

EXCLUDED EARNINGS AND PEOPLE



“We have repeatedly held that, as to property reserved by its owner for private use, “the right to exclude [EVERYONE, INCLUDING THE GOVERNMENT]” one of the most essential sticks in the bundle of rights that are commonly characterized as property.” [Loretto v. Teleprompter Manhattan CATV Corp.](#), 458 U.S. 419, 433 (1982) , quoting [Kaiser Aetna v. United States](#), 444 U.S. 164, 176 (1979) . “
[*Nollan v. California Coastal Comm’n*, 483 U.S. 825 (1987)]

“In this case, we hold that the “right to exclude,” [EVERYONE, INCLUDING THE GOVERNMENT] so universally held to be a fundamental element of the property right,^[11] falls within this category of interests that the Government cannot take without compensation.”
[*Kaiser Aetna v. United States*, 444 U.S. 164 (1979)]

Footnote [11] See, e. g., [United States v. Pueblo of San Ildefonso](#), 206 Ct.Cl. 649, 669-670, 513 F.2d. 1383, 1394 (1975) ; [United States v. Lutz](#), 295 F.2d. 736, 740 (CA5 1961) . As stated by Mr. Justice Brandeis, “[a]n essential element of individual property is the legal right to exclude others from enjoying it.” [International News Service v. Associated Press](#), 248 U.S. 215, 250 (1918) (dissenting opinion) .

DEDICATION

“The heavens are Yours [God’s], the earth also is Yours[God’s]; The world and all its fullness, You have founded them.”
[Psalms 89:11, Bible, NKJV]

“We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness [PROPERTY]--That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, -“
[[Declaration of Independence](#)]

“[It is an] essential, unalterable right in nature, engrafted into the British constitution as a fundamental law, and ever held sacred and irrevocable by the subjects within the realm, that what a man has honestly acquired is absolutely his own, which he may freely give, but cannot be taken from him without his consent.”
[Samuel Adams, *The Massachusetts Circular Letter*, February 11, 1768; SOURCE:
<https://founders.archives.gov/documents/Adams/99-02-02-7094>]

“When the Government has illegally received money which is the property of an innocent citizen and when this money has gone into the Treasury of the United States, there arises an implied contract on the part of the Government to make restitution to the rightful owner under the Tucker Act and this court has jurisdiction to entertain the suit. 90 Ct.Cl. at 613, 31 F.Supp. at 769.”
[[Gordon v. U. S., 227 Ct.Cl. 328, 649 F.2d. 837 \(Ct.Cl., 1981\)](#)]

California Civil Code
Section 2224

“One who gains a thing by fraud, accident, mistake, undue influence, the violation of a trust, or other wrongful act, is, unless he or she has some other and better right thereto, an involuntary trustee of the thing gained, for the benefit of the person who would otherwise have had it.”

“The United States, we have held, cannot, as against the claim of an innocent party, hold his money which has gone into its treasury by means of the fraud of its agent. While here the money was taken through mistake without element of fraud, the unjust retention is immoral and amounts in law to a fraud of the taxpayer's rights. What was said in the State Bank Case applies with equal force to this situation. ‘An action will lie whenever the defendant has received money which is the property of the plaintiff, and which the defendant is obligated by natural justice and equity to refund. The form of the indebtedness or the mode in which it was incurred is immaterial.’”
[[Bull v. United States, 295 U.S. 247, 261, 55 S.Ct. 695, 700, 79 L.Ed. 1421](#)]

TABLE OF CONTENTS

TABLE OF CONTENTS	3
TABLE OF AUTHORITIES	3
1 Introduction	9
2 Burden of Proof: Exclusion v. Exemption	11
3 STATUTORY “Gross Income” generally	12
3.1 Introduction	12
3.2 STATUTORY “Gross income” by entity type	12
3.3 Statutory INCLUSIONS in “Gross income”	15
3.4 Statutory EXCLUSIONS from Gross Income	15
3.5 ChatGPT Question about Gross income rules for nonresident aliens	15
3.6 Google Bard Question about Gross income rules for nonresident aliens	16
4 Excluded v. Exempt Comparison	17
5 SEDM Limited to Exclusions rather than Exemptions	20
6 Example Exclusions	21
6.1 Statutes	21
6.2 Regulations	22
7 STEALTH Exclusions in Statutes	23
8 An example of someone who earns nothing BUT excluded earnings	26
9 Resources for Further Study and Rebuttal	32

TABLE OF AUTHORITIES

Constitutional Provisions

Art. 1, § 2, cl. 3, § 9, cl. 4	24
Article 4, Section 3, Clause 2	10, 29
Article 4, Section 4 of the Constitution	11
Bill of Rights	9
First Amendment	10
Fourteenth Amendment	10, 19
Fourteenth Amendment to the Constitution	27
Sixteenth Amendment	24

Statutes

18 U.S.C. §1581	27
18 U.S.C. §91	28
18 U.S.C. §911	11
18 U.S.C. §912	14
26 U.S. Code Part II- Items Specifically Included in Gross Income	15
26 U.S. Code Part III- Items Specifically Excluded from Gross Income	15
26 U.S.C. §1	13
26 U.S.C. §11	13
26 U.S.C. §1441	13

26 U.S.C. §162	12, 13, 19
26 U.S.C. §163	19
26 U.S.C. §3401(a).....	28
26 U.S.C. §3402(p)	9
26 U.S.C. §3406	13, 28
26 U.S.C. §6041	13, 28
26 U.S.C. §61	20
26 U.S.C. §61 and §861	9
26 U.S.C. §7701(a)(26)	10, 12, 13, 15
26 U.S.C. §7701(a)(30)	12, 13, 15, 27
26 U.S.C. §7701(a)(31)	10, 13, 19, 22, 28
26 U.S.C. §7701(a)(9) and (a)(10)	9, 10, 11, 12, 13, 14, 19, 27, 28
26 U.S.C. §7701(b)	27
26 U.S.C. §7701(b)(1).....	13
26 U.S.C. §7701(b)(1)(A)	27
26 U.S.C. §83	25
26 U.S.C. §83(a).....	23
26 U.S.C. §83(b)	25
26 U.S.C. §861(a).....	13
26 U.S.C. §861(a)(3)(C)(i).....	28
26 U.S.C. §861(b)	13
26 U.S.C. §862(a).....	13
26 U.S.C. §862(b)	13
26 U.S.C. §864(b)(1)(A)	21
26 U.S.C. §871	12, 20, 28
26 U.S.C. §871(a).....	12, 13, 15, 16, 28
26 U.S.C. §871(a)(3)	19, 20
26 U.S.C. §871(b)	12, 13, 16
26 U.S.C. §872	9, 10, 12, 13, 19, 28
26 U.S.C. §872(a).....	10
26 U.S.C. §872(a)(1)	13, 15, 16
26 U.S.C. §872(a)(2).....	13, 16
26 U.S.C. §872(b)	10, 13, 21
26 U.S.C. §873(b)(3).....	28
26 U.S.C. §877	28
26 U.S.C. §881	13
26 U.S.C. §882	13
26 U.S.C. §883	13
26 U.S.C. §911	20
26 U.S.C. §911(a).....	19
26 U.S.C. Subtitle-A, Chapter-1, Subchapter-B, Part-II (26 U.S.C. §§71-91).....	13
26 U.S.C. Subtitle-A, Chapter-1, Subchapter-B, Part-III (26 U.S.C. §§101-140).....	13
28 U.S.C. §3002(15)(A).....	13
4 U.S.C. §110(d)	11, 19
4 U.S.C. §72	31
44 U.S.C. §1505(a).....	10
5 U.S.C. §553(a)(1).....	13
5 U.S.C. §553(a)(2).....	13, 29
8 U.S.C. §1101(a)(21)	19, 27
8 U.S.C. §1101(a)(22)(B).....	19
8 U.S.C. §1101(a)(3)	19
8 U.S.C. §1401	19, 27, 28
8 U.S.C. §1401-1459.....	10, 11
8 U.S.C. §1408	19
American Rescue Plan Act of 2021	20
California Civil Code Section 1428	26
California Civil Code, Section 2224	2

Foreign Sovereign Immunities Act (FSIA), 28 U.S.C. Chapter 97	26
I.R.C. Subtitle C	13
Internal Revenue Code	31
Tax Cuts and Jobs Act of 2017	20

Regulations

22 C.F.R. §51.1	27
26 C.F.R. §1.1-1(a).....	10, 11, 27
26 C.F.R. §1.1-1(c).....	10, 11, 27
26 C.F.R. §1.144-1-1.....	13
26 C.F.R. §1.1441-1(b)(5)(i)	28
26 C.F.R. §1.1441-1(c)(3)(i)	13, 27
26 C.F.R. §1.1441-1(e)(1)(ii)(A)(1)	28
26 C.F.R. §1.6041-4(a)(1)	28
26 C.F.R. §1.6662-4(b)(2)(ii)	21
26 C.F.R. §1.85-1	20
26 C.F.R. §1.871-2(b)	27
26 C.F.R. §1.871-7(a)(4)	22, 28
26 C.F.R. §1.871-8(c)(1)	22
26 C.F.R. §1.872-1(3)	22
26 C.F.R. §1.872-2.....	22
26 C.F.R. §1.872-2(f)	28
26 C.F.R. §301.6109-1(a).....	13
26 C.F.R. §301.6109-1(b)	13
26 C.F.R. §301.6109-1(b)(2).....	28
26 C.F.R. §301.7701(b)-1(c)(2)	27
26 C.F.R. §31.3121(e)-1(b)	10
26 C.F.R. §31.3401(a)(6)-1(b)	28
26 C.F.R. §31.3406(g)-1(e).....	28
31 C.F.R. §1020.410(b)(3)(x)	28

Cases

Barclay v. First Paris Holding Co, 344 Ark. 711 (2001).....	11
Bowers v. Kerbaugh-Empire Co., 271 U.S. 170, 174, (1926).....	25
Bull v. United States, 295 U.S. 247, 261, 55 S.Ct. 695, 700, 79 L.Ed. 1421	2
Commissioner of Int. Rev. v. Obear-Nester Glass, 217 F.2d. 56 (7th Cir. 1954).....	24
Curtin v. State, 61 Cal.App. 377, 214 P. 1030, 1035	30
Doyle v. Mitchell Brothers Co., 247 U.S. 179, 185	25
Doyle, Collector, v. Mitchell Brothers Co., 247 U.S. 179, 38 Sup.Ct. 467, 62 L.Ed.	24
Dred Scott v. Sandford, 60 U.S. 393, 509-510 (1856)	29
Edwards v. Cuba Railroad, 268 U.S. 628, 633	25
Eisner v. Macomber, 252 U.S. 189, 206 (1920).....	12
Eisner v. Macomber, 252 U.S. 189, 207	25
Goodrich v. Edwards, 255 U.S. 527, 535	25
Gordon v. U. S., 227 Ct.Cl. 328, 649 F.2d. 837 (Ct.Cl., 1981)	2
Great Cruz Bay, Inc., St. John v. Wheatley, 495 F.2d 301, 307 (3d Cir. 1974)	14
Great Cruz Bay, Inc., St. John v. Wheatley, 495 F.2d. 301, 307 (3d Cir. 1974)	9, 11, 19
How State Nationals Volunteer to Pay Income Tax, Form #08.024	27
In re Twisteroo Soft Pretzel Bakeries, Inc., 21 B.R. 665, 667 (Bankr. E.D. Pa. 1982)	9, 18, 21
In re Young, 235 B.R. 666 (Bankr.M.D.Fla., 1999).....	9
International News Service v. Associated Press, 248 U.S. 215, 250 (1918)	1, 32
Irwin v. Gavit, 268 U.S. 161, 167	25

Excluded Earnings and People

Kaiser Aetna v. United States, 444 U.S. 164 (1979)	1, 32
Kaiser Aetna v. United States, 444 U.S. 164, 176 (1979)	1, 32
Lacey v. State, 13 Ala.App. 212, 68 So. 706, 710.....	30
License Tax Cases, 72 U.S. 462, 18 L.Ed. 497, 68 S.Ct. 331 (1866).....	28
Loretto v. Teleprompter Manhattan CATV Corp., 458 U.S. 419, 433 (1982)	1, 32
Merchants' L. & T. Co. v. Smietanka, 255 U.S. 509, 219	25
Miles v. Safe Deposit Co., 259 U.S. 247, 252-253.....	25
Nollan v. California Coastal Comm'n, 483 U.S. 825 (1987)	1, 32
Olmstead v. United States, 277 U.S. 438	32
Pennoyer v. Neff, 95 U.S. 714 (1878).....	14
Pollock v. Farmer's Loan & T. Co., 157 U.S. 429, 29 L.Ed. 759, 15 Sup.St.Rep. 673, 158 U.S. 601, 39 L.Ed. 1108, 15 Sup.Ct.Rep. 912	24
Ragland v. Meadowbrook Country Club, 300 Ark. 164 (1989)	11
Ragland v. Meadowbrook Country Club, 300 Ark. 164, 777 S.W.2d. 852 (1989)	11
Shaffer v. Carter, 252 U.S. 37 (1920).....	14
Shelmadine v. City of Elkhart, 75 Ind.App. 493, 129 N.E. 878	30
Southern Pacific Co. v. Lowe, 247 U.S. 330, 335	25
Southern Pacific Co. v. Lowe, 247 U.S. 330, 335, 38 S.Ct. 540 (1918)	24
State ex rel. Colorado River Commission v. Frohmler, 46 Ariz. 413, 52 P.2d. 483, 486	30
State v. Brennan, 49 Ohio.St. 33, 29 N.E. 593	30
Stratton's Independence v. Howbert, 231 U.S. 399, 416, 417 S., 34 Sup.Ct. 136.....	24
Stratton's Independence v. Howbert, 231 U.S. 399, 415	25
Tuaua v. U.S.A, 951 F.Supp.2d. 88 (2013)	11
U.S. v. Whiteridge, 231 U.S. 144, 34 S.Sup. Ct. 24 (1913)	24
United States v. Lutz, 295 F.2d. 736, 740 (CA5 1961)	1, 32
United States v. Phellis, 257 U.S. 156, 169.....	25
United States v. Pueblo of San Ildefonso, 206 Ct.Cl. 649, 669-670, 513 F.2d. 1383, 1394 (1975)	1, 32
United States v. Supplee-Biddle Co., 265 U.S. 189, 194	25
Walker v. Rich, 79 Cal.App. 139, 249 P. 56, 58	30
Yaselli v. Goff, C.C.A., 12 F.2d. 396, 403, 56 A.L.R. 1239	30

