

LEGAL REQUIREMENT TO FILE FEDERAL INCOME TAX RETURNS

Last revised: 6/17/2008

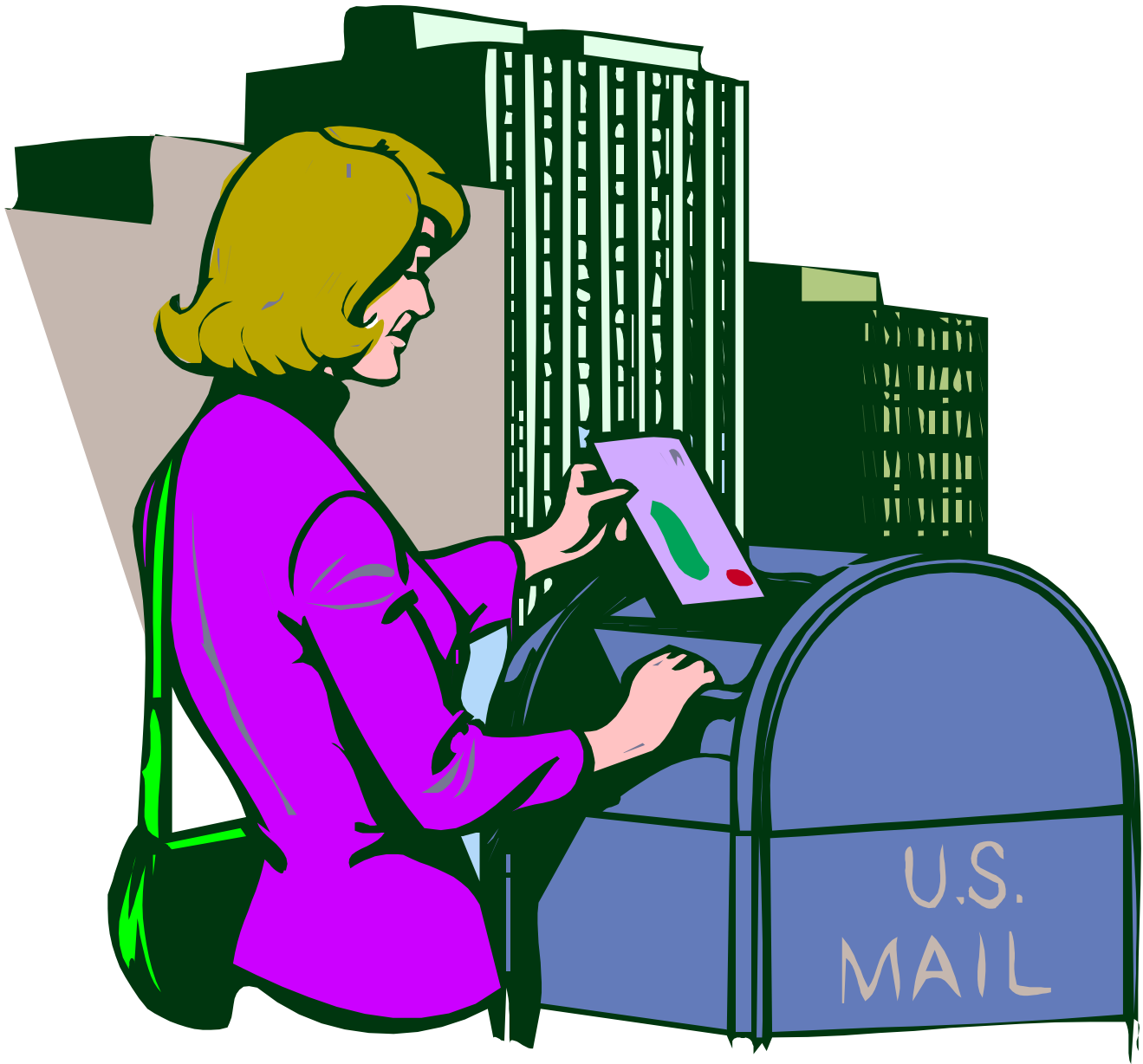


TABLE OF CONTENTS

1	Introduction	13
2	Definition of “taxpayer”	13
3	“taxpayer”=“resident alien”, federal “public officer”, and/or “trade or business”	14
4	Tax is on “income”, which is earnings connected with the “trade or business” franchise	21
5	What is a valid “return”?	22
6	What to file?	31
7	Why It’s illegal and impossible to “file” your own tax return without violating the law	33
	7.1 You would be impersonating a public officer in violation of 18 U.S.C. 912 to file a 1040 form.....	33
	7.2 You would be committing perjury to file the 1040 form	34
	7.3 Only the IRS can lawfully “file” a tax return.....	35
	7.4 Why God says you can’t file tax returns.....	35
8	Legal Duty to File “returns”	37
9	WATCH OUT!: Filing a tax return using IRS Forms and citing the I.R.C. authorizes an assessment or reassessment by the IRS	42
10	Statements in Lieu of Returns	44
11	Where to file?	44
12	Substitute for Returns (SFR’s) are ILLEGAL against other than federal instrumentalities, which I am not	46
13	Criminal prosecutions for Willful Failure to File	46
	13.1 Background.....	46
	13.2 Defenses	48
	13.3 Defenses you should avoid	49
	13.4 Example motion to dismiss a criminal indictment for failure to file a tax return	50
14	Chaos in the Courts About the Requirement to File tax returns	54
15	Conclusions and Summary	55
16	Request for Assistance from IRS/State Revenue Agency	57
17	Resources for further study and rebuttal	58
18	Questions that Readers, Grand Jurors, and Petit Jurors should be asking the Government	58

TABLE OF AUTHORITIES

Constitutional Provisions

16th Amendment	22, 55
Article 1, Section 10.....	19
Article 4, Section 3, Clause 2	19, 26
Article III.....	39
Fourteenth Amendment.....	64
Sixteenth Amendment	26

