

# NOTARY CERTIFICATE OF DISHONOR PROCESS

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1 **1 Introduction**

2 There are many occasions in professional fields where law or contract disputes or misunderstandings are likely and where  
3 the stakes are high. In such sensitive scenarios, it is a valuable skill to be able to negotiate the best results for everyone and  
4 to be able to do it in writing so as to ensure that all parties are legally accountable for the consequences and may not evade  
5 their duties under the law or the contract regulating the relationship between them. Situations where such a skill can be  
6 useful include:

- 7 1. Contracts between parties where one party is in default or not performing properly.
- 8 2. Trustees who are violating the trust indenture.
- 9 3. Doctors who have engaged in malpractice.
- 10 4. Construction, where the contractor or builder are not satisfying the terms of the contract.
- 11 5. Employers and financial institutions which are violating the laws on tax withholding or reporting.
- 12 6. Governments engaged in tax collection in violation of the law.
- 13 7. Governments involved in illegal enforcement actions.

14 This memorandum of law shall describe what we call the Notary Certificate of Dishonor Process useful to persons who find  
15 themselves in one of the above situations and who:

- 16 1. Are interacting with the government, lawyers, employers, businesses, or financial professionals, hereinafter called  
17 "opponents" over usually legal or contract issues.
- 18 2. Believe that their opponent has engaged in, is engaging in, or will engage in illegal or injurious behavior that injures  
19 your rights or property.
- 20 3. Expect any of the following in either remedying or preventing violations of law or injuries against you.
  - 21 3.1. Argument
  - 22 3.2. Dispute
  - 23 3.3. Resistance
  - 24 3.4. Intimidation by corporate lawyers.
  - 25 3.5. Threats.
  - 26 3.6. Posturing.
- 27 4. Want to accumulate high quality, relevant, court admissible, third party evidence documenting the illegal or injurious  
28 behavior of their opponent for use in a likely court battle that may ensue to remedy the injuries or violations of law.
- 29 5. Want to exhaust all administrative remedies available before pursuing litigation so they have adequate standing to sue  
30 their opponent and are less likely to have their lawsuit dismissed.
- 31 6. Do not want to negotiate or bargain away their rights through either inaction, omission, or silence so that they remain  
32 in a strong bargaining position if litigation does ensue.
- 33 7. Want to follow best industry practices and the same commercial rules as legal professionals and government use in  
34 order to ensure the equal treatment by any court in relation to the their opponent(s).
- 35 8. Want to maximize the chances of prevailing in court against their opponent if or when litigation becomes necessary to  
36 right the wrong.

37 The procedures in this document are based on the notary protest method documented in manuals for notaries public such as  
38 the following:

*Anderson's Manual for Notaries Public, Ninth Edition*; Anderson Publishing Co., ISBN 1-58360-357-3  
<http://www.andersonpublishing.com>

39 **2 Why involve a notary public in your commercial dispute?**

40 The reason to use the notary protest method is to gather credible, admissible evidence of dishonor for use in quickly  
41 resolving a dispute if or when litigated in court and usually where litigation is likely. The notary protest method requires  
42 you to involve a notary in your dispute as a third party witness and referee. There are advantages and disadvantages to  
43 doing this that you should be aware of.

44 **1. ADVANTAGES:**

1 1.1. A notary public is a “public officer” within the government, and as such, their official records are considered  
2 “public records” and are exempted from the Hearsay Rule, Federal Rule of Evidence 802.

3 Chapter 1  
4 Introduction  
5 §1.1 Generally

6 **A notary public (sometimes called a notary) is a public official appointed under authority of law** with power,  
7 among other things, to administer oaths, certify affidavits, take acknowledgments, take depositions, perpetuate  
8 testimony, and protect negotiable instruments. Notaries are not appointed under federal law; they are  
9 appointed under the authority of the various states, districts, territories, as in the case of the Virgin Islands, and  
10 the commonwealth, in the case of Puerto Rico. The statutes, which define the powers and duties of a notary  
11 public, frequently grant the notary the authority to do all acts justified by commercial usage and the “law  
12 merchant”.

13 [[Anderson's Manual for Notaries Public, Ninth Edition, 2001, ISBN 1-58360-357-3, p. 7\]](#)]

14 1.2. In most states, the records, logs, and registers of the notary public are automatically admissible as evidence in any  
15 state court by statute. Below is an example:

16 North Dakota Century Code  
17 § 44-06-08. Record of notices-certified copy-competent evidence.

18 *Each notary public shall keep a record of all notices, of the time and manner in which the same  
19 were served, the names of all the persons to whom the same were directed, and the description and  
20 amount of the instrument protested. Such record, or a copy thereof, certified by the notary under seal,  
21 at all times shall be competent evidence to prove such notice in any court of this state.*

22 1.3. In any commercial dispute between persons, interested adversarial parties make less credible witnesses than  
23 neutral third party witnesses or referees. You are therefore less likely to get your evidence admitted in a court of  
24 law if it originates from you rather than a third party such as a notary.

25 1.4. Notarized original documents are admissible in court often without foundational testimony. This means the  
26 notary who certified your document need not be alive or available to testify if you need to litigate the dispute  
27 years later.

28 1.5. The notary protest method helps reduce the work of the judge and results in all the facts and law subject to  
29 argument to be stipulated by action or omission before the litigation even begins. You will buy a lot of credibility  
30 with the judge by showing that you did everything within your power to resolve your own disputes and stay  
31 focused on avoiding litigation at every opportunity. This may cause him to prejudice the outcome in your favor  
32 and against your opponent.

33 1.6. Evidence from the notary public is difficult for the judge to keep out of evidence, even if prejudicial to the  
34 government.

35 1.7. The output of the notary protest method places your opponent into a position of laches and estoppel, and amounts  
36 to the equivalent of a nihil dicit judgment against him that may quickly be reduced to judgment with a simply  
37 summary judgment motion rather than a full trial. This has the desired effect of minimizing litigation effort and  
38 expense and quickly reducing the controversy to a judgment against your opponent.

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

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

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

21           *[American Jurisprudence 2d, Estoppel and Waiver, §28: Basis, function, and purpose]*

## 22   **2. DISADVANTAGES:**

- 23       2.1. Many notaries do not even know what a notary protest is. You may have to educate them about the process and  
24       their legal authority to participate in it using the materials in section 7 later.  
25       2.2. It may be difficult to locate a notary public who is willing to do it for you in your area.  
26       2.3. The notary protest process is less convenient, more time consuming, and more expensive than the alternatives  
27       described in the next section.

## 28   **3 Alternatives to using the notary protest method**

29   On the flip side of the coin, there are less expensive and more convenient approaches to gathering evidence of a default on  
30   the part of your opponent in a commercial dispute than using a notary as a referee and witness. For instance:

- 31   1. You can send everything via the postal service Certified Mail or Registered Mail with proof of delivery. The green  
32   cards, once returned, become legal evidence of delivery. This method is useful for demonstrating that SOMETHING  
33   was sent, but not for proving WHAT was sent. The problem is, most of the time you also need proof of WHAT was in  
34   the package before it was mailed so you can prove what was defaulted on. This does not prevent disputes in court,  
35   however, because it boils down to a "he says, she says" argument about what was sent.  
36   2. Another method is to use a Certificate of service, which provides proof of what was sent, when it was sent, and how it  
37   was sent. The form below on our website is intended for this use and we use it all the time:

*Certificate/Proof/Affidavit of Service, Form #01.002*

<http://sedm.org/Forms/FormIndex.htm>

- 38   3. You can use the Certificate of Service above and ALSO record the original document at the country recorder's office  
39   with the Certificate of Service and get the copy stamped to prove it was filed. This doesn't work in every county  
40   recorder's office because sometimes they place restrictions on what can be recorded. Once recorded, the document  
41   becomes a public record that is just as admissible as the notary public's records, who is also a public officer exempt  
42   from the Hearsay Rule, Federal Rule of Evidence 802.

43   If you would like to know more about the above techniques, please refer to the following document on our website:

*Techniques for Building a Good Administrative Record, Form #09.008*

<http://sedm.org/Forms/FormIndex.htm>

## 44   **4 Primer on Commercial Law**

45   In addition to defrauding the People by using "Words of Art" to change the meanings of words, the IRS also uses the  
46   Uniform Commercial Code (U.C.C.) as a tool of extortion to steal your substance under the guise of law. The Legislative  
47   History of the Federal Tax Lien Act of 1966, P.L. 89-719, explains that the entire taxing and monetary systems were placed

1 under the Uniform Commercial Code. The U.C.C. is the code that regulates all negotiable instruments, commercial  
2 transactions, and commercial arbitration. It was previously called the Law Merchant and the Negotiable Instrument Law.  
3 The U.C.C. has been grossly abused by the IRS. It is essential that we understand how the UCC operates in order to have  
4 the upper hand in our dealings with the IRS. The essential common law elements of the Commercial Law are good, being  
5 based upon:

- 6 1. Good faith action.
- 7 2. Clean hands doctrine.
- 8 3. Fair business practices.
- 9 4. Full disclosure.
- 10 5. Duty of care.
- 11 6. Just compensation.
- 12 7. Equal protection of the law.
- 13 8. Mercy.
- 14 9. Grace.

15 **4.1 Honor-Dishonor**

16 Everything you do in life - whether a draft or a bill for services rendered, a request to do chores, or a letter asking why you  
17 did not file your taxes, is a draft (offer). Every time you are addressed by some person, company or agency, realize you  
18 may be lured into responding inappropriately. By law, you have 72 hours (three days) to change your mind on entering into  
19 any contract. When you do respond, you must analyze what you are really being asked to do or perform, or whether you are  
20 making assumptions about what is being requested. Every response you make falls into one of four categories. The first two  
21 leave you in honor and in control. The last two leave you in dishonor and you will lose:

- 22 1. Conditionally Accept (CA) the offer
- 23 2. Accept the offer;
- 24 3. Argue; or,
- 25 4. Ignore, be silent, acquiesce.

26 Frequently, creditors will intentionally take advantage of your commercial ignorance in order to set you up or entice you  
27 into dishonor and cause you to lose. This is accomplished in many ways, such as

- 28 1. They make an offer, demand or draft so outrageous that it entices you to argue.
- 29 2. They lure you to respond in a manner which technically is argument.
- 30 3. They give you a far-off "respond by date" so that you do not respond within 72 hours.
- 31 4. They don't tell you how to cure a prior dishonor.
- 32 5. They don't respond at all to you so you don't know what's happened.

33 On the other hand, you likely have responded many times "dishonorably". Consider these responses and categorize them.

- 34 a. You complain about a service and refuse to pay for it.
- 35 b. You write a letter disputing a charge on your credit card statement.
- 36 c. You call a vendor and chew them out for billing you for someone else's work/purchases.
- 37 d. You don't respond at all to someone who angers you.
- 38 e. You reply with an "untruthful" or "outrageous" response.
- 39 f. You file a lawsuit or a complaint.

40 Remember, all facts are irrelevant and fly out the window when there is dishonor. A judge can only intercede if there is  
41 controversy. If there is stipulation, he has nothing to do and that's the end of it. You have "energy" and control if you stay  
42 in honor.

43 **4.2 Under the Laws of Commerce, Truth is Sovereign**

44 The foundation of the Uniform Commercial Code (U.C.C.) is Commercial Law. The foundation of Commercial Law is  
45 based upon certain universal, eternally just, valid, moral precepts and truths. The basis of Commercial Law is the Law of

1 Exodus (i.e. The 10 Commandments) of the Old Testament and Judaic (Mosaic) Orthodox Hebrew Commercial law. The  
2 Laws of Commerce have remained unchanged for at least six thousand years and form the basis of western civilization, if  
3 not all nations. This law of commerce therefore applies universally throughout the world. Real Commercial Law is non-  
4 judicial and is prior and superior to, the basis of, and cannot be set aside or overruled by the statutes of any government,  
5 legislature, governmental or quasi-governmental agencies, courts, judges, and law enforcement agencies, which are under  
6 an inherent obligation to uphold said Commercial Law. Commercial Law is a “War of Truth” expressed in the form of an  
7 intellectual weapon called an Affidavit. An Affidavit is merely a written list of facts or truths signed under penalty of  
8 perjury and usually notarized. The person composing and signing an affidavit is called the “affiant”. It is “survival of the  
9 fittest” where the last unrebutted stands triumphant.

10 In the Laws of Commerce, the eternal and unchanging principle of the law are:

- 11 1. A workman is worthy of his hire. Authorities: Exodus 20:15; Lev. 19:13; Matt. 10:10; Luke 10:7; II Tim. 2:6. Legal  
12 maxim: “It is against equity for freemen not to have the free disposal of their own property.
- 13 2. All are equal under the law (God’s Law-Moral and Natural Law). Authorities: Exodus 21:23-25; Lev. 24:17-21; Deut.  
14 1:17, 19:21; Matt. 22:36-40; Luke 10:17; Col. 3:25. Legal maxims: “No one is above the law.”; “Commerce, by the  
15 law of nations, ought to be common, and not to be converted into a monopoly and the private gain of a few.”
- 16 3. In commerce, truth is sovereign. See Exodus 20:16; Psalms 117:2; John 8:32; II Cor. 13:8. Legal maxim: “To lie is to  
17 go against the mind.” Oriental proverb: “Of all that is good, sublimity is supreme.”
- 18 4. Truth is expressed in the form of an Affidavit. See Lev. 5:4-5; Lev. 6:3-5; Lev. 19:11-13; Num. 30:2; Matt. 5:33;  
19 James 5:12.
- 20 5. A matter must be expressed to be resolved. See Heb. 4:16; Phil. 4:5; Eph. 6:19-21. Legal maxim: “He who fails to  
21 assert his rights has none.”
- 22 6. An unrebutted affidavit stands as truth in commerce. See 1 Pet. 1:25; Heb. 6:13-15. Legal maxim: “He who does not  
23 deny, admits.”
- 24 7. An unrebutted affidavit becomes a judgment in commerce. See Heb. 6:16-17. Any proceeding in court, tribunal, or  
25 arbitration forum consists of a contest, or “duel,” of commercial affidavits wherein the points remaining unrebutted in  
26 the end stand as the truth and the matters to which the judgment of the law is applied.
- 27 8. He who leaves the field of battle first (does not respond to Affidavit) loses by default. See Book of Job; Matt 10:22.  
28 Legal maxim: “He who does not repel a wrong when he can occasions it.”
- 29 9. Sacrifice is the measure of credibility. One who is not damaged, put at risk, or willing to swear an oath on his  
30 commercial liability for the truth of his statements and legitimacy of his actions has no basis to assert claims or charges  
31 and forfeits all credibility and right to claim authority. See Acts 7, life/death of Stephen. Legal maxim: “He who  
32 bears the burden ought also to derive the benefit.”
- 33 10. A lien or claim, under commercial law, can only be satisfied by one of the following actions. See Gen. 2-3; Matt 4;  
34 Revelation. Legal maxim: “If the plaintiff does not prove his case, the defendant is absolved.”
  - 35 10.1. A rebuttal Affidavit of Truth, supported by evidence, point-by-point.
  - 36 10.2. Payment.
  - 37 10.3. Agreement.
  - 38 10.4. Resolution by a jury according to the rules of common law.

39 Because truth is sovereign in commerce and everyone is responsible for propagating the truth in all speaking, writing, and  
40 acting, all commercial processes function via affidavit certified and sworn on each affiants commercial liability as “true,  
41 correct, and complete,” attesting under oath re the validity, relevance, and veracity of all matters stated, and likewise  
42 demanded. Usually in written matters, such as on an IRS Form 1040, 8300, etc., voter registration application, driver’s  
43 license application, notary form for document certification, application for a Treasury Direct Account, and on nearly every  
44 document that those who run the System desire anyone to sign in a commercially binding matter, signature is required  
45 under penalty of perjury “true, correct, and complete.” In a court setting, however, testimony (oral commercial affidavit) is  
46 stated in the judicial equivalent by being sworn to be “the truth, the whole truth, and nothing but the truth, so help me God.”  
47 As well the need for asserting all matters under solemn oath of personal, commercial, financial, and legal liability for the  
48 validity of each and every statement, participant must provide material evidence, i.e. ledgering/bookkeeping, substantiating  
49 that each fact or entry is true, valid, relevant, and verifiable. Without said acceptance of liability and facts provided to  
50 support one’s assertions, no credibility is established.

### 4.3 An Unrebutted Affidavit Stands as Truth

*“Court of Appeals may not assume the truth of allegations in a pleading which are contradicted by affidavit.*

*Where affidavits are directly conflicting on material points. It is not possible for the district judge to “weight” the affidavits in order to resolve disputed issues; except in those rare cases where the facts alleged in an affidavit are inherently incredible, and can be so characterized solely by a reading of the affidavit, the district judge has no basis for a determination of credibility.”*  
*[Data Disc, Inc. v. Systems Tech. Assocs., Inc. 557 F.2d 1280 (9<sup>th</sup> Cir. 1977)]*

A major shortcoming in Codified Commercial Law that the IRS likes to capitalize on is that an unrefuted claim is presumed to be true. That is why the citizen MUST always and immediately respond to any and all erroneous claims made by the IRS. According to Commercial Law, the rebuttal must be made in 72 hours from the time of presentment. The rebuttal for an erroneous tax bill can be as simple as, “I don’t owe this and this is not a true bill of commerce.” One of the necessities of Commercial Law is that all affidavits must be signed and attested to be “true, correct, and complete.” The IRS cannot and does not attest its “presentments” to individuals. When properly utilized, the ultimate advantage in Commercial Law goes to the Sovereign who has the final, unrebuttable truth on his or her side as an affidavit. By understanding the rules that the IRS operates under, it becomes a simple matter to beat them at their own game! Commercial Law is nonjudicial. That’s how the IRS takes away Citizen’s property without a day in Court. However, Patriots are currently using the non-judicial aspect of the Commercial Law to lien the property of corrupt Government officials who do not uphold their oath and known duty to support the Constitution.

