

# THE TAX COURT SCAM

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1 **1 Introduction**

2 Those who have been the victim of IRS abuses such as illegal Substitute for Returns or assessments are typically offered  
3 two court remedies:

- 4 1. U.S. Tax Court
- 5 2. U.S. District Court

6 In all cases having to do with a person domiciled in a state of the Union, neither of the above remedies are sufficient  
7 because BOTH will unconstitutionally prejudice rather than protect the rights of the litigant. This paper will explain all the  
8 reasons why those wishing to defend their constitutional rights cannot entertain a suit in either of the above courts, and will  
9 explain how obtain a remedy without filing a suit in either court.

10 **2 Legislative Franchise Courts**

11 **2.1 Tax Court: Article I Franchise Court**

12 The [U.S. Tax Court](#) is an [Article I](#) court established through the exclusive legislative authority of Congress under [Article 1](#),  
13 Section 8, Clause 17 of the Constitution.

14 [TITLE 26](#) > [Subtitle F](#) > [CHAPTER 76](#) > [Subchapter C](#) > [PART I](#) > § 7441  
15 [§ 7441. Status](#)

16 *There is hereby established, under [article I of the Constitution of the United States](#), a court of record to be*  
17 *known as the United States Tax Court. The members of the Tax Court shall be the chief judge and the judges of*  
18 *the Tax Court.*

19 The judges in this "court" (which is actually a federal office building that is part of the Legislative branch and not the  
20 Judicial branch) hold office for a limited term of 15 years under [26 U.S.C. §7443\(e\)](#). The Supreme Court said the  
21 following of courts whose judges hold limited rather than lifetime terms, which in turn confirms that the income tax only  
22 applies in federal territories, keeping in mind that states of the Union are not territories:

23 *"As the only judicial power vested in Congress is to create courts whose judges shall hold their offices during*  
24 *good behavior, it necessarily follows that, [if Congress authorizes the creation of courts and the appointment](#)*  
25 *[of judges for limited time, it must act independently of the Constitution upon territory which is not part of the](#)*  
26 *[United States within the meaning of the Constitution.](#)"*  
27 *[O'Donohue v. United States, [289 U.S. 516](#), 53 S.Ct. 740 (1933)]*

28 The "United States Tax Court" is merely a tax appeal board, and is NOT a part of the Judicial branch of the government,  
29 but instead is part of the legislative branch. Trials are heard by one judge and without a jury. The judges travel all over the  
30 United States hearing cases.

31 It has no more authority to compel payment of a tax than an administrative officer, but just as you can acknowledge his  
32 authority by voluntarily submitting information, you can also acknowledge the authority of the "Tax Court" by making an  
33 appeal to it. When you appeal to this so-called "court", you are giving it permission to make any decision it wants. You are  
34 "authorizing" it to adjudicate, just like you would a neutral binding arbitrator. You are giving it authority over you that it  
35 otherwise would not have. By appealing to it, you are voluntarily admitting (by implication) that an underlying liability  
36 already exists. Then the administrative body can end up with the administrative ruling that it wanted in the first place.

37 **2.2 District Court: Article IV Franchise Court**

38 United States District Courts, including all those situated within states of the Union, are established pursuant to Article IV  
39 of the United States Constitution. Authorities documenting this fact include those below:

- 1 1. There is no statute within Title 28 of the United States Code establishing any of them pursuant to Article III of the  
2 Constitution.  
3 2. When Congress wants to invoke Article III of the Constitution and directly confer Article III jurisdiction, they know  
4 EXACTLY how to do it. Below is an example of such language expressly conferring Article III jurisdiction upon an  
5 earlier version of the Court of Claims prior to 1982. The legislative notes under 28 U.S.C. §171 indicate that the Court  
6 of Claims originally was an Article III court but became an Article I court when the Court of Appeals for the Federal  
7 Circuit was created. Since 1982, only TWO federal courts remain with Constitution Article III jurisdiction, which is  
8 the Court of International Trade and the U.S. Supreme Court’s original and not appellate jurisdiction.