Statutes

1 U.S.C. §204	37, 65
18 U.S.C. §912	34, 46
26 U.S.C. §871	16
26 U.S.C. § 6012	44
26 U.S.C. §§ 6014 or 6020.....	33
26 U.S.C. §§ 6103 and 6213(g).....	44
26 U.S.C. §§6901 and 6903	17
26 U.S.C. §1313	13
26 U.S.C. §1402(b)	19, 65
26 U.S.C. §1402(c)(1)	60
26 U.S.C. §1461	14, 16, 17, 41
26 U.S.C. §162	34, 41
26 U.S.C. §2002	22
26 U.S.C. §3401(a).....	19
26 U.S.C. §3401(a)(6)	19, 65
26 U.S.C. §3401(c).....	49
26 U.S.C. §3406(g)	19, 65
26 U.S.C. §4412	51
26 U.S.C. §5005	13
26 U.S.C. §6011(a).....	44
26 U.S.C. §6012	25, 27, 28, 38, 41, 44, 55, 59, 65
26 U.S.C. §6012(a)(1)	19
26 U.S.C. §6013(g) and (h)	16, 32, 34, 62
26 U.S.C. §6020(b)	33, 46
26 U.S.C. §6041	41, 67
26 U.S.C. §6041(a).....	41, 55
26 U.S.C. §6065	25, 59, 68
26 U.S.C. §6075	25, 59
26 U.S.C. §6103	44
26 U.S.C. §6103(b)	22
26 U.S.C. §6201(a)(1)	23, 42
26 U.S.C. §6211	33
26 U.S.C. §6213(g)	22
26 U.S.C. §643(b)	21, 38, 55
26 U.S.C. §6671(b)	17, 19, 40, 56
26 U.S.C. §6901(a)(1)(A)(i).....	27
26 U.S.C. §6902(a).....	27, 42
26 U.S.C. §6903	47
26 U.S.C. §7201 through §7217.....	51
26 U.S.C. §7203	29, 35, 37, 39, 42, 46, 51, 54, 57, 58, 59
26 U.S.C. §7207	20, 51
26 U.S.C. §7343	17, 19, 41, 42, 47, 49, 56, 57
26 U.S.C. §7408(d)	49
26 U.S.C. §7508	25, 59
26 U.S.C. §7601	48
26 U.S.C. §7621	45
26 U.S.C. §7701(a)(14)	13, 33
26 U.S.C. §7701(a)(26)	19, 26, 27, 29, 33, 41, 46, 47, 56, 60
26 U.S.C. §7701(a)(30)	15, 16, 19, 32, 38, 55, 56
26 U.S.C. §7701(a)(39)	49
26 U.S.C. §7701(a)(9)	19, 20, 27
26 U.S.C. §7701(a)(9) and (a)(10)	15, 17, 34, 46, 56, 63, 67
26 U.S.C. §7701(b)(1)(A)	20, 31, 32, 46, 56, 62
26 U.S.C. §7701(b)(1)(B).....	31, 49, 56
26 U.S.C. §7701(b)(3).....	15
26 U.S.C. §7701(b)(4)(B).....	32
26 U.S.C. §7701(b)(a)(1)	16

26 U.S.C. §7803(a)(1)(A).....	32
26 U.S.C. §7806(b)	37
26 U.S.C. §861(a)(3)(C)(i)	19, 65
26 U.S.C. §861(a)(8)	28
26 U.S.C. §864	19
26 U.S.C. §871(b)(1)(A)	34
26 U.S.C. §911	16, 20, 32
26 U.S.C. §911(d)	15
26 U.S.C. §911(d)(3).....	16
28 U.S.C. §3001(15)(A).....	21
28 U.S.C. §3002(15)(A).....	17, 19, 26, 28
31 U.S.C. §5331	41
4 U.S.C. §72	17, 26, 34
42 U.S.C. §§1981, 1982, 1988	39
44 U.S.C. §1505(a)(1)	17, 19, 21, 32
5 U.S.C. §552(a)(1)	17
5 U.S.C. §553(a).....	21
5 U.S.C. §553(a)(2).....	17, 19, 21, 32
8 U.S.C. §1101(a)(21).....	34, 56
8 U.S.C. §1401	16, 20, 32, 34, 39, 46, 56
8 U.S.C. §1452	34, 56
Administrative Procedures Act, 5 U.S.C. §553(b)	55
Corporation Excise Tax Act of 1909 (36 Stat. 112)	22
Federal Register Act, 5 U.S.C. §1505(a).....	55
I.R.C.	13, 19, 22, 25, 26, 27, 28, 33, 40
I.R.C. §5011	61
I.R.C. §6020(b).....	46
I.R.C. §6671(b).....	42
I.R.C. Section §7621	45
I.R.C. Section 1	33, 60
I.R.C. Section 643(b).....	21, 22
I.R.C. Subtitle A.....	14, 16, 17, 19, 20, 21, 22, 28, 29, 38, 47, 48, 55, 63
I.R.C. Subtitle B	21
Internal Revenue Code	13, 14, 19, 21, 22, 26, 27, 31, 32, 40, 41, 54, 57, 59, 60
Internal Revenue Code of 1954.....	45
Internal Revenue Code Subtitle A.....	41
Internal Revenue Code, Subtitle A	20, 42, 47, 50, 61
IRS Restructuring and Reform Act of 1998	45
Privacy Act, 5 U.S.C. §552a(a)(2)	46
Revenue Act of 1862.....	26
Revised Statutes 1878 - Title 3 (courts intact), Title 24 (Civil Rights intact), and Title 70 (crimes in tact)	39
Section 6020(b)(1).....	24
Section 6651(a)(2) and (g)(2).....	23, 43
Title 26 U.S.C.....	54
Uniform Commercial Code	57

Regulations

20 CFR §422.104	56
25 FR 11402, 11420, 12108-12113 (November 26, 1960).....	38
26 CFR	55
26 CFR §1.1-1 and §1.11-1	33
26 CFR §1.1-1(a).....	14
26 CFR §1.1-1(a)(2)(ii)	16, 27, 60
26 CFR §1.1441-1(c)(3)	31, 32, 34
26 CFR §1.6012-1(a).....	14