The U.C.C. doesn’t acknowledge the sovereignty of the people or the Bill of Rights. It only deals with paper. U.C.C. §1-103.6 is your “recourse” from the U.C.C. into the Common Law and the Bill of Rights. It states that the Code (U.C.C.) must be in harmony with the Common Law, as follows:

*The Code is complimentary to the Common Law, which remains in force, except where displaced by the code. A statute should be construed in harmony with the Common Law, unless there is a clear legislative intent to abrogate the Common Law...The code cannot read to preclude [prevent or exclude] a Common Law action.”*

There is a remedy, within the Uniform Commercial Code that you can use to reserve all of your fundamental and common law rights and remove yourself from the unjust provisions of the U.C.C. and other codes which are contradictory or not in harmony with your rights and justice. For example, such reservation retains your Common Law right not to be compelled under a commercial agreement that you did not knowingly, voluntarily, and intentionally enter into. Further, the common law is based upon “justice, truth, and reason.” A reservation of your common law rights also takes you out of the injustice of the absurd “presumptive law” where red is green. Also, by reserving your Common Law rights, you can compel the prosecutor in any case against you to file a valid “verified complaint” in which he would need to bring forth a “party injured by your actions”. You are also reserving all of your inalienable rights guaranteed by the Bill of Rights, such as not being a witness against yourself, the right to be secure in your person, houses, papers and effects against unreasonable searches and seizures, the right to a jury, the right to not be held for a capital crime without a grand jury indictment, etc.

There are three judicially recognized forms of testimony – affidavits, depositions and direct oral examination. Unless facts of any given case are verified by the testimony of a competent witness, a judgment is void and can be vacated at any time. The principle has the same application in administrative as well as judicial forums. In the event there isn’t a competent witness to verify facts through one of the three recognized forms of testimony, the decision-maker doesn’t have subject matter jurisdiction. No judgment or ruling other than declaring lack of subject matter jurisdiction can be made.

There are two essential elements to a case – facts and law. In order to secure a favorable judgment or ruling, the advocate must be able to prove facts of the case and then must prove application of law to whatever facts he can prove. Where tax issues are concerned, the taxman must prove application of taxing and liability statutes to the facts of any given case. In the event he isn’t able to meet these requirements, he doesn’t have a valid claim.

Through the years we have seen a variety of sworn statements people described as affidavits. Unfortunately, most break one or both of the cardinal rules that default affidavits. **Affidavits are testimony that set out facts. They cannot state conclusions of law and they cannot be argumentative. If an instrument does either, it doesn’t qualify as testimony, and regardless of what it is called, it doesn’t qualify as testimony by affidavit in a court of law.**

1 Due process in the course of the common law, which governs the American system of jurisprudence, requires facts and law  
2 to be established separately. The jury handles the facts of the case and the judge usually handles the law. Only after both  
3 are firmly in place can the trier of fact, which is usually a jury, determine application of law to whatever facts are proven in  
4 the case.

5 Is an IRS examination officer a competent witness who has first-hand knowledge of facts that would make him qualified to  
6 sign an affidavit? No, examination officers rely on documents produced by and testimony of third parties. In fact, in the  
7 context of examination procedural rules published at 26 CFR § 601.105, examination officers are supposed to be impartial;  
8 they are prohibited from favoring the government or the taxpayer when making liability decisions. In the event that they  
9 receive a protest from a taxpayer, they must resolve all contested matters of fact and law before proceeding further. The  
10 officer can

- 11 1. Directly resolve the controversy,
- 12 2. Request a national office technical advice memorandum, or
- 13 3. Refer the case to the appeals office. This basic mandatory procedure is reiterated in § 4.10.8 of the Internal Revenue  
14 Manual.

15 The only other alternative is to withdraw and/or rescind whatever notice and demand he or she issued. Essential elements  
16 for examination officer consideration are listed in § 4.10.7 of the Internal Revenue Manual.

17 **4.4 Requirements for a valid Affidavit**

18 In order to be a valid, an affidavit must satisfy the following four criteria:

- 19 1. Must identify who the affiant is.
- 20 2. Must identify who the notary is.
- 21 3. All statements made must be based on personal knowledge.
- 22 4. Any statements made that are false are subject to penalty of perjury within the jurisdiction of the court that will try the  
23 case.

24 Affidavits cannot and should not make legal arguments. They should stick to facts and avoid law as much as possible.  
25 When composing affidavits, make either short, positive statements of fact or negative averments. Place the burden of proof  
26 on your opponent. Don't cit authorities or incorporate materials by reference unless you prepared the referenced material  
27 and it is signed and dated. Do not make a statement like, "I am not a taxpayer"—that's an opinion. Instead state, "I am not  
28 in receipt of any document which verifies that I am a taxpayer owing a tax to the treasury"—that's a fact!

29 **4.5 All Rights Reserved Without Prejudice**

30 Following is your recourse back into Common and Constitutional Law:

31 *UCC 1-308:*  
32 *(a) A party that with explicit reservation of rights performs or promises performance or assents to performance*  
33 *in a manner demanded or offered by the other party does not thereby prejudice the rights reserved. Such words*  
34 *as "without prejudice," "under protest," or the like are sufficient.*

35 This "Reservation of Rights" can be exercised by making the following notation above your signature on contracts and  
36 agreements and other documents requiring your signature:

37 *"All Rights Reserved, Without Prejudice UCC 1-308"*

38 Or

39 *"Without Prejudice UCC 1-308"*

1 Under the UCC, the effect of reservation is the preservation of whatever rights the person then possesses and prevents the  
2 loss of such rights by application of concepts of waiver or estoppel.

3 Your greatest protection is provided by reserving your rights in writing, preferably on every document you sign. However,  
4 the U.C.C. does state that it is not a requirement that such reservation of rights be written but they must be explicit.  
5 Explicit means fully and clearly expressed or demonstrated; leaving nothing implied.

6 The common debtor Citizen, or someone interested in the rights of American Citizens did not write the Uniform  
7 Commercial Code or its predecessors, the Law Merchant or The Negotiable Instrument Law. The history of this Code  
8 shows that it was originally created by “barbarians” to codify and give the semblance of legality to “robbery” by the  
9 creditors! These documents were written by and for the benefit of creditors, without any “separation of powers”  
10 protections, without due process for the debtor, and without respect for any equity the debtor may have invested in property  
11 that the creditor may seize. Therefore, it is imperative that you always reserve your rights on all signed documents.

12 You can view the Uniform Commercial Code yourself on the web at:

13 <http://www.law.cornell.edu/ucc/ucc.table.html>

14 The law library should carry two editions of the U.C.C. compiled by two different publishers. The version that is used here  
15 and is the easiest to understand is the Anderson version. It is written in plain English.

16 Older freedom books refer to U.C.C. §1-207 instead of U.C.C. §1-308. U.C.C. §1-207 was repealed in 2004 and is now  
17 replaced with UCC Section 1-308.

18 **4.6 Promissory Notes**

19 At this point, it is useful to define what a negotiable instrument is. Negotiable instruments include both Bills of Exchange  
20 and Promissory Notes. This section will provide a legal definition of “promissory note”:

*Promissory note. A promise or engagement, in writing, to pay a specified sum at a time therein limited, or on demand, or at sight, to a person therein named, or to his order, or bearer. A written promise made by one or more to pay another, or order, or bearer, at a specified time, a specific amount of money, or other articles of value. An unconditional written promise, signed by the maker, to pay absolutely and at all events a sum certain in money, either to the bearer or to a person therein designated or his order, at a time specified therein, or at a time which must certainly in money. A signed paper promising to pay another a certain sum of money. **An unconditional written promise** to pay a specified sum of money on demand or at a specified date. Such a note is negotiable if signed by the maker and containing an unconditional promise to pay a sum certain in money either on demand or at a definite time and payable to order or bearer. U.C.C. 5 3-104.  
[Black’s Law Dictionary, Fifth Edition, p. 1093]*

31 The key feature of the promissory note is that it is an unconditional promise or contract between two parties to pay a fixed  
32 sum of money. Therefore, promissory notes are unsuitable for use in arbitrating commercial disputes involving tax  
33 collection, because they cannot involve any kind of conditions upon the payment of the sums involved.

34 **4.7 Bills of Exchange**

35 Next, we provide legal definition for a “bill of exchange”. Bills of exchange are what most people regard as “checks”  
36 issued against the drawer’s bank account:

*“Bill of exchange. A three party instrument in which first party draws an order for the payment of a sum certain on a second party for payment to a third party at a definite future time. Same as “draft” under U.C.C. A check is a demand bill of exchange. See also Advance bill; Banker’s acceptance; Blank bill; Clean bill; Draft; Time bill.”  
[Black’s Law Dictionary, Fifth Edition, p. 149]*

42 A bill of exchange, like a promissory note, is an unconditional order to pay a fixed sum of money by the drawer to his bank,  
43 who then pays the money to the acceptor of the check. In that sense, tax collection notices are unsuitable to be called a “bill  
44 of exchange” or to be subjected to the notary protest method applicable to bills of exchange because they bills of exchange



1 are unconditional, whereas responses to IRS collection notices must be conditional as described elsewhere in this  
2 document.

3 A bill of exchange, in common speech called a draft, is an open letter of request, addressed by one person to a second,  
4 desiring him to ' pay a sum of money to a third, or to any other to whom that third person shall order it to be paid; or it  
5 may be made payable to bearer. For instance: —

6 " Boston, 1st January, 1852. " Exchange for £ 100. One Hundred Pounds Sterling, value received, and place the same to  
7 account, as advised by " Sixty days after sight of this bill of exchange, pay to the order of George Green " To Mr. Jacob  
8 Brown, London." CHARLES WHITE.'

9 **4.7.1 Parties**

10 The person who writes the request is called the drawer, and he to whom it is addressed is called the drawee; and if he  
11 agrees or consents to pay the money signified in the bill, he is said to accept it, and is then called the acceptor. The third  
12 person, to whom the money is payable, is called the payee. In the above instance, Charles White is called the drawer,  
13 Jacob Brown the drawee, and after he has consented or accepted to pay it, the acceptor, and George Green is called the  
14 payee. If it is made payable to him or order, or to the order of him, as above, and he then assigns it to another person, to  
15 whom the money is to be paid, by writing his name on the back of the bill (which is called indorsing the bill, and the act  
16 itself an indorsement), he is then called an indorser. The person to whom he orders the money to be paid is called the  
17 indorsee or holder, and if this one again assigns the bill to another person, the latter is called the indorsee or holder, and the  
18 other the second indorser; and every other person, who successively puts his name on the back of the bill, is called an  
19 indorser, and the person to whom it is last delivered is called the holder.

20 If in the above-cited instance George Green should write on the back of the bill, " Pay to the order of William Baker,"  
21 signing his name beneath, " George Green," the latter would be called an indorser, and William Baker would be called  
22 indorsee or holder; and if Baker, again, should sign his name under that of Green, and order the contents of the bill to be  
23 paid to somebody else, Baker would be called an indorser, and the person designated by him the indorsee or holder, and so  
24 on.

25 **4.7.2 Blank Indorsements.**

26 It is very common for parties to sign simply their names on the back of the bill, without designating to whom the contents  
27 shall be paid. This is called a " blank indorsement," and whosoever holds the bill may write above the signature that it is  
28 payable to his order. For instance, if George Green, the original payee in the above-specified bill, had simply written his  
29 name on the back of it, and had delivered it to William Baker, and Baker again had simply put his name on the back under  
30 that of Green, and had delivered the bill to one J. Brown, the latter would be the holder, and might write over the signature  
31 of Green, " Pay to the order of William Baker," and over the signature of Baker, " Pay to the order of J. Brown."

32 **4.7.3 Indorsement in full.**

33 Although these blank indorsements are very common, it would be desirable, and it is highly to be recommended, that each  
34 indorser should write in full, over his name, the place of his residence, the date, and the name- of his indorsee, that is, the  
35 name of the person to whom he assigns the bill. Thus,\*in the above instance, if George Green resided in New York, he  
36 should write on the back, over his signature: -1— "

37 *New York, January 3d, 1852. "*  
38 *Pay to the order of William Baker. (*  
39 *Signed,) GEORGE GREEN."*

40 And in a similar way the successive indorsers should do. This way of indorsing has two advantages. In the first place, if the  
41 bill should be lost or stolen, with a blank indorsement on it, any person who finds or holds it might fill up the blank in his  
42 own name, and demand payment; whereas, if it were indorsed in full, the finder or holder would have to forge the name of  
43 the indorsee before he could get payment. In the second place, if the bill should be protested for non- acceptance or non-

1 payment, the holder would know at once the places of residence of the different indorsers, and be able to give them due  
2 notice without delay.

3 **4.8 Bills of Exchange and Promissory Notes Compared**

4 It seems scarcely necessary to point- out the distinction between Bills of Exchange and Promissory Notes in their general  
5 structure and character. In a Bill of Exchange, there are ordinarily three original parties, the drawer, the payee, and the  
6 drawee, who, after acceptance, becomes the acceptor. In a Promissory Note, there are but two original parties, the maker  
7 and the payee. In a Bill of Exchange, the acceptor is the primary debtor in the contemplation of law to the payee; and the  
8 drawer is but .collaterally liable. In a Promissory Note, the maker is, in contemplation of law, the primary debtor. If a Note  
9 be negotiable, and is indorsed by the payee, then there .occurs a striking resemblance in the relations of the parties upon  
10 both instruments, although they are not in all. Respects identical. The indorser of a Note stands in the same . relation to the  
11 subsequent parties as the drawer of a Bill, and the maker of the Note is under the same liabilities as the acceptor of a Bill.<sup>1</sup>

12 **5 Commercial dispute resolution process**

13 When a dispute arises between parties, the Uniform Commercial Code specifies a process of administrative negotiation  
14 before the dispute may be taken to a court of law or government regulatory agency for resolution. This process is referred  
15 to in notary public handbooks as the notarial protest method:

- 16 1. It is described in section 2.22(A) through 2.22 (J) of the following:  

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- 17 2. The process is used in the field of negotiable instruments.
- 18 3. The process is governed by Articles 3 of the Uniform Commercial Code in the case of commercial paper and Article 4  
19 of the Uniform Commercial Code in the case of bank deposits and collections.
- 20 4. The process starts with delivery of a bill, note, or request for acceptance by a Creditor to a debtor.

21 A summary of the procedure is as follows:

- 22 1. A party, the “Creditor”, delivers a Notice of Claim upon the other party for alleged obligations under a contract,  
23 franchise, or a civil statute.
- 24 2. The recipient of the Notice of Claim, heretofore the “Debtor”, receives delivery of the claim, often via certified mail.
- 25 3. Debtor:
  - 26 3.1. Reads the Notice of Claim.
  - 27 3.2. Examines the relevant contract, franchise agreement, or civil statute for evidence of authority to make the claim.  
28 He compiles a list of disputes of law which pertain to the Claim. Compiles the disputed laws in a Memorandums  
29 of Law. Attaches all supporting evidence to it justifying the dispute.
  - 30 3.3. Determines whether the facts of the case warrant application of the provisions being enforced by the Creditor.  
31 Debtor compiles a list of disputes of fact which pertain to the Claim. He compiles a list of disputed facts in a  
32 Affidavit of Material Facts. Attaches all supporting evidence to it justifying the dispute.
- 33 4. Debtor compiles a Notice of Fault and Counter Offer to send to Creditor asking for evidence to support the alleged  
34 claim. He attaches:
  - 35 4.1. The Memorandums of Law. This can be a separate document or form, or can be a section within the Notice of  
36 Fault and Counter Offer letter.
  - 37 4.2. The Affidavit of Material Facts. This can be a separate document or form, or can be a section within the Notice  
38 of Fault and Counter Offer letter.
  - 39 4.3. The original Claim notice.  
40 The letter demands contradictory law and facts which resolve the disputed law and facts so that the parties can  
41 converge onto a mutual agreement that can be executed without further delay and without litigation. It provides a time  
42 limit for responding and indicates that failure to respond shall constitute agreement with the content of the attached  
43 Memorandums of Law and Affidavit of Material Facts. It indicates a desire to obey the law, the contracts, or the  
44 franchise and to operate in good faith, in timely manner, and to avoid litigation.

<sup>1</sup> Chitty OD Bills, ch. 6, p. 266, (8th edit. 1833); Buller v. Crips, 6 Mod. B. 29, 30; Bayley on Bills, ch. 5, § 3, p.169, (5th London edit.); Id. cb. 1, § 15, p. 42; Heylyn D. Adamson, 2 Burr. R. 669, 676.

