestor, 363 U.S. 603 (1960)]*

YOUR ANSWER (circle one): Admit/Deny

29. Admit that a contract that does not convey mutual consideration to all parties is unenforceable and void against those parties that received no consideration.

YOUR ANSWER (circle one): Admit/Deny

Affirmation:

I declare under penalty of perjury as required under 26 U.S.C. §6065 that the answers provided by me to the foregoing questions are true, correct, and complete to the best of my knowledge and ability, so help me God. I also declare that these answers are completely consistent with each other and with my understanding of both the Constitution of the United States, Internal Revenue Code, Treasury Regulations, the Internal Revenue Manual (I.R.M.), and the rulings of the Supreme Court but not necessarily lower federal courts.

Name (print):_____

Signature:_____

Date:_____

Witness name (print):_____

Witness Signature:_____

Witness Date:_____