26 CFR §1.6012-1(a)(1)(i)	15, 38, 55
26 CFR §1.6012-1(a)(1)(ii)	38, 55
26 CFR §1.6012-1(b)	38, 55
26 CFR §1.6091-2(a).....	33
26 CFR §1.6091-4	45
26 CFR §1.6091-4(a)(2).....	45
26 CFR §1.6201-1(a)(1).....	23, 42
26 CFR §1.871-2	48
26 CFR §1.871-7(a)(4).....	19, 65
26 CFR §1.872-2(f).....	19, 65
26 CFR §301.6402-3(a)(1) (1983)	23
26 CFR §301.7216-1(b)(1).....	44
26 CFR §301.7621-1	45
26 CFR §31.3401(a)-1.....	29
26 CFR §31.3401(a)-6.....	19, 65
26 CFR §31.3401(c)-1.....	56
26 CFR §31.3402(p)-1(a).....	41
26 CFR §601.702(a)(2)(ii)	21
27 CFR	55
27 CFR §26.11	14
31 CFR §103.30(d)(2)	41
Federal Register.....	32
Treasury Regulations.....	26

Rules

Federal Rule of Civil Procedure 17(b)	33
Federal Rule of Civil Procedure 8(b)(6).....	58
Hearsay Rule, Fed.Rul.Ev. 802	67

Cases

Alabama v. Burr, 115 U.S. 413	50
Allen v. Graham, 446 P.2d 240, 243. (Ct. App. Ariz. 1968).....	39, 40
Application of Leahy, 298 F.2d 233.....	51
Atlantic Land & Improv. Co. v. United States, 790 F.2d 853, 860 (11th Cir. 1986)	28
Badaracco v. Commissioner, 464 U.S. 386 (1984)	24
Barnhill v. U.S., 279 F.2d 105.....	52
Beard v. Commissioner, 793 F.2d 139 (6th Cir. 1986)	54
Beard v. Commissioner, 82 T.C. 766, 777 (1984), affd. 793 F.2d 139 (6th Cir. 1986).....	24
Beatty v. C.I.R., C.A.5, 1982, 667 F.2d 501, rehearing denied 676 F.2d 150.....	30
Beck v. Buena Park Hotel Corp., 30 Ill.2d 343, 196 N.E.2d 686 (1964)	39
Beck v. Missouri Valley Drainage District of Holt County, 46 F.2d 632, 84 A.L.R. 1089 (8th Cir. 1931).....	40
Bell v. Burson, 402 U.S. 535 (1971)	64
Benefield v. U.S., 370 F.2d 912	51
Blackburn v. Fisk Univ, 443 F.2d 121	50
Blanc v. United States, 140 F.Supp. 481 (E.D.N.Y.1956)	40
Blount v. Commissioner, 86 U.S.T.C. 383, 386 (1986)	54
Blumenfield v. U.S., 306 F.2d 892.....	51
Board of Education, etc. v. County Board of School Trustees, 28 Ill.2d 15, 191 N.E.2d 65 (1963).....	40
Bohn v. U.S., 260 F.2d 773	51
Botta v. Scanlon, 314 F.2d 392	52
Bowen v. Johnston, 306 U.S. 19, 24	50
Bowers v. Kerbaugh-Empire Co., 271 U.S. 170, 174, (1926).....	22
Bradley v. Chiron, 136 F.3d 1317	51

Brown v. U.S., 253 F.2d 587.....	51
Burgin v. Forbes, 293 Ky. 456, 169 S.W.2d 321, 325	61
Burks v. U.S., 287 F.2d 117	51
Cabirac v. Commissioner, 120 T.C. 163 (2003).....	24
Call v. U.S., 265 F.2d 167	52
Carmine v. Bowen, 64 A. 932	57
Carson v. Dunham, 121 U.S. 421	50
Cheek v. U.S., 498 U.S. 192.....	50
City of Boerne v. Florez, Archbishop of San Antonio, 521 U.S. 507 (1997).....	26
Clay v. U.S., 246 F.2d 298	52
Colautti v. Franklin, 439 U.S. at 392-393, n. 10	17, 63
Cole v. Arkansas, 333 U.S. 196.....	50
Columbia v. Tatum, 58 F.3d 1101	50
Commissioner v. Lane-Wells Co., 321 U.S. 219 (1944).....	24
Commissioner v. Lane-Wells Co., 321 U.S. 219, 222, 64 S.Ct. 511, 513 (1944)	54
Commissioner v. Shapiro, 424 U.S. 614, 627 (1976).....	53
Commonwealth, Dept. of Highways v. Fister, 376 S.W.2d 543 (Ky. 1964)	40
Connizzo v. General American Life Ins. Co. (Mo App) 520 SW2d 661	66
Counts v. Commissioner, 774 F.2d 426, 427 (11th Cir. 1985).....	54
County Court of Ulster County v. Allen, 442 US 140, 60 L Ed 2d 777, 99 S Ct 2213	66
Davis v. U.S., 385 F.2d 919	51
Davis v. U.S., 742 F.2d 171, 54 A.F.T.R.2d 84-6084, 84-2 USTC P 9808.....	23
De Jonge v. Oregon, 299 U.S. 353, 362. (1937)	53
Dismuke v. United States, 297 U.S. 167, 56 S.Ct. 400, 80 L.Ed. 561 (1936).....	40
Division of Aid for the Aged, etc., v. Hogan, 143 Ohio St. 186, 54 N.E.2d 781 (1944).....	39
Dowling v. U.S., 249 F.2d 746.....	51
Dred Scott v. Sandford, 60 U.S. 393, 509-510 (1856)	48
Dunn v. U.S., 442 U.S. 100, 106-107.....	53
Edwards v. U.S., 321 F.2d 324.....	52
Eisner v. Macomber, 252 U.S. 189, 207, 40 S.Ct. 189, 9 A.L.R. 1570 (1920)	21
Ferdinand v. Agricultural Ins. Co., 22 NJ 482, 126 A2d 323, 62 ALR2d 1179	66
Fernandez-Montes v. Allied Pilots Ass'n, 987 F.2d 278, 284 (5th. Cir. 1993)	50
Field v. U.S., 263 758.....	52
First Unitarian Church v. Los Angeles, 357 U.S. 545	50
Flemming v. Nestor, 363 U.S. 603, 80 S.Ct. 1367, 4 L.Ed.2d 1435 (1960).....	40
Florsheim Bros. Drygoods Co. v. United States, 280 U.S. 453 (1930)	24
Fox v. Standard Oil Co. of N.J., 294 U.S. 87, 95-96 (1935)	17, 63
Freytag v. CIR, 501 U.S. 868, 896	50
George v. U.S., 346 F.2d 137	51
Green v. Dept. of Public Welfare of the State of Delaware, 270 F.Supp. 173 (Del.1967)	40
Grosso v. U.S., 390 U.S. 62	51
Gundlach v. U.S., 262 F.2d 72	52
Guthrie v. Commissioner, T.C. Memo. 2006-81.....	24
Hagar v. Reclamation Dist., No. 108, 111 U.S. 701, 28 L.Ed. 569, 4 Sup.Ct.Rep. 663	54
Hamling v. United States, 418 U.S. 87 (1974)	53
Harrell v. Tobriner, 279 F.Supp. 22 (D.C.1967)	40
Harris v. U.S., 149 F.3d 1304, 1308.....	53
Heart of Atlanta Motel, Inc. v. United States, 379 U.S. 241 (1964).....	26
Heiner v. Donnan, 285 U.S. 312 (1932).....	64
Hinds v. John Hancock Mut. Life Ins. Co., 155 Me 349, 155 A2d 721, 85 ALR2d 703	66
Hooper v. Tax Comm'n, 284 U.S. 206 (1931).....	64
Holmes v. Commissioner, T.C. Memo. 2006-80.....	24
Hyche v. U.S., 286 F.2d 248	51
In re Durant Community School District, 252 Iowa 237, 106 N.W.2d 670 (1960).....	40
In re O'Donnell's Estate, 253 Iowa 607, 113 N.W.2d 246 (1962)	39
Ingram v. U.S., 241 F.2d 708	51
Ingram v. U.S., 360 U.S. 672	51