- 1 5. At this point, the Creditor has one of two choices in responding to the Notice of Fault and Counter Offer.
  - 2 5.1. Ignore the Notice of Fault and Counter Offer, in which case omission becomes acceptance and the party is found
    - 3 in default and dishonor.
  - 4 5.2. Respond to the Notice of Fault and Counter Offer in one of three ways.
    - 5 5.2.1. Rebut the Affidavit of Material Facts and the Memorandums of Law, and make a Counter Offer.
    - 6 5.2.2. Agree with the Affidavit of Material Facts and Memorandums of Law and accept the Notice of Fault and
      - 7 Counter Offer.
    - 8 5.2.3. Agree with the Affidavit of Material Facts and Memorandums of Law and make a new Creditor Counter
      - 9 Offer.
- 10 6. Creditor exercises one of the above choices and if necessary, sends a Counter Offer to the Debtor.
- 11 7. Debtor receives the response or absence of response to his Counter Offer from the Creditor. If there is a response from
  - 12 the Creditor, Debtor then decides:
    - 13 7.1. Whether to accept the Acceptance or the Counter Offer of the offer by the Creditor.
    - 14 7.2. If facts or law are still in dispute, whether any of the remaining disputed facts have not been disputed before. If
      - 15 so, restart the process at step 4.
    - 16 7.3. If no facts or law are in dispute and there is a possibility that another counter-offer could settle the dispute, begin
      - 17 the process again in step 4 above.
- 18 8. At this point:
  - 19 8.1. All disputes over fact and law have been resolved to their utmost extent.
  - 20 8.2. The haggling has stopped.
  - 21 8.3. All administrative remedies have been exhausted.
  - 22 8.4. One of the parties is in dishonor.
- 23 9. If the reason the dispute cannot be resolved is a violation of law, contract, or statute by the Creditor or the Creditor's
  - 24 views are clearly inconsistent with the facts, the Debtor then sends a Notice of Fault and Opportunity to Cure to the
    - 25 Creditor:
      - 26 9.1. Indicating that they are in dishonor and a specific time period to return to honor.
      - 27 9.2. Indicating that the Creditor is violating the law.
      - 28 9.3. Indicating that the Creditor is injuring your rights.
      - 29 9.4. Listing the facts still in dispute that cannot be resolved.
      - 30 9.5. Listing the laws violated, the laws agreed to by both parties.
      - 31 9.6. Indicating that litigation is imminent and that there is a strong desire on your part to avoid it.
- 32 10. Creditor usually will not respond. If there is no response, Debtor sends a Notary Certificate of Dishonor, summarizing
  - 33 the status of the dispute.
- 34 11. Litigation is then usually filed in court by the Debtor against the Creditor. A Complaint is filed usually in state court.
  - 35 Attached to the Complaint of the Debtor are the following:
    - 36 11.1. The Notary Certificate of Dishonor.
    - 37 11.2. The Notice of Fault and Opportunity to Cure.
    - 38 11.3. A summary of the facts still in dispute. If the Creditor never disputed the facts contained in the Affidavit of
      - 39 Material Facts sent with the Original Notice of Fault and Counter Offer, then this Memorandum is attached.
    - 40 11.4. A summary of the law still disputed. If the Creditor never disputed the laws contained in the Memorandums of
      - 41 Law sent with the Original Notice of Fault and Counter Offer, then this Memorandum is attached.
- 42 12. After the Creditor has been served with the Complaint, and if the Creditor never disputed the facts or the law in the
  - 43 first mailing of the Notice of Fault and Counter Offer, then the Debtor files motion for summary judgment based on the
    - 44 undisputed facts and law.

45 Throughout the above process, a neutral third party notary public, who is an officer of the state government, is used to  
 46 accumulate evidence about the actions of the Creditor in responding to your attempts to resolve the dispute. In affect, the  
 47 notary acts as a referee and a third party witness to attempts to resolve the dispute. The main reason for involving the  
 48 notary rather than relying only on your own word is that:

- 49 1. You are an interested party, and your statements of the facts of the case could be perceived as biased.
- 50 2. The notary public is an officer of the state government and a "public officer" who is licensed by the state government.  
 51 Their authority to officiate over commercial disputes is granted by statute in most states. That authority is called a  
 52 "notary protest". If you would like more information on this subject, see:

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- 1 3. Without an independent third party witness, the dispute in court will devolve into simply a “he says—she says”  
2 argument of opinions rather than facts. The government is more likely than you to win such a dispute because:  
3 3.1. All of their records are public records which are automatically admissible as evidence.  
4 3.2. They usually have more people to act as witnesses.  
5 3.3. The judge may assign more value or weight to their testimony or records than to yours.

6 A large number of state and other jurisdiction statutes place large importance on the functions of notaries public in relation  
7 to commercial paper, sometimes called negotiable instruments. These functions are to some extent affected by the  
8 provisions of Articles 3 and 4 of the Uniform Commercial Code, which was recommended to the various state and other  
9 legislatures for adoption by the American Law Institute and the National Conference of Commissioners on Uniform State  
10 Laws. First adopted and made effective in Pennsylvania in 1954, Massachusetts in 1958, and Kentucky in 1960, the other  
11 states and jurisdictions followed by adopting it, as modified to a relatively small degree by the legislatures of the adopting  
12 states and other jurisdictions. The Uniform Commercial Code is now at least in part, the law in 50 states, the District of  
13 Columbia and the Virgin Islands. Article 3 concerns commercial paper and Article 4 concerns bank deposits and  
14 collections. The text that follows is a general discussion of the Official Text of the Uniform Commercial Code or UCC as it  
15 is commonly called. Few states have adopted it without modification. Therefore the reader is cautioned to consult the  
16 specific statute for particular requirements.

## 17 **5.1 Presentment of bills for acceptance.**

18 Presentment is a demand for acceptance or payment made upon the maker, acceptor, drawee or other payor by or on behalf  
19 of the holder.<sup>2</sup> The holder of a bill or his agent, generally a notary public, must call upon the drawee, exhibit the bill to him  
20 and ask whether the drawee will pay it at its maturity. Presentment for acceptance is necessary to charge the drawer and  
21 indorsers of a draft where the draft so provides, or is payable elsewhere than at the residence or place of business of the  
22 drawee, or its date of payment depends upon such presentment. The holder may at his option present for acceptance any  
23 other draft payable at a stated date.<sup>3</sup>

24 Presentment may be made:

- 25 1. by mail, in which event the time of presentment is determined by the time of receipt of the mail;  
26 2. through a clearing house; or  
27 3. at the place of acceptance specified in the instrument or if there be none ,at the place of business or residence of the  
28 party to accept. If neither the party to accept nor anyone authorized to act for him is present or accessible at such place,  
29 presentment is excused.<sup>4</sup>

30 Presentment may be made to:

- 31 1. anyone of two or more makers, acceptors, drawees or other payors; or  
32 2. any person who has authority to make or refuse the acceptance. A draft accepted or a note made payable at a bank in  
33 the United States must be presented at such bank.<sup>5</sup>

### 34 **5.1.1 Time**

35 Unless a different time is expressed in the instrument the time for presentment is determined as follows:

- 36 1. where an instrument is payable at or a fixed period after a stated date any presentment for acceptance must be made on  
37 or before the date it is payable;  
38 2. where an instrument is payable after sight it must either be presented for acceptance or negotiated within a reasonable  
39 time after date or issue whichever is later;

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<sup>2</sup> Uniform Commercial Code (hereinafter U.C.C.) § 3-504(1).

<sup>3</sup> U.C.C. §3-501(1)(a).

<sup>4</sup> U.C.C. §3-504(2).

<sup>5</sup> U.C.C. §3-504(3), (4).

1 3. with respect to the liability of any secondary party presentment for acceptance of any other instrument is due within a  
2 reasonable time after such party becomes liable thereon.<sup>6</sup>

3 A reasonable time for presentment is determined by the nature of the instrument, any usage of banking or trade and the  
4 facts of the particular case. Where any presentment is due on a day which is not a full business day for either the person  
5 making presentment or the party to accept, presentment is due on the next following day which is a full business day for  
6 both parties. Presentment to be sufficient must be made at a reasonable hour, and if at a bank during its banking day.<sup>7</sup>

7 **5.1.2 Excused**

8 Delay in presentment is excused when the party is without notice that it is due or when the delay is caused by circumstances  
9 beyond his control and he exercises reasonable diligence after the cause of delay ceases to operate.<sup>8</sup>

10 Presentment is entirely excused when either:

- 11 1. the party to be charged has waived it expressly or by implication either before or after it is due;
- 12 2. such party has himself dishonored the instrument or has countermanded payment or otherwise has no reason to expect  
13 or right to require that the instrument be accepted;
- 14 3. by reasonable diligence the presentment cannot be made; (4) the maker, acceptor or drawee of any instrument except a  
15 documentary draft is dead or in insolvency proceedings instituted after the issue of the instrument; or
- 16 4. acceptance is refused but not for want of proper presentment.<sup>9</sup>

17 A waiver of protest is also a waiver of presentment. Where a waiver of presentment is embodied in the instrument itself it is  
18 binding upon all parties; but, where it is written above the signature of an indorser it binds him only.<sup>10</sup>

19 **5.2 Dishonor by nonacceptance.**

20 An instrument is dishonored when: (1) a necessary or optional presentment is made and due acceptance is refused or cannot  
21 be obtained within the prescribed time or in case of bank collections the instrument is seasonably returned by the midnight  
22 deadline; or (2) presentment is excused and the instrument is not duly accepted.<sup>11</sup>

23 Return of an instrument for lack of proper indorsement is not dishonor. A term in a draft or an indorsement thereof allowing  
24 a stated time for re-presentment in the event of any dishonor of the draft by nonacceptance if a time draft or by nonpayment  
25 if a sight draft gives the holder as against any secondary party bound by the term an option to waive the dishonor without  
26 affecting the liability of the secondary party. He may present again up to the end of the stated time.<sup>12</sup> Where a draft has  
27 been dishonored by nonacceptance a later presentment for payment and any notice of dishonor and protest for nonpayment  
28 are excused unless in the meantime the instrument has been accepted.<sup>13</sup>

29 **5.3 Presentment for payment.**

30 Unless excused (Section 3-511; see § 2.22(B) 2. above), presentment for payment is necessary to charge any indorser. In  
31 the case of any drawer, the acceptor of a draft payable at a bank or the maker of a note payable at a bank, presentment for

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<sup>6</sup> U.C.C. §3-503(1).

<sup>7</sup> U.C.C. §3-503(2)-(4).

<sup>8</sup> U.C.C. §3-511(1).

<sup>9</sup> U.C.C. §3-511(2), (3).

<sup>10</sup> U.C.C. §3-511(5), (6).

<sup>11</sup> U.C.C. §3-507(1).

<sup>12</sup> U.C.C. §3-507(3), (4).

<sup>13</sup> U.C.C. §3-511(4).

1 payment is necessary, but failure to make presentment discharges the drawer, acceptor or maker only as stated in Section 3-  
2 502(1)(b).<sup>14</sup>

3 Where the maker or acceptor of an instrument payable otherwise than on demand is able and ready to pay at every place of  
4 payment specified in the instrument when it is due, it is equivalent to tender. Any party making tender of full payment to a  
5 holder when or after it is due is discharged to the extent of all subsequent liability for interest, costs and attorney's fees.<sup>15</sup>

### 6 **5.3.1 Time.**

7 Unless a different time is expressed in the instrument the time for presentment is determined as follows: (1) where an  
8 instrument shows the date on which it is payable presentment for payment is due on that date; (2) where an instrument is  
9 accelerated presentment for payment is due within a reasonable time after the acceleration; (3) with respect to the liability  
10 of any secondary party presentment for payment of any other instrument is due within a reasonable time after such party  
11 becomes liable thereon.<sup>16</sup>

12 A reasonable time for presentment is determined by the nature of the instrument, any usage of banking or trade and the  
13 facts of the particular case. In the case of an uncertified check which is drawn and payable Within the United States and  
14 which is not a draft: drawn by a bank the following are presumed to be reasonable periods within which to present for  
15 payment or to initiate bank collection: (1) with respect to the liability of the drawer, thirty days after date or issue  
16 whichever is later; and (2) with respect to the liability of an indorser, seven days after his indorsement.<sup>17</sup>

17 Where any presentment is due on a day which is not a full business day for either the person making presentment or the  
18 party to payor accept, presentment is due on the next following day which is a full business day for both parties.  
19 Presentment to be sufficient must be made at a reasonable hour, and if at a bank during its banking day.<sup>18</sup>

### 20 **5.3.2 Sufficiency.**

21 Presentment is a demand for payment made upon the maker, acceptor, drawee or other payor by or on behalf of the holder.  
22 Presentment may be made by mail, in which event the time of presentment is determined by the time of receipt of the mail,  
23 or through a clearing house,<sup>19</sup> Presentment to be sufficient must be made at a reasonable hour, and if at a bank during its  
24 banking day.<sup>20</sup>

### 25 **5.3.3 Place.**

26 Presentment for payment may be made at the place of payment specified in the instrument or if there be none at the place of  
27 business or residence of the party to pay. If neither the party to pay nor anyone authorized to act for him is present or  
28 accessible at such place presentment is excused.<sup>21</sup>

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<sup>14</sup> U.C.C. §3-501(1)(b)(c). U.C.C. §3-502(1)(b) provides that where without excuse any necessary presentment or notice of dishonor is delayed beyond the time when it is due, any drawer or the acceptor of a draft payable at a bank or the maker of a note payable at a bank who because the drawee or payor bank becomes insolvent during the delay is deprived of funds maintained with the drawee or payor bank to cover the instrument may discharge his liability by written assignment to the holder of his rights against the drawee or payor bank in respect of such funds, but such drawer, acceptor or maker is not otherwise discharged.

<sup>15</sup> U.C.C. §3-604.

<sup>16</sup> U.C.C. §3-503(1).

<sup>17</sup> U.C.C. §3-503(2).

<sup>18</sup> U.C.C. §3-503(3), (4).

<sup>19</sup> U.C.C. §3-504(1), (2).

<sup>20</sup> U.C.C. §3-503(4).

<sup>21</sup> U.C.C. §3-504(2).

1 **5.3.4 To whom made.**

2 Presentment for payment may be made to anyone of two or more makers, acceptors, drawees or other payors, or to any  
3 person who has authority to make or refuse the payment.<sup>22</sup>

4 The party to whom presentment is made may without dishonor require any or all of the following: (1) exhibition of the  
5 instrument; (2) reasonable identification of the person making presentment and evidence of his authority to make it if made  
6 for another; (3) that the instrument be produced for acceptance or payment at a place specified in it, or if there be none at  
7 any place reasonable in the circumstances; and (4) a signed receipt on the instrument for any partial or full payment and its  
8 surrender upon full payment. Failure to comply with" any such requirement invalidates the presentment but the person  
9 presenting has a reasonable time in which to comply and the time for payment runs from the time of compliance.<sup>23</sup>

10 **5.3.5 Delay excused.**

11 Delay in presentment is excused when the party is without notice that it is due or when the delay is caused by circumstances  
12 beyond his control and he exercises reasonable diligence after the cause of the delay ceases to operate.<sup>24</sup>

13 **5.3.6 Dispensed with.**

14 Presentment is entirely excused when: (1) the party to be charged has waived it expressly or by implication either before or  
15 after it is due; (2) such party has himself dishonored the instrument or has countermanded payment or otherwise has no  
16 reason to expect or right to require that the instrument be accepted or paid; (3) by reasonable diligence the presentment  
17 cannot be made; (4) the maker, acceptor or drawee of any instrument except a documentary draft is dead or in insolvency  
18 proceedings instituted after the issue of the instrument; or (5) payment is refused but not for want of proper presentment.<sup>25</sup>

19 Where a draft has been dishonored by nonacceptance a later presentment for payment is excused unless in the meantime the  
20 instrument has been accepted. A waiver of protest is also a waiver of presentment. Where a waiver of presentment is  
21 embodied in the instrument itself it is binding upon all parties; but where it is written above the signature of an indorser it  
22 binds him only.<sup>26</sup>

23 **5.4 Dishonor by nonpayment.**

24 An instrument is dishonored when: (1) a necessary or optional presentment is duly made and due payment is refused or  
25 cannot be obtained within the prescribed time or in case of bank collections the instrument is seasonably returned by the  
26 midnight deadline; or (2) presentment is excused and the instrument is not duly paid.<sup>27</sup>

27 **5.5 Protest.**

28 A protest is a declaration in writing made by, among others, a notary public, on behalf of the holder of a bill or note, that  
29 acceptance or payment has been refused. This written declaration itself is also called a certificate of dishonor or the  
30 certificate of protest, which is only the evidence of the fact of protest. Although in a technical sense the term "protest"  
31 means only the formal declaration drawn up and signed by the notary, in commercial usage it includes all the steps  
32 necessary to charge the indorser.

33 Unless excused (Section 3-511; see §2.22(G) 5. below), protest of any dishonor is necessary to charge the drawer and  
34 indorsers of any draft which on its face . appears to be drawn or payable outside of the states, territories, dependencies and

<sup>22</sup> U.C.C. §3-504(3).

<sup>23</sup> U.C.C. §3-505.

<sup>24</sup> U.C.C. §3-511(1).

<sup>25</sup> U.C.C. §3-511(2), (3).

<sup>26</sup> U.C.C. §3-511(4)-(6).

<sup>27</sup> U.C.C. §3-507(1).

1 possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. The holder may at his  
2 option make protest of any dishonor of any other instrument and in the case of a foreign draft may on insolvency of the  
3 acceptor before maturity make protest for better security. Protest is not necessary to charge an indorser who has indorsed an  
4 instrument after maturity.<sup>28</sup>

5 **5.5.1 Time for making.**

6 With one exception, any necessary protest is due by the time that notice of dishonor is due.<sup>29</sup> Any necessary notice of  
7 dishonor must be given by a bank before its midnight deadline and by any other person before midnight of the third  
8 business day after dishonor or receipt of notice of dishonor.<sup>30</sup> The exception is that if, before protest is due, an instrument  
9 has been noted for protest by the officer to make protest, the protest may be made at any time thereafter as of the date of the  
10 noting.<sup>31</sup>

11 **5.5.2 Place.**

12 Under the Code, protest need not be made at the place where dishonor occurs.<sup>32</sup>

13 **5.5.3 Contents of certificate.**

14 The protest must identify the instrument and certify either that due presentment has been made or the reason why it is  
15 excused and that the instrument has been dishonored by nonacceptance or nonpayment. The protest may also certify that  
16 notice of dishonor has been given to all parties or to specified parties.<sup>33</sup>

17 A complete certificate of protest should ordinarily include the following items:

- 18 1. the notary's venire or locality within which he is authorized to act;
- 19 2. his name and title;
- 20 3. for whom he acted, or the holder's name;
- 21 4. a copy of the instrument presented;
- 22 5. the fact and manner of presentment and demand;
- 23 6. the time;
- 24 7. the place;
- 25 8. to whom presented, and of whom demand was made;
- 26 9. the fact of dishonor;
- 27 10. the fact of protest;
- 28 11. the reason assigned for refusal to honor;
- 29 12. who was notified;
- 30 13. the manner of notification; and
- 31 14. the notary's official seal and signature.<sup>34</sup>

32 **5.5.4 Form of protest.**

33 [This certificate follows a copy of the bill or note protested]

<sup>28</sup> U.C.C. §3-501(3), (4).