9 28 U.S.C. §171 Legislative Notes

10 Amendments

11 1982—Pub. L. 97-164 designated existing provisions as subsec. (a), substituted “sixteen judges who shall  
12 constitute a court of record known as the United States Claims Court” for “a chief judge and six associate  
13 judges who shall constitute a court of record known as the United States Court of Claims” and “The court is  
14 declared to be a court established under article I of the Constitution of the United States” for “Such court is  
15 hereby declared to be a court established under article III of the Constitution of the United States” in subsec.  
16 (a) as so designated, and added subsec. (b).

- 17 3. The U.S. Supreme Court admitted that the District Courts are established pursuant to Article IV of the Constitution:

18 “The United States District Court is not a true United States court established under Article III of the  
19 Constitution to administer the judicial power of the United States therein conveyed. It is created by virtue of the  
20 sovereign congressional faculty, granted under Article IV, Section 3, of that instrument, of making all needful  
21 rules and regulations respecting the territory belonging to the United States. The resemblance of its jurisdiction  
22 to that of true United States courts in offering an opportunity to nonresidents of resorting to a tribunal not  
23 subject to local influence, does not change its character as a mere territorial court.”  
24 [*Balzac v. Porto Rico*, 258 U.S. 298 at 312, 42 S.Ct. 343, 66 L.Ed. 627 (1921), Chief Justice Taft, former  
25 President of the United States]

- 26 4. Appeals Courts have admitted that United States District Courts are legislative courts, and that all of their authority  
27 derives only from acts of Congress, which implies that NONE of their authority derives directly from the Constitution  
28 of the United States.

29 “United States District Courts have only such jurisdiction as is conferred by an Act of Congress under the  
30 Constitution [U.S.C.A. Const. art. 3, sec. 2; 28 U.S.C.A. 1344]”  
31 [*Hubbard v. Ammerman*, 465 F.2d 1169 (5th Cir. 1972)]  
32 [headnote 2. Courts]

33 Consequently, the United States District Courts are legislative, territorial, franchise courts. They may only hear cases  
34 relating to territory and other property of the United States pursuant to Article 4, Section 3, Clause 2 of the Constitution.  
35 All rights are property, and franchises confer rights and therefore are “property” within the context of this clause of the  
36 Constitution.

37 It is illegal for a United States District Court to entertain a civil suit involving a person not domiciled on federal territory  
38 within the exterior limits of the judicial district.

39 II. COMMENCEMENT OF ACTION > Rule 4.1.

40 (a) Generally.

41 Process other than a summons as provided in Rule 4 or subpoena as provided in Rule 45 shall be served by a  
42 United States marshal, a deputy United States marshal, or a person specially appointed for that purpose, who  
43 shall make proof of service as provided in Rule 4(1). The process may be served anywhere within the  
44 territorial limits of the state in which the district court is located, and, when authorized by a statute of the  
45 United States, beyond the territorial limits of that state.

46 The “State” they are talking about above can only be that defined in 4 U.S.C. §110(d) and 28 U.S.C. §1332(e), neither of  
47 which includes anything but federal territory:

48 TITLE 4 - FLAG AND SEAL, SEAT OF GOVERNMENT, AND THE STATES

3 (d) The term "State" includes any [Territory](#) or possession of the United States.

5 [TITLE 28 > PART IV > CHAPTER 85 > Sec. 1332. \[Judiciary and Judicial Procedure\]](#)  
6 [Sec. 1332. - Diversity of citizenship; amount in controversy; costs](#)

7 (e) The word "States", as used in this section, includes the [Territories](#), the District of Columbia, and the  
8 Commonwealth of Puerto Rico

9 The judicial district, in turn, consists ONLY of federal territory, property, and franchises within the exterior boundaries of  
10 the districts. Congress has NO AUTHORITY to legislate outside of its own territory:

11 *"The difficulties arising out of our dual form of government and the opportunities for differing opinions  
12 concerning the relative rights of state and national governments are many; **but for a very long time this court  
13 has steadfastly adhered to the doctrine that the taxing power of Congress does not extend to the states or  
14 their political subdivisions.** The same basic reasoning which leads to that conclusion, we think, requires like  
15 limitation upon the power which springs from the bankruptcy clause. *United States v. Butler, supra.*"*  
16 [*Ashton v. Cameron County Water Improvement District No. 1, 298 U.S. 513, 56 S.Ct. 892 (1936)*]