Inland Navigation Co. v. Chambers, 202 Or. 339, 274 P.2d 104 (1954).....	40
Iselin v. U.S., 270 U.S. 245, 250-251.....	52
James v. Bowman, 190 U.S. 127, 139 (1903).....	26
Jordan v. De George, 341 U.S. 223, 230 (1951).....	53
Kaufman v. U.S., 394 U.S. 217, 222.....	50
Kelly v. U.S., 29 F.3d 1107, 1113-1114.....	53
King v. U.S., 282 F.2d 398.....	51
Knighen v. C.I.R., C.A.5 1983, 702 F.2d 59, rehearing denied 705 F.2d 777, certiorari denied 104 S.Ct. 249, 464 U.S. 897, 78 L.Ed.2d 237.....	30
Larmay v. Van Etten, 129 Vt 368, 278 A2d 736.....	66
Leary v. United States, 395 U.S. 6, 29 -53 (1969).....	64
Legille v. Dann, 178 US App DC 78, 544 F2d 1, 191 USPQ 529.....	66
Levasseur v. Field (Me) 332 A2d 765.....	66
Lucas v. Pilliod Lumber Co., 281 U.S. 245 (1930).....	24
Machibroda v. U.S., 368 U.S. 487.....	50
Manania v. Loren-Maltese, 212 F.3d 353.....	51
Manchester v. Dugan (Me) 247 A2d 827.....	66
Marchetti v. United States, 390 U.S. 39.....	51
Martin v. Phillips, 235 Va 523, 369 SE2d 397.....	66
McCaskill v. Commissioner, 77 U.S.T.C. 689, 698 (1981).....	54
Meese v. Keene, 481 U.S. 465, 484 (1987).....	17
Meese v. Keene, 481 U.S. 465, 484-485 (1987).....	17, 63
Merritt v. U.S., 248 F.2d 19.....	52
Miller Brothers Co. v. Maryland, 347 U.S. 340 (1954).....	63
Millsap v. Commissioner, 91 T.C. 926 (1988).....	24
Millsap v. Commissioner, 91 T.C. 926, 1988 WL 123581 (1988).....	23, 42
Millsap v. Commissioner, 91 TC 926 (1988).....	23, 42
Monnette v. U.S., 299 F.2d 847.....	51
Moore v. Dempsey, 261 U.S. 86.....	50
Murray v. Montgomery Ward Life Ins. Co., 196 Colo 225, 584 P2d 78.....	66
Newblock v. Bowles, 170 Okl. 487, 40 P.2d 1097, 1100.....	61
Nicholas v. Fifteenth Street Inv. Co., 105 F.2d 289 (1939, CA10 Colo.), 39-2 USTC ¶ 9571.....	21
Nichols v. United States, 575 F.Supp. 320, 322(D.Minn.1983).....	23
O'Neal v. U.S., 273 F.2d 549.....	51
Patton v. U.S., 281 U.S. 276.....	50
Patton v. U.S., 281 U.S. 276, 292.....	53
Pauling v. McElroy, 278 F.2d 252.....	50
Phillips v. Commissioner, 86 T.C. 433, 1986 WL 22098 (1986).....	23, 42
Phillips v. Commissioner, supra at 437-438.....	23, 43
Poitrass v. R. E. Glidden Body Shop, Inc. (Me) 430 A2d 1113).....	66
Rabe v. Washington, 405 U.S. 313 (1972).....	50
Rapa v. Haines, Ohio Comm.Pl., 101 N.E.2d 733, 735.....	61
Re Estate of Borom (Ind App) 562 NE2d 772.....	66
Real Estate Commission v. McLemore, 202 Tenn. 540, 306 S.W.2d 683 (1957).....	40
Reetz v. People of State of Michigan, 188 U.S. 505, 23 S.Ct. 390, 47 L.Ed. 563 (1903).....	40
Roer v. Superior Court, 4 Ariz.App. 46, 417 P.2d 559 (1966).....	39
Rosen v. U.S., 293 F.2d 938.....	52
Russell v. U.S., 369 U.S. 749, 770-771.....	50
Rutherford v. U.S., 264 F.2d 180.....	52
Ryan v. Scoggin, 245 F.2d 54.....	50
Ryan v. U.S., 314 F.2d 306.....	52
Sansone v. United States, 380 U.S. 343, 348.....	51
Scaglione v. U.S., 396 F.2d 219.....	52
Schlesinger v. Wisconsin, 270 U.S. 230 (1926).....	64
Senior Citizens League v. Dept. of Social Security, 38 Wash.2d 142, 228 P.2d 478 (1951).....	40
Smith v. Bohlen, 95 NC App 347, 382 SE2d 812, affd 328 NC 564, 402 SE2d 380.....	66
Smith v. King, 277 F.Supp. 31 (M.D.Ala.1967).....	40