<sup>29</sup> U.C.C. §3-509(4), (5).

<sup>30</sup> U.C.C. §3-508(2).

<sup>31</sup> U.C.C. §3-509(4), (5).

<sup>32</sup> U.C.C. §3-509, Official Comment 3.

<sup>33</sup> U.C.C. §3-509(2), (3).

<sup>34</sup> U.C.C. §3-509(2) says that the protest must identify the instrument and certify either that due presentment has been made or the reason why it is excused and that the instrument has been dishonored by nonacceptance or nonpayment. U.C.C. §3509(3) says that the protest may also certify that notice of dishonor has been given to all parties or to specified parties.



1 United States of America, State of \_\_\_\_ County, ss.

2 Be it known by this instrument of Protest, that at the close of banking hours on the day of \_\_, I, \_\_\_\_\_, notary public  
3 within and for said county of \_\_\_\_\_, did, at the request of \_\_\_\_\_, holder of the original  
4 \_\_\_\_\_ dated \_\_\_\_\_, a copy of which appears above, present the same to \_\_\_\_\_ at in the city of  
5 \_\_\_\_\_, \_\_\_\_\_, and demanded payment (or, acceptance) thereof, which was refused. Said dishonor of said  
6 occurred for the following assigned reason: \_\_\_\_\_

7 Whereupon I protested the same for nonpayment (or, nonacceptance) and notified the following named drawer and  
8 indorsers thereof of said presentment and protest, by a separate notice to each, enclosed in (the same, or separate) envelope-  
9 and addressed as follows: \_\_\_\_\_; and deposited the same in the post office of  
10 \_\_\_\_\_ in said county, the same day, postage paid; and the following named drawer and indorsers thereof,  
11 by delivering to each of them such notices personally on the same or the next day \_\_\_\_\_.

12 Whereupon, I, the said notary, upon the authority aforesaid, have protested and do hereby solemnly protest as well against  
13 the drawer and indorsers of the said \_\_\_\_\_ as against all others whom it doth or may concern, for  
14 exchange, re-exchange, and all costs, charges, damages and interest, suffered or to be suffered, for the want of payment  
15 (or, acceptance) thereof, and I certify that I have no interest in the above-protested instrument.

16 Witness my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

17 Protest fees, \$, \_\_\_\_\_

18 (SEAL)

19 \_\_\_\_\_, Notary Public.

20 My commission expires \_\_\_\_\_

21 **5.5.5 Dispensed with**

22 Protest is entirely excused when either:

- 23 1. the party to be charged has waived it expressly or by implication either before or after it is due;
- 24 2. such party has himself dishonored the instrument or has countermanded payment or otherwise has no reason to  
25 expect or right to require that the instrument be accepted or paid;
- 26 3. by reasonable diligence the protest cannot be made; or
- 27 4. a draft has been dishonored by nonacceptance, unless the instrument has been accepted in the meantime. Where a  
28 waiver of protest is embodied where it is written above the signature of an indorser it binds him only.<sup>35</sup>

29 **5.5.6 Record**

30 Statutes in many states and other jurisdictions require, and well established custom in other states and jurisdictions permits,  
31 a notary to make a minute on the dishonored instrument, or in his register, of the presentment, refusal to accept or pay, the  
32 month, day and year, and his charges of protest. This is 'called noting, and must be done, if not at the very time, at least not  
33 later than the day of the dishonor. The protest may be written out in full at any convenient time afterward.

34 Because the notary may be called upon to testify in relation to his acts as notary by deposition or orally, it is important that  
35 he should keep a register or record containing detailed information with regard to the protesting of commercial paper.

<sup>35</sup> U.C.C. §3-511(2), (6). See also § 2.22(G) of Anderson’s Manual for Notaries, wherein it is pointed out that there is no requirement of protest except dishonor of a draft which on its face appears to be either drawn or payable outside of the states, territories, dependencies, and possessions of the United States, the District of Columbia and the Commonwealth of Puerto Rico.

1 **5.5.7 National bank notes**

2 Whenever any national banking association fails to redeem in the lawful money of the United States any of its circulating  
3 notes, upon demand of payment duly made during the usual hours of business, at the office of such association, or at its  
4 designated place of redemption, the holder may cause the same to be protested, in one package, by a notary public, unless  
5 the president or cashier of the association whose notes are presented for payment, or the president or cashier of the  
6 association at the place at which they are redeemable, offers to waive demand and notice of the protest, and, in pursuance of  
7 such offer, makes, signs, and delivers to the party making such demand an admission in writing, stating the time of the  
8 demand, the amount demanded, and the fact of the nonpayment thereof. The notary public, on making such protest, or upon  
9 receiving such admission, shall forthwith forward such admission or notice of protest to the Comptroller of the Currency,  
10 retaining a copy thereof. If, however, satisfactory proof is produced to the notary public that the payment of the notes  
11 demanded is restrained by order of any court of competent jurisdiction, he shall not protest the same. When the holder of  
12 any notes causes more than one note or package to be protested on the same day, he shall not receive pay for more than one  
13 protest.<sup>36</sup>

14 **5.6 Acceptance supra protest.**

15 Acceptance is the drawee's signed engagement to honor the draft as presented. It must be written on the draft, and may  
16 consist of his signature alone. It becomes operative when completed by delivery or notification. A draft may be accepted  
17 although it has not been Signed by the drawer or is otherwise incomplete or is overdue or has been dishonored.<sup>37</sup>

18 **5.7 Payment for honor.**

19 Payment or satisfaction may be made with the consent of the holder by any person including a stranger to the instrument.  
20 Surrender of the instrument to such a person gives him the rights of a transferee.<sup>38</sup>

21 **5.8 Notice of dishonor.**

22 Unless excused,<sup>39</sup> notice of any dishonor is necessary to charge any indorser. In the case of any drawer, the acceptor of a  
23 draft payable at a bank or the maker of a note payable at a bank, notice of any dishonor is necessary, but failure to give such  
24 notice discharges such drawer, acceptor or maker only as stated in Section 3-502(1)(b);<sup>40</sup> however, notice of dishonor is not  
25 necessary to charge an indorser who has indorsed an instrument after maturity.<sup>41</sup> Notice operates for the benefit of all  
26 parties who have rights on the instrument against the party notified.<sup>42</sup>

27 **5.8.1 Given by agent.**

28 An agent or bank in whose hands the instrument is dishonored may give notice to his principal or customer or to another  
29 agent or bank from which the instrument was received.<sup>43</sup>

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<sup>36</sup> 12 U.S.C. §131.

<sup>37</sup> U.C.C. §3-410(1), (2).

<sup>38</sup> U.C.C. §3-603(2).

<sup>39</sup> U.C.C. §3-511 provides that delay in notice of dishonor is excused when the party is without notice that it is due or when the delay is caused by circumstances beyond his control and he exercises reasonable diligence after the cause of the delay ceased to operate. When a draft has been dishonored by nonacceptance a later presentment for payment and any notice of dishonor is excused unless in the meantime the instrument has been accepted. A waiver of protest is also a waiver of notice of dishonor even though protest is not required.

<sup>40</sup> Concerning U.C.C. §3-502(1)(b), see §2.22(D) of Anderson’s Manual for Notaries Public, Ninth Edition, at n.13.

<sup>41</sup> U.C.C. §3-501(2), (4).

<sup>42</sup> U.C.C. §3-508(8).

<sup>43</sup> U.C.C. §3-508(1).

1 **5.8.2 Essentials.**

2 Notice may be given in any reasonable manner. It may be oral or written and in any terms which identify the instrument and  
3 state that it has been dishonored. A misdescription which does not mislead the party notified does not vitiate the notice.  
4 Sending the instrument bearing a stamp, ticket or writing stating that acceptance or payment has been refused or sending a  
5 notice of debit with respect to the instrument is sufficient.<sup>44</sup>

6 **5.8.3 Form of notice of dishonor.**

7 \_\_\_\_\_(Place)

8 \_\_\_\_\_(Date)

9 Take notice, that a bill of exchange (or, promissory note) for \_\_\_\_\_Dollars dated \_\_\_\_\_,  
10 drawn by \_\_\_\_\_, in favor of \_\_\_\_\_, on \_\_\_\_\_Bank (accepted by \_\_\_\_\_),  
11 indorsed by \_\_\_\_\_, payable \_\_\_\_\_, was this day presented for acceptance (or, payment),  
12 which was refused, and therefore was this day protested by the undersigned notary public for non-acceptance (or,  
13 nonpayment).

14 The holder therefore looks to you for payment thereof, together with interest, damages, costs, you being indorser (or,  
15 drawer) thereof.

16 To: \_\_\_\_\_

17 \_\_\_\_\_, Notary Public

18 My commission expires \_\_\_\_\_

19 **5.8.4 To whom given.**

20 Notice of dishonor may be given to any person who may be liable on the instrument by or on behalf of the holder or any  
21 party who has himself received notice, or any other party who can be compelled to pay the instrument. In addition an agent  
22 or bank in whose hands the instrument is dishonored may give notice to his principal or customer or another agent or bank  
23 from which the instrument was received.<sup>45</sup> Notice to one partner is notice to each although the firm has been dissolved.  
24 When any party is in insolvency proceedings instituted after the issue of the instrument, notice may be given either to the  
25 party or to the representative of his estate.<sup>46</sup>

26 **5.8.5 Time of giving.**

27 Any necessary notice must be given by a bank before its midnight deadline and by any other person before midnight of the  
28 third business day after dishonor or receipt of notice of dishonor. Written notice is given when sent although it is not  
29 received.<sup>47</sup>

30 **5.8.6 Place.**

31 When any party is dead or incompetent notice may be sent to his last known address or given to his personal  
32 representative.<sup>48</sup>

\_\_\_\_\_  
<sup>44</sup> U.C.C. §3-508(3).

<sup>45</sup> U.C.C. §3-508(1).

<sup>46</sup> U.C.C. §3-508(5), (6).

<sup>47</sup> U.C.C. §3-508(2), (4).

<sup>48</sup> U.C.C. §3-508(7).

1 **5.8.7 Waiver.**

2 Where a waiver of notice of dishonor is embodied in the instrument itself it is binding upon all parties; but where it is  
3 written above the signature of an indorser it binds him only. A waiver of protest is also a waiver of presentment and of  
4 notice of dishonor even though protest is not required.<sup>49</sup>

5 **5.8.8 Dispensed with.**

6 Notice of dishonor is entirely excused when:

- 7 1. the party to be charged has waived it expressly or by implication either before or after it is due;
- 8 2. by reasonable diligence the notice cannot be given. Where a draft has been dishonored by nonacceptance a later  
9 presentment for payment and any notice of dishonor are excused unless in the meantime the instrument has been  
10 accepted.<sup>50</sup>

11 **5.8.9 Delay excused.**

12 Delay in notice of dishonor is excused when the party is without notice that it is due or when the delay is caused by  
13 circumstances beyond his control and he exercises reasonable diligence after the cause of the delay ceases to operate.<sup>51</sup>

14 **6 Description of Service Requested of Notary**

15 This section describes the service which I need from you, the service provider, which is as follows:

- 16 1. A temporary mailbox for at least one month.
- 17 2. A notary on duty.
- 18 3. The notary is the only person with access to or a key to the mailbox.
- 19 4. To engage in a notary protest. The legal authority for the notary to execute a protest is documented in section 7 earlier  
20 in this document.
- 21 5. For the notary to check the mailbox at certain specified times, and to sign a Receipt Log providing an inventory of  
22 what was received and the date it was received.
- 23 6. For the notary public to execute the sent documents provided by me at the times indicated.
- 24 7. Certify the on the Receipt Log no more than five business days after specified date for checking the mailbox.
- 25 8. To issue Certificates of Dishonor for all instances of nonresponse by the opposing party, in which you indicate that no  
26 response was received within the time limit indicated in the documents you sent to the other party under my  
27 instructions.
- 28 9. To maintain in your records a copy of all Certificates of Dishonor in your permanent records so that this information  
29 may be admissible as a public record in any litigation that might ensue, and so that certified copies may be requested at  
30 any time from you.

31 **7 Authority to execute notarial protests throughout the United States of America**

32 Authority for notarial protest method is described in Section 2.22 of the following:

*Anderson’s Manual for Notaries Public, Ninth Edition*; Anderson Publishing Co., ISBN 1-58360-357-3  
<http://www.andersonpublishing.com>

33 Below is a table documenting specific statutes in all 50 states and federal territories for executing notarial protests. You can  
34 use this information to educate your notary about their authority under state law in your state:

<sup>49</sup> U.C.C. §3-511(5), (6).

<sup>50</sup> U.C.C. §3-511(2), (4).

<sup>51</sup> U.C.C. §3-511(1).

1 **Table 1: Statutory authority for notary protest in all 50 states**

#	State name	Statute(s)
1	Alabama	Ala. Code, Section 36-20-5(3): Powers
2	Alaska	Alaska Stat. §44.50.060(1): Duties Alaska Stat. §44.50.090: Protest of bill or note
3	Arizona	Arizona Rev. Stat. Ann. §41.314: Protest or certificate of notary as evidence Arizona Rev. Stat. Ann. §41.320: Competency of bank and corporation notaries. Makes it a crime for a notary to preside over a protest if he or she works for a corporation and is officiating over disputes relating to their employer. Arizona Rev. Stat. Ann. §41.362: Competency of bank and corporation notaries
4	Arkansas	Ark. Stat. Ann §21-14-106(3): Acknowledgments and authentications Ark. Stat. Ann §21-14-109(a): Performance of duties for corporation Ark. Stat. Ann §21-14-110: Admissibility of acknowledged instruments. Makes all protests admissible in courts of the state Ark. Stat. Ann §21-6-309: Notaries public. Sets fees for protests at \$5.00.
5	California	Cal. Govt. Code §8205(a)(1): Duty of notary public Cal. Govt. Code §8208. Protest of bill or note for nonacceptance or nonpayment. Cal. Govt. Code §8211(d). Fees. Protest \$10. \$5 for recording of protest.
6	Colorado	Colo. Rev. Stat. Ann. §12-55-110(f): Powers and limitations. Authorizes protests.
7	Connecticut	
8	Delaware	Del. Code Ann. §4321(4)(f): Definitions. Authorizes protests. Del. Code Ann. §4322(e): Notarial acts. Includes protests in the definition of notarial acts.
9	District of Columbia	D.C. Code Ann. §1.807: Foreign bills of exchange. D.C. Code Ann. §1.808: Inland bills of exchange; promissory notes and checks D.C. Code Ann. §1.812: Copy of record as evidence. Makes protests admissible in court D.C. Code Ann. §26-110: Authority of notaries public associated with corporations. Prohibits notary to execute protests who has an interest in th dispute. D.C. Code Ann. §45-621(4): Definitions. Defines a “Notarial act” to include protests of negotiable instruments.
10	Florida	Fla. Stat. Ann. §118.10(3): Civil-law notary. Authorizes protests.
11	Georgia	Ga. Code. Ann. §45-17-12: Authority of notaries who are officers, employees, etc., of banks, corporations, etc. to witness execution of written instruments. Authorizes protests.
12	Hawaii	Haw. Rev. Stat. §456-10: Duties, by mercantile usage. Makes it duty to do protests. Haw. Rev. Stat. §456-11: Protests; negotiable paper. Requires notary to record the protest. Haw. Rev. Stat. §456-12: Protest, evidence of what. Makes notary records legal evidence. Haw. Rev. Stat. §456-14: Notary connected with a corporation or trust company; authority to act. Prohibits notaries from witnessing protests to which notary is a party. Haw. Rev. Stat. §456-15: Record; copies as evidence. Requires notary to keep records of protests. Haw. Rev. Stat. §456-17: Fees. Sets protest fees at \$5.
13	Idaho	
14	Illinois	
15	Indiana	Indiana Code Ann. §2-3-4-1(a)(2): Members or officers of general assembly. Authorizes members of general assembly to be involved in protests.
16	Iowa	Iowa Code Ann. §9E.2(2): Definitions. Authorizes noting of a protest of a negotiable instrument. Iowa Code Ann. §9E.9(5): Notarial acts. Defines “notarial acts” to include protests.
17	Kansas	Kansas Stat. Ann. §53-107(6): Powers and duties. Notes protests of negotiable instruments. Kansas Stat. Ann. §53-502(a): Definitions Defines “notarial acts” to include protests. Kansas Stat. Ann. §53-503(3): Notarial acts Defines “notarial acts” to include protests.
18	Kentucky	Ky. Rev. Stat. Ann. §423.030: Protests to be recorded; copies as evidence. Ky. Rev. Stat. Ann. §423.040: Notice of dishonor; to whom sent. Ky. Rev. Stat. Ann. §423.060: Foreign notary; when protest by is evidence. Ky. Rev. Stat. Ann. §423.990: Penalties. Notaries can be fined for failure to record a