Other Authorities

“U.S. Person” Position, Form #05.053	19
1040.....	13
1040NR	13
1040NR Attachment, Form #09.077, Section 6: Schedule NEC Information	10
1040NR Attachment, Form #09.077, Section 7: Definitions	10, 11
2020 Unemployment Compensation Exclusion FAQs, IRS.....	20
About SSNs and TINs on Government Forms and Correspondence, Form #04.104	29
About SSNs and TINs on Government Forms and Correspondence, Form #05.012	29
Authorities on Rights as Property, SEDM.....	33
Black's Law Dictionary, Fifth Edition, p. 1095	23
Black's Law Dictionary, Fourth Edition, p. 1235	30
Black's Law Dictionary, Sixth Edition, p. 1235.....	10
Challenge to Income Tax Enforcement Authority Within Constitutional States of the Union, Form #05.052	14, 31
Citizenship Status v. Tax Status, Form #10.011, Section 15.2.....	14
Civil Status (Important!)-SEDM	30
Correcting Erroneous Information Returns, Form #04.001	14
Excluded Earnings and People, Form #14.019.....	15
Farewell Address, President Obama.....	27
Federal and State Withholding Options for Private Employers, Form #09.001	14
Flawed Tax Arguments to Avoid, Form #08.004, Section 8.13: Exempt on a government form is the only method for avoiding the liability for tax	33
Form #04.001	13
Form #04.202	19

Form #05.001	28
Form #05.002, Section 13.1	20
Form #05.002, Section 15	20
Form #05.014	20
Form #05.037	26
Form #05.042	26
Form #05.043	26
Form #05.046	20
Form #05.050	27
Form #12.040	26, 27
Form 1040	19
Form 1040 lines 6a, 6b, and line 422	20
Form 1040NR.....	19
Form 1042s.....	28
Form W-4	13, 28
Form W-7	28
Form W-8	13, 19
Form W-9	13
Forms #05.008, #05.042.....	13
Forms W-4 or W-9	20
Forms W-9 or W-4	19
Gross Income Worksheet-Nonresident Alien, Form #09.080**, Section 6.....	12
Hot Issues: Invisible Consent, SEDM	27
Hot Issues: Laws of Property, SEDM	33
How the Government Defrauds you Out of Legitimate Exclusions for the Market Value of Your Labor, Form #05.026	23
How to File Returns, Form #09.074, Section 7.2	33
How You Lose Constitutional or Natural Rights, Form #10.015	33
Identity Theft Affidavit, Form #14.020.....	14
Income Tax Withholding and Reporting Course, Form #12.004	14
Instructions for the Requesters of Forms W-8BEN, W-8BEN-E, W-8ECI, W-8EXP, and W-8IMY, p. 1,2,6 (Cat 26698G)29	
IRS Form 843	28
Lawfully Avoiding Government Obligations Course, Form #12.040	10
Laws of Property, Form #14.018.....	33
Laws of Property, Form #14.018, Section 13.....	12
Litigation Tool #10.020.....	13
Non-Resident Non-Person Position, Form #05.020	13, 19
Private Right or Public Right? Course, Form #12.044	33
Proof that Involuntary Income taxes on Your Labor are Slavery, Form #05.055	23
Pub 515 Inst. p. 7 (Cat. No 16029L)	29
Samuel Adams, The Massachusetts Circular Letter, February 11, 1768.....	2
Schedule NEC	12, 13
SEDM Disclaimer, Section 4.25	26
SEDM Exhibit #01.018	27
SEDM Form #06.042	28
SEDM Form #06.044	28
SEDM Form W-8SUB, Form #04.231	28
SEDM Member Agreement, Form #01.001, Section 1.1, Item 13	21
Separation Between Public and Private Course, Form #12.025	9, 14, 31, 33
Social Security Ponzi Scheme	25
Sovereignty Forms and Instructions Online, Form #10.004, Cites by Topic: "excluded income"	33
SSA Form 7008.....	28
U.S. Person Position, Form #05.053	13
Understanding Your IRS Individual Taxpayer Identification Number, Publication 1915	28
W-4 form	25
W-8BEN Inst. p. 1,2,4,5 (Cat 25576H).....	29
W-8SUB, Form #04.231	23, 32
What is an income tax "exclusion"?, SEDM.....	33

Why You Aren't Eligible for Social Security, Form #06.00128
Your Rights as a "Nontaxpayer", IRS Publication 1a, Form #08.008..... 18

Scriptures

Psalms 89:112

1 Introduction

An exemption is a reduction of a tax liability of earnings that would otherwise be taxable. It is a PUBLIC privilege. An "exclusion" in a constitutional sense is the elimination of earnings from taxability that is NOT a privilege. EXEMPT earnings are PUBLIC property while CONSTITUTIONALLY EXCLUDED earnings are entirely PRIVATE and beyond the civil legislative control of Congress because protected by the Bill of Rights.

"Initially, it is important to bear in mind the distinction between a tax exclusion and a tax exemption. Tax exemptions are items which the tax payer is entitled to excuse from the operation of a tax and, as such, are to be strictly construed against the tax payer. Tax exclusions, on the other hand, are items which were not intended to be taxed in the first place and, thus, to the extent there is any doubt about the meaning of the statutory language, exclusionary provisions are to be strictly construed against the taxing body. In fact, tax laws in general (with the exception of exemption clauses) are construed in favor of the tax payer and against imposition of the tax unless the legislative intent is clear and unambiguous."

[In re Twisteroo Soft Pretzel Bakeries, Inc., 21 B.R. 665, 667 (Bankr. E.D. Pa. 1982)]

In order to make your earnings taxable, they must be converted from PRIVATE to PUBLIC as described below:

[Separation Between Public and Private Course](https://sedm.org/LibertyU/SeparatingPublicPrivate.pdf), Form #12.025
<https://sedm.org/LibertyU/SeparatingPublicPrivate.pdf>

Another way of saying this is that the earnings must be REMOVED from the protections of the Constitution and the Bill of Rights so that they can be put under civil statutory control.

"Under basic rules of construction, statutory laws enacted by legislative bodies cannot impair rights given under a constitution. 194 B.R. at 925. "

[In re Young, 235 B.R. 666 (Bankr.M.D.Fla., 1999)]

There are only two ways to CONVERT PRIVATE to PUBLIC:

1. **Convert the civil status of the OWNER (jurisdiction over the PERSON).** This is done, for instance, by changing your DEFAULT civil status of "nonresident alien" as a state national by "electing" to be treated as a PRIVILEGED STATUTORY "citizen" or "resident", who file a 1040 instead of a 1040NR and can then take privileged "deductions" under 26 U.S.C. §162. The cost of PROCURING this "benefit" or privilege is that the character of your earnings changes from being taxable only from U.S. sources in 26 U.S.C. §872 to being taxable on your worldwide EARNINGS UNDER 26 U.S.C. §61 and §861. NOT a good deal.
2. **Convert the civil status of the PROPERTY.** This is done, for instance, by:
 - 2.1. Calling the earnings "wages" when filing a W-4 as a private man or woman per 26 U.S.C. §3402(p).
 - 2.2. "Effectively connecting" earnings to the "trade or business" franchise as a nonresident alien. In effect, the earnings are converted from PRIVATE to PUBLIC to procure the PRIVILEGE of some kind of deduction as a benefit or advantage. This is done by placing the earnings on the 1040NR form instead of the Schedule NEC, for instance.

The following court case acknowledges the above two mechanisms to convert PRIVATE property to PUBLIC property:

"In the case of the federal government where the individual is either a United States citizen or an alien residing in the taxing jurisdiction, the tax under section 1 of the Code is based upon jurisdiction over the person; where the individual is an alien [LEGISLATIVELY OR CONSTITUTIONALLY "foreign", INCLUDING states of the Union] not residing in the taxing jurisdiction [the "geographical United States", meaning the District of Columbia per 26 U.S.C. §7701(a)(9) and (a)(10), the tax under section 871 of the Code is based upon jurisdiction over the [PUBLIC] property or income of the nonresident individual [GEOGRAPHICALLY and PHYSICALLY] located or earned in the taxing jurisdiction"

[Great Cruz Bay, Inc., St. John v. Wheatley, 495 F.2d. 301, 307 (3d Cir. 1974)]

An "EXCLUSION" happens when any of the following methods are employed to reduce taxable income without invoking an "EXEMPTION" or "DEDUCTION" under 26 U.S.C. §162:

1. Avoiding clouding the ownership or title to the payment as "property" by:

- 1 1.1. Not getting involved in or accepting payments from sources within the geographical “United States” under [26](#)
2 [U.S.C. §872](#)(a).
3 1.2. Not getting involved in or accepting payments from activities involving a “trader or business” under [26 U.S.C.](#)
4 [§872](#)(b).
5 2. Avoiding clouding the [civil status](#) of the OWNER of the income by connecting him, her, or it to a public office or
6 “trade or business” by pursuing a [civil status](#) that is a privilege, such as [STATUTORY “citizen”](#) or [STATUTORY](#)
7 “resident” in 26 C.F.R. §1.1-1(a). These two civil statuses are voluntary and avoidable PRIVILEGES. Those who
8 don’t consent to them simply declare themselves as “nonresident aliens”, which does not have any civil statutory
9 duties, liabilities, or obligations directly attached to it. See:

[Lawfully Avoiding Government Obligations Course](#), Form #12.040
<https://sedm.org/LibertyU/AvoidGovernmentObligations.pdf>

10 Once property is converted from PRIVATE to PUBLIC as described in item 1, those in possession of it “may be treated as”
11 public officers. This is because a “public officer” is legally defined as someone in charge of the PROPERTY of the public:

12 *“Public Office.[. . .Where, by virtue of law, a person is clothed, not as an incidental or transient authority, but for*
13 *such time as de- notes duration and continuance, with Independent power to control the property of the public”*
14 *[Black’s Law Dictionary, Sixth Edition, p. 1235]*

15 The authority to exercise DIRECT, CIVIL legislative control over those in charge of the “property of the public” originates from
16 Constitution Article 4, Section 3, Clause 2, which says:

17 [Article 4, Section 3, Clause 2](#)

18 *Congress shall have the power to make all needful rules respecting the Territory and Other Property of the United*
19 *States.*

20 Statutes at [5 U.S.C. §553](#)(a)(2) and [44 U.S.C. §1505](#)(a) implement the above method of DIRECT LEGISLATIVE CONTROL
21 over those in possession of PUBLIC property WITHOUT the need for implementing regulations.

22 Below is an example from our website to accomplish item 1 above:

23 *“2. Earnings in this section come ONLY from the statutory geographical “United States” as defined in [26 U.S.C.](#)*
24 *[§7701](#)(a)(9) and (a)(10) and [4 U.S.C. §110](#)(d).*

25 *3. Earnings from any place OTHER than the statutory geographical “United States” are purposefully excluded under*
26 *[26 U.S.C. §872](#). They don’t need to be exempt, because they are excluded from being listed in the schedule NEC.*
27 *This means all earnings received from geographical sources outside the STATUTORY, but not CONSTITUTIONAL*
28 *“United States” are purposefully not listed in this section. This includes all of my earnings, because I do not do*
29 *business with or in the statutory geographical “United States”.”*
30 *[1040NR Attachment, Form #09.077, Section 6: Schedule NEC Information; <https://sedm.org/Forms/09->*
31 *[Procs/1040NR-Attachment.pdf](#)]*

32
33 *5. Effectively connected” means otherwise private property CONSENSUALLY donated to a public use, a public*
34 *purpose, or a public office within the national and not state government, and thus connected to the statutory “trade*
35 *or business” defined in [26 U.S.C. §7701](#)(a)(26) as “the functions of a public office”. None of God’s entirely private*
36 *property under my stewardship falls into this category. All of Gods’ property is absolutely owned private property*
37 *protected by the constitution and defined as a “foreign estate” under [26 U.S.C. §7701](#)(a)(31) and the First Amendment*
38 *separation of church and state. Ownership of “trade or business” property, on the other hand, is QUALIFIED*
39 *(shared) rather than ABSOLUTE (singular). “Trade or business” property ownership or control is shared by the*
40 *officer occupying the office and its government parens patriae, Creator, and owner. A portion of the shared ownership*
41 *becomes a kickback (called a return) to compensate its trustee for his or her services.*
42 *[1040NR Attachment, Form #09.077, Section 7: Definitions; <https://sedm.org/Forms/09-Procs/1040NR->*
43 *[Attachment.pdf](#)]*

44 Below is an example from our website to accomplish item 2 above:

45 *8. The term “U.S. citizen” is defined in [8 U.S.C. §1401](#), [26 C.F.R. §31.3121\(c\)-1\(b\)](#), and [26 C.F.R. §1.1-1\(c\)](#).*
46 *Regulation at [26 C.F.R. §1.1-1\(c\)](#) identifies [8 U.S.C. §1401-1459](#) as the source of the definition for “citizen”, and*
47 *none of the statutes referenced identifies a “citizen” as a CONSTITUTIONAL citizen mentioned in the Fourteenth*
48 *Amendment. The “United States” in the Constitution includes states of the Union and excludes that mentioned in [26](#)*

1 [U.S.C. §7701\(a\)\(9\) and \(a\)\(10\)](#). The “citizen” status in the I.R.C. is privileged and statutory and is always
2 geographical in this context and therefore is tied to the statutory geographical “United States” defined in [26 U.S.C.](#)
3 [§7701\(a\)\(9\) and \(a\)\(10\)](#) and [4 U.S.C. §110\(d\)](#). Because liability is attached to this status in [26 C.F.R. §1.1-1\(a\)](#), it
4 must be voluntary or unconstitutional slavery and human trafficking is the result. Those who don’t volunteer would
5 drop back to “nonresident alien” civil status, which doesn’t have a direct liability associated with it. This inference
6 is consistent with [Great Cruz Bay, Inc., St. John v. Wheatley, 495 F.2d. 301, 307 \(3d Cir. 1974\)](#). The D.C. circuit
7 court even held that the range of statutes cited in [26 C.F.R. §1.1-1\(c\)](#) defining what a “citizen” was did NOT include
8 constitutional citizens, when it held: **“Finally, this Court is mindful of the years of past practice in which
9 territorial citizenship has been treated as a statutory [PRIVILEGE!], and not a constitutional, right. In the
10 unincorporated territories of Puerto Rico, Guam, the U.S. Virgin Islands, and the Northern Mariana Islands,
11 birthright citizenship was conferred upon their inhabitants by various statutes many years after the United
12 States acquired them. See Amicus Br. at 10-11. If the Citizenship Clause guaranteed birthright citizenship in
13 unincorporated territories, these statutes [8 U.S.C. §1401-1459 mentioned in 26 C.F.R. §1.1-1(c)] would have
14 been unnecessary.”** [Tuaua v. U.S.A, 951 F.Supp.2d. 88 \(2013\)](#). OF COURSE the government can tax privileges. I
15 would never argue with that. However, privileges are voluntary and avoidable or we have unconstitutional slavery,
16 and I therefore choose to avoid them. And if I can’t make that choice, I’m a slave. All just powers, according to the
17 Declaration of Independence, derive from the CONSENT of the governed. I consent to NOTHING. Anything not
18 consensual in a civil context is therefore inherently UNJUST. To equivocate between CONSTITUTIONAL and
19 STATUTORY “citizens”, which are mutually exclusive and non-overlapping, is to essentially KIDNAP the identity of
20 people in states of the Union to federal territory without their consent and enslave them, in violation of [Article 4,
21 Section 4 of the Constitution](#). Identity theft is a criminal offense in violation of [18 U.S.C. §911](#) in the case of a statutory
22 “U.S. Citizen” franchise/privilege. More at: [Citizenship Status v. Tax Status, http://sedm.org/Forms/10-
23 Emancipation/CitizenshipStatusVTaxStatus/CitizenshipVTaxStatus.htm](#).
24 [\[1040NR Attachment, Form #09.077, Section 7: Definitions; https://sedm.org/Forms/09-Procs/1040NR-
25 Attachment.pdf\]](#)

26 **2 Burden of Proof: Exclusion v. Exemption**

27 *“We discussed the issue of appropriate burdens of proof in [Ragland v. Meadowbrook Country Club, 300 Ark. 164,](#)
28 [777 S.W.2d. 852 \(1989\)](#). In Ragland, the DFA argued that it was the taxpayer’s burden to prove entitlement to a
29 statutory exemption. Id. We noted that the taxpayer in that case was not claiming entitlement to an exemption, but
30 instead was claiming an exclusion from coverage. Id. We explained the difference in the two taxing concepts, and
31 noted that “a different burden of proof at the administrative and trial levels is required when an exemption or exclusion
32 is at issue.” We noted that:*

33 ***HNI8** the taxpayer claiming an exemption shoulders the burden of establishing his claim. By
34 the **[**20]** same logic, it follows that the agency claiming the right to collect a tax bears the
35 burden of proving that the tax law applies to the item sought to be taxed.*

36 [Ragland, supra](#). Applying this rule to the case at hand, we hold that the trial court properly placed the burden on
37 justifying the imposition of a tax upon intercorporate dividends that were excluded from taxation on the DFA. The
38 facts in the case now on review are on all fours with those in Ragland. Specifically, the appellees in this case were not
39 claiming an exemption from taxation they were instead claiming an exclusion from the consolidated group’s gross
40 income of **[*725]** dividends paid to the Holding Company by First National. Therefore, it became DFA’s burden to
41 prove that appellees were not eligible to file, or improperly filed, a consolidated tax return that did not include the
42 intercorporate dividends within the affiliated group. DFA did not meet this burden of proof. Accordingly, we affirm
43 the trial court.”
44 [\[Barclay v. First Paris Holding Co, 344 Ark. 711 \(2001\)\]](#)

45
46 *“The appellant argues that the appellee did not prove entitlement to an exemption from the Gross Receipts Act.
47 However, the appellee was not claiming an exemption; rather, it **[*168]** was claiming exclusion from coverage. The
48 difference between an exemption and exclusion is that an exemption pertains to sales that would be covered were they
49 not specifically exempted from the Act, while exclusion is simply not included in the first place. A different burden of
50 proof at the administrative and trial levels is required when an exemption or exclusion is at issue.*

51 *[5, 6] We have many times held that the taxpayer claiming an exemption shoulders the burden of establishing his
52 claim. By the same logic, it follows that the agency claiming the right to collect a tax bears the burden of proving that
53 the tax law applies to the item sought to be taxed.”*
54 [\[Ragland v. Meadowbrook Country Club, 300 Ark. 164 \(1989\)\]](#)

3 STATUTORY “Gross Income” generally¹

3.1 Introduction

In determining “gross income”, nonresident aliens must apply 26 U.S.C. §872 and not 26 U.S.C. §61. In all cases, the payment must originate from the statutory geographical “United States” in 26 U.S.C. §7701(a)(9) and (a)(10) .

1. 26 U.S.C. §871(a): Not connected with a statutory “trade or business”, meaning a public office in the United States government per 26 U.S.C. §7701(a)(26). These items go on the Schedule NEC attached to the Form 1040NR. To be taxable, the earning must be EXPLICITLY listed in 26 U.S.C. §871(a).
2. 26 U.S.C. §871(b): Connected with a statutory “trade or business”, meaning a public office in the United States government per 26 U.S.C. §7701(a)(26). These items go on the 1040NR form itself. To be taxable, the earning must be EXPLICITLY listed in 26 U.S.C. §871(b).

Statutory “gross income” under 26 U.S.C. §61 is used ONLY in connection with a statutory “trade or business”, and thus is used in the case of statutory “U.S. persons” under 26 U.S.C. §7701(a)(30) as well as statutory “nonresident aliens” under 26 U.S.C. §871(b) lawfully engaged in “the functions of a public office” and a “trade or business” as defined in 26 U.S.C. §7701(a)(26).

Congress cannot even statutorily define CONSTITUTIONAL income, including “inclusions” or “exclusions”, as indicated by the U.S. Supreme Court:

*“In order, therefore, that the clauses cited from Article I of the Constitution may have proper force and effect, save only as modified by the Amendment, and that the latter also may have proper effect, **it becomes essential to distinguish between what is and what is not “income,” as the term is there used; and to apply the distinction, as cases arise, according to truth and substance, without regard to form. Congress cannot by any definition it may adopt conclude the matter, since it cannot be legislation alter the Constitution, from which alone it derives its power to legislate, and within whose limitations alone that power can be lawfully exercised.**”*
[Eisner v. Macomber, 252 U.S. 189, 206 (1920)]

The reason for this is clear: The ability to define requires OWNERSHIP. Congress does not own PRIVATE property but it does own PUBLIC property. Anything connected with a statutory “trade or business” is PUBLIC property. We prove this in:

Laws of Property, Form #14.018, Section 13
<https://sedm.org/Forms/14-PropProtection/LawsOfProperty.pdf>

The reason that “trade or business” earnings on the 1040NR form are called “effectively connected” is because the ORIGINAL owner DONATED them as private property to a public use, a public purpose, and a public office in order to procure the “benefits” of deductions under 26 U.S.C. §162 which in most cases they DO NOT NEED, because ALL their earnings are usually excluded anyway under 26 U.S.C. §872.

The following sections deal with inclusions and exclusions of specific earnings from STATUTORY “gross income” under 26 U.S.C. §61.

3.2 STATUTORY “Gross income” by entity type

¹ Source: *Gross Income Worksheet-Nonresident Alien*, Form #09.080**, Section 6 (Member Subscriptions); <https://sedm.org/product/gross-income-worksheet-nonresident-alien-form-09-080/>.

1 **Table 1: STATUTORY "gross income" by entity type**

#	Description	"Foreign Person"		"U.S. Person" under 26 U.S.C. §7701(a)(30) (either a "citizen" or "resident" of the "United States")
0	Column Number	1	2	3
1	Entity Type(s)	Nonresident alien not engaged in a "trade or business"	Nonresident alien engaged in a "trade or business"	Individual Corporation
2	Described in	Non-Resident Non-Person Position, Form #05.020		U.S. Person Position, Form #05.053
3	Geography	States of the Union or Abroad	Statutory geographical "United States" under 26 U.S.C. §7701(a)(9) and (a)(10) or those domiciled there or representing an entity domiciled there under Federal Rule of Civil Procedure 17	
4	Connected to a "trade or business" under 26 U.S.C. §7701(a)(26)?	No	Yes (earnings under 26 U.S.C. §872(a)(1))	Yes, by virtue of "U.S. person" status, which is a public office by virtue of taking 26 U.S.C. §162 "trade or business" deductions against ALL earnings.
5	"Foreign estate"?	Yes (26 U.S.C. §7701(a)(31))	No	
6	Subject to the Presence Test in 26 U.S.C. §7701(b)(1)?	Only if an ALIEN (someone who is NEITHER a national NOR a citizen per 26 C.F.R. §1.1441-1(c)(3)(i))		No
7	SSN/TIN Requirement	26 C.F.R. §301.6109-1(b)		26 C.F.R. §301.6109-1(a)
8	Withholding Requirement (Note 1)	26 U.S.C. §1441, 26 C.F.R. §1.144-1-1, 26 U.S.C. §3406		26 U.S.C. §1441, 26 C.F.R. §1.144-1-1, I.R.C. Subtitle C
9	Withholding Form(s)	Form W-8		Form W-9, Form W-4
10	Reporting Requirement	26 U.S.C. §6041 (See Form #04.001)		
11	Tax imposed	Individual: 26 U.S.C. §871(a) Corporation: 26 U.S.C. §881	Individual: 26 U.S.C. §871(b) Corporation: 26 U.S.C. §882	Individual: 26 U.S.C. §1 Corporation: 26 U.S.C. §11
12	Gross income	26 U.S.C. §872(a)(1) 26 U.S.C. §861(a)	26 U.S.C. §872(a)(2) 26 U.S.C. §861(a) 26 U.S.C. §862(a)	26 U.S.C. §61 26 U.S.C. §861(a) 26 U.S.C. §862(a)
13	Exclusions (all references are ADDITIVE)	Individual: 26 U.S.C. §872(b) Foreign Corporation: 26 U.S.C. §883 Generally: 26 U.S.C. Subtitle-A, Chapter-1, Subchapter-B, Part-III (26 U.S.C. §§101-140)		Generally: 26 U.S.C. Subtitle-A, Chapter-1, Subchapter-B, Part-III (26 U.S.C. §§101-140)
14	Inclusions	Generally: 26 U.S.C. Subtitle-A, Chapter-1, Subchapter-B, Part-II (26 U.S.C. §§71-91)		
16	Taxable income	26 U.S.C. §63 26 U.S.C. §861(b)	26 U.S.C. §63 26 U.S.C. §861(b) 26 U.S.C. §862(b)	26 U.S.C. §63 26 U.S.C. §861(b) 26 U.S.C. §862(b)
17	Private/Public?	Private (protected by the Bill of Rights)	Public (Protected ONLY by statutes. See the Constitutional Avoidance Doctrine of the U.S. Supreme Court, Litigation Tool #10.020)	
18	Owner of "gross income"	You	U.S. Inc. federal corporation under 28 U.S.C. §3002(15)(A) by virtue of you donating it by calling it "effectively connected" in order to get deductions you don't need because all your earnings are usually excluded anyway under 26 U.S.C. §872.	U.S. Inc. federal corporation under 28 U.S.C. §3002(15)(A) by virtue of you "electing" yourself into "U.S. person" status and public office. The office is their creation and property and using it is a taxable privilege. See Forms #05.008, #05.042
19	Domicile of owner?	Your domicile in a legislatively "foreign state"	Office is domiciled in District of Columbia per Federal Rule of Civil Procedure 17(b)(2) and (d).	
20	Jurisdiction to enforce tax (Note 2)	In rem over property		In personam over the OWNER of the property (the "Straw man" you volunteer for by calling yourself a statutory "U.S. person")
21	Regulatory authority (Note 3)	5 U.S.C. §553(a)(1). Comes from foreign affairs function.	5 U.S.C. §553(a)(2). Comes from use of public property, "benefits", and privileges and management of federal personnel (the office of "U.S. person" is federal personnel)	
22	Applicable forms	Schedule NEC	1040NR	1040

2

1 **NOTES:**

2 1. Any attempt by withholding agents or employers to move you or your earnings between Columns 1-3 without your express consent constitutes CRIMINAL
3 identity theft in violation of 18 U.S.C. §912.

4 1.1. Identity theft is done by one of two methods:

5 1.1.1. Change the civil status of the PROPERTY involuntarily. This usually happens by filing a FALSE information return against it or you voluntarily
6 calling it “effectively connected”. See the following for the rules on lawfully converting property from PRIVATE to PUBLIC:

Separation Between Public and Private Course, Form #12.025

<https://sedm.org/LibertyU/SeparatingPublicPrivate.pdf>

7 1.1.2. Change the civil status of the OWNER of the property involuntarily. This happens based usually on the tax form you file. 1040 is a “U.S. person”
8 election. 1040NR is a “nonresident alien” election.

9 1.2. Use the following form to report identity theft connected to converting EITHER your civil status or that of your property:

Identity Theft Affidavit, Form #14.020

https://sedm.org/Forms/14-PropProtection/Identity_Theft_Affidavit-f14039.pdf

10 2. Jurisdiction over owner of “income” or “gross income” described below:

11 *“In the case of the federal government where the individual is either a United States citizen or an alien residing in the taxing jurisdiction, the tax under section 1 of the Code*
12 *is based upon jurisdiction over the person; where the individual is an alien [LEGISLATIVELY OR CONSTITUTIONALLY “foreign”, INCLUDING states of the Union]*
13 *not residing in the taxing jurisdiction [the “geographical United States”, meaning the District of Columbia per 26 U.S.C. §7701(a)(9) and (a)(10)], the tax under section*
14 *871 of the Code is based upon jurisdiction over the [PUBLIC] property or income of the nonresident individual [GEOGRAPHICALLY and PHYSICALLY] located or*
15 *earned in the taxing jurisdiction”*

16 *[Great Cruz Bay, Inc., St. John v. Wheatley, 495 F.2d 301, 307 (3d Cir. 1974)]*

17 5. See also: *Shaffer v. Carter*, 252 U.S. 37 (1920), *Pennoyer v. Neff*, 95 U.S. 714 (1878). To challenge jurisdiction to enforce, see:

Challenge to Income Tax Enforcement Authority Within Constitutional States of the Union, Form #05.052

<https://sedm.org/Forms/05-MemLaw/ChallengeToIRSEnforcementAuth.pdf>

18 3. See: *Citizenship Status v. Tax Status*, Form #10.011, Section 15.2; [https://sedm.org/Forms/10-](https://sedm.org/Forms/10-Emancipation/CitizenshipStatusVTaxStatus/CitizenshipVTaxStatus.htm)
19 [Emancipation/CitizenshipStatusVTaxStatus/CitizenshipVTaxStatus.htm](https://sedm.org/Forms/10-Emancipation/CitizenshipStatusVTaxStatus/CitizenshipVTaxStatus.htm)

20 4. For further information on withholding, see:

21 4.1. *Income Tax Withholding and Reporting Course*, Form #12.004

<https://sedm.org/LibertyU/WithngAndRptng.pdf>

22 4.2. *Federal and State Withholding Options for Private Employers*, Form #09.001

<https://sedm.org/Forms/09-Pros/FedStateWHOptions.pdf>

23 5. Usually false third party information returns can switch the earnings from PRIVATE to PUBLIC and from CONSTITUTIONAL “income” to STATUTORY
24 “gross income” if left un rebutted. Make SURE you rebut them with the following:

Correcting Erroneous Information Returns, Form #04.001

<https://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/CorrErrInfoRtns.pdf>

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3.3 Statutory INCLUSIONS in “Gross income”

Statutory INCLUSIONS in “gross income” are listed online below:

26 U.S. Code Part II- Items Specifically Included in Gross Income
<https://www.law.cornell.edu/uscode/text/26/subtitle-A/chapter-1/subchapter-B/part-II>

Earnings subject to these statutory exclusions are PUBLIC property donated to a public use by:

1. Making an “election” to “effectively connect” the earning (which started out as PRIVATE PROPERTY) to a PUBLIC statutory “trade or business” under 26 U.S.C. §7701(a)(26) or
2. Changing the civil status of the OWNER (which started out as PRIVATE and constitutionally protected) of the income from PRIVATE to PUBLIC by selecting a statutory “U.S. person” status under 26 U.S.C. §7701(a)(30) instead of “nonresident alien” under 26 U.S.C. §7701(b)(1)(B).

Neither one of the above elections are usually necessary in order to reduce taxable income of the average American National born and domiciled in a constitutional state, because nearly all the earnings are EXCLUDED under 26 U.S.C. §872 anyway, thus making their gross income zero.

3.4 Statutory EXCLUSIONS from Gross Income

Statutory EXCLUSIONS in “gross income” are listed online below:

26 U.S. Code Part III- Items Specifically Excluded from Gross Income
<https://www.law.cornell.edu/uscode/text/26/subtitle-A/chapter-1/subchapter-B/part-III>

Earnings subject to these statutory exclusions are PUBLIC property donated to a public use by:

1. Making an “election” to “effectively connect” the earning (which started out as PRIVATE PROPERTY) to a PUBLIC statutory “trade or business” under 26 U.S.C. §7701(a)(26) or
2. Changing the civil status of the OWNER (which started out as PRIVATE and constitutionally protected) of the income from PRIVATE to PUBLIC by selecting a statutory “U.S. person” status under 26 U.S.C. §7701(a)(30) instead of “nonresident alien” under 26 U.S.C. §7701(b)(1)(B).
3. Neither one of the above elections are usually necessary in order to reduce taxable income of the average American National born and domiciled in a constitutional state, because nearly all the earnings are EXCLUDED under 26 U.S.C. §872 anyway, thus making their gross income zero.

Note that these STATUTORY “exclusions” are not the type mentioned in the following which SEDM limits itself to, because this type of “income” is not CONSTITUTIONAL income:

Excluded Earnings and People, Form #14.019
<https://sedm.org/Forms/14-PropProtection/ExcludedEarningsAndPeople.pdf>

3.5 ChatGPT Question about Gross income rules for nonresident aliens

QUESTION1: In the case of a nonresident alien not engaged in a trade or business as defined in 26 U.S.C. §871(a), then would 26 U.S.C. §61 apply to what income is “gross income”, 26 U.S.C. §872(a)(1) only, or both?

ANSWER 1: In the case of a nonresident alien not engaged in a trade or business in the United States as defined in 26 U.S.C. §871(a), both 26 U.S.C. §61 and 26 U.S.C. §872(a)(1) would be relevant.

1 26 U.S.C. §61: This section defines gross income for all taxpayers, unless a specific provision provides otherwise. It
2 encompasses a wide range of income sources, including but not limited to wages, dividends, interest, rents, and other forms
3 of income. Therefore, Section 61 would generally apply to determine what constitutes gross income for a nonresident alien
4 not engaged in a U.S. trade or business.

5 26 U.S.C. §872(a)(1): This section provides rules for the taxation of nonresident alien individuals not engaged in a trade or
6 business in the United States. It generally states that the tax applies to gross income that consists of gains, profits, and income
7 derived from sources within the United States and is effectively connected with the conduct of a trade or business in the
8 United States.

9 So, in summary, both Section 61 and Section 872(a)(1) would be relevant in determining the gross income of a nonresident
10 alien not engaged in a trade or business as defined in 26 U.S.C. §871(a). Section 61 defines gross income, and Section
11 872(a)(1) provides specific rules for the taxation of such individuals on income effectively connected with the U.S.

12 [EDITORIAL: This answer is clearly WRONG. The Google Bard answer is more accurate.]

13
14 QUESTION 2: In the case of a nonresident alien engaged in a trade or business as defined in 26 U.S.C. §871(b), then would
15 26 U.S.C. §61 apply to what income is “gross income”, 26 U.S.C. §872(a)(2) only, or both?

16 ANSWER 2: In the case of a nonresident alien engaged in a trade or business within the United States as defined in 26 U.S.C.
17 §871(b), both 26 U.S.C. §61 and 26 U.S.C. §872(a)(2) would be relevant.

- 18 • 26 U.S.C. §61: This section defines gross income for all taxpayers, providing a general framework for what
19 constitutes income. It includes various items such as wages, dividends, interest, and other forms of income. Section
20 61 applies to all taxpayers, irrespective of their residency status or engagement in a trade or business.
- 21 • 26 U.S.C. §872(a)(2): This section specifically addresses the taxation of nonresident aliens engaged in a trade or
22 business in the United States. It applies to fixed or determinable annual or periodic gains, profits, and income that
23 are not effectively connected with the conduct of a U.S. trade or business.

24 Therefore, in the case of a nonresident alien engaged in a trade or business as defined in 26 U.S.C. §871(b), both Section 61
25 and Section 872(a)(2) would be applicable. Section 61 defines gross income, while Section 872(a)(2) provides specific rules
26 for the taxation of certain types of income for nonresident aliens engaged in a U.S. trade or business.

27 **3.6 Google Bard Question about Gross income rules for nonresident aliens**

28 QUESTION 1: In the case of a nonresident alien not engaged in a trade or business as defined in 26 U.S.C. §871(a), then
29 would 26 U.S.C. §61 apply to what income is “gross income”, 26 U.S.C. §872(a)(1) only, or both?

30 ANSWER 1: In the case of a nonresident alien not engaged in a trade or business as defined in 26 U.S.C. §871(a), 26 U.S.C.
31 §872(a)(1) would apply to determine what income is "gross income." 26 U.S.C. §61 does not apply to nonresident aliens not
32 engaged in a trade or business in the United States.

33 26 U.S.C. §872(a)(1) provides that the gross income of a nonresident alien individual who is not engaged in a trade or business
34 within the United States and who is temporarily present in the United States as a nonimmigrant under subparagraph (F), (J),
35 (M), or (Q) of section 101(a)(15) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101(a)(15)(F), (J), (M), or
36 (Q)), shall consist only of income from sources within the United States.

37 This means that nonresident aliens who are not engaged in a trade or business in the United States and who are temporarily
38 present in the United States as nonimmigrants under subparagraphs (F), (J), (M), or (Q) of section 101(a)(15) of the
39 Immigration and Nationality Act are only taxable on income from sources within the United States. Income from sources
40 outside the United States is not taxable.

41 Here is a table summarizing the application of §61, §871(a), and §872(a)(1) to nonresident alien individuals:

Table 2: Google Bard "Gross income" of nonresident aliens not engaged in a "trade or business" Table 3: Google Bard Taxability to nonresident aliens

Income	26 U.S.C. §61	26 U.S.C. §871(a)	26 U.S.C. §872(a)(1)	Applicable to nonresident aliens not engaged in a trade or business?
From sources within the United States	Taxable	Taxable	Taxable	Yes
From sources outside the United States	Taxable	Not taxable	Not taxable	No

Hope this helps!

QUESTION 2: In the case of a nonresident alien engaged in a trade or business as defined in 26 U.S.C. §871(b), then would 26 U.S.C. §61 apply to what income is "gross income", 26 U.S.C. §872(a)(2) only, or both?

ANSWER 2: In the case of a nonresident alien engaged in a trade or business as defined in 26 U.S.C. §871(b), then both 26 U.S.C. §61 and 26 U.S.C. §871(b) would apply to determine what income is "gross income".

26 U.S.C. §61 defines gross income as "all income from whatever source derived." This means that all income, regardless of its source, is potentially taxable by the United States government.

26 U.S.C. §871(b) taxes income that is effectively connected with a U.S. trade or business. This means that nonresident aliens who are engaged in a trade or business in the United States are taxable on all income that is effectively connected with that trade or business.

As a result of these two statutes, nonresident aliens who are engaged in a trade or business in the United States must apply both 26 U.S.C. §61 and 26 U.S.C. §871(b) in determining their gross income. They must first apply §61 to identify all of their income from whatever source derived. Then, they must apply §871(b) to determine which of that income is effectively connected with their U.S. trade or business and is therefore taxable by the United States government.

Here is a summary of how §61 and §871(b) apply to nonresident alien individuals engaged in a trade or business:

1. 26 U.S.C. §61:
 - 1.1. Defines gross income as "all income from whatever source derived"
 - 1.2. Applies to all nonresident aliens, regardless of whether they are engaged in a trade or business in the United States
2. 26 U.S.C. §871(b):
 - 2.1. Taxes income that is effectively connected with a U.S. trade or business
 - 2.2. Applies to nonresident aliens who are engaged in a trade or business in the United States

I hope this helps!

4 Excluded v. Exempt Comparison

It is CRUCIAL to understand the distinction between being CONSTITUTIONALLY EXCLUDED from income tax versus being STATUTORILY EXEMPT. The reason is that if you do NOT understand this difference and you are a purveyor of tax information, you may become the target of UNJUST and ILLEGAL tax shelter prosecution as we were early in our history in about 2005. Even back then, we focused EXCLUSIVELY upon CONSTITUTIONALLY EXCLUDED earnings of non-

1 resident non-persons and NEVER EXEMPT earnings STATUTORY “taxpayers”, so the abusive tax shelter prosecution was
2 moot and they had to leave us alone. The following hilarious document on our site actually makes fun of these differences:

[Your Rights as a “Nontaxpayer”, IRS Publication 1a, Form #08.008](https://sedm.org/LibertyU/NontaxpayerBOR.pdf)
<https://sedm.org/LibertyU/NontaxpayerBOR.pdf>

3 One court distinguishes EXCLUDED v. EXEMPT as follows:

4 *“Initially, it is important to bear in mind the distinction between a tax exclusion and a tax exemption. Tax*
5 *exemptions are items which the tax payer is entitled to excuse from the operation of a tax and, as such, are to be*
6 *strictly construed against the tax payer. Tax exclusions, on the other hand, are items which were not intended to*
7 *be taxed in the first place and, thus, to the extent there is any doubt about the meaning of the statutory language,*
8 *exclusionary provisions are to be strictly construed against the taxing body. In fact, tax laws in general (with the*
9 *exception of exemption clauses) are construed in favor of the tax payer and against imposition of the tax unless*
10 *the legislative intent is clear and unambiguous.”*
11 *[In re Twisteroo Soft Pretzel Bakeries, Inc., 21 B.R. 665, 667 (Bankr. E.D. Pa. 1982)]*

12 Below is a table comparing EXCLUDED v. EXEMPT earnings:

13

1 **Table 4: EXCLUDED v. EXEMPT earnings and people**

#	Description	CONSTITUTIONAL “exclusion” (PRIVATE)	STATUTORY “exclusion” (PUBLIC)	
		Excluded for PRIVATE people	Excluded for PUBLIC people	Exempt for PUBLIC people
1	Civil status of people pursuing this option	Nonresident “nationals” under Fourteenth Amendment, 8 U.S.C. §1101(a)(21), 8 U.S.C. §1408, or 8 U.S.C. §1101(a)(22)(B) ONLY. NEVER aliens under 8 U.S.C. §1101(a)(3).	STATUTORY “citizens” (8 U.S.C. §1401) and “residents” (8 U.S.C. §1101(a)(3) aliens)	
2	Approach described in	Non-Resident Non-Person Position, Form #05.020	“U.S. Person” Position, Form #05.053	
3	Statutory authority	26 U.S.C. §872 26 U.S.C. §871(a)(3)	1. 26 U.S.C. §911(a) (foreign earned income exclusion) 2. 26 C.F.R. 1.85-1 (unemployment compensation exclusion)	26 U.S.C. §163
4	Implemented on which tax return?	Form 1040NR	Form 1040	
5	Tax withholding form(s)	Form W-8 (see Form #04.202)	Forms W-9 or W-4 or both	
6	How implemented on tax return	Identifying earnings as not connected to “trade or business” and not derived from the statutory geographical “United States” as defined in 26 U.S.C. §7701(a)(9) and (a)(10) and 4 U.S.C. §110(d).	Exclusions on 1040 Tax Return	Deductions on a RESIDENT 1040 Tax Return
7	Earnings in this category are called	1. “Foreign estate” (26 U.S.C. §7701(a)(31)) 2. “Constitutionally exempt” or “exempt by fundamental law”	1. Exclusions 2. Foreign earned income exclusion 3. Unemployment exclusion	Deductions
8	Civil statutory jurisdiction or “in personam” jurisdiction over the “person” filing? (see: Great Cruz Bay, Inc., St. John v. Wheatley, 495 F.2d. 301, 307 (3d Cir. 1974))	No	Yes	
9	Privilege (PUBLIC) or Right (PRIVATE)	Right	Privilege (because granted by civil statute)	
10	Privilege (PUBLIC) or Right (PRIVATE) granted or recognized by	The Constitution	Civil statutes ONLY	
11	Privilege (PUBLIC) or Right (PRIVATE) protected by	The common law, the criminal law, and the constitution ONLY		Civil statutes
12	Requires domicile (national) or residence (alien) in the forum?	No. Not permitted.	Yes	
13	Connected to the “trade or business” excise taxable franchise?	No	No	Yes
14	Operates extraterritorially, meaning outside the exclusive legislative jurisdiction of the granting power?	No	Yes	
15	Allows “deductions” on a tax return under 26 U.S.C. §162?	No	No	Yes
16	Applicable where?	Within the exclusive jurisdiction of a constitutional state.	Within the exclusive jurisdiction of the national government either in the District of Columbia, federal territories, or federal enclaves within the state and abroad.	