Smith v. Reynolds, 277 F.Supp. 65 (E.D.Pa.1967)	40
Snyder v. U.S., D.Md.1995, 897 F.Supp. 241	30
Speiser v. Randall, 357 U.S. 513, 529	50
Speiser v. Randall, 357 U.S. 513, 529 (1958)	53
Spreckles Sugar v. McClain, 192 U.S. 397	52
Spurlock v. Commissioner, supra at 157 n. 3	23, 42
Spurlock v. Commissioner, T.C. Memo. 2003-124	24
Stanley v. Illinois, 405 U.S. 645 (1972)	64
State ex. Re. Herbert v. Whims, 68 Ohio.App. 39, 38 N.E.2d 596, 599, 22 O.O. 110	66
Steinbrecher v. Commissioner, 712 F.2d 195, 198 (5th Cir. 1983)	54
Steines v. C. I. R., T.C. Memo. 1991-588, 1991 WL 251520, Tax Court, 1991	24
Steines v. C.I.R., 1991-588 (1991)	24
Stenberg v. Carhart, 530 U.S. 914 (2000)	17, 63
Stirone v. U.S., 361 U.S. 212	50
Stratton's Independence v. Howbert, 231 U.S. 399, 414, 58 L.Ed. 285, 34 Sup.Ct. 136 (1913)	22
Talbot v. Janson, 3 U.S. 133 (1795)	37
Thompson v. Shapiro, 270 F.Supp. 331 (Conn.1967)	40
Tot v. United States, 319 U.S. 463, 468 -469 (1943)	64
True v. United States, 354 F.2d 323, 324 (Ct.Cl. 1965)	54
Tucker v. U.S., 279 F.2d 62	51
Turner v. United States, 396 U.S. 398, 418 -419 (1970)	64
Turpin v. Lemon, 187 U.S. 51; 23 S.Ct. 20 (1902)	55
Tyler v. U.S., 397 F.2d 565	52
U. S. v. Brown, C.A.10 (Utah) 1979, 600 F.2d 248, certiorari denied 100 S.Ct. 233, 444 U.S. 917, 62 L.Ed.2d 172	30
U. S. v. Brown, C.A.5 (Tex.) 1979, 591 F.2d 307, certiorari denied 99 S.Ct. 2831, 442 U.S. 913, 61 L.Ed.2d 280	31
U. S. v. Evanko, C.A.6 (Ohio) 1979, 604 F.2d 21, certiorari denied 100 S.Ct. 685, 444 U.S. 1024, 62 L.Ed.2d 657	30
U. S. v. Irwin, C.A.10 (Wyo.) 1977, 561 F.2d 198, certiorari denied 98 S.Ct. 725, 434 U.S. 1012, 54 L.Ed.2d 755	30
U. S. v. Klee, C.A.9 (Cal.) 1974, 494 F.2d 394, certiorari denied 95 S.Ct. 62, 419 U.S. 835, 42 L.Ed.2d 61	31
U. S. v. Moore, C.A.7 (Ill.) 1980, 627 F.2d 830, certiorari denied 101 S.Ct. 1360, 450 U.S. 916, 67 L.Ed.2d 342	30
U. S. v. Pilcher, C.A.11 (Ga.) 1982, 672 F.2d 875, certiorari denied 103 S.Ct. 306, 459 U.S. 973, 74 L.Ed.2d 286	30
U. S. v. Rickman, C.A.10 (Kan.) 1980, 638 F.2d 182	30
U. S. v. Silkman, C.A.8 (N.D.) 1976, 543 F.2d 1218, certiorari denied 97 S.Ct. 2185, 431 U.S. 919, 53 L.Ed.2d 230	30
U. S. v. Smith, C.A.5 (Tex.) 1980, 618 F.2d 280, certiorari denied 101 S.Ct. 203, 449 U.S. 868, 66 L.Ed.2d 87	30
U. S. v. Stout, C.A.7 (Ill.) 1979, 601 F.2d 325, certiorari denied 100 S.Ct. 481, 444 U.S. 979, 62 L.Ed.2d 406	30
U. S. v. Verkuilen, C.A.7 (Ill.) 1982, 690 F.2d 648	50
U. S. v. Weir, C.A.8 (Mo.) 1982, 679 F.2d 769	50
U.S. v. Alker, 254 F.2d 292	52
U.S. v. Alvere, 470 F.2d 981	52
U.S. v. Barnes, 313 F.2d 325	52
U.S. v. Becker, 259 F.2d 869	52
U.S. v. Bergman, 306 F.2d 653	52
U.S. v. Booher, C.A.5 (Fla.) 1981, 641 F.2d 218	30
U.S. v. Brooks, 303 F.2d 851	52
U.S. v. Buras, C.A.9 (Cal.) 1980, 633 F.2d 1356	49
U.S. v. Champion, 387 F.2d 561	51
U.S. v. Claney, 276 F.2d 617	51
U.S. v. Cook, 412 F.2d 293	51
U.S. v. Davis, 369 F.2d 775	51
U.S. v. Denton, 307 F.2d 336	51
U.S. v. DiPrimio, 209 F.Supp. 137	51
U.S. v. Dumaine, 493 F.2d 1257	52
U.S. v. Edelson, C.A.N.J.1979, 604 F.2d 232	30
U.S. v. Edgington, E.D.Tex.1989, 727 F.Supp. 1083, affirmed 897 F.2d 527, certiorari denied 110 S.Ct. 2217, 495 U.S. 952, 109 L.Ed.2d 542	49
U.S. v. Francisco, C.A.8 (Iowa) 1980, 614 F.2d 617, certiorari denied 100 S.Ct. 1861, 446 U.S. 922, 64 L.Ed.2d 278	29
U.S. v. Gaydos, 310 F.2d 883	52
U.S. v. Goss, 353 F.2d 671	51