#	State name	Statute(s)
		protest. Ky. Rev. Stat. Ann. §64.300(1): Notaries public. Sets fees for protests.
19	Louisiana	La. Rev. Stat. Ann. §35:2(b): General powers; administration of certain oaths in any parish. Authorizes protests. La. Rev. Stat. Ann. §35:4: Notaries connected with banks and other corporations; powers. Authorizes corporate and bank notaries to take protests, but not in matters they have an interest in. La. Rev. Stat. Ann. §35:287: Deputies. Authorizes appointment of deputies by notaries.
20	Maine	Me. Rev. Stat. Ann Tit. 4 §952: Protests of losses; record and copies. Requires notaries to record all protests of losses or damages. Me. Rev. Stat. Ann Tit. 4 §953: Demand and notice on bills and notes. Requires all protests to be recorded. Me. Rev. Stat. Ann Tit. 4 §954: Acts of notary who is interested in corporation. Authorizes protests by corporate notaries, but not those they have an interest in. Me. Rev. Stat. Ann Tit. 4 §955: Copies; evidence. Makes protests of foreign or inland instruments executed by the notary admissible. Me. Rev. Stat. Ann Tit. 4 §958: Fees for protest.
21	Maryland	Md. State Govt. Code §18-106(2): Acknowledgment; protests and declarations. Authorizes protests. Md. State Govt. Code §18-107: Register; certified copies of record. Requires notary to keep register of all protests. Md. State Govt. Code §18-110: Form of protest. Notaries must take protests in the form prescribed by the comptroller. Md. State Govt. Code §18-111(b): Limits on taking acknowledgments or protests. Authorizes protests in the case of notaries who work for banks or corporations. Paragraph (b) prohibits protests to be recorded if notary has a conflict of interest.
22	Massachusetts	Mass. Ann. Laws Ch. 262, §41: Notaries public. Authorizes protests.
23	Michigan	Mich. Comp. Laws Ann. §55.112: Notary's powers. Authorizes protests. Mich. Comp. Laws Ann. §55.251: Notary connected with bank or corporation, limited powers. Mich. Comp. Laws Ann. §600.2564(1): Fees of notaries public. Sets fees for protests.
24	Minnesota	Minn. Stat. Ann. §357.17(1): Notaries public. Sets fees for protests. Minn. Stat. Ann. §358.25: Power given for taking acknowledgments for protesting bills of exchange. Authorizes protests. Minn. Stat. Ann. §358.41(1): Definitions. Defines "notarial act" to include protests. Minn. Stat. Ann. §358.42(3): Notarial acts. Defines "notarial act" to include protests. Minn. Stat. Ann. §359.04: Powers. Authorizes recording of notarial protests.
25	Mississippi	Miss. Code Ann. §25-33-15: Record of protest of bill or note. Requires notaries to record protests. Miss. Code Ann. §25-33-21: Acknowledgment by notary public as stockholder. Miss. Code Ann. §25-7-29(a): Notaries public. Sets fees for protests.
26	Missouri	Mo. Ann. Stat. §490.560: Notary's certificate of protest. Makes certificates of protest admissible as evidence in court if filed at least 15 days before trial.
27	Montana	Mont. Code Ann. §1-5-417: Authority of notaries who are stockholders, officers, or employees of corporations. Makes it lawful for corporate and bank notaries to do protests, but unlawful if they have a financial interest. Mont. Code Ann. §1-5-602(3) and (5): Definitions. Authorizes protests of negotiable instruments.
28	Nebraska	Neb. Rev. Stat. §25-1213: Notarial protest as evidence of dishonor. Makes notary protest admissible. Neb. Rev. Stat. §64-107(3): Notary public; powers and duties; certificate or records; receipt in evidence. Authorizes protests. Neb. Rev. Stat. §64-102: Notaries public; fees, governmental employee; limitation. Fee is \$1.
29	Nevada	Nev. Rev. Stat. §240.004(6): "Notarial act" defines. Defines notarial acts to include protests.

#	State name	Statute(s)
		Nev. Rev. Stat. §240.163(4): Notarial act. Defines notarial acts to include protests.
30	New Hampshire	N.H. Rev. Stat. Ann. §455:2-1: Competency. Authorizes notary to perform protest. N.H. Rev. Stat. Ann. §455:4: Protest as evidence. Makes protests evidence in court.
31	New Jersey	N.J. Stat. Ann §2A:83-7: Certificate of protest as evidence. Makes notary protests admissible in all state courts. N.J. Stat. Ann §22A:4-13: Demand or protest of negotiable instruments. Sets fees for protest.
32	New Mexico	N.M. Stat. Ann. §14-12-1(D): Notaries; powers and duties. Authorizes notary protests. N.M. Stat. Ann. §14-12-10: Protesting bills and notes, notice. Requires notary to give notice to all makes of instruments protested. N.M. Stat. Ann. §14-12-11: Service of notice of protest. Describes how notary is to give notice to all bills protested. N.M. Stat. Ann. §14-12-12: Recording protest notices; use as evidence. Requires keeping of records of protest by notary. N.M. Stat. Ann. §14-12-19(A): Fees. Sets fees for protests. N.M. Stat. Ann. §14-12-20: Notary affiliate with bank or corporation; power restricted. Authorizes corporate notaries to engage in protests but prohibits them when financially interested. N.M. Stat. Ann. §14-14-1(A): Definitions. Defines “notarial act” to include protests. N.M. Stat. Ann. §14-14-2(E): Definitions. Defines “notarial act” to include protests.
33	New York	N.Y. Exec. Law §135: Powers and duties; in general; of notaries public who are attorneys at law. Authorizes protests. N.Y. Exec. Law §138: Powers of notaries public or other officers who are stockholders, directors, officers, or employees of a corporation. Authorizes corporate notaries to participate in protests, but not if they are party to them individually.
34	North Carolina	
35	North Dakota	N.D. Cent. Code §44-06-06: Duty of notary as to instrument protested by him. Requires notary to give notice to every endorser of the instrument protested. N.D. Cent. Code §44-06-07: Service of notice by notary public. Requires notice to all persons protested against. N.D. Cent. Code §44-06-08: Record of notices, certified copy—competent evidence. Makes notary protest record evidence in legal proceedings.
36	Ohio	Ohio Rev. Code Ann. §147.04: Seal and register. Requires notaries to maintain a register of all protests. Ohio Rev. Code Ann. §147.07: Powers; jurisdiction. Authorizes protests. Ohio Rev. Code Ann. §147.08(A): Fees. Sets fees for protests. Ohio Rev. Code Ann. §147.09: Protests are evidence. Makes instruments of protest evidence in state courts.
37	Oklahoma	Tit. 28 §47: Fees of notaries. Sets fees for protests. Tit. 49 §6: Authority of notary. Authorizes protests. Tit. 49 §7: Record of protests. Requires notaries for banks to keep a register of protests. Tit. 49 §112(1): Definitions. Defines “notarial acts” to include protests. Tit. 49 §113: Taking acknowledgments or verification—witnessing or attesting signature—certifying or attesting copies—making or noting protest—evidence of true signature. How to do protest. Tit. 6 §904: Stockholder, director, officer or employee of bank as notary public—administration of oaths—protests—notary fee. Allows bank notaries to engage in protests if not financially interested.
38	Oregon	Or. Rev. Stat. §194.040(2): Record of appointments and commissions; Secretary of State’s power to certify status of notary. Requires full faith and credit be given to all protests appointed under the authority of ORS 194.010. Or. Rev. Stat. §194.070: Protesting commercial paper. Says protests must be conducted per ORS 73.0505. Or. Rev. Stat. §194.090: Record of protest; effect as evidence. Makes records of protest evidence in state court. Or. Rev. Stat. §194.100(1)(c ) and (2)(b): Powers of notary connected with corporation;

#	State name	Statute(s)
		<p>limitations. Authorizes protests.</p> <p>Or. Rev. Stat. §194.152(5): Journal of notarial acts; rules; disclosure. Requires protests of commercial paper to comply with ORS 194.090.</p> <p>Or. Rev. Stat. §194.164(1)(e): Maximum fees for notarial acts; exception. Sets fees for protests.</p> <p>Or. Rev. Stat. §194.505(3): Definitions for ORS 194.505 to 194.595. Defines “notarial act” to include protests.</p> <p>Or. Rev. Stat. §194.515(5): Notarial acts. Procedures for notarial protests.</p>
39	Pennsylvania	<p>Pax. Stat. Ann. Tit. 57, §165(b): Limitation on powers; fees. Authorizes protests of checks, notes, drafts, bills of exchange.</p> <p>Pax. Stat. Ann. Tit. 57, §167: Fees of notaries public. Sets protest fees.</p> <p>Pax. Stat. Ann. Tit. 42, §6105(a): Acts of notaries public. Authorizes protests.</p> <p>Pax. Stat. Ann. Tit. 21, §186: May be taken in the District of Columbia. Authorizes notaries to act in the United States and D.C.</p>
40	Puerto Rico	
41	Rhode Island	<p>R.I. Gen. Laws. Ann. §42-30-8. Powers of notaries. Authorizes protests.</p> <p>R.I. Gen. Laws. Ann. §42-30-13(1), (6), (8). Fees of notaries. Sets fees for protests.</p>
42	South Carolina	<p>S.C. Code Ann. §26-1-60: Seal of office; notary shall indicate date of expiration of commission. Requires seal on all protestations.</p> <p>S.C. Code Ann. §26-1-90: Powers generally. Authorizes notarial protests.</p> <p>S.C. Code Ann. §26-1-120: Effect of status of notary as stockholder, directory, officer or employee of corporation. Authorizes protests involving corporation but not if notary is party to them.</p> <p>S.C. Code Ann. §8-21-140(2) and (7): Fees of notaries public. Sets fees for protests.</p>
43	South Dakota	<p>S.D. Codified Laws Ann. §18-1-10: Faith and credit to notarial acts. Gives full faith and credit to all notarial protests.</p>
44	Tennessee	<p>Tenn, Code Ann. §8-16-304: Receipt of instruments in evidence. Says all “protestations” are evidence.</p> <p>Tenn, Code Ann. §8-16-306: Recording fee. Sets fees for “protestations”.</p> <p>Tenn, Code Ann. §8-16-307: Protest fee. Sets fees for protests.</p> <p>Tenn, Code Ann. §8-21-1201(1) and (2): Notaries public. Sets fees for “protestations”.</p>
45	Texas	<p>Texas Govt. Code Ann. §406.008(b)(3): Commission; notary materials. Requires Sec. of State to issue notary with protest forms.</p> <p>Texas Govt. Code Ann. §406.105(a): Copies certified by county clerk. Authorizes county clerk to certify copies of notarized documents filed with him.</p> <p>Texas Govt. Code Ann. §406.016(2): Authority. Authorizes protests.</p> <p>Texas Govt. Code Ann. §406.024(a)(1), (2), (3), (4): Fees charged by notary public. Sets fees for protests.</p>
46	Utah	
47	Vermont	<p>Vt. Stat. Ann. Tit. 32, §1759: Notaries Public. Requires notaries to receive protests under seal.</p> <p>Vt. Stat. Ann. Tit. 4, §519(1), (2), (3): Fees of notaries public. Sets fees for protests.</p>
48	Virgin Islands	
49	Virginia	
50	Washington	<p>Wash. Rev. Code Ann. §42.44.010(2). Definitions. Defines “notarial act” to include protests.</p> <p>Wash. Rev. Code Ann. §42.44.080(6): Standards for notarial acts. Defines notarial acts to include protests.</p>
51	West Virginia	<p>W.Va. Code Ann. §29-4-6: Powers as to protests and other matters. Authorizes protests.</p> <p>W.Va. Code Ann. §29-4-7: Powers of notaries connected with banks or other corporations. Authorizes corporate notaries to officiate over protests, but not if they are personally interested.</p> <p>W.Va. Code Ann. §59-1-7: Fees to be charged by notaries. Sets fees for protests.</p>
52	Wisconsin	<p>Wis. Stat. Ann. §137.01(5): Notaries. Authorizes protests. Section (9)(a) sets the fees for protests.</p>



#	State name	Statute(s)
		Wis. Stat. Ann. §220.18: Bank or corporate notaries; permitted acts. Authorizes corporate notaries to officiate over protests, but not if they are personally interested. Wis. Stat. Ann. §706.07(1)(c) and (1)(e): Uniform law on notarial acts. Defines "Notarial act" to include protests.
53	Wyoming	Wyo. Stat. Ann. §32-1-111: When justice may protest paper in lieu of notary. Authorizes judges to perform notary protests if notaries not available. Wyo. Stat. Ann. §32-1-113: Notary's interest in bank etc., not disqualifying. Allows corporate notaries to engage in protest.
54	United States	

## 8 Tips in Preparing Your Protest Documents

### 8.1 Preparing correspondence

Every correspondence you send to your opponent:

1. Should NEVER contain any kind of threat of violence. This is a criminal offense in violation of [26 U.S.C. §7212](#). See the following for details and annotations regarding this code section.

<http://sedm.org/FAQs/26USCA7212-20061030.pdf>

2. Should emphasize that the burden of proof remains upon the government to prove liability, and not you to prove nonliability. It is an impossibility to prove a negative. See our pamphlet below, which you can also attach to your correspondence and pleadings:

*Government Burden of Proof*, Form #05.025

<http://sedm.org/Forms/FormIndex.htm>

3. Should demand evidence upon which any assessment is based pursuant to the [Fair Debt Collection Practices Act, 15 U.S.C. §1692g](#)(b). For instance, it should demand copies of all W-2's and 1099's which constitute prima facie evidence of a liability. For this purpose, you can attach:
  - 3.1. Federal Letters: Demand for Verified Evidence of Lawful Federal Assessment, Form #07.304 form and demand that it be filled out before we will pay the assessment or demand.
  - 3.2. 3.2 State Letters: Demand for Verified Evidence of Lawful State Assessment, Form #07.204 form and demand that it be filled out before we will pay the assessment or demand.
4. Should not use, but rebut the use of any identifying number. The identifying number connects you to a "[trade or business](#)" and to privileged federal employment. Below are resources to help you with this:
  - 4.1. Use the [Wrong Party Notice, Form #07.105](#) to rebut the use of social security numbers in the notice they sent.
  - 4.2. [About SSNs and TINs on Government Correspondence, Form #05.012](#) shows the rules for using identifying numbers on government correspondence.
  - 4.3. [Who Are "Taxpayers" and Who Needs a "Taxpayer Identification Number"?, Form #05.013](#) proves that only aliens can have TINs.
5. Should challenge all "[presumptions](#)" (OFFSITE LINK), which are a violation of due process.
  - 5.1. See the following for an article on this important subject entitled "Presumption: Chief Means for Unlawfully Expanding Federal Jurisdiction".

*Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction*, Form #05.017

<http://sedm.org/Forms/FormIndex.htm>

- 5.2. See the following for a form you can attach to any STANDARD or ORIGINAL IRS form you send in order to prevent false presumptions that might prejudice your rights.