17 *"It is no longer open to question that **the general government, unlike the states,** *Hammer v. Dagenhart, 247*  
18 *U.S. 251, 275, 38 S.Ct. 529, 3 A.L.R. 649, Ann.Cas.1918E 724, **possesses no inherent power in respect of the**  
19 **internal affairs of the states; and emphatically not with regard to legislation.**"*  
20 [*Carter v. Carter Coal Co., 298 U.S. 238, 56 S.Ct. 855 (1936)*]*

21 If you would like thousands of pages of exhaustive evidence supporting everything in this section, please see:

[What Happened to Justice?: Why There is No Justice in Federal Court and What to Do About It](http://sedm.org/ItemInfo/Ebooks/WhatHappJustice/WhatHappJustice.htm)  
<http://sedm.org/ItemInfo/Ebooks/WhatHappJustice/WhatHappJustice.htm>

### 22 **3 Congress Cannot by Legislation Force Those Who are Not Franchisees Into a** 23 **Franchise Court**<sup>1</sup>

24 It is very important to realize that no one can force a "nontaxpayer" into a legislative Court, such as an Article I or Article  
25 IV court, to adjudicate a matter relating to taxes. Filing a case in these courts is entirely consensual in the case of a  
26 "nontaxpayer" but not in the case of a "taxpayer".

27 *"The distinction between public rights and private rights has not been definitively explained in our precedents.<sup>2</sup>*  
28 *Nor is it necessary to do so in the present cases, for it suffices to observe that a matter of public rights must at a*  
29 *minimum arise "between the government and others." *Ex parte Bakelite Corp., supra, at 451, 49 S.Ct., at 413.*<sup>3</sup>*  
30 *In contrast, "the liability of one individual to another under the law as defined," *Crowell v. Benson, supra, at**  
31 *51, 52 S.Ct., at 292, is a matter of private rights. **Our precedents clearly establish that only controversies in***  
32 ***the former category may be removed from Art. III courts and delegated to legislative courts or administrative***  
33 ***agencies for their determination. See *Atlas Roofing Co. v. Occupational Safety and Health Review Comm'n,****

<sup>1</sup> Adapted from Government Instituted Slavery Using Franchises, Form #05.030, Section 7.3: <http://sedm.org/Forms/FormIndex.htm>.

<sup>2</sup> *Crowell v. Benson, 285 U.S. 22, 52 S.Ct. 285, 76 L.Ed. 598 (1932)*, attempted to catalog some of the matters that fall within the public-rights doctrine:

"Familiar illustrations of administrative agencies created for the determination of such matters are found in connection with the exercise of the congressional power as to interstate and foreign commerce, taxation, immigration, the public lands, public health, the facilities of the post office, pensions and payments to veterans." *Id., at 51, 52 S.Ct., at 292* (footnote omitted).

<sup>3</sup> Congress cannot "withdraw from [Art. III] judicial cognizance any matter which, from its nature, is the subject of a suit at the common law, or in equity, or admiralty." *Murray's Lessee v. Hoboken Land & Improvement Co., 18 How. 272, 284 (1856)* (emphasis added). It is thus clear that the presence of the United States as a proper party to the proceeding is a necessary but not sufficient means of distinguishing "private rights" from "public rights." And it is also clear that even with respect to matters that arguably fall within the scope of the "public rights" doctrine, the presumption is in favor of Art. III courts. See *Glidden Co. v. Zdanok, 370 U.S., at 548-549, and n. 21, 82 S.Ct., at 1471-1472, and n. 21* (opinion of Harlan, J.). See also Currie, The Federal Courts and the American Law Institute, Part 1, 36 U.Chi.L.Rev. 1, 13-14, n. 67 (1968). Moreover, when Congress assigns these matters to administrative agencies, or to legislative courts, it has generally provided, and we have suggested that it may be required to provide, for Art. III judicial review. See *Atlas Roofing Co. v. Occupational Safety and Health Review Comm'n, 430 U.S., at 455, n. 13, 97 S.Ct., at 1269, n. 13.*