U.S. v. Grabinski, D.C.Minn.1983, 558 F.Supp. 1324, affirmed 727 F.2d 681	30
U.S. v. Grossman, 315 F.2d 94.....	52
U.S. v. Haimowitz, 404 F.2d 38.....	52
U.S. v. Hicks, C.A.9 (Ariz.) 1991, 947 F.2d 1356	49
U.S. v. Ivey, 310 F.2d 229.....	51
U.S. v. Josephberg, S.D.N.Y.2005, 418 F.Supp.2d 297, vacated 459 F.3d 350.....	30
U.S. v. Kerwin, C.A.5 (Tex.) 1991, 945 F.2d 92	49
U.S. v. Kessler, 449 F.2d 1315.....	52
U.S. v. Kimball, C.A.9 (Nev.) 1991, 925 F.2d 356.....	31
U.S. v. LaHaye, 548 F.2d 474	52
U.S. v. Latham, 754 F.2d 747 (C.A.Ill.,1985).....	49
U.S. v. Lemons, 309 F.2d 168.....	51
U.S. v. Magliano, 336 F.2d 817	52
U.S. v. Marchointe, 309 F.2d 435	52
U.S. v. McGee, 572 F.2d 1097	52
U.S. v. Menk, 260 F.Supp. 784	52
U.S. v. Mesheski, 286 F.2d 345	52
U.S. v. Miller, 471 U.S. 130, 136, 140 (1985)	50
U.S. v. Minker, 312 F.2d 632.....	51
U.S. v. Mollet, 290 F.2d 273	52
U.S. v. Nicholas, 224 F.Supp. 310	51
U.S. v. Nicholson, 303 F.2d 330	52
U.S. v. One Ford, 304 F.2d 419.....	51
U.S. v. One Pontiac, 308 F.2d 893	51
U.S. v. Porth, C.A.Kan.1970, 426 F.2d 519, certiorari denied 91 S.Ct. 47, 400 U.S. 824, 27 L.Ed.2d 53	30
U.S. v. Pryer, C.A.Mo.1978, 574 F.2d 440	30
U.S. v. Radue, C.A.Ala.1973, 486 F.2d 220, rehearing denied 487 F.2d 1401, certiorari denied 94 S.Ct. 1615, 416 U.S. 908, 40 L.Ed.2d 113	30
U.S. v. Rector, 488 F.2d 1079	51
U.S. v. Reynolds, C.A.7 (Wis.) 1990, 919 F.2d 435, certiorari denied 111 S.Ct. 1402, 499 U.S. 942, 113 L.Ed.2d 457.....	29
U.S. v. Rice, 659 F.2d 524 (C.A.Tex., 1981).....	48
U.S. v. Rothbart, 723 F.2d 752.....	52
U.S. v. Salerno, 330 F.Supp. 1401	52
U.S. v. Sams, 340 F.2d 1014	52
U.S. v. Schweitzer, D.Mont.1991, 775 F.Supp. 1355	50
U.S. v. Sette, 334 F.2d 267.....	52
U.S. v. Shaffer, 291 F.2d 689	51
U.S. v. Sheer, 278 F.2d 67.....	51
U.S. v. Simon, 241 F.2d 308	52
U.S. v. Slater, 545 Fed. Supp. 179,182 (1982).....	39
U.S. v. Snyder, 549 F.2d 171	52
U.S. v. Stavros, 597 F.2d 108.....	52
U.S. v. Stevedores, 310 F.2d 47	52
U.S. v. Stillhammer, C.A.10 (N.M.) 1983, 706 F.2d 1072.....	31
U.S. v. Stiner, D.Kan.1991, 765 F.Supp. 663, affirmed 952 F.2d 1401	50
U.S. v. Stoffey, 279 F.2d 924.....	51
U.S. v. Vance, C.A.11 (Ga.) 1984, 730 F.2d 736, rehearing denied 736 F.2d 1528	29
U.S. v. Viale, 312 F.2d 595	52
U.S. v. Wade, C.A.Tex.1978, 585 F.2d 573, certiorari denied 99 S.Ct. 1264, 440 U.S. 928, 59 L.Ed.2d 484	30
U.S. v. White, 258 F.3d 374, 379 (5th Cir 2001)	50
U.S. v. Whiting, 311 F.2d 191.....	52
U.S. v. Willoz, 449 F.2d 1321	52
U.S. v. Wilson, 214 F.Supp. 629.....	52
U.S. v. Woodson, 303 F.2d 49	52
United States v. Babcock, 250 U.S. 328, 331 (1919).....	39
United States v. Babcock, 250 U.S. 328, 39 S.Ct. 464, 63 L.Ed. 1011 (1919).....	40
United States v. Bowers, 920 F.2d 220, 222 (4th Cir. 1990).....	54