*Tax Form Attachment, Form #04.201*

<http://sedm.org/Forms/FormIndex.htm>

6. Should contain information which rebuts the false [W-2](#), 1042-S, [1098](#), and [1099](#) reports that probably caused the mistaken notice to be delivered to begin with. All of these reports are designed to wrongfully and falsely and unlawfully associate you with privileged excise taxable activity called a "[trade or business](#)" and make you into the equivalent of a federal "employee" or contractor who has no rights and is a "taxpayer" subject to the [I.R.C.](#) Click here for an article on this subject entitled [Why Your Government is Either A Thief or You Are A "Public Officer" for income tax purposes, Form #05.008](#). Below is a list of specific Information Return reports that you MUST rebut as false in every response that you send them, along with the I.R.C. section that describes how they connect you to a "trade or business":

- 1 6.1. [Income Tax Withholding and Reporting, Form #12.004](#)-training course that teaches you the basics of tax
- 2 withholding and reporting
- 3 6.2. [Tax Withholding and Reporting: What the Law Says, Form #04.103](#)- Summary of tax withholding and reporting
- 4 laws
- 5 6.3. [26 U.S.C. §6041](#); Information at source-how IRS learns of the receipt of "trade or business" income, which is the
- 6 excise taxable activity that makes you a "taxpayer"
- 7 6.4. [Correcting Erroneous IRS Form W-2's, Form #04.006](#)
- 8 6.5. [Correcting Erroneous IRS Form 1042's, Form #04.003](#)
- 9 6.6. [Correcting Erroneous IRS Form 1098's, Form #04.004](#)
- 10 6.7. [Correcting Erroneous IRS Form 1099's, Form #04.005](#)
- 11 7. Should reuse as many of our free [Forms](#) as you can, in order to save you research, study, and effort. See:
- 12 7.1. [Forms Library, Section 1.5 Memorandums of Law](#)
- 13 7.2. [Forms Library, Section 1.7: Response Letters](#)
- 14 8. Must be sent with some kind of proof of service, such as a Certificate of Service, or a Certified Mail.
- 15 8.1. See the following for an article on building a good administrative record which explains this.
- 16 

<i>Techniques for Building a Good Administrative Record</i> , Form #09.008 <a href="http://sedm.org/Forms/FormIndex.htm">http://sedm.org/Forms/FormIndex.htm</a>
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- 17 8.2. See the following for a sample Certificate of Service you can use to develop legally admissible evidence of what
- 18 was mailed.
- 19 

Certificate/Proof/Affidavit of Service, Form #01.002 <a href="http://sedm.org/Forms/FormIndex.htm">http://sedm.org/Forms/FormIndex.htm</a>
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- 20 9. Must be sent to at least two persons in the government, to ensure that it is heeded. The letter must also indicate who all
- 21 the recipients are. If you only send it to the address indicated on the notice you receive, it will often be ignored by the
- 22 recipient because he/she knows they are not accountable. At least one of the recipients should be someone pretty high
- 23 up in the IRS. For contact information for the supervisory personnel at the IRS, [click here](#) (OFFSITE LINK). Visit the
- 24 "[Important Government Contacts](#)" (OFFSITE LINK) page for your elected representatives, if you want to send your
- 25 complaint to them as well.
- 26 10. Should establish your citizenship, domicile, and tax status as being outside of their jurisdiction. See the following form
- 27 as an example
- 28 

<i>Affidavit of Citizenship, Domicile, and Tax Status</i> , Form #02.001 <a href="http://sedm.org/Forms/FormIndex.htm">http://sedm.org/Forms/FormIndex.htm</a>
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- 29 11. Should use a return address that is not your legal [domicile](#) and it should indicate that it is not your domicile. This will
- 30 protect your privacy. You might want to use a postal box or remailing service to accomplish this. In the address line,
- 31 after the street address, put "(NOT A [DOMICILE](#))".
- 32 12. Should not be argumentative or emotional, but instead should be factual and describe what the law says and why the
- 33 IRS is misapplying or violating the law in what it is doing.
- 34 13. Should ask the recipient to remain silent and/or not respond if they wish to indicate that they agree with all the facts
- 35 and law contained in your letter. You can use the following authorities as your justification:
- 36 13.1. [Federal Rule of Civil Procedure 8\(d\)](#)
- 37 13.2. [Silence as a Weapon and a Defense in Legal Discovery, Form #05.021](#).
- 38 13.3. The principle of "equitable estoppel".
- 39 13.4. The concepts described in our [Federal Pleading Attachment, Litigation Tool #01.001](#)
- 40 14. If you are a "nontaxpayer", which is the only thing you can be if you are reading this and not violate the
- 41 [Copyright/Software/User License Agreement](#) or [Member Agreement](#), then you may not cite any provision of the
- 42 [Internal Revenue Code](#) unless it pertains exclusively to the agent who is involved in the illegal act and *not* you. When
- 43 you cite a provision of the I.R.C. as applying to you, then you are indirectly admitting that you are a "taxpayer".
- 44 Instead, you may only cite your constitutional rights, the Constitution, or state law as your authority. You should
- 45 emphasize in the letter that you are *not* quoting the I.R.C. because you are *not* subject to it as a "nontaxpayer" because
- 46 it is [private/special law](#) that only pertains to people who consent. See below for further details on why this is:
- 47 14.1. [Your Rights as a Nontaxpayer, Form #08.008](#)
- 48 14.2. ["Taxpayer" v. "Nontaxpayer": Which One are You?](#) (OFFSITE LINK)
- 49 14.3. [Federal Jurisdiction, Form #05.018](#). Section 3 of this document shows what happens to those who ignorantly or
- 50 mistakenly cite terms of the federal "trade or business" franchise agreement codified in Subtitle A of the I.R.C.:  
They become voluntary SLAVES and WHORES of the government who have no standing in federal court to defend their rights.
- 14.4. [Enumeration of Inalienable Rights, Form #06.004](#)

- 1 15. Should focus on illegal or unlawful acts by a specific individual that are outside the authority of that individual and  
2 therefore provide standing in court to sue for an damages against them as a private individual. You cannot sue the  
3 government or "United States" for violations of law, but only a specific public employee who is violating the law.  
4 [Click here](#) (OFFSITE LINK) for reasons why. The best way to find out exactly who exactly is performing the illegal  
5 acts is to decode your IMF. [Click here](#) for information on decoding IMFs. [Click here](#) (OFFSITE LINK) for an  
6 excellent page to use as your main source for legal information you can put in your response letter.
- 7 16. Should be submitted as an Affidavit under penalty of perjury and should give the receiving agency a specific amount of  
8 time to respond, after which they agree if no response is received. The perjury statement at the end of the affidavit  
9 should read as follows:

10 *I declare under penalty of perjury from without the "United States" and from within the United States of*  
11 *America, in accordance with [28 U.S.C. §1746\(1\)](#) that the facts, statements, and evidence provided in this*  
12 *correspondence are true and correct to the best of my knowledge and ability. Conditions under which facts*  
13 *may be litigated is a state and not federal court with a jury trial where none of the jurists or the judge are*  
14 *federal "employees", "taxpayers" or "U.S. persons" and who are not eligible for and do not receive any federal*  
15 *financial or other benefit. All rights reserved, UCC 1-308 and 1-207.*

16 For a good example of what such an affidavit might look like, see our [Affidavit of Material Facts, Form #02.002](#). You  
17 should also notice and emphasize [Federal Rule of Civil Procedure 8\(b\)\(6\)](#), which says that anything not denied in the  
18 response is specifically admitted. This will develop exculpatory evidence and presumptions in your favor, which you  
19 can use to your advantage later if you decide to litigate.

- 20 17. Should also be followed up the response with a "Notice of Default" listing all of the things that have been agreed to by  
21 the government based on their failure to respond. What we do is simply attach a short letter with the [Affidavit of](#)  
22 [Citizenship, Domicile, and Tax Status, Form #02.001](#) indicating that the government specifies "admit" in response to  
23 every admission at the end of the Affidavit, and we serve it 30 days after sending the response, so as to give them time  
24 to respond. We send it certified mail with a Proof of Mailing and keep the original for ourselves, for use as evidence in  
25 a refund or Bivens lawsuit to enforce the default judgment.
- 26 18. Should anticipate and avoid the flawed arguments contained in:  
27 18.1. [Flawed Tax Arguments to Avoid, Form #08.004](#) -pamphlet.  
28 18.2. [Rebutted version of IRS The Truth About Frivolous Tax Arguments, Form #08.005](#)  
29 18.3. [Rebutted Version of Congressional Research Service Report 97-59A: Frequently Asked Questions About the](#)  
30 [Federal Income Tax, Form #08.006](#)  
31 18.4. [Rebutted Version of Dan Evan's "Tax Resister FAQs", Form #08.007](#) (OFFSITE LINK)- Family Guardian
- 32 19. Should be as short and organized as possible, so that it is more likely to be noticed and read. Long letters are  
33 commonly ignored by revenue personnel who are just too busy to respond appropriately. If you are enclosing  
34 government forms, put them in the front so they will be noticed.
- 35 20. Should contain a list of the exhibits or enclosures at the beginning of the letter. Each exhibit should be preceded by a  
36 cover page, which you might also want to print in colored paper or put a tab on so that it is easy to find.
- 37 21. Should include or attach supporting evidence upon which you base your good faith belief about your lack of liability.  
38 Each exhibit should be numbered and labeled and attached in sequence at the back of the letter, and referenced in the  
39 body of the letter. You may wish to visit our [Exhibit Catalog](#) for useful evidence to attach to your response letter as  
40 exhibits. You should also emphasize the ONLY sources of reasonable belief as indicated by the government and point  
41 out the hypocrisy and irrationality on their part of citing anything that is not a reasonable source. See:  
42 [Reasonable Belief About Income Tax Liability, Form #05.007](#)
- 43 22. Should contain a copyright notice at the bottom of each page similar to the following. In concert with this notice, you  
44 can send them the [Payment Delinquency and Copyright Violation Notices, Form #07.106](#):

45 *"The contents of this correspondence are copyrighted and may not be shared with third parties or entered into*  
46 *any kind of electronic information system or used for any kind of enforcement activity. The Privacy Act, 5*  
47 *U.S.C. §552a(b) requires consent of the individual in order to maintain any records and you do not have my*  
48 *consent to electronic records. The fee for violating the copyright is \$100,000. This letter and all attached*  
49 *documents have been made part of the Public Record and will be used for evidence in administrative and*  
50 *judicial proceedings at law, or equity regarding this American National, who by enacted federal law and the*  
51 *Legislative Intent of the 16th Amendment is a Non-Taxpayer as he is neither of the subject nor of the object of*  
52 *federal revenue laws. All of these documents must be RECORDED and maintained in Claimant's*  
53 *Administrative PAPER, but not electronic File."*

- 54 23. Should ask for their help in resolving what appears to you to be a conflict between what the law requires and what they  
55 are doing. This will put them in the position of looking bad for on the one hand, terrorizing you, but on the other hand,  
56 being unwilling to help you, and provides a good reliance defense if you ever have to litigate. Everyone who has ever

won against the government in court has used this tactic. The [Internal Revenue Manual, section 1.1.1.1](#) makes this the duty of the IRS as follows:

[Internal Revenue Manual, Section 1.1.1.1](#)

*IRS Mission: Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all.*

**8.2 Understand and discover the evidence that the government will use to prove its case**

Before you begin to prepare your notary protest correspondence, be very aware of all of the evidence that the government will use to prove its case and take this evidence into account in your allegations and questions: This evidence includes:

1. The Appointment Affidavit of the government employee.
2. The delegation of authority order of the government employee.
3. The badge or pocket commission of the government employee.
4. The statutes authorizing enforcement.
5. The regulations implementing the statutes which authorize enforcement.
6. The Treasury Orders identifying the boundaries of the internal revenue districts within which the IRS must limit its enforcement.
7. Various documents that the government will use to prove your domicile as a citizen or residence as an alien:
  - 7.1. Your driver's license and the application for it.
  - 7.2. Your passport and the application for it.
  - 7.3. Your voter registration.
  - 7.4. Marriage applications.
  - 7.5. Government applications for benefits that you filled out.
  - 7.6. Responses to jury summons you sent back to the county.
  - 7.7. Social Security SS-5 form applying to join Social Security.
8. Documents from prior litigation:
  - 8.1. Divorce pleadings and the attached evidence.
  - 8.2. Civil litigation.
  - 8.3. Criminal prosecutions against your.
9. Financial Institutions:
  - 9.1. Account applications.
  - 9.2. Account signature cards.
  - 9.3. Tax withholding documents such as W-8BEN.
  - 9.4. The "permanent address" on your account application, which establishes your prima facie domicile.
10. Employment forms:
  - 10.1. Job applications.
  - 10.2. Tax Withholding documents you submitted to your employers or business associates, such as W-4, W-8BEN, etc.
11. Tax Records in possession of the IRS:
  - 11.1. Information returns filed against your name by usually ignorant and criminal third parties. See:

<i>Correcting Erroneous Information Returns, Form #04.001</i> <a href="http://sedm.org/Forms/FormIndex.htm">http://sedm.org/Forms/FormIndex.htm</a>
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  - 11.2. Your Individual Master File (IMF). See:

Master File Decoder <a href="http://sedm.org/ItemInfo/Programs/MFDecoder/MFDecoder.htm">http://sedm.org/ItemInfo/Programs/MFDecoder/MFDecoder.htm</a>
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  - 11.3. Correspondence that you sent them.
  - 11.4. Notices that they sent you.

If you are involved in a tax dispute, our website has several forms for obtaining some of the above documents as indicated below:

1. *IRS Freedom of Information Act Request*, Form #03.014  
<http://sedm.org/Forms/FormIndex.htm>
2. *IMF Decoding Freedom of Information Act Requests*, Form #03.015  
<http://sedm.org/Forms/FormIndex.htm>

### 8.3 Guidance on preparing Affidavits of Material Fact

This section contains guidance on how to prepare your Affidavit of Material Facts for use during the notary protest process. Below are some guidelines:

1. The trier of fact will be the jury. All issues of fact should be tailored to be decided by a jury and not a judge. Try to envision all of the issues of fact indicated in your Memorandum of Disputed Fact being included ultimately in an Affidavit of Material Facts attached to your civil or criminal complaint against your government opponent.
2. Narrowly focus the statements within the memorandum to facts that that can be verified and corroborated with physical evidence or testimony.
3. Focus on pieces of evidence described in the previous section in order to prove the facts that you want to establish. Much of this evidence will be in the custody of your government opponent and he can use it to verify what you are saying for yourself.
4. Do NOT include opinions or beliefs in any of the issues, whether your or those of others. Opinions and beliefs are EXCLUDED from evidence pursuant to Federal Rule of Evidence 610.
5. Focus the statements to expose all false presumptions being made by the opposition and the judge, such as:
  - 5.1. That you are a statutory "U.S. citizen" pursuant to 8 U.S.C. §1401.
  - 5.2. That you are a statutory "resident" (alien) pursuant to 26 U.S.C. §7701(b)(1)(A).
  - 5.3. You have a legal domicile within the "United States", which consists of federal territories and possessions and excludes states of the Union. See:

*Why Domicile and Income Taxes are Voluntary*, Form #05.002  
<http://sedm.org/Forms/FormIndex.htm>

All of the above approaches are taken in a handy form that you may want to attach on our website below:

*Affidavit of Citizenship, Domicile, and Tax Status*, Form #02.001  
<http://sedm.org/Forms/FormIndex.htm>

6. Focus the questions on enforcement authority. Federal enforcement authority can be boiled down to a couple simple issues that will blow the government's case out of the water because they will have no evidence to prove enforcement authority. For instance:
  - 6.1. Enforcement authority is described in the Administrative Procedures Act, 5 U.S.C. §552-553 as well as the Federal Register Act, 44 U.S.C. Chapter 15.
  - 6.2. Agency enforcement is described in 5 U.S.C. §553(a) and 44 U.S.C. §1505(a) as anything that imposes a penalty or adversely affects your rights.
  - 6.3. Absent enforcement authority, these acts say your rights cannot be injured:

*TITLE 5 > PART 1 > CHAPTER 5 > SUBCHAPTER II > § 552*  
*§ 552. Public information; agency rules, opinions, orders, records, and proceedings§ 1508. Publication in Federal Register as notice of hearing*

*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.*

*26 CFR §601.702 Publication and public inspection*

*(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.*

- 6.4. In order to prove that an agency has enforcement authority, they must provide admissible evidence of one of the following two things.
  - 6.4.1. Either a legislative enforcement implementing regulation published in the Federal Register.. .OR
  - 6.4.2. Evidence that you are a member of one of the following three groups specifically exempted from the requirement for enforcement implementing regulations:
    - 6.4.2.1. A military or foreign affairs function of the United States. *5 U.S.C. §553(a)(1)* .

6.4.2.2. A matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts. [5 U.S.C. §553\(a\)\(2\)](#) .

6.4.2.3. Federal agencies or persons in their capacity as officers, agents, or employees thereof. [44 U.S.C. §1505\(a\)\(1\)](#).

For details on how the above works, see:

[Federal Enforcement Authority Within States of the Union](#), Form #05.032  
<http://sedm.org/Forms/FormIndex.htm>

## 8.4 Guidance on preparing Memorandums of Law

This section contains guidance on how to prepare your Memorandums of Law for use during the notary protest process. Below are some guidelines:

1. The trier of law is the judge. Statements should narrowly focus on things that can be proven by interpreting statutes and decided by the judge and not the jury. Try to envision all of the issues of law indicated in your Memorandums of Law being included ultimately in a Memorandum of Law attached to your civil or criminal complaint against your government opponent.
2. Avoid general statements. Make your statements as specific as possible so that the judge is compelled to deal directly with the issues before him.
3. Ensure that you include a definitions of key words of art that you are using in order to prevent presumptions by the judge in reading your memorandum of law. The form below shows techniques for doing this. It is intended to be attached to every tax form you file with the government, and we use attach it to our memorandums of law as well.

[Tax Form Attachment, Form #04.201](#)  
<http://sedm.org/Forms/FormIndex.htm>

4. Try to convert disputes of law into disputes of fact so that you remove them from the discretion of the judge and give them to the jury to decide. For instance, avoid phrases like:

4.1. “You have no legal authority. . .”

4.2. “You have no statutory authority. . .”

4.3. “The law does not authorize. . .”

Below are some examples on how to phrase your statements to convert them from disputes of law into disputes of fact:

**Table 2: Converting legal disputes into factual disputes that the jury can decide.**

#	Original legal dispute to avoid	Improved factual dispute
1	“You have no legal authority . . .”	“Your delegation of authority order plainly does not expressly authorize you to do what you did and therefore you are operating outside your authority. If you believe otherwise, please produce the order and the provisions within the order that expressly authorize what you did.”
2	“You have no legal authority under 26 U.S.C. §7601...”	“26 U.S.C. §7601 limits your enforcement powers to internal revenue districts. There is no evidence that I reside in any internal revenue district. Treasury Order 150-02 abolished all internal revenue districts except the District of Columbia and I don’t maintain a domicile there. If you disagree, please produce the Treasury Order that expressly includes the state of the Union and the part of the state of the Union that we are in right now.”
3	“You have no statutory authority to operate within a state of the Union.”	“There is no positive law statute anywhere within the I.R.C. Subtitle A that expressly includes a state of the Union within the meaning of “State” or “United States”. Please produce said statute as evidence if you disagree.”
4	“The law does not authorize. . .”	“There is no reason to believe that the I.R.C. authorizes ANYTHING. 1 U.S.C. §204 says it is a presumption, not legal evidence, and therefore cannot prejudice my rights. If you believe otherwise, please produce evidence that the specific section of the I.R.C. you are quoting was enacted into positive law and therefore constitutes evidence of an obligation by those who are party to the franchise agreement in I.R.C. Subtitle A.

#	Original legal dispute to avoid	Improved factual dispute
		Otherwise, I am innocent until proven guilty and may not be the victim of your prejudicial presumptions. Presumptions are NOT evidence or a substitute for evidence.”
5	“I am entitled to the protections of _____(I.R.C. statute)”	“The I.R.C. Subtitle A is a franchise agreement that I am not subject to. You never procured my express written consent to become a franchisee such as a “taxpayer” who has any obligation under it. Please produce evidence that I consented to donate my private property to a public use or a public office in order to procure the benefits of any federal franchise. Absent said express written consent, I must be presumed to be a an innocent party called a “nontaxpayer” who is not party to the franchise agreement.”

1 5. Reuse as many of the Memorandums of Law on our website as possible. Most of these Memorandums of Law are  
2 specifically designed for use in establishing stipulated law and facts in many types of controversies. They include  
3 admissions and interrogatories at the end that state facts and demand a rebuttal. They give a time limit for responding,  
4 and they indicate that a non-response establishes an “Admit” answer to every admission pursuant to Federal Rule of  
5 Civil Procedure 8(b)(6). You can find these memorandums of law below:

SEDM Forms Page, Section 1.5  
<http://sedm.org/Forms/FormIndex.htm>

6 6. Confine the statements to positive law statutes that are admissible as evidence. 1 U.S.C. §204 identifies which statutes  
7 are “positive law” and which are not.

8 *“Positive law. Law actually and specifically enacted or adopted [consented to] by proper authority for the*  
9 *government of an organized jural society. See also Legislation.”*  
10 *[Black’s Law Dictionary, Sixth Edition, p. 1162]*

12 [1 U.S.C. §204: Codes and Supplements as evidence of the laws of United States and District of Columbia;](#)  
13 [citation of Codes and Supplements](#)

14 *In all courts, tribunals, and public offices of the United States, at home or abroad, of the District of Columbia,*  
15 *and of each*

16 *State, Territory, or insular possession of the United States -*

17 *(a) United States Code. -*

18 *The matter set forth in the edition of the Code of Laws of the United States current at any time shall, together*  
19 *with the then current supplement, if any, establish prima facie [by presumption] the laws of the United States,*  
20 *general and permanent in their nature, in force on the day preceding the commencement of the session*  
21 *following the last session the legislation of which is included:*

22 *Provided, however, That whenever titles of such Code shall have been enacted into positive law the text*  
23 *thereof shall be legal evidence of the laws therein contained, in all the courts of the United States, the several*  
24 *States, and the Territories and insular possessions of the United States.*

25 7. Those statutes that are not positive law are “prima facie evidence”, which means a presumption. Presumptions are  
26 guide the discovery of evidence but they are NOT evidence. It is a violation of due process of law to convict someone  
27 on a presumption and without evidence. An unchallenged presumption acts as the equivalent of religious “faith” and  
28 makes the courtroom into a church and the judge into the priest. Avoid them at all costs.

29 *“Prima facie evidence. Evidence good and sufficient on its face. Such evidence as, in the judgment of the law,*  
30 *is sufficient to establish a given fact, or the group or chain of facts constituting the party’s claim or defense, and*  
31 *which if not rebutted or contradicted, will remain sufficient. Evidence which, if unexplained or uncontradicted,*  
32 *is sufficient to sustain a judgment in favor of the issue which it supports, but which may be contradicted by*  
33 *other evidence. State v. Haremza, 213 Kan. 201, 515 P.2d 1217, 1222.*

34 *That quantum of evidence that suffices for proof of a particular fact until the fact is contradicted by other*  
35 *evidence; once a trier of fact is faced with conflicting evidence, it must weigh the prima facie evidence with all*

1 the other probative evidence presented. *Godesky v. Provo City Corp.*, Utah, 690 P.2d 541, 547. Evidence  
2 which, standing alone and unexplained, would maintain the proposition and warrant the conclusion to support  
3 which it is introduced. **An inference or presumption of law, affirmative or negative of a fact, in the absence**  
4 **of proof, or until proof can be obtained or produced to overcome the inference. See also Presumptive**  
5 **evidence.**"

6 [Black's Law Dictionary, Sixth Edition, p. 1190]

7  
8 **presumption.** An inference in favor of a particular fact. A presumption is a rule of law, statutory or judicial,  
9 by which finding of a basic fact gives rise to existence of presumed fact, until presumption is rebutted. *Van*  
10 *Wart v. Cook*, Okl.App., 557 P.2d 1161, 1163. A legal device which operates in the absence of other proof to  
11 require that certain inferences be drawn from the available evidence. *Port Terminal & Warehousing Co. v.*  
12 *John S. James Co.*, D.C.Ga., 92 F.R.D. 100, 106.

13 A presumption is an assumption of fact that the law requires to be made from another fact or group of facts  
14 found or otherwise established in the action. **A presumption is not evidence.** A presumption is either conclusive  
15 or rebuttable. Every rebuttable presumption is either (a) a presumption affecting the burden of producing  
16 evidence or (b) a presumption affecting the burden of proof. Calif.Evid.Code, §600.

17 In all civil actions and proceedings not otherwise provided for by Act of Congress or by the Federal Rules of  
18 Evidence, a presumption imposes on the party against whom it is directed the burden of going forward with  
19 evidence to rebut or meet the presumption, but does not shift to such party the burden of proof in the sense of  
20 the risk of nonpersuasion, which remains throughout the trial upon the party on whom it was originally cast.  
21 Federal Evidence Rule 301.

22 See also Disputable presumption; inference; Juris et de jure; Presumptive evidence; Prima facie; Raise a  
23 presumption.

24 [Black's Law Dictionary, Sixth Edition, p. 1185]

- 25 8. Focus on the authority of the court, NOT the judge. Don't personalize the dispute by dragging the credibility of the  
26 judge into the argument. Some issues to discuss include:
- 27 8.1. That there is no statute in the Statutes At Large that expressly confers Article III constitutional jurisdiction upon  
28 the court, if it is a federal court.
- 29 8.2. That the court is an Article IV territorial and franchise court which can only lawfully officiate over participants  
30 in federal franchises, such as a "trade or business", which is defines as "the functions of a public office" in 26  
31 U.S.C. §7701(a)(26).
- 32 9. Challenge the jurisdiction of the court to preside over the matter:
- 33 9.1. The judge does not reside on federal territory as required by 28 U.S.C. §134. He is therefore guilty of a high  
34 misdemeanor:

35 *Every district judge shall reside in the district or one of the districts for which he is appointed, and **for***  
36 ***offending against this provision shall be deemed guilty of a high misdemeanor.** (Mar. 3, 1911, ch. 231, §1, 36*  
37 *Stat. 1087 as amended July 30, 1914, ch. 216, 38 Stat. 580 and supplemented Mar. 3, 1915, ch. 100; § 1, 38*  
38 *Stat. 961; Apr. 11, 1916, ch. 64, § 1, 39 Stat. 48; Feb. 26, 1917, ch. 938, 39 Stat. 938; Feb. 26, 1919.-ch. 50, §§*  
39 *1, 2, 40 Stat. 1183; Sept. 14, 1922, ch. 306, 42 Stat. 837, 838; Jan. 16, 1925, ch. 83, § 3, 43 Stat. 752; Feb. 16,*  
40 *1925, ch. 233, §§ 2, 3, 43 Stat. 946; Mar. 2, 1925. ch. 397, §§ 1-3, 43 Stat. 1098; Mar. 3, 1927, ch. 297, 44 Stat.*  
41 *1346; Mar. 3, 1927, ch. 298, 44 Stat. 1347; Mar. 3, 1927, ch. 300, 44 Stat. 1348; Mar. 3, 1927, ch. 332, 44 Stat.*  
42 *1370; Mar. 3, 1927, ch. 336, §§ 1, 2, 44 Stat. 1372; Mar. 3, 1927, ch 338, 44 Stat. 1374; Mar. 3, 1927, ch. 344,*  
43 *44 stat. 1380; Apr. 21, 1928, ch. 393, § 5, 45 Stat. 439; May 29, 1928, ch. 882, 45 Stat. 974; Jan. 17, 1929, ch.*  
44 *72, 45 Stat. 1081; Feb. 26, 1929, ch. 334, 45 Stat. 1317; Feb. 26, 1929, ch. 337, 45 Stat. 1319; Feb. 28, 1929,*  
45 *ch. 358, 45 Stat. 1344; Feb. 28, 1929, ch. 380, 45 Stat. 1409; May 28, 1930, ch. 346, 46 Stat. 431; June 27,*  
46 *1930, ch. 633, 46 Stat. 819; June 27, 1930. ch. 635, 46 Stat. 820; July 3, 1930, ch. 852, 46 Stat. 1006; Feb. 20,*  
47 *1931. ch. 244, 46 Stat. 1196; Feb. 20, 1931, ch. 245, 46 Stat. 1197; Feb. 25, 1931, ch. 296, 46 Stat. 1417; May*  
48 *20, 1932, ch. 196, 47 Stat. 161; Aug. 2, 1935, ch. 425, §§ 1, 2, 3, 49 Stat. 508; Aug. 19, 1935, ch. 558, §§ 1, 2,*  
49 *49 Stat. 659; Aug. 28, 1935, ch. 793, 49 Stat. 945; June 5, 1936, ch. 515, §§ 1-3, 49 Stat. 1476, 1477; June 15,*  
50 *1936, ch. 544, 49 Stat. 1491; June 16, 1936, ch. 585, § 1, 49 Stat. 1523; June 22, 1936, ch. 693, 49 Stat. 1804;*  
51 *June 22, 1936, ch. 694, 49 Stat. 1804; June 22, 1936, ch. 696, 49 Stat. 1806; Aug. 25, 1937, ch. 771, § 1, 50*  
52 *Stat. 805; Mar. 18, 1938, ch. 47, 52 Stat. 110; May 31, 1938, ch. 290, §§ 4, 6, 52 Stat. 585; June 20, 1938, ch.*  
53 *528, 52 Stat. 780; Jan. 20, 1940, ch. 11, 54 Stat. 16; May 24, 1940, Ch. 209, § 2 (C), 54 Stat. 220; June 8, 1940,*  
54 *ch. 282, 54 Stat. 253; Nov. 27, 1940. ch. 920, § 1, 54 Stat. 1216.)*

55 [Judicial Code of 1940, Section 1, pp. 2453-2454, Exhibit 3]

- 56 9.2. That the jury does not reside on federal territory within the exterior limits of the district pursuant to 28 U.S.C.  
57 §1865 and therefore must be recused for cause.



- 1 9.3. That you do not maintain a domicile on federal territory or within the judicial district and cannot therefore  
2 lawfully be “kidnapped” and have your legal identity involuntarily transported to the District of Columbia  
3 pursuant to 26 U.S.C. §7701(a)(39) and 26 U.S.C. §7408(d).  
4 9.4. That you are a “nonresident alien” and that the state, and officers of the state government such as yourself, have  
5 EXCLUSIVE jurisdiction to over their own status.

6 *"So far as courts of this state are concerned this state has sole and exclusive jurisdiction over the status of those*  
7 *domiciled within its borders."*  
8 *[Delaney v. Delaney, 216 Cal. 27, 13 P.2d 719 (CA. 1932)]*

9 *The courts of this state also have sole and exclusive jurisdiction over the status of those domiciled within its*  
10 *boundaries. Delaney v. Delaney, 216 Cal. 27, 13 P.(2d) 719, 86 A.L.R. 1321. This case is itself a brief on the*  
11 *invalidity of the Mexican decree.*  
12 *[Kegley v. Kegley, 16 Cal.App.2d 216, 60 P.2d 482, Cal.App. 3 Dist. 1936.]*

- 13 10. Focus on the fact that in tax cases, the federal court cannot lawfully change your declared status as a nontaxpayer and a  
14 nonresident to the “United States” if the matter involves taxes without violating the Declaratory Judgments Act, 28  
15 U.S.C. §2201(a)  
16 11. Focus on definitions of key “words of art” such as the following, which severely limit the jurisdiction of the  
17 government:  
18 11.1. “State”  
19 11.2. “United States”  
20 11.3. “income”  
21 11.4. “employee”  
22 11.5. “employer”  
23 11.6. “trade or business”  
24 Insist that the court strictly observe the rules of statutory construction and interpretation in interpreting the statutes in  
25 order to prevent “judicial verbicide” that will destroy your rights:

26 *"[J]udicial verbicide is calculated to convert the Constitution into a worthless scrap of paper and to replace*  
27 *our government of laws with a judicial oligarchy."*  
28 *[Senator Sam Ervin, of Watergate hearing fame]*  
29

30 *"When a statute includes an explicit definition, we must follow that definition, even if it varies from that*  
31 *term's ordinary meaning.* *Meese v. Keene, 481 U.S. 465, 484-485 (1987) ("It is axiomatic that the statutory*  
32 *definition of the term excludes unstated meanings of that term"); Colautti v. Franklin, 439 U.S. at 392-393, n.*  
33 *10 ("As a rule, "a definition which declares what a term "means" . . . excludes any meaning that is not stated");*  
34 *Western Union Telegraph Co. v. Lenroot, 323 U.S. 490, 502 (1945); Fox v. Standard Oil Co. of N.J., 294 U.S.*  
35 *87, 95-96 (1935) (Cardozo, J.); see also 2A N. Singer, Sutherland on Statutes and Statutory Construction §*  
36 *47.07, p. 152, and n. 10 (5th ed. 1992) (collecting cases). That is to say, the statute, read "as a whole," post at*  
37 *998 [530 U.S. 943] (THOMAS, J., dissenting), leads the reader to a definition. That definition does not include*  
38 *the Attorney General's restriction -- "the child up to the head." Its words, "substantial portion," indicate the*  
39 *contrary."*  
40 *[Stenberg v. Carhart, 530 U.S. 914 (2000)]*  
41

42 *"It is axiomatic that the statutory definition of the term excludes unstated meanings of that term. Colautti v.*  
43 *Franklin, 439 U.S. 379, 392, and n. 10 (1979). Congress' use of the term "propaganda" in this statute, as indeed*  
44 *in other legislation, has no pejorative connotation.[19] As judges, it is our duty to [481 U.S. 485] construe*  
45 *legislation as it is written, not as it might be read by a layman, or as it might be understood by someone who*  
46 *has not even read it."*  
47 *[Meese v. Keene, 481 U.S. 465, 484 (1987)]*  
48

49 *"Expressio unius est exclusio alterius. A maxim of statutory interpretation meaning that the expression of one*  
50 *thing is the exclusion of another.* *Burgin v. Forbes, 293 Ky. 456, 169 S.W.2d 321, 325; Newblock v. Bowles,*  
51 *170 Okl. 487, 40 P.2d 1097, 1100. Mention of one thing implies exclusion of another. When certain persons*  
52 *or things are specified in a law, contract, or will, an intention to exclude all others from its operation may be*  
53 *inferred. Under this maxim, if statute specifies one exception to a general rule or assumes to specify the effects*  
54 *of a certain provision, other exceptions or effects are excluded."*  
55 *[Black's Law Dictionary, Sixth Edition, p. 581]*

56 For further exhaustive details on the rules of statutory construction, see:

12. Point out inconsistencies and absurdities in various statutes that arise because the above rules of statutory construction are NOT being observed:

*It is, of course, true that statutory construction “is a holistic endeavor” and that the meaning of a provision is “clarified by the remainder of the statutory scheme ... [when] only one of the permissible meanings produces a substantive effect that is compatible with the rest of the law.”* United Sav. Assn. of Tex. v. Timbers of Inwood Forest Associates, Ltd., 484 U.S. 365, 371, 108 S.Ct. 626, 98 L.Ed.2d 740 (1988).  
[*U.S. v. Cleveland Indians Baseball Co.*, 532 U.S. 200, 121 S.Ct. 1433 (2001)]

13. Focus on whether the statute you are accused of violating or which the government is trying to enforce against you is civil or criminal law. If it is civil law, the government has the burden of proving that you maintain a domicile (if you are a citizen) or “residence” (if you are an alien) within their jurisdiction before they can enforce the statute against you. It is very difficult for them to satisfy these provisions and therefore the judge will have to stop the enforcement action against you and the case as well because the agency doing the enforcement, like him, has no jurisdiction:
- 13.1. If the dispute is in state court, the moving or enforcing party must satisfy the longarm statute.
- 13.2. If the dispute is in federal court, they must apply and satisfy the provisions of the Foreign Sovereign Immunities Act, 28 U.S.C. Part IV, Chapter 97.

## **9 Applying the process to unlawful tax collection**

### **9.1 Background**

Tax collection is an inherently commercial process that is very compatible with the notary protest process because:

1. The notices the IRS sends you constitute the equivalent of a bill for their “services”.
2. When the IRS sends you notice, they use a commercial default process. If you default and do not respond, they will assume that you consented. If they can do it to you, you can do it to them also. This commercial default process is quite evidence by examining the TXMODA portion of the IRS Individual Master File (IMF). See:

Master File Decoder

<http://sedm.org/ItemInfo/Programs/MFDecoder/MFDecoder.htm>

3. Nearly everything the IRS sends you requires your signature and consent. That makes it negotiable. Anything that requires your consent is a “negotiable instrument”.
4. When you respond in writing or have an audit or make an “Offer in Compromise”, you are engaging in an act of contracting with them. The documents produced during these processes act as the equivalent of promissory notes and contracts. The notary protest method is specifically designed for use in protesting “negotiable instruments, of which “promissory notes” are one type. See:

Commentaries of Law on Promissory Notes, Fourth Edition, Joseph Story, 1856. Google Books.

<http://books.google.com/books?id=GpM0AAAAIAAJ&printsec=titlepage>

5. They cannot do a lawful tax assessment without your consent. See:

Why the Government Can't Lawfully Assess Natural Persons With an Income Tax Liability Without Their Consent, Form #05.011

<http://sedm.org/Forms/FormIndex.htm>

6. The income tax is a franchise which requires your consent to participate. It isn't voluntary for “taxpayers”, but the decision to become a “taxpayer” is voluntary. See:

Who Are “Taxpayers” and Who Needs a “Taxpayer Identification Number”?, Form #05.013

<http://sedm.org/Forms/FormIndex.htm>

The statutes in most states account for the use of the notary protest method in connection with tax collection. For instance, in New Mexico, the following statute mentions instruments other than bills of exchange and promissory notes:

*New Mexico Statutes Annotated*  
§14-12-10. *Protesting bills and notes; notice.*

*Each notary public when any bill of exchange, promissory note **or other written instrument** shall be by such notary protested for nonacceptance or nonpayment shall give notice in writing thereof to the maker and to each*

1 *and every endorser of such bill of exchange, and to the maker of each security, or the endorsers of any*  
2 *promissory note **or other written instrument**, immediately after such protest shall have been made.*

3 An IRS collection notice is neither a “bill of exchange” nor a “promissory note” as legally defined, but it is a “bill” and it  
4 does fit into the category of “other written instrument” documented above. Therefore, there is no basis for a notary public  
5 to decline participating in a notary protest that involves tax collection. Most other states of the Union have provisions  
6 similar to those above.

## 7 **9.2 Process Summary**

8 The Notary Certificate of Dishonor process functions as follows:

- 9 1. Locate a notary public who works at a mailbox center, such as UPS Store, Postal Annex, or Mailboxes Etc.
- 10 2. Ask the store clerk whether they have both mailboxes and a notary public on duty at all times.
- 11 3. If the store has both mailboxes and a notary public on duty, then ask if they would be willing to provide the services  
12 described in section 6 later.
- 13 4. Have them execute the process documented in section 4.6 earlier.

## 14 **9.3 Example Disputed Facts and Disputed Law for use in your own memorandums**

15 Below is a list of statements you can use in your Notice of Fault and Counter Offer.

### 16 **9.3.1 Affidavit of Material Facts**

- 17 1. You exceeded the bounds of strictly limited authority given by the Secretary as it relates to your legal capacity, legal  
18 authority, and legal scope of employment or office with the INTERNAL REVENUE SERVICE regarding the illegal  
19 instrument issued and/or signed by you.
- 20 2. You are not a criminal investigator.
- 21 3. You are not in the Intelligence Division of the INTERNAL REVENUE SERVICE.
- 22 4. You are not a criminal investigator in the Intelligence Division of the INTERNAL REVENUE SERVICE.
- 23 5. The type of tax you are attempting to enforce is not Subtitle E or other Alcohol, Tobacco, or Firearms tax.
- 24 6. You are not a special agent of the BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES, as well  
25 as any other investigator or officer charged by the Attorney General with the duty of enforcing any of the criminal,  
26 seizure or surrender, or forfeiture provisions of the laws of the United States to carry firearms, serve warrants and  
27 subpoenas issued under the authority of the United States and make arrests without warrant for any offense against the  
28 United States committed in their presence, or for any felony cognizable under the laws of the United States if you have  
29 reasonable grounds.
- 30 7. You know the type of tax you are attempting to collect is legally unenforceable by you.
- 31 8. The type of tax you are trying to collect is not I.R.C. Subtitle E or other Alcohol, Tobacco, or Firearms taxes.
- 32 9. Your presumption that a specific, valid, procedurally proper IRS Form 23C Certificate of Assessment executed by the  
33 Regional Director of the TTB exists, is fraudulent and deceptive.
- 34 10. You have no written, legal authority issued by the Regional Director of the Alcohol and Tobacco Tax and Trade  
35 Bureau (TTB) to serve a summons as substantiated by IR CCD Manual (42) 210 (11).
- 36 11. According to

1 *Internal Revenue Manual (IRM) 9.1.2.4*  
2 *(11-10-2004) Authority to Arrest:*

3 *An arrest without a warrant is a serious matter and could subject the person making the arrest to criminal and*  
4 *civil liability for false imprisonment or false arrest. Therefore, in order for a special agent to be authorized to*  
5 *make a warrantless arrest (as a private citizen), it is generally necessary that a violation constituting a felony*  
6 *be committed in his/her presence or he or she must reasonably believe that the person whom he or she arrests*  
7 *has committed a felony under subtitle E liquor, tobacco, firearms and other excise taxes (under this subtitle).*

- 8 12. You have no legal authority to create, issue, or sign an administrative summons, or a Notice of Federal Tax Lien, or a  
9 Notice of Levy, or a levy, or a lien, or an assessment, or a deficiency, or any document, or instrument, or security, or to  
10 commence an action or any other process in an attempt to enforce a collection of a tax or taxes from me.
- 11 13. You have no legal authority to request me to respond, to appear, to give testimony, or to produce documents and  
12 records.
- 13 14. You have no legal authority to see my books and records.
- 14 15. As a government officer, employee or agent, you knowingly lack the legal authority to commence or pursue this action  
15 against me in my status and standing.
- 16 16. I have not signed any IRS Form 12180 Third Party Contact Authorization and I have not waived any rights under IRC  
17 7602( c) or any other IRC section allowing you to contact others.
- 18 17. I have not signed any IRS Form 6014 Authorization Access to Third-Party Records For Internal Revenue Service  
19 Employees giving consent for you to contact others.
- 20 18. This claim against you (18 U.S.C. §1918) is true and correct.
- 21 19. Your IRS Form 668-Y(c) Notice of Federal Tax Lien does not involve a violation of legitimate purposes related to  
22 Alcohol and Tobacco Tax and Trade Bureau (TTB) activity.
- 23 20. Your IRS Form 668-Y(c) Notice of Federal Tax Lien, dated for the \_\_\_\_\_ tax period(s) was  
24 improper, or not issued in accordance with administrative procedures of the Secretary, or that the tax is not collectible,  
25 or you issued the Administrative Summons while not acting within the lawful scope of your employment or office.
- 26 21. You issued the IRS Form 668-Y(c) Notice of Federal Tax Lien , dated \_\_\_\_\_ for the  
27 \_\_\_\_\_ tax period(s) under color of law, without legal authority and outside the scope of your office or  
28 employment.
- 29 22. You had knowingly and fraudulently issued/signed an illegal "erroneous" Notice of Federal Tax Lien that is in  
30 violation of any legal administrative procedure or law. The Notice of Federal Tax Lien shall be IMMEDIATELY  
31 released and you shall be liable to refund the amounts erroneously levied, with interest
- 32 23. You issued/signed the fraudulent, defective, uttered, counterfeit security IRS Form 668-Y(c) Notice of Federal Tax  
33 Lien.
- 34 24. You are the party liable, UCC 3-402, for the total amount due that you inserted on the IRS Form 668-Y(c) Notice of  
35 Federal Tax Lien, dated \_\_\_\_\_ for the \_\_\_\_\_ tax periods; payable based on the face value of  
36 circulated gold and silver coins displaying a face value and regulated by Congress, versus the market value in the  
37 Federal Reserve system (the value of the coins in U.S. paper dollars)
- 38 25. You are the party liable, UCC 3-402, to five (5) times punitive damages and penalties to the total amount due that you  
39 inserted on the IRS Form 668-Y(c) Notice of Federal Tax Lien, dated \_\_\_\_\_ for the  
40 \_\_\_\_\_ tax periods, payable based on the face value of circulated gold and silver coins displaying a face

- 1 value and regulated by Congress, versus the market value in the Federal Reserve system (the value of the coins in U.S.  
2 paper dollars).
- 3 26. You are the party liable, UCC 3-402, for court-related costs and fees as an element of the damages incurred, payable  
4 based on the face value of circulated gold and silver coins displaying a face value and regulated by Congress, versus  
5 the market value in the Federal Reserve system (the value of the coins in U.S. paper dollars).
- 6 27. You are in breach of a duty imposed by law for failure to provide information mandated by related law, IR policy and  
7 the UCC regarding your identification, your legal authority, and your lawful scope of employment or office relating to  
8 your IRS Form 668-Y(c) Notice of Federal Tax Lien.
- 9 28. Your neglect of duty and acquiescence for failure to timely respond as stipulated, and rebut with particularity,  
10 everything or anything in the prior NOTICES with which you disagreed, has given a lawful, legal, and binding  
11 agreement with and admission to the fact that everything stated herein is true, correct, legal, lawful, and fully binding  
12 upon you in any court in America, without your protest or objection or that of those who may represent you. See,  
13 *Connally v. General Construction Co.*, 269 U.S. 385 at 391, and see *U.S. v. Tweel*, 550 F.2d 297.
- 14 29. I have been damaged by the illegal and unauthorized issuance of your IRS Form 668-Y(c) Notice of Federal Tax Lien  
15 that has created an economic hardship on me. You have slandered my name. You have illegally encumbered, seized or  
16 converted my property and/or income. You have created fraudulent, derogatory items in the records of credit reporting  
17 agencies and county recorders. You have illegally interfered with my right to contract and you have illegally impeded  
18 my ability to transact business with others.
- 19 30. Pursuant to UCC 3-601(a), your alleged obligation of me to pay the instrument is discharged for fraud. No liability of  
20 a tax exists and you are not a person legally entitled to enforce the instrument, pursuant to UCC 3-301.
- 21 31. You have no legal authority to convert my private property by seizure or surrender under internal revenue, Internal  
22 Revenue Code (IRC), Title 26 USC, and Code of Federal Regulations (CFR).
- 23 32. You have fraudulently encumbered my property and/or income by fraudulent surrender, UCC 3-203. You cannot  
24 legally acquire legal rights of a holder in due course because you engaged in fraud, and illegally enforced the  
25 instrument without legal authority to enforce.
- 26 33. You fraudulently acted as a warrantor for the purpose of illegally causing surrender of all my property, rights to  
27 property, money, credits, bank deposits, pay and other income now owed to me or becoming payable to me.
- 28 34. Pursuant to UCC 3-305, you lack legal capacity to enforce collection of a tax against me and the illegality of the  
29 creation or issuance of the instrument nullifies any alleged obligation of the wrongfully levied party, me.
- 30 35. Your acquiescence and neglect of duty for failure to timely respond as stipulated and rebut with particularity,  
31 everything or anything in my Demands for Information, Hearing with which you disagreed, you have give a lawful,  
32 legal, and binding agreement with and admission to the fact that everything stated herein is true, correct, legal, lawful,  
33 and fully binding upon you in any court in America, without your protest or objection or that of those who may  
34 represent you. See, *Connally v. General Construction Co.*, 269 385 at 391, and see *U.S. v. Tweel*, 550 F.2d 297.
- 35 36. Your Notice of Federal Tax Lien is deficient in law. The only way property can be legally seized and contracts legally  
36 terminated by the Internal Revenue Service is by a Court ordered "Warrant of Distrainment." Your Notice of Federal Tax  
37 Lien (NOFTL) is a fake, a forgery and an "invalid claim of encumbrance" manufactured and used to deceive and  
38 replace the mandated by law judicial and/or Court ordered "Warrant of Distrainment." You have illegally,  
39 unconstitutionally and unlawfully used the authority of an administrative County Recorder's Seal in place of a judicial  
40 Court Seal in order to subvert the required "Warrant of Distrainment" issued by a competent Court.

1 **9.3.2 Memorandum of law**

- 2 1. You lack the legal authority to commence or pursue this action against me in my status and standing. See Internal  
3 Revenue Code §7608 and its supporting regulations.
- 4 2. Your Notice of Federal Tax Lien is in direct violation of the Separation of Powers Doctrine. A political doctrine under  
5 which the legislative, executive and judicial branches of government are kept distinct, to prevent abuse of power. This  
6 form of separation of powers is widely known as "checks and balances."
- 7 3. Nowhere in the Internal Revenue Code (IRC) can be found any other enforcement provisions for internal revenue  
8 agents and officers. Therefore, according to IRC Section 7608, you have NO LAWFUL AUTHORITY to examine  
9 books and witnesses; or to issue, serve or enforce subpoenas and summonses; or to enter premises for examination of  
10 taxable objects; or to execute and serve search warrants and arrest warrants; to make arrests without warrant relating to  
11 the internal revenue laws; to make seizures; or to enforce collection for Subtitle A income taxes, Subtitle B estate and  
12 gift taxes, Subtitle C employment taxes, Subtitle D miscellaneous excise taxes.
- 13 4. IRC Section 7608 states whom the Secretary has authorized to enforce Title 26.
- 14 5. According to I.R.C. §7608(a) any investigator, agent, or other internal revenue officer is ONLY authorized to enforce  
15 collection of taxes under subtitle E liquor, tobacco, firearms and other excise taxes (under this subtitle).
- 16 6. According to I.R.C. §7608(b), ONLY criminal investigators of the Intelligence Division of the IRS (not revenue  
17 officers or agents) are authorized to enforce CRIMINAL provisions of internal revenue laws relating to OTHER than  
18 subtitle E liquor, tobacco, firearms, and other excise taxes under this subtitle.
- 19 7. You are not legally authorized to enforce any type of collection action not related to Alcohol, Tobacco, or Firearms  
20 taxes.
- 21 8. You have no legal authority, capacity and jurisdiction to commence an action or issue an administrative Notice of  
22 Federal Tax Lien or an administrative Notice of Levy against me.
- 23 9. You are not authorized to enforce any type of collection action not related to I.R.C. Subtitle E Alcohol, Tobacco, or  
24 Firearms tax.
- 25 10. You have no legal authority to enforce any type of collection action not related to Alcohol, Tobacco, or Firearms tax.
- 26 11. You have no legal authority under I.R.C. §7602(c) to contact third parties for information about me regarding alleged  
27 tax liabilities you have no legal authority to enforce or collect. Any unauthorized contacts with third parties relevant to  
28 me, may be considered to be torts against me for invasion of privacy, interference to contract with others, slander,  
29 liable, impeding commerce, just to mention a few.
- 30 12. Under the Federal Tort Claims Act, any claim against you shall be in accordance with the law of the state where the  
31 [allegedly tortious] act or omission occurred.
- 32 13. You are precluded from seeking provisional remedies from a venue outside the state court system where the [allegedly  
33 tortious] act or omission and you shall not attempt to remove the action from the state court to a federal Tax Court or  
34 United States District Court, or any other federal venue, pursuant to 28 U.S.C. §2201 and 26 U.S.C. §7421. See  
35 *Hylton v. U.S.*
- 36 14. You are precluded from seeking provisional remedies from a venue outside of the state court system where the  
37 (allegedly tortious) act(s) or omission(s) occurred and you shall not attempt to remove the action from the state court to  
38 a federal Tax Court, or United States District Court, or any other federal venue, pursuant to 28 U.S.C. §2201, and 26  
39 U.S.C. §7421. See *Hylton v. U.S.*

- 1 15. Any claim against you shall be in accordance with the law of the state where the (allegedly tortious) act(s) or  
2 omission(s) occurred, pursuant to the Federal Tort Claims Act in Title 28, the U.S. Government is NOT liable for its  
3 officers, employees, and agents who do not act within their lawful scope of employment or office. The U.S.  
4 government shall not defend you.
- 5 16. Under I.R.C. §7433, you may be sued civilly for up to \$1,000,000 for unauthorized collections
- 6 17. Under I.R.C. §7214(a)(2), you may be sued criminally up to \$10,000 or imprisoned not more than five (5) years, or  
7 both for unlawful acts of demanding other or greater sums than are authorized by law.
- 8 18. No liability of a tax exists, and you are not a person legally entitled to enforce any Notice of Federal Tax Lien, or a  
9 Notice of Levy, or a lien, or a levy, pursuant to UCC 3-301.

10 **9.4 Example conclusions to Notice of Fault and Conditional Acceptance**

- 11 1. Everything herein shall be admissible as relevant Evidence of Dishonor UCC 3-505, based upon the undisputed and  
12 uncontested issues of fact and issues of law made upon the satisfactory information contained herein.
- 13 2. An Entry of Judgment against you shall be made upon the undisputed and uncontested relevant evidence contained  
14 herein.
- 15 3. A Judgment against you is in order, based upon the undisputed and uncontested factual issues and issues of law made  
16 upon the satisfactory information contained herein.

17 **10 Conclusions**

18 Knowing how to arbitrate private disputes between parties administratively, avoid litigation, and achieve results that are  
19 desirable for everyone is an important skill to master which has broad application to just about any type of dispute. We are  
20 told that it is especially useful and effective in getting the IRS to stop illegal tax collection actions.

21 **11 Resources for Further Study and Rebuttal**

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

- 25 1. *Anderson's Manual for Notaries Public, Ninth Edition*; Anderson Publishing Co., ISBN 1-58360-357-3  
26 <http://www.andersonpublishing.com>
- 27 2. *Notary Public Handbook: Principles, Practices, and Cases, National Edition*, Alfred E. Piombino  
28 <http://www.notarypubliclaw.com/>
- 29 3. *Uniform Commercial Code (UCC)*  
30 <http://www.law.cornell.edu/ucc/ucc.table.html>
- 31 4. *Notary Protest*, Common Law Venue website. Includes sample forms.  
32 <http://commonlawvenue.com/NotaryProtest/000-NotaryProtest.htm>
- 33 5. *Honor-Dishonor Process*-manual that describes how the notary protest method works  
34 <http://famguardian.org/Publications/Honor-DishonorProcess/HonorDishonorProcess.pdf>
- 35 6. *Commentaries of Law on Bills of Exchange, Second Edition*, Joseph Story, 1847. Google Books  
36 <http://books.google.com/books?id=kJQ0AAAIAAJ&printsec=titlepage>
- 37 7. *Commentaries of Law on Promissory Notes, Fourth Edition*, Joseph Story, 1856. Google Books.  
38 <http://books.google.com/books?id=GpM0AAAIAAJ&printsec=titlepage>
- 39 8. *The Honor, Dishonor Process*  
40 <http://famguardian.org/Publications/Honor-DishonorProcess/HonorDishonorProcess.pdf>

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