#	Description	CONSTITUTIONAL “exclusion” (PRIVATE)	STATUTORY “exclusion” (PUBLIC)	
		Excluded for PRIVATE people	Excluded for PUBLIC people	Exempt for PUBLIC people
17	Illegal judicial activity that is used to promote or avoid this approach	Avoid by: <ol style="list-style-type: none"> 1. Illegally expanding the statutory geographical definition of “United States” to add the exclusive jurisdiction of states of the Union. See Form #05.014 for details. 2. Illegally applying the 26 U.S.C. §61 definition of income rather than the 26 U.S.C. §871 definition. 3. Involuntarily changing the filing status of the filer from nonresident to resident. This is CRIMINAL IDENTITY THEFT per Form #05.046. 	Promote by: <ol style="list-style-type: none"> 1. Federal and state presence test ILLEGALLY applied to “nationals” by pretending they are “aliens”. See Form #05.002, Section 13.1. 2. Compelling all parties to have a civil domicile. See Form #05.002, Section 15. 3. Compelling people to submit the WRONG withholding form, the Forms W-4 or W-9 to get a job or do business. 	

1 An exclusion can of course be due to recognized limitations on the taxing power or limits on what is taxed under the tax
 2 statute; but it also may be statutory and therefore a matter of legislative grace, such as: 26 U.S.C. §911, or the statutory
 3 exclusion of 15% of Social Security benefits from income for nonresident aliens at 26 U.S.C. §871(a)(3), which then are
 4 taxed at a 30% rate.

5 Exemption is most often statutory and thus a matter of legislative grace but broadly “exempt” income can be synonymous
 6 income lawfully excluded from tax.

7 Even a nonresident alien is entitled to a personal exemption on “trade or business” earnings on the 1040NR form, before they
 8 reduced the personal exemption amount to \$0 in 2017. As we said, that’s a matter of legislative grace, but it’s not necessarily
 9 connected to a privileged status.

10 Also unemployment compensation (even received by a nonresident alien) may be excluded from gross income, depending
 11 on the total gross income the individual had.

12 For 2020, Congress enacted an across-the-board exclusion of the first \$10k of unemployment compensation with the
 13 American Rescue Plan Act of 2021. That also was not tied to privileged “citizen or resident” tax status. See:

[2020 Unemployment Compensation Exclusion FAQs](https://www.irs.gov/newsroom/2020-unemployment-compensation-exclusion-faqs), IRS
<https://www.irs.gov/newsroom/2020-unemployment-compensation-exclusion-faqs>

14 Exclusion and exemption are similar, but an exclusion is targeted at a specific type of income.

15 Exemption is an across-the-board reduction of the total amount of taxable income, regardless of what types of income the
 16 individual had. Such as the personal exemption. The personal exemption was eliminated by the Tax Cuts and Jobs Act of
 17 2017. The personal exemption used to be claimed on Form 1040 lines 6a, 6b, and line 422.

18 The exclusion for unemployment compensation is in the regulations at 26 C.F.R. §1.85-1. We’ve had to argue with the IRS
 19 about that one because not even they knew that.

20 Not all unemployment compensation is necessarily required to be included in gross income, though Congress has the right to
 21 impose tax on all of it. So that’s a statutory exclusion. The exclusion is dependent only on the total statutory “gross income”
 22 the individual had (must be below \$20k) not on the tax status of the individual.

23 **5 SEDM Limited to Exclusions rather than Exemptions**

24 SEDM has always focused EXCLUSIVELY on eliminating liability through “CONSTITUTIONALLY ”excluded” income
 25 rather than STUATORY “exempt” or even “excluded” income. This is because:

- “Reducing liability” rather than “excluding” liability implies that one has some amount of liability to begin with, and if such is the case, then it necessarily means that the person is a statutory taxpayer. The SEDM website should not be used by taxpayers.
- “Reducing liability” also implies that some portion of one’s earnings or gross income after said reduction, are taxable. And this would require them to be effectively connected to a statutory trade or business or be from a source located within the federal United States, which, would mean that the person meets the definition of a “taxpayer”. SEDM does not cater to taxpayers.
- Exclusions, either constitutional or statutory, are geared towards protecting one’s assets and putting the IRS on notice that none of the assets are taxable because as a foreign estate, they are not subject to the IRS’ jurisdiction or control.

Below is what our Member Agreement says on this subject:

[SEDM Member Agreement](#)
 1.1 My Status and Standing

[. . .]

13. By seeking the information and services of SEDM, I do not seek to “exempt” my earnings from taxation or to reduce my existing tax liability as a “taxpayer” through deductions or exemptions, but rather to EXCLUDE earnings that never were subject to taxation to begin with under 26 U.S.C. §872(b). In that sense, I am not seeking a “tax shelter”, which is a device used by a statutory “taxpayer” to REDUCE an existing liability. Pursuant to 26 C.F.R. §1.6662-4(b)(2)(ii), neither SEDM nor I can therefore be subject to accuracy related penalties for tax shelters.

“Initially, it is important to bear in mind the distinction between a tax exclusion and a tax exemption. Tax exemptions are items which the tax payer is entitled to excuse from the operation of a tax and, as such, are to be strictly construed against the tax payer. Tax exclusions, on the other hand, are items which were not intended to be taxed in the first place and, thus, to the extent there is any doubt about the meaning of the statutory language, exclusionary provisions are to be strictly construed against the taxing body. In fact, tax laws in general (with the exception of exemption clauses) are construed in favor of the tax payer and against imposition of the tax unless the legislative intent is clear and unambiguous.”

[In re Twisteroo Soft Pretzel Bakeries, Inc., 21 B.R. 665, 667 (Bankr. E.D. Pa. 1982)]

[SEDM Member Agreement, Form #01.001, Section 1.1, Item 13; <https://sedm.org/participate/member-agreement/>]

6 Example Exclusions

6.1 Statutes

1. [26 U.S.C. §864\(b\)\(1\)\(A\)](#)

(b)Trade or business within the United States

For purposes of this part, part II, and chapter 3, the term “[trade or business within the United States](#)” includes the performance of personal services within the United States at any time within the taxable year, but does not include—

(1)Performance of personal services for foreign employer

The performance of personal services—

(A) for a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in [trade or business within the United States](#), or

2. [26 U.S.C. §872\(d\)](#)

3. [26 U.S.C. §861\(a\)\(3\)\(C\)\(i\)](#)

(a)Gross income from sources within United States

1 (3) **Personal services**

2 (C) the compensation is for labor or services performed as an employee of or under a contract with—

3 (i) a nonresident alien, foreign partnership, or foreign corporation, not engaged in [trade or business within the](#)
4 [United States](#), or

5 4. [26 U.S.C. §7701\(a\)\(31\)](#)

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

8 (31) **Foreign estate or trust**

9 (A) **Foreign estate**

10 The term “[foreign estate](#)” means an estate the income of which, from sources without the [United States](#) which is
11 not effectively connected with the conduct of a [trade or business](#) within the [United States](#), is not includible in
12 gross income under subtitle A.

13 (B) **Foreign trust**

14 The term “[foreign trust](#)” means any trust other than a trust described in subparagraph (E) of paragraph (30).

15 **6.2 Regulations**

16 1. 26 C.F.R. §1.872-1(3), which says:

17 (3) *Exclusions.*

18 *For exclusions from gross income, see §1.872-2.*

19 2. 26 C.F.R. §1.872-2 Exclusions from gross income of nonresident alien individuals.”

20 (f) *Other exclusions.*

21 *Income which is from sources without the United States, as determined under the provisions of sections 861*
22 *through 863, and the regulations thereunder, is not included in the gross income of a nonresident alien individual*
23 *unless such income is effectively connected for the taxable year with the conduct of a trade or business in the*
24 *United States by that individual. . .”*

25 3. [26 C.F.R. §1.871-7\(a\)\(4\)](#)

26 4. Do not earn statutory “wages” per:

27 4.1. [26 C.F.R. §31.3401\(a\)\(6\)-1\(b\)](#) in the case of income tax.

28 4.2. [26 C.F.R. §31.3121\(b\)-3\(c\)\(1\)](#) in the case of Social Security.

29 5. [26 C.F.R. §1.871-8\(c\)\(1\)](#) Taxation of nonresident alien individuals engaged in U.S. business or treated as having effectively
30 connected income

31 (1) *In general.*

32 *The determination as to whether a nonresident alien individual is engaged in trade or business within the United*
33 *States during the taxable year is to be made for each taxable year. . . Income, gain, or loss of a nonresident alien*
34 *individual is not treated as being effectively connected for the taxable year with the conduct of a trade or business*
35 *in the United States if he is not engaged in trade or business within the United States during such year, even*
36 *though such income, gain, or loss may have been effectively connected for a previous taxable year with the*
37 *conduct of a trade or business in the United States. . .”*

7 STEALTH Exclusions in Statutes

As we point out in the articles below, YOUR LABOR is not an article of commerce, is not taxable to YOU, and becomes an unconstitutional direct tax if it is treated as such:

1. How the Government Defrauds you Out of Legitimate Exclusions for the Market Value of Your Labor, Form #05.026
<https://sedm.org/Forms/05-MemLaw/DefraudLabor.pdf>
2. Proof that Involuntary Income taxes on Your Labor are Slavery, Form #05.055 (Member Subscriptions)
<https://sedm.org/product/proof-that-involuntary-income-taxes-on-your-labor-are-slavery-form-05-055/>

We won't repeat the above treatments here, but suffice it to say that the Internal Revenue Code very STEALTHILY and OBTUSELY recognizes the fact that your labor is "EXCLUDED" from the constitutional definition of "income", but doesn't DIRECTLY use that word to describe it so that it won't raise alarm bells and cause everyone to pull out of payroll withholding by filing our W-8SUB, Form #04.231! Below is the proof:

1. Labor itself is PROPERTY as legally defined.

*Property. That which is peculiar or proper to any person; that which **belongs exclusively to one**. In the strict legal sense, **an aggregate of rights which are guaranteed and protected by the government**. *Fulton Light, Heat & Power Co. v. State*, 65 Misc.Rep. 263, 121 N.Y.S. 536. The term is said to extend to every species of valuable right and interest. More specifically, ownership; the unrestricted and exclusive right to a thing; the right to dispose of a thing in every legal way, to possess it, to use it, and to exclude everyone else from interfering with it. That dominion or indefinite right of use or disposition which one may lawfully exercise over particular things or subjects. The exclusive right of possessing, enjoying, and disposing of a thing. The highest right a man can have to anything; being used to refer to that right which one has to lands or tenements, goods or chattels, which no way depends on another man's courtesy.*

*The word is also commonly used to denote everything which is the subject of ownership, corporeal or incorporeal, tangible or intangible, visible or invisible, real or personal, everything that has an exchangeable value or which goes to make up wealth or estate. **It extends to every species of valuable right and interest, and includes real and personal property, easements, franchises, and incorporeal hereditaments, and includes every invasion of one's property rights by actionable wrong.** *Labberton v. General Cas. Co. of America*, 53 Wash.2d. 180, 332 P.2d. 250, 252, 254.*

*Property embraces everything which is or may be the subject of ownership, whether a legal ownership, or whether beneficial, or a private ownership. *Davis v. Davis*. TexCiv-App., 495 S.W.2d. 607. 611. Term includes not only ownership and possession but also the right of use and enjoyment for lawful purposes. *Hoffmann v. Kinealy, Mo.*, 389 S.W.2d. 745, 752.*

*Property, within constitutional protection, denotes group of rights inhering in citizen's relation to physical thing, as right to possess, use and dispose of it. *Cereghino v. State By and Through State Highway Commission*, 230 Or. 439, 370 P.2d. 694, 697.
[Black's Law Dictionary, Fifth Edition, p. 1095]*

The above is DECEPTIVE, because it says "rights inhering in a citizen's relation" but you don't need to be a "citizen" to have CONSTITUTIONAL or PRIVATE rights. They are stealthily trying to turn CONSTITUTIONAL PRIVATE rights into STATUTORY PUBLIC privileges by making you believe that you can only have "rights" by joining the collective and becoming a member called a "citizen" or "resident". Thus, they want you to DONATE ALL your PRIVATE rights to the government!

2. 26 U.S.C. §83(a) says the following:

[26 U.S. Code § 83 - Property transferred in connection with performance of services](#)

(a) General rule

If, in connection with the performance of services, **property is transferred to any person other than the person for whom such services are performed, the excess of—**

(1) the fair market value of such property (determined without regard to any restriction other than a restriction which by its terms will never lapse) at the first time the rights of the person having the beneficial interest in such property are transferable or are not subject to a substantial risk of forfeiture, whichever occurs earlier, over

(2) the amount (if any) paid for such property, shall be included in the gross income of the person who performed such services in the first taxable year in which the rights of the person having the beneficial interest in such property are transferable or are not subject to a substantial risk of forfeiture, whichever is applicable. The preceding sentence shall not apply if such person sells or otherwise disposes of such property in an arm's length transaction before his rights in such property become transferable or not subject to a substantial risk of forfeiture.

3. Within the above the word "property" includes any kind of consideration INCLUDING lawful money.
4. When they say "any person other than the person for whom such services are performed" above, the person actually PERFORMING the labor or service AND anyone who hired them if it wasn't them personally would be included.
5. When they use the phrase "the excess of", they are referring to subtracting the VALUE of the property from its FAIR MARKET value to compute PROFIT, even though they don't call it that. Thus, only PROFIT from the labor or service is taxed as "gross income".
6. If they didn't make only PROFIT in connection with labor or services taxable, they would be instituting a DIRECT tax upon PROPERTY, which is unconstitutional because it is SLAVERY in violation of the Thirteenth Amendment:

*"Before the Sixteenth Amendment Congress could not levy a direct tax without apportionment among the states. Pollock v. Farmers' Loan Trust Co., 157 U.S. 429, 15 S.Ct. 673, 39 L.Ed. 759, Id., 158 U.S. 601, 15 S.Ct. 912, 39 L.Ed. 1108. **The Amendment allows a tax on "income" without apportionment, but an unapportioned direct tax on anything that is not income would still, under the rule of the Pollock case, be unconstitutional.**"*

[. . .]

The first question is: which definition of income is controlling, that of Congress or that of the Supreme Court? Since the judiciary is traditionally charged with the responsibility of interpreting the Constitution, we shall assume, for the purposes of this decision only, that, because the Sixteenth Amendment is limited to income, Congress may not tax directly without apportionment that which the Supreme Court does not so define.

The conflict centers around two different interpretations of the definition of income in [Eisner v. Macomber, supra](#). In [Central R. Co. of New Jersey v. Commissioner, 3 Cir., supra](#), the case upon which the nontaxability of punitive damages is based, the court treated the definition as if the Supreme Court had intended it to be all inclusive. Since the gain involved in that case did not fall within the definition it could not be income and was, therefore, not taxable. In [General American Investors Co. v. Commissioner, 2 Cir., supra](#), the court thought that the Supreme Court did not intend that the definition be all inclusive. The court there admitted that the gain involved did not fall within the Eisner definition but it nevertheless held that it was taxable income. [[Commissioner of Int. Rev. v. Obear-Nester Glass, 217 F.2d. 56 \(7th Cir. 1954\)](#)]

The above is entirely consistent with the definition of CONSTITUTIONAL "income" as defined by the U.S. Supreme Court:

"We must reject in this case, as we have rejected in cases arising under the Corporation Excise Tax Act of 1909 ([Doyle, Collector, v. Mitchell Brothers Co., 247 U.S. 179, 38 Sup.Ct. 467, 62 L.Ed.--](#)), the broad contention submitted on behalf of the government that all receipts—everything that comes in—are income within the proper definition of the term 'gross income,' and that the entire proceeds of a conversion of capital assets, in whatever form and under whatever circumstances accomplished, should be treated as gross income. Certainly the term 'income' has no broader meaning in the 1913 act than in that of 1909 (see [Stratton's Independence v. Howbert, 231 U.S. 399, 416, 417 S., 34 Sup.Ct. 136](#)), and for the present purpose we assume there is not difference in its meaning as used in the two acts." [[Southern Pacific Co. v. Lowe, 247 U.S. 330, 335, 38 S.Ct. 540 \(1918\)](#)]

"As repeatedly pointed out by this court, the Corporation Tax Law of 1909. imposed an excise or privilege tax, and not in any sense, a tax upon property or upon income merely as income. It was enacted in view of the decision of [Pollock v. Farmer's Loan & T. Co., 157 U.S. 429, 29 L.Ed. 759, 15 Sup.St.Rep. 673, 158 U.S. 601, 39 L.Ed. 1108, 15 Sup.Ct.Rep. 912](#), which held the income tax provisions of a previous law to be unconstitutional because amounting in effect to a direct tax upon property within the meaning of the Constitution, and because not apportioned in the manner required by that instrument." [[U.S. v. Whiteridge, 231 U.S. 144, 34 S.Sup. Ct. 24 \(1913\)](#)]

"The Sixteenth Amendment declares that Congress shall have power to levy and collect taxes on income, "from [271 U.S. 174] whatever source derived," without apportionment among the several states and without regard to any census or enumeration. It was not the purpose or effect of that amendment to bring any new subject within the taxing power. Congress already had power to tax all incomes. But taxes on incomes from some sources had been held to be "direct taxes" within the meaning of the constitutional requirement as to apportionment. Art. 1, § 2, cl. 3, § 9, cl. 4; [Pollock v. Farmers' Loan & Trust Co., 158 U.S. 601](#). The Amendment relieved from that requirement, and obliterated the distinction in that respect between taxes on income that are direct taxes and those that are not, and so put on the same basis all incomes "from whatever source derived." [Brushaber v. Union](#)

1 *P. R. Co., 240 U.S. 1, 17. "Income" has been taken to mean the same thing as used in the Corporation Excise*
2 *Tax Act of 1909, in the Sixteenth Amendment, and in the various revenue acts subsequently passed. Southern*
3 *Pacific Co. v. Lowe, 247 U.S. 330, 335; Merchants' L. & T. Co. v. Smetanka, 255 U.S. 509, 219. After full*
4 *consideration, this Court declared that income may be defined as gain derived from capital, from labor, or*
5 *from both combined, including profit gained through sale or conversion of capital. Stratton's Independence v.*
6 *Howbert, 231 U.S. 399, 415; Doyle v. Mitchell Brothers Co., 247 U.S. 179, 185; Eisner v. Macomber, 252 U.S.*
7 *189, 207. And that definition has been adhered to and applied repeatedly. See, e.g., Merchants' L. & T. Co. v.*
8 *Smetanka, supra; 518; Goodrich v. Edwards, 255 U.S. 527, 535; United States v. Phellis, 257 U.S. 156, 169;*
9 *Miles v. Safe Deposit Co., 259 U.S. 247, 252-253; United States v. Supplee-Biddle Co., 265 U.S. 189, 194; Irwin*
10 *v. Gavit, 268 U.S. 161, 167; Edwards v. Cuba Railroad, 268 U.S. 628, 633. In determining what constitutes*
11 *income, substance rather than form is to be given controlling weight. Eisner v. Macomber, supra, 206. [271 U.S.*
12 *175]"*
13 [*Bowers v. Kerbaugh-Empire Co., 271 U.S. 170, 174, (1926)*]

14 None of the above cases have been overruled. They all define CONSTITUTIONAL "income" as PROFIT, not the full market
15 value of labor that appears on the W-4 form as "wages".

16 We can also see that what 26 U.S.C. §83 recognizes is the EXCLUDABILITY of "labor" or the "COST OF LABOR" or the
17 "FAIR MARKET VALUE OF LABOR" from "profit" or "income". If it acts like a duck, walks like a duck, and quacks like
18 a duck, then it's a DAMN DUCK, I mean an EXCLUSION, whether they want to call it that or NOT!

19 26 U.S.C. §83(b) also recognizes a VOLUNTARY WAIVER of the excludability of your labor from income taxation as
20 follows. In other words, you are donating your services to a PUBLIC USE, a PUBLIC PURPOSE, and a PUBLIC OFFICE,
21 usually to pursue a perceived but seldom ACTUAL "benefit" of some kind, such as gaining credits under the Social Security
22 Ponzi Scheme:

23 [26 U.S. Code § 83 - Property transferred in connection with performance of services](#)

24 (b)Election to include in gross income in year of transfer

25 (1)In general

26 Any person who performs services in connection with which property is transferred to any person may elect to
27 include in his gross income for the taxable year in which such property is transferred, the excess of—

28 (A) the fair market value of such property at the time of transfer (determined without regard to any restriction
29 other than a restriction which by its terms will never lapse), over

30 (B)

31 the amount (if any) paid for such property.

32 If such election is made, subsection (a) shall not apply with respect to the transfer of such property, and if such
33 property is subsequently forfeited, no deduction shall be allowed in respect of such forfeiture.

34 (2)Election

35 An election under paragraph (1) with respect to any transfer of property shall be made in such manner as the
36 Secretary prescribes and shall be made not later than 30 days after the date of such transfer. Such election may
37 not be revoked except with the consent of the Secretary

38 If you make this "election" or act of consent, YOU'RE A DAMN IDIOT and a volunteer slave for Pharaoh who is actually
39 PAYING for the privilege of BEING a slave. Bend over! Here is how we describe that process of becoming a voluntary
40 SLAVE and even paying for the PRIVILEGE on the opening page of our website:

41 "People of all races, genders, political beliefs, sexual orientations, and nearly all religions are welcome here.
42 All are treated equally under REAL "law". The only way to remain truly free and equal under the civil law is to
43 avoid seeking government civil services, benefits, property, special or civil status, exemptions, privileges, or
44 special treatment. All such pursuits of government services or property require individual and lawful consent to
45 a franchise and the surrender of inalienable constitutional rights AND EQUALITY in the process, and should
46 therefore be AVOIDED. The rights and equality given up are the "cost" of procuring the "benefit" or property
47 from the government, in fact. Nothing in life is truly "free". Anyone who claims that such "benefits" or property
48 should be free and cost them nothing is a thief who wants to use the government as a means to STEAL on his or
49 her behalf. All just rights spring from responsibilities/obligations under the laws of a higher power. If that higher

power is God, you can be [truly and objectively free](#). If it is government, you are [guaranteed to be a slave](#) because they can lawfully set the cost of their property as high as they want as a Merchant under the U.C.C. [If you want it really bad from people with a monopoly, then you will get it REALLY bad. Bend over.](#) There are NO constitutional limits on the price government can charge for their monopoly services or property. Those who want no responsibilities can have no [real/PRIVATE rights](#), but only privileges dispensed to wards of the state which are disguised to LOOK like unalienable rights. Obligations and rights are two sides of the same coin, just like self-ownership and personal responsibility. For the biblical version of this paragraph, read [1 Sam. 8:10-22](#). For the reason God answered Samuel by telling him to allow the people to have a king, read [Deut. 28:43-51](#), which is God's curse upon those who allow a king above them. [Click Here \(https://famguardian.org/Subjects/Taxes/Evidence/HowScCorruptOurRepubGovt.htm\)](#) for a detailed description of the legal, moral, and spiritual consequences of violating this paragraph."
[SEDM Opening Page; <http://sedm.org/>]

8 An example of someone who earns nothing BUT excluded earnings

Our [SEDM Disclaimer, Section 4.25](#) defines someone who earns nothing BUT excluded earnings as follows:

SEDM Disclaimer

4. Meaning of Words

4.25 "Non-Person" or "Non-Resident Non-Person"

The term "[non-person](#)" or "[non-resident non-person](#)" ([Form #05.020](#)) as used on this site we define to be a human who is all of the following:

1. Not domiciled on federal territory and not representing a corporate or governmental office that is so domiciled under [Federal Rule of Civil Procedure 17](#). See [Form #05.002](#) for details.
2. Not engaged in a public office within any government. This includes the civil office of "person", "individual", "citizen", or "resident". See [Form #05.037](#) and [Form #05.042](#) for court-admissible proof that statutory "persons", "individuals", "citizens", and "residents" are public offices.
3. Not "purposefully or consensually availing themselves" of commerce with any government. Therefore, they do not waive sovereign immunity under the [Foreign Sovereign Immunities Act \(FSIA\), 28 U.S.C. Chapter 97](#).
4. Obligations and Rights in relation to Governments:
 - 4.1. Waives any and all privileges and immunities of any civil status and all rights or "entitlements" to receive "benefits" or "civil services" from any government. It is a maxim of law that [REAL de jure governments \(Form #05.043\)](#) MUST give you the right to not receive or be eligible to receive "benefits" of any kind. See [Form #05.040](#) for a description of the SCAM of abusing "benefits" to destroy sovereignty. The reason is because they MUST guarantee your right to be self-governing and self-supporting:

Invito beneficium non datur.

No one is obliged to accept a benefit against his consent. Dig. 50, 17, 69. But if he does not dissent he will be considered as assenting. Vide Assent.

Potest quis renunciare pro se, et suis, juri quod pro se introductum est.

A man may relinquish, for himself and his heirs, a right which was introduced for his own benefit. See 1 Bouv. Inst. n. 83.

Quilibet potest renunciare juri pro se inducto.

Any one may renounce a law introduced for his own benefit. To this rule there are some exceptions. See 1 Bouv. Inst. n. 83.

[Bouvier's Maxims of Law, 1856;

SOURCE: <http://famguardian.org/Publications/BouvierMaximsOfLaw/BouviersMaxims.htm/>]

- 4.2. Because they are not in receipt of or eligible to receive property or benefits from the government, they owe no CIVIL STATUTORY obligations to that government or any STATUTORY "citizen" or STATUTORY "resident", as "obligations" are described in [California Civil Code Section 1428](#). This means they are not party to any contracts or compacts and have injured NO ONE as injury is defined NOT by statute, but by the common law. See [Form #12.040](#) for further details on the definition of "obligations".

- 1 4.3. Because they owe no statutory civil obligations, the definition of "justice" REQUIRES that they MUST be
 2 left alone by the government. See [Form #05.050](#) for a description of "[justice](#)".
- 3 5. For the purposes of citizenship on government forms:
- 4 5.1. STATUTORY "[citizen](#)" and "[resident](#)" are PUBLIC OFFICES and fictions of law within the national
 5 government and not human beings. Whenever [CIVIL STATUTORY obligations \(Form #12.040\)](#) attach to a
 6 [civil status \(Form #13.008\)](#) such as "citizen", "resident", or "person", then the civil or legal status has to be
 7 voluntary or else unconstitutional involuntary servitude is the result in violation of the Thirteenth
 8 Amendment. President Obama even admitted that "citizen" is a public office in his Farewell Address. See
 9 [SEDM Exhibit #01.018](#) for proof. You have a RIGHT to not be an officer of the government WITHOUT
 10 even PAY! They even make you PAY for the privilege with income taxation, because the tax is imposed
 11 upon STATUTORY "[citizen](#)" and "[resident](#)" in [26 C.F.R. §1.1-1\(a\)](#). Who else can institute SLAVERY like
 12 that and why can't you do that to THEM if we are all REALLY [equal \(Form #05.033\) as the Constitution](#)
 13 [requires?](#)
- 14 5.2. Does NOT identify as a STATUTORY "citizen" ([8 U.S.C. §1401](#) and [26 C.F.R. §1.1-1\(c\)](#)), "resident" (alien
 15 under [26 U.S.C. §7701\(b\)\(1\)\(A\)](#)), "U.S. citizen" (not defined in any statute), "U.S. resident" (not defined in
 16 any statute), or "U.S. person" ([26 U.S.C. §7701\(a\)\(30\)](#)).
- 17 5.3. Identifies himself as a "national" per [8 U.S.C. §1101\(a\)\(21\)](#) and per common law by virtue of birth or
 18 naturalization within the CONSTITUTIONAL "United States****".
- 19 5.4. Is NOT an "alien individual" in [26 C.F.R. §1.1441-1\(c\)\(3\)\(i\)](#) because a "[national](#)" under [8 U.S.C.](#)
 20 [§1101\(a\)\(21\)](#) or "U.S. national" under [22 C.F.R. §51.1](#) owing allegiance to a state of the Union and not the
 21 national or federal government. Thus, they are not subject to the presence test under [26 U.S.C. §7701\(b\)](#)
 22 and may not lawfully be kidnapped into exclusive national government jurisdiction as a privileged alien
 23 "resident" or have a privileged "residence" ([26 C.F.R. §1.871-2\(b\)](#)) within the EITHER the statutory
 24 geographical "United States" in [26 U.S.C. §7701\(a\)\(9\)](#) and (a)(10) or "United States*" the COUNTRY in [26](#)
 25 [C.F.R. §301.7701\(b\)-1\(c\)\(2\)](#).
- 26 5.5. Is legislatively but not constitutionally "[foreign](#)" and "[alien](#)" to the national government by virtue of not
 27 having a [domicile](#) (for nationals under [8 U.S.C. §1101\(a\)\(21\)](#)) or "[residence](#)" (for "alien individuals" under
 28 [26 C.F.R. §1.871-2\(b\)](#)) within the exclusive legislative jurisdiction of the national government. The words
 29 "[foreign](#)" and "[alien](#)" by themselves are NOT defined within the Internal Revenue Code. This is
 30 MALICIOUSLY deliberate so as to DECEIVE the American public in states of the Union into FALSELY
 31 declaring a [domicile](#) or [residence](#) within the exclusive jurisdiction of the national government. By using
 32 "and subject to ITS jurisdiction" after the word "citizen" in [26 C.F.R. §1.1-1\(c\)](#), the average American in
 33 states of the Union is deceived using equivocation into VOLUNTEERING for a civil STATUTORY office
 34 under the Secretary of the Treasury called "citizen" and "resident" subject to exclusive national government
 35 jurisdiction. The "citizen" in this regulation is NOT the POLITICAL citizen mentioned in the Fourteenth
 36 Amendment to the Constitution, but a STATUTORY citizen legislatively created and owned by Congress
 37 and thus a PRIVILEGE. Those in states of the Union who have neither a [domicile](#) nor [residence](#) within the
 38 exclusive jurisdiction of the national government and are not "subject to ITS jurisdiction" and who
 39 [FALSELY CLAIM on a government form \(Form #12.023\)](#) such as a W-9 that they are STATUTORY "[U.S.](#)
 40 [persons](#)" have in practical effect VOLUNTEERED to become privileged STATUTORY "[taxpayers](#)" and
 41 uncompensated officers of the national government EVERYWHERE IN THE WORLD who are on duty 24
 42 hours a day, 7 days a week per [26 C.F.R. §1.1-1\(a\)](#)! The corrupt, covetous government WANTS this process
 43 of volunteering to be invisible in order to VICTIMIZE the Americans into becoming surety to pay off an
 44 endless mountain of public debt that there is NO LIMIT on. That's criminal peonage in violation of [18](#)
 45 [U.S.C. §1581](#) if you knew you could unvolunteer and aren't allowed to. It's also criminal human trafficking.
 46 You can't UNVOLUNTEER and leave the system until you know HOW you volunteered in the first place.
 47 See "[Hot Issues: Invisible Consent](#)" for details on how your consent was procured INVISIBLY. That
 48 process of volunteering to pay income tax that state nationals don't owe is exhaustively described in: [How](#)
 49 [State Nationals Volunteer to Pay Income Tax](#), Form #08.024; [https://sedm.org/Forms/08-](https://sedm.org/Forms/08-PolicyDocs/HowYouVolForIncomeTax.pdf)
 50 [PolicyDocs/HowYouVolForIncomeTax.pdf](#).
- 51 6. Earnings originate from outside:
- 52 6.1. The [STATUTORY "United States**"](#) as defined in [26 U.S.C. §7701\(a\)\(9\) and \(a\)\(10\)](#) (federal zone) and
 53 6.2. The U.S. government federal corporation as a privileged legal fiction.

1 Thus, their earnings are expressly EXCLUDED rather than EXEMPTED from "gross income" under 26 U.S.C. §871
2 and are a "foreign estate" under 26 U.S.C. §7701(a)(31). See 26 U.S.C. §872 and 26 C.F.R. §1.872-2(f) and 26 C.F.R.
3 §1.871-7(a)(4) and 26 U.S.C. §861(a)(3)(C)(i) for proof.

- 4 7. Earnings are expressly EXCLUDED rather than EXEMPTED from STATUTORY "wages" as defined in 26 U.S.C.
5 §3401(a) because all services performed outside the STATUTORY "United States**" as defined in 26 U.S.C.
6 §7701(a)(9) and (a)(10) (federal zone) and the CORPORATION "United States" as a legal fiction. Therefore, not
7 subject to "wage" withholding of any kind for such services per:
 - 8 7.1. 26 C.F.R. §31.3401(a)(6)-1(b) in the case of income tax.
 - 9 7.2. 26 C.F.R. §31.3121(b)-3(c)(1) in the case of Social Security.
- 10 8. Expressly EXCLUDED rather than EXEMPTED from income tax reporting under:
 - 11 8.1. 26 C.F.R. §1.1441-1(b)(5)(i).
 - 12 8.2. 26 C.F.R. §1.1441-1(e)(1)(ii)(A)(1).
 - 13 8.3. 26 C.F.R. §1.6041-4(a)(1).
- 14 9. Expressly EXCLUDED rather than EXEMPTED from backup withholding because earnings are not reportable by 26
15 U.S.C. §3406 and 26 C.F.R. §31.3406(g)-1(e). Only "reportable payments" are subject to such withholding.
- 16 10. Because they are EXCLUDED rather than EXEMPTED from income tax reporting and therefore withholding, they
17 have no "taxable income".
 - 18 10.1. Only reportable income is taxable.
 - 19 10.2. There is NO WAY provided within the Internal Revenue Code to make earnings not connected to a statutory
20 "trade or business"/public office (Form #05.001) under 26 U.S.C. §6041 reportable.
 - 21 10.3. The only way to make earnings of a nonresident alien not engaged in the "trade or business" franchise taxable
22 under 26 U.S.C. §871(a) is therefore only when the PAYOR is lawfully engaged in a "trade or business" but the
23 PAYEE is not. This situation would have to involve the U.S. government ONLY and not private parties in the
24 states of the Union. The information returns would have to be a Form 1042s. It is a crime under 18 U.S.C. §91 for
25 a private party to occupy a public office or to impersonate a public office, and Congress cannot establish public
26 offices within the exclusive jurisdiction of the states of the Union to tax them, according to the License Tax
27 Cases, 72 U.S. 462, 18 L.Ed. 497, 68 S.Ct. 331 (1866).
- 28 11. Continue to be a "national of the United States*" (Form #05.006) and not lose their CONSTITUTIONAL citizenship
29 while filing form 1040NR. See 26 U.S.C. §873(b)(3). They do NOT need to "expatriate" their nationality to file as a
30 "nonresident alien" and will not satisfy the conditions in 26 U.S.C. §877 (expatriation to avoid tax). Expatriation is loss
31 of NATIONALITY, and NOT loss of STATUTORY "citizen" status under 8 U.S.C. §1401.
- 32 12. If they submit the SEDM Form W-8SUB, Form #04.231 to control withholding and revoke their Form W-4, then they:
 - 33 12.1. Can submit SSA Form 7008 to correct your SSA earnings to zero them out. See SEDM Form #06.042.
 - 34 12.2. Can use IRS Form 843 to request a full refund or abatement of all FICA and Medicare taxes withheld if the
35 employer or business associate continues to file W-2 forms or withhold against your wishes. See SEDM Form
36 #06.044.
- 37 13. Are eligible to replace the SSN with a TEMPORARY International Taxpayer Identification Number (ITIN) that
38 expires AUTOMATICALLY every year and is therefore NOT permanent and changes. If you previously applied for an
39 SSN and were ineligible to participate, you can terminate the SSN and replace it with the ITIN. If you can't prove you
40 were ineligible for Social Security, then they will not allow you to replace the SSN with an ITIN. See:
 - 41 13.1. Form W-7 for the application.
42 <https://www.irs.gov/forms-pubs/about-form-w-7>
 - 43 13.2. Understanding Your IRS Individual Taxpayer Identification Number, Publication 1915
44 <https://www.irs.gov/pub/irs-pdf/p1915.pdf>
 - 45 13.3. Why You Aren't Eligible for Social Security, Form #06.001 for proof that no one within the exclusive
46 jurisdiction of a constitutional state of the Union is eligible for Social Security.
47 <https://sedm.org/Forms/06-AvoidingFranch/SSNotEligible.pdf>
- 48 14. Must file the paper version of IRS Form 1040NR, because there are no electronic online providers that automate the
49 preparation of the form or allow you to attach the forms necessary to submit a complete and accurate return that
50 correctly reflects your status. This is in part because the IRS doesn't want to make it easy or convenient to leave their
51 slave plantation.
- 52 15. Is a SUBSET of "nonresident aliens" who are not required to have or to use Social Security Numbers (SSNs) or
53 Taxpayer Identification Numbers (TINs) in connection with tax withholding or reporting. They are expressly exempted
54 from this requirement by:
 - 55 15.1. 31 C.F.R. §1020.410(b)(3)(x) .
56 <https://www.law.cornell.edu/cfr/text/31/1020.410>
 - 57 15.2. 26 C.F.R. §301.6109-1(b)(2) .

- 1 <https://www.law.cornell.edu/cfr/text/26/301.6109-1v>
 2 15.3. [W-8BEN Inst. p. 1,2,4,5 \(Cat 25576H\)](#).
 3 <https://www.irs.gov/pub/irs-pdf/iw8ben.pdf>
 4 15.4. [Instructions for the Requesters of Forms W-8BEN, W-8BEN-E, W-8ECI, W-8EXP, and W-8IMY, p. 1,2,6 \(Cat](#)
 5 [26698G\)](#).
 6 <https://www.irs.gov/pub/irs-pdf/iw8.pdf>
 7 15.5. [Pub 515 Inst. p. 7 \(Cat. No 16029L\)](#).
 8 <https://www.irs.gov/pub/irs-pdf/p515.pdf>
 9 More on SSNs and TINs at:
 10 [About SSNs and TINs on Government Forms and Correspondence, Form #05.012](#)
 11 <https://sedm.org/Forms/05-MemLaw/AboutSSNsAndTINs.pdf>
 12 [About SSNs and TINs on Government Forms and Correspondence, Form #04.104](#)
 13 <https://sedm.org/Forms/04-Tax/1-Procedure/AboutSSNs/AboutSSNs.htm>

14 They are "non-persons" BY VIRTUE of not benefitting from any civil statutory privilege and therefore being "PRIVATE".
 15 By "privilege", we mean ANY of the things described in [5 U.S.C. 553\(a\)\(2\)](#):

16 [5 U.S. Code § 553 - Rule making](#)

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

18 [. . .]

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

21 The above items all have in common that they are PROPERTY coming under [Article 4, Section 3, Clause 2](#) of the Constitution
 22 that is loaned or possessed or granted temporarily to a human being with legal strings attached. Thus, Congress has direct
 23 legislative jurisdiction not only over the property itself, but over all those who USE, BENEFIT FROM, or HAVE such
 24 property physically in their custody or within their temporary control. We remind the reader that Congress enjoys control
 25 over their own property NO MATTER WHERE it physically is, including states of the Union, and that it is the MAIN source
 26 of their legislative jurisdiction within the exclusive jurisdiction of Constitutional states of the Union!:

27 [United States Constitution](#)
 28 [Article 4, Section 3, Clause 2](#)

29 *The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory*
 30 *or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to*
 31 *Prejudice any Claims of the United States, or of any particular State.*

32
 33 **“The Constitution permits Congress to dispose of and to make all needful rules and regulations respecting**
 34 **the territory or other property belonging to the United States. This power applies as well to territory**
 35 **belonging to the United States within the States, as beyond them. It comprehends all the public domain,**
 36 **wherever it may be. The argument is, that the power to make ‘ALL needful rules and regulations’ ‘is a**
 37 **power of legislation,’ ‘a full legislative power;’ ‘that it includes all subjects of legislation in the territory,’**
 38 **and is without any limitations, except the positive prohibitions which affect all the powers of Congress.**
 39 *Congress may then regulate or prohibit slavery upon the public domain within the new States, and such a*
 40 *prohibition would permanently affect the capacity of a slave, whose master might carry him to it. And why not?*
 41 *Because no power has been conferred on Congress. This is a conclusion universally admitted. But the power to*
 42 **‘make rules and regulations respecting the territory’ is not restrained by State lines, nor are there any**
 43 **constitutional prohibitions upon its exercise in the domain of the United States within the States; and**
 44 **whatever rules and regulations respecting territory Congress may constitutionally make are supreme, and**
 45 **are not dependent on the situs of ‘the territory.’”**
 46 *[Dred Scott v. Sandford, 60 U.S. 393, 509-510 (1856)]*

47 By property, we mean all the things listed in [5 U.S.C. §553\(a\)\(2\)](#) such as SSNs (property of the government per [20 C.F.R.](#)
 48 [§422.103\(d\)](#)), contracts (which are property), physical property, chattel property, "benefits", "offices", [civil statuses](#),
 49 privileges, civil statutory remedies, etc. A "[public office](#)" is, after all, legally defined as someone in charge of the PROPERTY
 50 of the "public",

1 **“Public office.** *The right, authority, and duty created and conferred by law, by which for a given period, either*
2 *fixed by law or enduring at the pleasure of the creating power, an individual is invested with some portion of the*
3 *sovereign functions of government for the benefit of the public.* *Walker v. Rich, 79 Cal.App. 139, 249 P. 56, 58.*
4 *An agency for the state, the duties of which involve in their performance the exercise of some portion of the*
5 *sovereign power, either great or small.* *Yaselli v. Goff, C.C.A., 12 F.2d. 396, 403, 56 A.L.R. 1239; Lacey v. State,*
6 *13 Ala.App. 212, 68 So. 706, 710; Curtin v. State, 61 Cal.App. 377, 214 P. 1030, 1035; Shelmadine v. City of*
7 *Elkhart, 75 Ind.App. 493, 129 N.E. 878. State ex rel. Colorado River Commission v. Frohmiller, 46 Ariz. 413, 52*
8 *P.2d. 483, 486. Where, by virtue of law, a person is clothed, not as an incidental or transient authority, but*
9 *for such time as de- notes duration and continuance, with Independent power to control the property of*
10 *the public, or with public functions to be exercised in the supposed interest of the people, the service to be*
11 *compensated by a stated yearly salary, and the occupant having a designation or title, the position so created is*
12 *a public office.* *State v. Brennan, 49 Ohio.St. 33, 29 N.E. 593.*
13 *[Black’s Law Dictionary, Fourth Edition, p. 1235]*

14 Even the public office ITSELF is property of the national government, so those claiming any civil statutory status are claiming
15 a civil office within the government. It is otherwise unconstitutional to regulate private property or private rights. The only
16 way you can surrender your private status is to voluntarily adopt an office or civil status or the "benefits", "rights", or
17 privileges attaching to said office or status, as we prove in:

- 18 1. *Civil Status (Important!)-SEDM*
19 <https://sedm.org/litigation-main/civil-status/>
- 20 2. *Your Exclusive Right to Declare or Establish Your Civil Status*, Form #13.008
21 <https://sedm.org/Forms/13-SelfFamilyChurchGovnce/RightToDeclStatus.pdf>
- 22 3. *Why Statutory Civil Law is Law for Government and Not Private Persons*, Form #05.037
23 <https://sedm.org/Forms/05-MemLaw/StatLawGovt.pdf>

24 It is custody or "benefit" or control of government/public property that grants government control over those handling or
25 using such property:

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

33 *“The rich rules over the poor,*
34 *And the borrower is servant to the lender.”*
35 *[Prov. 22:7, Bible, NKJV]*

36 ***Curses of Disobedience [to God’s Laws]***

37 *“The alien [Washington, D.C. is legislatively “alien” in relation to states of the Union] who is among you shall*
38 *rise higher and higher above you, and you shall come down lower and lower [malicious destruction of EQUAL*
39 *PROTECTION and EQUAL TREATMENT by abusing FRANCHISES]. He shall lend to you [Federal Reserve*
40 *counterfeiting franchise], but you shall not lend to him; he shall be the head, and you shall be the tail.*
41

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

45 *“Because you did not serve [ONLY] the Lord your God with joy and gladness of heart, for the abundance of*
46 *everything, therefore you shall serve your [covetous thieving lawyer] enemies, whom the Lord will send against*
47 *you, in hunger, in thirst, in nakedness, and in need of everything; and He will put a yoke of iron [franchise codes]*
48 *on your neck until He has destroyed you. The Lord will bring a nation against you from afar [the District of*
49 *CRIMINALS], from the end of the earth, as swift as the eagle flies [the American Eagle], a nation whose language*
50 *[LEGALESE] you will not understand, a nation of fierce [coercive and fascist] countenance, which does not*
51 *respect the elderly [assassinates them by denying them healthcare through bureaucratic delays on an Obamacare*
52 *waiting list] nor show favor to the young [destroying their ability to learn in the public FOOL system]. And they*
53 *shall eat the increase of your livestock and the produce of your land [with “trade or business” franchise taxes],*

1 until you [and all your property] are destroyed [or **STOLEN/CONFISCATED**]; they shall not leave you grain or
2 new wine or oil, or the increase of your cattle or the offspring of your flocks, until they have destroyed you.
3 [[Deut. 28:43-51](#), Bible, NKJV]

4 You cannot MIX or comingle PRIVATE property with PUBLIC property without converting the PRIVATE property
5 ownership from absolute to qualified. You must keep them SEPARATE at all times and it is the MAIN and MOST
6 IMPORTANT role of government to maintain that separation. Governments, after all, are created ONLY to protect private
7 property and the FIRST step in that protection is to protect PRIVATE property from being converted to PUBLIC property.
8 For proof, see:

Separation Between Public and Private Course, Form #12.025

<https://sedm.org/LibertyU/SeparatingPublicPrivate.pdf>

9 What Congress is doing is abusing its own property to in effect create "de facto public offices" within the government, in
10 violation of [4 U.S.C. §72](#), as is proven in:

Challenge to Income Tax Enforcement Authority Within Constitutional States of the Union, Form #05.052

<https://sedm.org/Forms/05-Memlaw/ChallengeToIRSEnforcementAuth.pdf>

11 This is how we describe the reason why people should avoid privileges and thereby avoid possession, custody, use, or
12 "benefit" of government/public property on the opening page of our site:

13 *"People of all races, genders, political beliefs, sexual orientations, and nearly all religions are welcome here.*
14 *All are treated equally under **REAL "law"**. The only way to remain truly free and equal under the civil law is to*
15 *avoid seeking government civil services, benefits, property, **special or civil status**, exemptions, privileges, or*
16 *special treatment. All such pursuits of government services or property require **individual and lawful consent** to*
17 *a **franchise** and the surrender of **inalienable constitutional rights** AND **EQUALITY** in the process, and should*
18 *therefore be AVOIDED. The rights and equality given up are the "cost" of procuring the "benefit" or property*
19 *from the government, in fact. Nothing in life is truly "free". Anyone who claims that such "benefits" or property*
20 *should be free and cost them nothing is a thief who wants to use the government as a means to STEAL on his or*
21 *her behalf. All **just rights** spring from responsibilities/obligations under the **laws of a higher power**. If that higher*
22 *power is God, you can be **truly and objectively free**. If it is government, you are **guaranteed to be a slave** because*
23 *they can lawfully set the cost of their property as high as they want as a Merchant under the U.C.C. **If you want***
24 *it really bad from people with a monopoly, then you will get it REALLY bad. Bend over. There are NO*
25 *constitutional limits on the price government can charge for their monopoly services or property. Those who*
26 *want no responsibilities can have no **real/PRIVATE rights**, but only privileges dispensed to wards of the state*
27 *which are disguised to LOOK like unalienable rights. Obligations and rights are two sides of the same coin, just*
28 *like self-ownership and personal responsibility. For the biblical version of this paragraph, read [1 Sam. 8:10-22](#).*
29 *For the reason God answered Samuel by telling him to allow the people to have a king, read [Deut. 28:43-51](#),*
30 *which is God's curse upon those who allow a king above them. [Click Here](#)*
31 *(<https://famguardian.org/Subjects/Taxes/Evidence/HowScCorruptOurRepubGovt.htm>) for a detailed description*
32 *of the legal, moral, and spiritual consequences of violating this paragraph."*
33 [*SEDM Opening Page; <http://sedm.org>*]

34 "Non-resident Non-Person" or "non-person" are synonymous with "transient foreigner", "in transitu", and "stateless" (in
35 relation to the national government). We invented this term. The term does not appear in federal statutes because statutes
36 cannot even define things or people who are not subject to them and therefore foreign and sovereign. The term "non-
37 individual" used on this site is equivalent to and a synonym for "non-person" on this site, even though STATUTORY
38 "individuals" are a SUBSET of "persons" within the Internal Revenue Code. Likewise, the term "private human" is also
39 synonymous with "non-person". Hence, a "non-person":

- 40 1. Retains their sovereign immunity. They do not waive it under the Foreign Sovereign Immunities Act, 28 U.S.C.
41 Chapter 97 or the longarm statutes of the state they occupy.
- 42 2. Is protected by the United States Constitution and not federal statutory civil law.
- 43 3. May not have federal statutory civil law cited against them. If they were, a violation of Federal Rule of Civil Procedure
44 17 and a constitutional tort would result if they were physically present on land protected by the United States
45 Constitution within the exterior limits of states of the Union.
- 46 4. Is on an equal footing with the United States government in court. "Persons" would be on an UNEQUAL, INFERIOR,
47 and subservient level if they were subject to federal territorial law.

48 Don't expect vain public servants to willingly admit that there is such a thing as a human "non-person" who satisfies the above
49 criteria because it would undermine their systematic and treasonous plunder and enslavement of people they are supposed to

1 be protecting. However, the U.S. Supreme Court has held that the "right to be left alone" is the purpose of the constitution.
2 Olmstead v. United States, 277 U.S. 438. A so-called "government" that refuses to leave you alone or respect or protect your
3 sovereignty and equality in relation to them is no government at all and has violated the purpose of its creation described in
4 the Declaration of Independence. Furthermore, anyone from the national or state government who refuses to enforce this
5 status, or who imputes or enforces any status OTHER than this status under any law system other than the common law is:

- 6 1. "purposefully availing themselves" of commerce within OUR jurisdiction.
- 7 2. STEALING, where the thing being STOLEN are the public rights associated with the statutory civil "status" they are
8 presuming we have but never expressly consented to have.
- 9 3. Engaging in criminal identity theft, because the civil status is associated with a domicile in a place we are not
10 physically in and do not consent to a civil domicile in.
- 11 4. Consenting to our Member Agreement.
- 12 5. Waiving official, judicial, and sovereign immunity.
- 13 6. Acting in a private and personal capacity beyond the statutory jurisdiction of their government employer.
- 14 7. Compelling us to contract with the state under the civil statutory "social compact".
- 15 8. Interfering with our First Amendment right to freely and civilly DISASSOCIATE with the state.
- 16 9. Engaged in a constitutional tort.

17 If freedom and self-ownership or "ownership" in general means anything at all, it means the right to deny any and all others,
18 including governments, the ability to use or benefit in any way from our body, our exclusively owned private property, and
19 our labor.

20 *"We have repeatedly held that, as to property reserved by its owner for private use, 'the right to exclude [others*
21 *is]' one of the most essential sticks in the bundle of rights that are commonly characterized as property." [Loretto](#)*
22 *v. Teleprompter Manhattan CATV Corp., 458 U.S. 419, 433 (1982), quoting [Kaiser Aetna v. United States, 444](#)*
23 *U.S. 164, 176 (1979). "*
24 *[Nollan v. California Coastal Comm'n, 483 U.S. 825 (1987)]*

25 _____
26 *"In this case, we hold that the "right to exclude," so universally held to be a fundamental element of the property*
27 *right,[11] falls within this category of interests that the Government cannot take without compensation."*
28 *[Kaiser Aetna v. United States, 444 U.S. 164 (1979)]*

29 _____
30 FOOTNOTES:

31 *[11] See, e. g., [United States v. Pueblo of San Ildefonso, 206 Ct.Cl. 649, 669-670, 513 F.2d. 1383, 1394 \(1975\);](#)*
32 *[United States v. Lutz, 295 F.2d. 736, 740 \(CA5 1961\).](#) As stated by Mr. Justice Brandeis, "[a]n essential element*
33 *of individual property is the legal right to exclude others from enjoying it." [International News Service v.](#)*
34 *[Associated Press, 248 U.S. 215, 250 \(1918\) \(dissenting opinion\).](#)*

35 If you would like a W-8 form that ACCURATELY describes the withholding and reporting status of a "non-resident non-
36 person", see:

37 38 39 40 41 42 W-8SUB, Form #04.231 https://sedm.org/Forms/04-Tax/2-Withholding/W-8SUB.pdf
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38 **9 Resources for Further Study and Rebuttal**

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

42 More on this subject at:

1. *What is an income tax “exclusion”?*, SEDM-contains most of this document
<https://sedm.org/what-is-an-income-tax-exclusion/>
2. *How to File Returns*, Form #09.074, Section 7.2 (Member Subscriptions) -contains most of this document
<https://sedm.org/product/filing-returns-form-09-074/>
3. *Flawed Tax Arguments to Avoid*, Form #08.004, Section 8.13: Exempt on a government form is the only method for avoiding the liability for tax
<https://sedm.org/Forms/08-PolicyDocs/FlawedArgsToAvoid.pdf>
4. *Sovereignty Forms and Instructions Online*, Form #10.004, Cites by Topic: “excluded income”
<https://famguardian.org/TaxFreedom/CitesByTopic/ExcludedIncome.htm>
5. *Hot Issues: Laws of Property* -SEDM
<https://sedm.org/laws-of-property/>
6. *Laws of Property*, Form #14.018
<https://sedm.org/Forms/14-PropProtection/LawsOfProperty.pdf>
7. *Authorities on Rights as Property*, SEDM
<https://sedm.org/authorities-on-rights-as-property/>
8. *How You Lose Constitutional or Natural Rights*, Form #10.015-SEDM
<https://sedm.org/Forms/10-Emancipation/HowLoseConstOrNatRights.pdf>
9. *Separation Between Public and Private Course*, Form #12.025-SEDM
<https://sedm.org/LibertyU/SeparatingPublicPrivate.pdf>
10. *Private Right or Public Right? Course*, Form #12.044 -SEDM
<https://sedm.org/LibertyU/PrivateRightOrPublicRight.pdf>