United States v. Calhoun, 566 F.2d 969, 973 (5th Cir. 1978)	48
United States v. Carlson, 260 F.Supp. 423, 425 (E.D.N.Y. 1966)	54
United States v. Carroll, 345 U.S. 457 (1953).....	50
United States v. Dawes, 951 F.2d 1189, 1192, n. 3 (10th Cir. 1991)	54
United States v. Gainly, 380 U.S. 63 (1965)	67
United States v. Guest, 383 U.S. 745 (1966).....	26
United States v. Harris, 106 U.S. 629, 639 (1883)	26
United States v. Hicks, 947 F.2d 1356, 1360 (9th Cir. 1991).....	54
United States v. Long, 618 F.2d 74. U.S. v. Mosel, C.A.6 (Ohio) 1984, 738 F.2d 157	30
United States v. Moore, 627 F.2d 830, 834 (7th Cir. 1980)	54
United States v. Neff, 954 F.2d 698, 699 (11th Cir. 1992).....	54
United States v. Pilcher, 672 F.2d 875, 877 (11th Cir. 1982).....	54
United States v. Pomponio, 429 U.S. 10	50
United States v. Quimby, 636 F.2d 86, 89-90 (5th Cir. 1981)	48
United States v. Reese, 92 U.S. 214, 218 (1876).....	26
Updike v. United States, 8 F.2d 913, 915 (8th Cir. 1925)	54
Van Allen Co. v. U.S., 422 U.S. 617.....	52
Vlandis v. Kline (1973) 412 U.S. 441, 449, 93 S.Ct 2230, 2235; Cleveland Bd. of Ed. v. LaFleur (1974) 414 US 632, 639-640, 94 S.Ct. 1208, 1215	64
Wag-Aero v. U.S., 837 F.Supp. 1479, affm. 35 F.3d 569	50
Weiner v. State Dept. of Roads, 179 Neb. 297, 137 N.W.2d 852 (1965).....	40
West v. U.S., 259 F.2d 868	51
West Virginia University Hospital v. Casey, 499 U.S. 83, 101 (1991).....	52
Western Union Telegraph Co. v. Lenroot, 323 U.S. 490, 502 (1945).....	17, 63
Wheeler v. Commissioner, 127 T.C. 14 (2006).....	24
White v. Commissioner, 72 U.S.T.C. 1126, 1129 (1979)	54
Williams v. Shapiro, 4 Conn.Cir. 449, 234 A.2d 376 (1967)	39
Wilson v. U.S., 320 F.2d 493	51
Zellerbach Paper Co. v. Helvering, 293 U.S. 172 (1934).....	24

Other Authorities

16 C.J.S. Constitutional Law s 245	40
16A C.J.S. Constitutional Law s 599 c.....	40
2003 IRS Published Products Catalog, p. F-15	34
25 F.R. 12108, SEDM Exhibit #05.041	38
25 F.R. 12109, SEDM Exhibit #05.041	38
2A N. Singer, Sutherland on Statutes and Statutory Construction § 47.07, p. 152, and n. 10 (5th ed. 1992)	17, 63
About IRS Form W-8BEN, Form #04.202.....	49, 56
About SSNs and TINs on Government Forms and Correspondence, Form #05.012	44
Affidavit of Citizenship, Domicile, and Tax Status, Form #02.001	43
American Jurisprudence 2d, Estoppel and Waiver, §27: Definitions and Nature	58
American Jurisprudence 2d, Estoppel and Waiver, §28: Basis, function, and purpose.....	58
American Jurisprudence 2d, Evidence, §181	66
Authorities on “resident”.....	32
Authorities on “return”.....	58
Black’s Law Dictionary, Sixth Edition, p. 1292.....	66
Black’s Law Dictionary, Sixth Edition, p. 500.....	67
Black’s Law Dictionary, Sixth Edition, p. 563.....	61
Black’s Law Dictionary, Sixth Edition, p. 581.....	17, 34
Commissioner of Internal Revenue Service	32
Commissioner, Internal Revenue Service	32
Congressman Pat Danner of Missouri	32
Correcting Erroneous Information Returns, Form #04.001	29, 41, 56
Correcting Erroneous IRS Form 1042’s, Form #04.003	41
Correcting Erroneous IRS Form 1098’s, Form #04.004	41

Correcting Erroneous IRS Form 1099's, Form #04.005	41
Court of Claims	54
Demand for Verified Evidence of Trade or Business Activity: CTR, Form #04.008	20
Demand for Verified Evidence of Trade or Business Activity: Information Return, Form #04.007	41
Department of Treasury.....	32
Example response to criminal tax indictment for failure to file	58
Executive Order #10289.....	45
Executive Order #10574.....	45
Federal Alcohol Administration.....	45
Federal District Courts	54
Federal Enforcement Authority within States of the Union, Form #05.032.....	55, 57, 58
Federal Jurisdiction, Form #05.018.....	58
Flawed Tax Arguments to Avoid, Form #08.004.....	49
Form 1040	19, 23, 28, 31, 32, 33, 45, 57
Form 1040NR.....	19
Form 5344	23, 43
Form W-2, 1042S, 1098, and 1099	28, 41
Form W-4.....	19, 26, 29, 41
Forms 1040.....	23, 43
Forms 5344(CG)	24, 43
Forms W-2, 1042, 1098, 1099.....	67
GAO Report GAO/GGD-00-60R: IRS' Substitute for Returns	46
Government Conspiracy to Destroy the Separation of Powers, Form #05.023	27
Government Instituted Slavery Using Franchises, Form #05.030.....	47
Great IRS Hoax, Form #11.302.....	29
Great IRS Hoax, Form #11.302, Section 3.18.....	20
Great IRS Hoax, Form #11.302, Section 5.5.1, ver. 4.39.....	35
Great IRS Hoax, Form #11.302, Section 5.5.2.....	20
Great IRS Hoax, Form #11.302, Section 5.5: Why We Aren't Liable to File Returns or Keep Records.....	58
How the IRS Traps You Into Liability by Making You A Fiduciary for a Dead Strawman	22
I.R.S.....	20, 27
Internal Revenue Code 26 USC	55
Internal Revenue Manual	19, 28
Internal Revenue Service Form 1040 series.....	44
IRM 1.2.1.3.6	28
IRM 25.6.5.5.1	28
IRM 35.2.2.11	24
IRM 35.2.2.11 (08-11-2004).....	24
IRS 1040 Booklet, Year 2001, p. 15	15
IRS 1040 Form.....	31
IRS Document 7130.....	31, 34
IRS Due Process Meeting Handout, Form #03.008	32
IRS Form 1040.....	20, 23, 31, 32, 33, 34, 38, 46, 55, 57, 62
IRS Form 1040 plus 2555	20
IRS Form 1040A	33
IRS Form 1040NR	34, 38, 55, 57
IRS Form 2555.....	32
IRS Form 2848 Power of Attorney	35
IRS Form 4852	28
IRS Form 8300.....	41
IRS Form W-2C	28
IRS Form W-4.....	41, 56
IRS Form W-8BEN.....	38, 55, 56
IRS Forms W-2, 1042-s, 1098, and 1099.....	41, 55
IRS publications	19
IRS Published Products Catalog, Document 7130	19
Letter 915(DO)(CG).....	24, 43

National Archives or Records Administration	32
Office of Chief Counsel, Notice – CC 2007-005, dated February 4, 2007.....	24
Privacy Act System of Records 24.030.....	33
Proof that There Is a “Straw Man”, Form #05.043.....	47
Reorganization Plan 26 of 1950	45
Reorganization Plan 3 of 1940	45
Requirement for Consent, Form #05.003	21
Resignation of Compelled Social Security Trustee, Form #06.002.....	41, 56
Rev. Proc. 88-1, and 89-1.....	57
SEDM Exhibit #04.014, Treasury Order 150-02.....	48
SEDM Exhibit #05.041	15, 39, 55
Senator Elihu Root	55, 57
Senator Elihu Root of NY, 1913	57
Social Security Trust	21, 41, 42
Sovereignty Forms and Instructions Online, Form #10.004, Instruction 4.15: Submit a Tax Statement Annually if You Aren’t Filing a Return	44
SS-5 form	41
Statutes Dependent on Regulations	58
Tax Court	22, 54
Tax Deposition Questions, Form #03.016, Section 13	33
Tax Form Attachment, Form #04.201	44
The “Trade or Business” Scam, Form #05.001	19, 41, 47, 55
Treasury Order 150-01	45
Treasury Order 150-02	45, 48
Treasury Order 150-27	32
Treatise on the Law of Public Offices and officers, p. 609, §909; Floyd Mechem, 1890	42, 47
U.S. Tax Court	42
Why Domicile and and Becoming a “Taxpayer” Require Your Consent, Form #05.002	20
Why I Am Not Legally Liable to File Affidavit, Form #07.103	13, 33
Why Penalties are Illegal for Anything But Federal Employees, Contractors, and Agents, Form #05.010.....	20
Why the Government Can’t Lawfully Assess Human Beings With an Income Tax Liability Without Their Consent, Form #05.011	46
Why You are a “national”, “state national”, and Constitutional but not Statutory Citizen, Form #05.006.....	15, 19, 39, 56
Why Your Government is Either a Thief or You are a “Public Officer” for Income Tax Purposes, Form #05.008 .	14, 46, 47,
56	

Scriptures

2 Chron. 36:1-17	36
Isaiah 39	35, 36
Matt. 5:33-37.....	37
Prov. 22:3	36
Psalms 49:6-20.....	37

1 **1 Introduction**

2 It is quite common for the IRS and state revenue agencies to send out requests to file tax returns. These requests are often
3 ambiguous, in that they:

- 4 1. Purport to define a legal requirement to file but do not identify a liability statute.
- 5 2. Do not identify the statute or law that imposes the alleged tax.
- 6 3. Do not identify the Information Return that prompted the mailing of the request to file.
- 7 4. Do not establish the status of the recipient of the notice sufficiently in order to prove that he is "liable".

8 The notices routinely mailed out therefore are deficient and presumptuous. Worst yet, failure to respond to them may invite
9 alleged penalties, which in most cases are illegally administered. Most Americans have a great deal of difficulty
10 responding to these notices because they have not taken the time to research the legal requirements for complying and in
11 many cases, do not know how to do the legal research necessary to come to the truth of the matter.

12 This memorandum of law will therefore thoroughly analyze the legal requirement for filing federal income tax returns. It
13 will do so by analyzing the I.R.C., federal district and circuit and Supreme Court rulings, and various other resources. We
14 will end the memorandum with a series of questions aimed at a government revenue collection agent which will
15 demonstrate for him that there simply is no requirement for most Americans to file a tax return.

16 If, after reading this memorandum, you would like something even more detailed to give to a state or federal tax collection
17 agency in response to their request to file a tax return, we recommend the following link, which exhaustively explains why
18 you aren't required to file and is formatted in such a way that it also serves the double purpose of a notice of default that
19 you can serve upon the agency claiming you have the liability to file:

Why I Am Not Legally Liable to File Affidavit, Form #07.103
<http://sedm.org/Forms/FormIndex.htm>

20 **2 Definition of "taxpayer"**

21 [26 U.S.C. §7701](#)(a)(14) defines a "taxpayer" as follows:

22 [TITLE 26 > Subtitle F > CHAPTER 79 > § 7701](#)
23 [§ 7701. Definitions](#)

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

26 "The term "taxpayer" means any person subject to any **internal revenue tax.**"

27 A similar definition also appears in 26 U.S.C. §1313:

28 [TITLE 26 > Subtitle A > CHAPTER 1 > Subchapter O > PART II > § 1313](#)
29 [§ 1313. Definitions](#)

30 (b) Taxpayer

31 Notwithstanding section [7701 \(a\)\(14\)](#), the term "taxpayer" means any person subject to a tax under the
32 applicable revenue law.

33 The phrase "internal revenue tax" does not appear in the Internal Revenue Code until Subtitle E: Alcohol, Tobacco and
34 Certain Other Excise Taxes. [26 U.S.C. §5005](#), entitled "Persons Liable for Tax", provides that proprietors of distilled spirit
35 plants are the persons liable for "internal revenue tax". Since we are not an operator of a distilled spirit plant, we are not,
36 by that definition, subject to any "internal revenue tax", and therefore, we are not, by definition, "taxpayers".
37 Furthermore, the term "Revenue Agent" is only defined in the context of Alcohol, Tobacco, and Firearms. To wit: