

**POLICY DOCUMENT:  
PETE HENDRICKSON’S “TRADE OR BUSINESS” APPROACH**

Last revised: 5/4/2008

**1 Introduction .....5**

**2 Summary of the Hendrickson Approach .....5**

**3 Summary of differences between the Hendrickson Approach and Our Approach.....6**

**4 Rebutted Criticisms made by Pete Hendrickson of our approach .....10**

    4.1 Snake-Oil Warning (“Un-Taxing” Notions)..... 10

    4.2 A Brief Commentary On Misunderstandings Of 'Citizenship', Serving On Juries, Voting, And The  
        Fourteenth Amendment .....16

**5 SEDM overall policy towards the Hendrickson Approach .....19**

**6 Family Guardian overall policy towards the Hendrickson Approach .....20**

**7 Conclusions .....22**

**TABLE OF AUTHORITIES**

**Constitutional Provisions**

Articles of Confederation and Perpetual Union ..... 17

First Amendment..... 22

Second Amendment ..... 18

Sixth Amendment..... 17

**Statutes**

26 U.S.C. §1 ..... 7, 11, 20, 23

26 U.S.C. §6013(g) and (h) ..... 12, 19, 20, 23

26 U.S.C. §6013(g) or (h)..... 23

26 U.S.C. §6041 ..... 5

26 U.S.C. §7206 ..... 5

26 U.S.C. §7408(d) ..... 11, 13, 14, 23

26 U.S.C. §7651 ..... 15

26 U.S.C. §7701 ..... 15

26 U.S.C. §7701(a)(1) and (10)..... 15

26 U.S.C. §7701(a)(26) ..... 5

26 U.S.C. §7701(a)(30) ..... 7, 14

26 U.S.C. §7701(a)(39) ..... 11, 13, 14, 23

26 U.S.C. §7701(a)(9) and (a)(10) ..... 8, 13, 14, 21

26 U.S.C. §7701(b)(1)(A) ..... 7, 11, 12, 14, 21, 22

26 U.S.C. §7701(b)(1)(B)..... 21

26 U.S.C. §7701(b)(4)(B)..... 12, 19, 20, 23

26 U.S.C. §861(a)(3)(C )(i) ..... 14

26 U.S.C. §864(b)(1)(A) ..... 14

26 U.S.C. §864(c)(3) ..... 14

26 U.S.C. §871 ..... 13, 22

26 U.S.C. §871(b) ..... 12, 13

26 U.S.C. §911 .....	7, 11, 12, 13, 22, 23
26 U.S.C. §911(d)(3) .....	7
28 U.S.C. §1603(b)(3) .....	16, 19
28 U.S.C. §1605(a)(2) .....	23
28 U.S.C. §3002(15)(A) .....	11
4 U.S.C. §110(d) .....	13, 18
4 U.S.C. §72 .....	8
5 U.S.C. §552a(a)(2) .....	7
8 U.S.C. §1101(a)(21) .....	13
8 U.S.C. §1401 .....	7, 11, 14, 16, 22
8 U.S.C. §1452 .....	13
I.R.C. §911 .....	11
I.R.C. Subtitle A .....	14, 21, 22
Internal Revenue Code .....	20, 22
R.S. 3140 .....	15
Revised Statutes, Title XXXV- Internal Revenue, Section 3140 .....	15

## Regulations

26 CFR §1.1-1 .....	12
26 CFR §1.1-1(a)(2)(ii) .....	11
26 CFR §1.1441-1(c)(3) .....	7, 11, 19, 23
26 CFR §1.871-1 .....	13
26 CFR §1.871-1(b)(i) .....	14
26 CFR §1.871-2 .....	13
26 CFR §1.871-2(f) .....	14
26 CFR §301.7701-5 .....	11, 23
26 CFR §31.3401(a)(6)-1(b) .....	14
26 CFR §31.3406(g)-1(e) .....	14

## Rules

Fed.Rul.Civ.Proc. 17(b) .....	11
-------------------------------	----

## Cases

Callan v. Wilson, 127 U.S. 540 (1888) .....	17
Calvin's Case, 7 Rep. 1, 18b .....	19
Capital Traction Co. v. Hof, 174 U.S. 1 (1899) .....	17
Chicago & NW RR Co. v. Ohle, 117 U.S. 123 (1886) .....	17
Cook v. Tait, 265 U.S. 47 (1924) .....	22
Downes v. Bidwell, 182 U.S. 244 (1901) .....	7
Dred Scott v. Sandford, 60 U.S. 393, 508-509 (1856) .....	8
Gibbons v. District of Columbia (1886) 116 U.S. 404, 407, 6 S. Sup. Ct. 427 .....	17
Inglis v. Sailors' Snug Harbor, 3 Pet. 99, 155; 2 Kent Com. 39, 42 .....	19
License Tax Cases, 72 U.S. 462, 18 L.Ed. 497, 5 Wall. 462, 2 A.F.T.R. 2224 (1866) .....	8
Mattingly v. District of Columbia (1878) 97 U.S. 687, 690 .....	17
Miller Brothers Co. v. Maryland, 347 U.S. 340 (1954) .....	7
Minor v. Happersett, 88 U.S. 162 (1874) .....	17
United States v. Wong Kim Ark, 169 U.S. 649 (1898) .....	19
United States. Kendall v. U. S. (1838) 12 Pet. 524, 619 .....	17

## Other Authorities

2003 IRS Published Products Catalog, p. F-15 .....	6
86 C.J.S. [Corpus, Juris, Secundum, Legal Encyclopedia], Territories, §1 .....	18
A New Snake Oil Warning .....	16
About SSNs and TINs on Government Forms and Correspondence, Form #05.012 .....	23
About SSNs and TINs on Government Forms and Correspondence, Form #07.004 .....	23
Affidavit of Citizenship, Domicile, and Tax Status, Form #02.001 .....	16, 22
Amended IRS Form 1040NR .....	19, 24
Black’s Law Dictionary, Fifth Edition .....	15
Black’s Law Dictionary, Sixth Edition, p. 648.....	18
Bouvier’s Dictionary of Law, Sixth Edition, 1856.....	19
Bouvier's Dictionary of the Law, 6th Edition.....	15
Citizenship and Sovereignty Training Course, Item 2.2, p. 76.....	11
Cockburn on Nationality, 7 .....	19
Correcting Erroneous Information Returns, Form #04.001 .....	5
Correcting Erroneous IRS Form 1042’s, Form #04.003 .....	6
Correcting Erroneous IRS Form 1098’s, Form #04.004 .....	6
Correcting Erroneous IRS Form 1099’s, Form #04.005 .....	6
Correcting Erroneous IRS Form W-2’s, Form #04.006 .....	5, 8, 19
Cracking the Code .....	5, 6
CtC Companion CD .....	17
Dicey Conflict of Laws, 177 .....	19
Digital Appendix .....	16
Family Guardian Website.....	6
Federal and State Tax Withholding Options for Private Employers, Form #09.001 .....	10
Federal Forms, Publications, Notices, and Letters .....	10
Federal Nonresident Nonstatutory Claim for Return of Funds Unlawfully Paid to the Government-Long, Form #15.001....	9, 10, 20, 24
Flawed Tax Arguments to Avoid, Form #08.004.....	10
Flawed Tax Arguments to Avoid, Section 6.5 .....	11
Forms 1042-S, 1098, 1099 .....	5
Government Conspiracy to Destroy the Separation of Powers Doctrine, Form #05.023 .....	18
IRS Document 7130 .....	19
IRS Form 1040 .....	5, 6, 7, 8, 10, 12, 19, 23, 24
IRS Form 1040NR .....	8, 12, 24
IRS Form 1042-s Instructions .....	9
IRS Form 1042s Instructions, Year 2006, p. 14 .....	9
IRS Form 2555 .....	12
IRS form 4852.....	8
IRS Form 4852 .....	5, 8
IRS Form W-2.....	5, 8
IRS Forms 1040, 1040A, 1040EZ, or 1040X.....	8
IRS Forms 1040NR or 4852.....	9
IRS Published Products Catalog, Document 7130 .....	21
James 3:1 .....	24
Lost Horizons .....	10
Lost Horizons website.....	6
Lost Horizons Website .....	5
Matt. 17:24-27 .....	11
Nonresident Alien Position, Form #05.020 .....	9, 20, 24
On the Meaning of "income" .....	20
Pete Hendrickson.....	6
Publication 519.....	21
Requirement for Consent, Form #05.003 .....	16
Resignation of Compelled Social Security Trustee, Form #06.002.....	9, 23
SEDM About Us Page, Section 8, Item 8.....	10

SEDM Disclaimer, Section 1 .....	10
SEDM Member Agreement, Section 4, Item 8 .....	10
SEDM Member Agreement, Section 7 .....	10
Social Security: Mark of the Beast book, Form #11.407 .....	23
Social Security: Mark of the Beast, Form #11.407 .....	9
Socialism: The New American Civil Religion, Form #05.016.....	9, 23
Tax Form Attachment, Form #04.201 .....	10, 24
The “Trade or Business” Scam, Form #05.001 .....	14, 23
The Power Of The Jury .....	18
Treasury Order 150-02 .....	8
USA Passport Application Attachment, Form #06.007.....	16
Voter Registration Attachment, Form #06.003 .....	16, 22
Who are “taxpayers” and who needs a “Taxpayer Identification Number”?, Form #05.013 .....	23
Why Domicile and Becoming a “Taxpayer” Require Your Consent, Form #05.002.....	7, 14, 22, 23
Why You Are a “national”, “state national”, and Constitutional but not Statutory Citizen, Form #05.006.....	24

1 **1 Introduction**

2 The purpose of this document is to:

- 3 1. Express our gratitude to Pete Hendrickson for the important contributions made by his research to the tax honesty and
- 4 freedom communities in furtherance of a law abiding, limited, constitutional government.
- 5 2. Describe in detail differences between the approaches of Pete Hendrickson and this website towards the illegal
- 6 enforcement activities of the IRS.
- 7 3. To describe efforts to resolve the conflicts between us to date and Pete Hendrickson’s response to those efforts.
- 8 4. To provide legally admissible evidence justifying why our position is the only one consistent with prevailing law.
- 9 5. Offer an opportunity for fellowship Members and readers to further investigate and rebut any of the evidence upon
- 10 which we base our position.
- 11 6. Improve the information and materials available on this website for preventing unlawful activities by our government
- 12 and private industry.

13 This document is based upon the latest information available on Pete Hendrickson’s website below as of the time of writing  
14 of this document, which is available below:

Lost Horizons Website  
<http://losthorizons.com>

15 More complete documentation of his approach is also found in his book entitled Cracking the Code, which is also available  
16 on his website.

17 **2 Summary of the Hendrickson Approach**

18 Hendrickson’s approach is summarized below, extracted from his writings on the Lost Horizons website:

- 19 1. The [Internal Revenue Code Subtitle A](#) describes an excise tax upon privileges associated with a “trade or business”,
- 20 which is defined in [26 U.S.C. §7701\(a\)\(26\)](#) as “the functions of a public office”.
- 21 2. Information returns submitted under the authority of [26 U.S.C. §6041](#), are the method of connecting those who they are
- 22 submitted against with the “trade or business” activity. Information returns include such IRS forms as the W-2, 1042-
- 23 S, 1098, 1099, and K-1.
- 24 3. It is unlawful and constitutes a false and fraudulent filing of a “return” pursuant to [26 U.S.C. §7206](#) if an information
- 25 return is submitted in connection with a person who is not in fact and in deed connected with a “public office” in the
- 26 United States government.
- 27 4. Most information returns submitted to the IRS are false. They also become fraudulent at the point when the submitter
- 28 has been notified they are being submitted against a person not engaged in a “public office” and a “trade or business”.
- 29 5. The IRS provides mechanisms for correcting false information returns. These methods include the following:
- 30 5.1. False IRS Form W-2:
- 31 5.1.1. With tax return: Submitting a tax return accompanied with an IRS Form 4852 correcting the false amounts
- 32 reported.
- 33 5.1.2. Without Tax Return: Submitting IRS form W-2C to the Social Security Data Processing Center.
- 34 5.2. IRS Forms 1042-S, 1098, 1099: Resubmit the form with the “Corrected” block checked at the top of the form.
- 35 6. It is unlawful and unnecessary to deduct or withhold any amount from payments of a person who is not engaged in a
- 36 “trade or business”.
- 37 7. Those who have had their earnings subjected to either withholding or backup withholding and who are not in fact
- 38 engaged in a “public office” and a “trade or business” in the United States government may obtain a refund of amounts
- 39 wrongfully withheld by submitting the following forms to the IRS:
- 40 7.1. IRS Form 1040
- 41 7.2. Corrected information returns. See:
- 42 7.2.1. Correcting Erroneous Information Returns, Form #04.001-condenses the next four items into one integrated
- 43 document.
- 44 <http://sedm.org/Forms/FormIndex.htm>
- 45 7.2.2. Correcting Erroneous IRS Form W-2’s, Form #04.006

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

2 7.2.3. *Correcting Erroneous IRS Form 1042's*, Form #04.003

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

4 7.2.4. *Correcting Erroneous IRS Form 1098's*, Form #04.004

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

6 7.2.5. *Correcting Erroneous IRS Form 1099's*, Form #04.005

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

8 7.3. A short letter attached which explains why you are not engaged in either a “trade or business” or a “public  
9 office”.

10 8. The citizenship and residency of persons is irrelevant to tax liability. The main and perhaps only thing that matters is  
11 whether they are in fact engaged in a “trade or business” or “public office” and whether they have earnings called  
12 “income” connected to that taxable activity.

### 13 **3 Summary of differences between the Hendrickson Approach and Our Approach**

14 In preparing this section we rely upon all of the following sources of information

15 1. The entire content of Pete’s website:

Lost Horizons website.

<http://losthorizons.com>

16 2. Reading of Pete Hendrickson’s entire book:

17 *Cracking the Code* book authored by Pete Hendrickson.

18 3. Emails from Pete Hendrickson.

19 4. Postings on Family Guardian Website available at:

20 [http://famguardian.org/Subjects/Taxes/CaseStudies/WhosWho/WhosWho.htm#Hendrickson,\\_Pete](http://famguardian.org/Subjects/Taxes/CaseStudies/WhosWho/WhosWho.htm#Hendrickson,_Pete)

21 5. Postings on SEDM available at:

22 <http://sedm.org/LibertyU/LibertyU.htm#4.9. PETE HENDRICKSON INTERVIEWS>

23 The content of this section is therefore a reflection of all of the information available from Pete Hendrickson that we are  
24 aware of at the time this document was written. We furthermore solicit further rebuttal by Pete Hendrickson himself and  
25 will incorporate all such rebuttal received from him into this document as we receive it.

26 Differences between the Pete Hendrickson approach and the SEDM approach to lawfully complying with the Internal  
27 Revenue Code by persons domiciled within states of the Union who are also born there include the following:

28 1. The IRS Form 1040 is the WRONG federal tax form for the average American domiciled in a state of the Union to file.  
29 It is incorrect because only “U.S. persons” with a legal domicile on federal territory can truthfully file this form. This  
30 is consistent with IRS Document 7130, which says the Form 1040 is only for use by statutory “U.S. citizens and  
31 residents”, who have in common a domicile on federal territory. What makes a person an “individual”, in fact, is a  
32 domicile or residence on federal territory:

33 *1040A 11327A Each*  
34 *U.S. Individual Income Tax Return*

35 *Annual income tax return filed by citizens and residents of the United States. There are separate instructions*  
36 *available for this item. The catalog number for the instructions is 12088U.*

37 *W:CAR:MP:FP:F:I Tax Form or Instructions*  
38 *[2003 IRS Published Products Catalog, p. F-15;*  
39 *SOURCE: <http://famguardian.org/TaxFreedom/Forms/IRS/IRSDoc7130.pdf>]*

40 2. Hendrickson doesn’t seem to understand the origins of the government’s civil authority, including the authority to tax,  
41 and this makes his followers vulnerable to exploitation by the courts and by lawyers if they have to litigate their  
42 position. The government’s authority to tax is NOT based ONLY on the “trade or business” franchise or activity.  
43 Instead:

44 2.1. All civil jurisdiction of the government originates from the voluntary, un-coerced choice of domicile. The  
45 Declaration of Independence says that all just powers of government originate from the consent of the  
46 government. This means, in practical terms, that the government cannot coerce you to choose a domicile within

1 their jurisdiction or to accept the consequences that arise out of that choice, including the duty to pay a tax,  
2 without your consent. Another way of saying this is that they can only govern those who CONSENT to be  
3 governed.

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

- 12 2.2. Tax liability originates from the COINCIDENCE of being engaged in a taxable activity as a franchisee called a  
13 "taxpayer" AND from having a domicile or residence on federal territory.
- 14 2.2.1. Those with a domicile on federal territory are called "citizens" (pursuant to 8 U.S.C. §1401), "residents"  
15 (pursuant to 26 U.S.C. §7701(b)(1)(A)), "inhabitants", "individuals" (26 CFR §1.1441-1(c)(3) and 5 U.S.C.  
16 §552a(a)(2)), and "U.S. persons" (26 U.S.C. §7701(a)(30)).
- 17 2.2.2. Those with no domicile or residence on federal territory are called "transient foreigners", "nonresidents",  
18 and foreigners, but not "persons", "individuals", or "foreign persons". Tax liability is a civil liability that  
19 depends FIRST on having a domicile on federal territory. You cannot lawfully be a "taxpayer" without also  
20 being a "U.S. person" and either a "citizen" or "resident" under federal law. Any entity, including a  
21 government, that taxes activities without also requiring a domicile in the forum is simply a private company  
22 and not a government engaged in nothing more than private contracting.
- 23 2.3. One who engages in taxable activities but does not have a domicile on federal territory cannot lawfully have a tax  
24 liability. This was implied in the Supreme Court ruling above and is also confirmed by the content of 26 U.S.C.  
25 §911(d)(3).
- 26 2.4. The IRS Form 1040 is a "resident alien" form intended ONLY for those with a domicile on federal territory and  
27 temporarily abroad and coming under an income tax treaty with a foreign country pursuant to 26 U.S.C. §911. It  
28 DOES NOT include anyone situated other than abroad.
- 29 2.5. The tax imposed in 26 U.S.C. §1 upon the "trade or business" franchise pertains ONLY to "citizens and  
30 residents" with a domicile on federal territory that is no part of any state of the Union, wherever situated.

31 For details on the above, see:

[Why Domicile and Becoming a "Taxpayer" Require Your Consent, Form #05.002](http://sedm.org/Forms/FormIndex.htm)  
<http://sedm.org/Forms/FormIndex.htm>

- 32 3. Hendrickson's website features the following prominent saying on the opening page, which we heartily agree with:

33 *"Humble obedience to the Constitution is the paramount compelling state interest."*

34 Yet on the other hand, he advocates a position that places all of his readers squarely on federal territory not protected  
35 by the Constitution! The IRS Form 1040 is only for those domiciled on federal territory and who therefore have no  
36 rights. What an irony that he advances such a contradictory and hypocritical position on which form to file.

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

- 53 4. Hendrickson does not understand that it is ILLEGAL to participate in the "trade or business" franchise for human  
54 beings domiciled in states of the Union. The U.S. Supreme Court has held that Congress CANNOT license or

1 authorize any franchise, including the “trade or business” franchise, within a state of the Union. The reason is that they  
2 have no civil jurisdiction there because people there are not domiciled on federal territory. Therefore, it is illegal to  
3 engage in a “trade or business” within a state of the Union: Knowing this provides additional reasons why the IRS  
4 cannot enforce or collect the tax that are useful in court.

5 “The United States have no constitutional capacity to exercise municipal jurisdiction, sovereignty, or  
6 eminent domain, within the limits of a State or elsewhere, except in cases where it is delegated, and the  
7 court denies the faculty of the Federal Government to add to its powers  
8 by treaty or compact.”  
9 [Dred Scott v. Sandford, 60 U.S. 393, 508-509 (1856)]

11 “Thus, Congress having power to regulate commerce with foreign nations, and among the several States, and  
12 with the Indian tribes, may, without doubt, provide for **granting** coasting **licenses**, licenses to pilots, licenses to  
13 trade with the Indians, and any other **licenses** necessary or proper for the exercise of that great and extensive  
14 power; and the same observation is applicable to every other power of Congress, to the exercise of which the  
15 granting of licenses may be incident. All such licenses confer authority, and give rights to the licensee.

16 But very different considerations apply to the **internal commerce** or **domestic trade** of the States. Over this  
17 commerce and trade Congress has no power of regulation nor any direct control. This power belongs  
18 exclusively to the States. No interference by Congress with the business of citizens transacted within a State  
19 is warranted by the Constitution, except such as is strictly incidental to the exercise of powers clearly granted  
20 to the legislature. The power to authorize a business within a State is plainly repugnant to the exclusive power  
21 of the State over the same subject. It is true that the power of Congress to tax is a very extensive power. It is  
22 given in the Constitution, with only one exception and only two qualifications. Congress cannot tax exports, and  
23 it must impose direct taxes by the rule of apportionment, and indirect taxes by the rule of uniformity. Thus  
24 limited, and thus only, it reaches every subject, and may be exercised at discretion. But, it reaches only existing  
25 subjects. **Congress cannot authorize [meaning “license”] a trade or**  
26 **business within a State in order to tax it.**  
27 [License Tax Cases, 72 U.S. 462, 18 L.Ed. 497, 5 Wall. 462, 2 A.F.T.R. 2224 (1866) ]

28 The above is why:

- 29 4.1. The “United States” is defined in 26 U.S.C. §7701(a)(9) and (a)(10) as the District of Columbia and nowhere  
30 within Subtitles A or C includes any part of a state of the Union.
- 31 4.2. There are no internal revenue districts within any state of the Union.
- 32 4.3. The only remaining internal revenue district is the District of Columbia. See Treasury Order 150-02.
- 33 4.4. 4 U.S.C. §72 says all public offices (e.g. “trade or business”) MUST be exercised ONLY in the District of  
34 Columbia and not elsewhere, except as expressly provided in an enactment of Congress. There is no enactment  
35 of Congress and there CANNOT be an enactment which authorizes the exercise of public offices in any state of  
36 the Union, and especially in the context of income taxes.
- 37 4.5. All of the lawsuits against Pete Hendrickson’s followers were against those who filed IRS Form 1040, because  
38 they only have jurisdiction over people with a domicile on federal territory. Those who use substitute 4852  
39 forms, indicate that they are “nonresident aliens” who are neither “individuals” nor “taxpayers” are outside the  
40 jurisdiction of the federal district courts and cannot lawfully be sued.
- 41 5. Hendrickson uses IRS form 4852 to correct false IRS Form W-2 information returns:
  - 42 5.1. This form, however, says at the top that it is only for use in connection with IRS Forms 1040, 1040A, 1040EZ, or  
43 1040X. It cannot be used with IRS Form 1040NR.
  - 44 5.2. IRS Forms 1040, 1040A, 1040EZ, or 1040X are all “resident alien” forms, and therefore, the 4852 cannot be  
45 used by nonresident aliens, which includes the average American. IRS makes no equivalent form for use by  
46 nonresident aliens because they are beyond the jurisdiction of federal law.
  - 47 5.3. Those who use the standard IRS Form 4852 therefore must make an election to be treated as a “resident alien” in  
48 order to use the 4852 form, which we think is a mistake. This needlessly subjects those who use the form to IRS  
49 penalties. IRS cannot lawfully penalize nonresidents and can only penalize or prosecute residents.
  - 50 5.4. As a work-around for nonresident aliens filing IRS Form 1040NR, we suggest using IRS form W-2C or making  
51 your own W-2 correction form. See:

52 Correcting Erroneous IRS Form W-2’s, Form #04.006  
53 <http://sedm.org/Forms/FormIndex.htm>

- 54 6. The correct tax return form to file for the average American to file is IRS Form 1040NR. A sample filing is included  
55 below:

Federal Nonresident Nonstatutory Claim for Return of Funds Unlawfully Paid to the Government-Long, Form #15.001

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

The reasons for this are exhaustively explained in the document below:

Nonresident Alien Position, Form #05.020

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

7. Hendrickson believes that the use of Social Security Numbers does not change one's status or imply that one is engaged in the "trade or business" excise taxable franchise. We completely disagree.

7.1. IRS Form 1042-s Instructions say that a Taxpayer Identification Number is only required if the submitter is engaged in federal franchises, including the following:

**Box 14, Recipient's U.S. Taxpayer Identification Number (TIN)**

**You must obtain a U.S. taxpayer identification number (TIN) for:**

- Any recipient whose income is effectively connected with the conduct of a trade or business in the United States.  
*Note.* For these recipients, exemption code 01 should be entered in box 6.
- Any foreign person claiming a reduced rate of, or exemption from, tax under a tax treaty between a foreign country and the United States, unless the income is an unexpected payment (as described in Regulations section 1.1441-6(g)) or consists of dividends and interest from stocks and debt obligations that are actively traded; dividends from any redeemable security issued by an investment company registered under the Investment Company Act of 1940 (mutual fund); dividends, interest, or royalties from units of beneficial interest in a unit investment trust that are (or were, upon issuance) publicly offered and are registered with the Securities and Exchange Commission under the Securities Act of 1933; and amounts paid with respect to loans of any of the above securities.
- Any nonresident alien individual claiming exemption from tax under section 871(f) for certain annuities received under qualified plans.
- A foreign organization claiming an exemption from tax solely because of its status as a tax-exempt organization under section 501(c ) or as a private foundation.
- Any QI.
- Any WP or WT.
- Any nonresident alien individual claiming exemption from withholding on compensation for independent personal services [services connected with a "trade or business"].
- Any foreign grantor trust with five or fewer grantors.
- Any branch of a foreign bank or foreign insurance company that is treated as a U.S. person.

*If a foreign person provides a TIN on a Form W-8, but is not required to do so, the withholding agent must include the TIN on Form 1042-S.  
[IRS Form 1042s Instructions, Year 2006, p. 14]*

7.2. The following proves that Social Security system is a trust that makes you into a trustee, fiduciary, officer, and franchisee of the federal government if you weren't already one:

Resignation of Compelled Social Security Trustee, Form #06.002

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

7.3. The following proves that Christians cannot participate in Social Security without violating God's law:

Social Security: Mark of the Beast, Form #11.407

<http://famguardian.org/Publications/SocialSecurity/TOC.htm>

7.4. The following proves that those who participate in Social Security are worshipping pagan idols and committing the worst sin in the bible, which is idolatry:

Socialism: The New American Civil Religion, Form #05.016

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

8. Hendrickson believes it is OK to use standard IRS forms to file for refunds. We think it is VERY dangerous to use standard IRS forms, because doing so betrays you as a "taxpayer" subject to the I.R.C. Those who are not subject to the I.R.C. Subtitles A and C franchise agreement and who are "nontaxpayers" should not act like "taxpayers" and will jeopardize their rights and property by doing so. Therefore, we suggest one of the following approaches:

8.1. Using amended forms rather than standard IRS Forms 1040NR or 4852. For amended versions of most forms and instructions on how to amend forms yourself, see:

*Federal Forms, Publications, Notices, and Letters*

<http://famguardian.org/TaxFreedom/Forms/IRS/IRSFormsPubs.htm>

8.2. Using standard tax forms and attaching the following form:

*Tax Form Attachment*, Form #04.201

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

8.3. Avoid filing tax returns and NEVER to file using IRS Form 1040. Send tax statements in lieu of returns. If you are compelled to file a return by an unlawful assessment, withholding, or enforcement, then use the following form:

*Federal Nonresident Nonstatutory Claim for Return of Funds Unlawfully Paid to the Government-Long*, Form #15.001

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

9. Hendrickson believes that it is OK to claim "Exempt" on IRS forms such as the W-4. We completely disagree. See section 5.10 of the following document for details:

*Flawed Tax Arguments to Avoid*, Form #08.004

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

10. Hendrickson believes that it is OK to use IRS form W-4 to control your withholding. We completely disagree. See sections 20 through 20.7 of the following document for details:

*Federal and State Tax Withholding Options for Private Employers*, Form #09.001

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

#### **4 Rebutted Criticisms made by Pete Hendrickson of our approach**

The two articles appearing in the following two subsections were downloaded from Pete Hendrickson's website, Lost Horizons on 5/21/2007. Our comments and rebuttals follow his in a square box appearing in Arial font surrounded by double-lines. If we don't rebut his comments, then we agree with them by implication.

##### **4.1 Snake-Oil Warning ("Un-Taxing" Notions)**

SOURCE: <http://www.losthorizons.com/tax/Misunderstandings/snakeoilwarning.htm>

A new slay-the-monster-by-remote-control-and-without-any-messy-confrontations silver-bullet fantasy appears to be on the market, assuring the gullible that they can be permanently immunized against the "income" tax by some clever procedure invoked just once-- for a fee, of course.

- SEDM makes no promises or guarantees about the accuracy or effectiveness of anything available through its website located at <http://sedm.org>. As a matter of fact, the SEDM website in several locations specifically prohibits making any promises, assurances, or guarantees about the information offered and even denies that the information is factual or legally actionable. Therefore, it is impossible to describe these materials as a panacea for anything. See:

1. SEDM Member Agreement, Section 4, Item 8 prohibits promises or assurances of any kind.
  - <http://www.sedm.org/MemberAgreement/MemberAgreement.htm>
2. SEDM Member Agreement, Section 7 says the ONLY basis for reasonable belief about liability is what the law actually says and not what anyone associated with the website says.
  - <http://www.sedm.org/MemberAgreement/MemberAgreement.htm>
3. SEDM Disclaimer, Section 1
  - <http://sedm.org/disclaimer.htm>
4. SEDM About Us Page, Section 8, Item 8 prohibits promises or assurances of any kind.
  - <http://sedm.org/AboutUs.htm#8. Prohibited activities>

I am not willing to fork over any money in order to learn the details of any version of this ridiculous proposition, and so can only speculate, but I'm guessing that the purveyors of these "plans" exploit the unfortunately pervasive erroneous notion that liability for the "income" tax is citizenship or residency based, and suggest that some process by which something

1 about one's citizenship or residency can be entered into the official record, after which one will be presumed "non-taxable".  
2 If my understanding is incorrect, I will welcome being illuminated to the contrary, but in the meantime, it is this notion that  
3 I will address here. (I also do not intend to identify "plans" or purveyors, but those who encounter either will recognize  
4 them from the description above.)

- SEDM does not advocate that liability for taxation has anything to do with one's citizenship. This is specifically rebutted in the following resources:

1. *Flawed Tax Arguments to Avoid*, Section 6.5
  - <http://sedm.org/LibertyU/FlawedArgsToAvoid.pdf>
2. *Citizenship and Sovereignty Training Course*, Item 2.2, p. 76. For background, see also pp. 53-75.
  - <http://sedm.org/LibertyU/LibertyU.htm>

5 That the tax is an excise, based not on citizenship or residency per se, but solely on engaging in taxable activities, is [so well](#)  
6 [documented](#) and broadly disseminated as to require no reiteration. In light of that fact, citizenship and/or residency-related  
7 misunderstandings must involve the mistaken notion that only citizens or residents of some particular kind can engage in  
8 the activities taxed, or, to put it another way, that the tax only applies to the activities of such particular persons. However,  
9 this is simply not true. The tax applies to ANYONE who engages in the activities taxed, no matter what may be their  
10 citizenship, residency or location; ANYONE of ANY citizenship, residency or location is capable of engaging in those  
11 activities and being consequently liable for a tax; and at least the minimal tax-related protocols-- such as the need to rebut  
12 or otherwise respond to allegations made by another of having engaged in such activities-- are inescapable when such  
13 allegations are made and sworn to, other than by one whose person and property are entirely outside of the physical reach  
14 of the taxing entity. (The converse is also true, of course: The earnings or receipts of ANYONE which are not derived from  
15 the exercise of a federal power, privilege or prerogative are NOT subject to the tax, regardless of citizenship, residency or  
16 location.)

We agree with Hendrickson on the above points.

17 The imposition of the tax clearly extends to those resident in the "United States" and those who are citizens thereof, AND  
18 to those who are neither, as well. The statutes reflected at 26 U.S.C. §1 imposes the tax upon the "taxable income" of every  
19 individual. Period.

Hendrickson is mistaken about the above. The tax is imposed only upon "residents of the United States", who are defined at [26 U.S.C. §7701\(b\)\(1\)\(A\)](#) as aliens because:

1. The term "individual" is defined as an "alien" or a "nonresident alien" in 26 CFR §1.1441-1(c)(3). Nowhere is the term "individual" ever defined in the IRC or Treasury Regulations as including "citizens" or statutory "U.S. citizens" as defined in [8 U.S.C. §1401](#).
2. 26 CFR §1.1-1(a)(2)(ii) defines a "married individual" and an "unmarried individual" as an alien engaged in a "trade or business". Nowhere in the I.R.C. or Treasury Regulations is the term "individual" ever defined to also include "citizens".
3. [26 U.S.C. §911](#) imposes a tax upon "citizens" and "residents" ONLY when abroad and not domestically. There is no statute that imposes the tax upon "citizens" and the term "U.S. citizen" isn't found in the index of the current version of the I.R.C. because he isn't the subject of the tax. A statutory "U.S. citizen" as defined in [8 U.S.C. §1401](#) interfaces to the I.R.C. as an "alien" and a "resident" through a tax treaty with a foreign country under the provisions of [I.R.C. §911](#). When he is abroad, he is an "alien" in respect to the country he is within and so long as he continues with a legal "domicile" within the "United States", he is treated as a "resident" within the I.R.C., which is an "alien" with a domicile in the "United States".
4. A person engaged in a "trade or business" and a "public office" is acting in a representative capacity for the federal corporation "United States" pursuant to [28 U.S.C. §3002\(15\)\(A\)](#). The corporation "United States" that he represents has a legal domicile in the District of Columbia, and pursuant to Fed.Rul.Civ.Proc. 17(b), the law which applies is the laws of the place of incorporation of the corporation, which are the laws of the District of Columbia. This is also confirmed by [26 U.S.C. §7701\(a\)\(39\)](#) and [26 U.S.C. §7408\(d\)](#).
5. Even "nonresident aliens" are treated effectively as "residents" within the I.R.C. when they engage in a "trade or business". This is clarified in the older regulations, which say the following on the subject:

[26 CFR §301.7701-5 Domestic, foreign, resident, and nonresident persons.](#)

A domestic corporation is one organized or created in the United States, including only the States (and during the periods when not States, the Territories of Alaska and Hawaii), and the District of Columbia, or under the law of the United States or of any State or Territory. A foreign corporation is one which is not domestic. A domestic corporation is a resident corporation even though it does no business and owns no property in the United States. **A foreign corporation engaged in trade or business within the United States is referred to in the regulations in this chapter as a resident foreign corporation, and a foreign corporation not engaged in trade or business within the United States, as a nonresident foreign corporation.** A partnership engaged in trade or business within the United States is referred to in the regulations in this chapter as a resident partnership, and a partnership not engaged in trade or business within the United States, as a nonresident partnership. **Whether a partnership is to be regarded as resident or nonresident is not determined by the nationality or residence of its members or by the place in which it was created or organized.**  
[Amended by T.D. 8813, Federal Register: February 2, 1999 (Volume 64, Number 21), Page 4967-4975]

[SOURCE: <http://famguardian.org/TaxFreedom/CitesByTopic/Resident-26cfr301.7701-5.pdf>]

Therefore, the ONLY “taxpayers” within the I.R.C. are aliens with a legal domicile within the “United States”, who are called “residents” in the I.R.C. Even Jesus himself agreed with this conclusion:

When they [Jesus and Apostle Peter] had come to Capernaum, those [\[collectors\] who received the temple tax](#) [our government has become the modern day false god and Washington, D.C. is our political “temple”] came to Peter and said, **“Does your Teacher [Jesus] not pay the temple tax?”**

He [Apostle Peter] said, **“Yes.”** [Jesus, our fearless leader as Christians, was a [nontaxpayer](#)]

And when he had come into the house, Jesus anticipated him, saying, **“What do you think, Simon? From whom do the kings [governments] of the earth [lawfully] take customs or taxes, from their sons [citizens and subjects] or from strangers [“aliens”, which are synonymous with “residents” in the tax code, and exclude “citizens”]?”**

Peter said to Him, **“From strangers [“aliens”/“residents” ONLY. See [26 CFR §1.1-1\(a\)\(2\)\(ii\)](#) and [26 CFR §301.6109-1\(d\)\(3\)](#)].”**

Jesus said to him, **“Then the sons [“citizens” of the Republic, who are all sovereign “nationals” and “nonresident aliens” under federal law] are free [sovereign over their own person and labor. e.g. SOVEREIGN IMMUNITY].”**  
[[Matt. 17:24-27](#), Bible, NKJV]

1 "Taxable income" is "gross income" less allowable deductions, etc.. Period. "Gross income" includes "income" of all  
2 kinds and from any source whatsoever. Period. No distinctions are drawn in these statutes as a whole as to residency or  
3 citizenship, other than the specification that the "income" of non-resident aliens is taxed under special rules (which arise  
4 due to considerations of tax treaties generally providing that recipients of "income" in, and from within, foreign  
5 jurisdictions will be taxed by, and per the tax structure of, the foreign jurisdiction).

The above is not entirely true. Nonresident aliens are not the only persons who come under the provisions of a tax treaty. [26 U.S.C. §911](#) identifies statutory “citizens” and “residents” abroad and in a foreign country as also being subject to treaties. IRS Form 1040, which can ONLY be filed by resident aliens, is the only form on which the benefits of a tax treaty may be claimed. [26 U.S.C. §6013\(g\)](#) and (h) and [26 U.S.C. §7701\(b\)\(4\)\(B\)](#) both confirm that if a nonresident alien files an IRS Form 1040 instead of the correct IRS Form 1040NR, he is making an “election” to be treated as the equivalent of a “resident alien” as defined in [26 U.S.C. §7701\(b\)\(1\)\(A\)](#). The nonresident alien cannot lawfully claim the benefits of a tax treaty WITHOUT becoming a “resident alien”. When he claims said benefits, IRS Form 2555 must be attached to the IRS Form 1040. It CANNOT be attached to IRS Form 1040NR, because there is no line to include it like there is on an IRS Form 1040.

6 The manner in which those special rules are presented and organized in the statutes is complex and elaborate, but a concise  
7 rendering of certain of those provisions, sufficient for purposes of this discussion, can be found by looking at [26 CFR §1.1-](#)  
8 [1](#), [26 U.S.C. §871\(b\)](#) , and a couple of the regulations related to [26 U.S.C. §871\(b\)](#):

1 26 CFR §1.1-1 Income tax on individuals.

2 (a) General rule.

3 (1) Section 1 of the Code imposes an income tax on the income of every individual who is a citizen or resident of  
4 the United States and, to the extent provided by section 871(b) [below] or 877(b) [relating to special treatment  
5 of those deemed expatriates for the purpose of tax-avoidance, and thus not presented here -PH], on the income  
6 of a nonresident alien individual.  
7

8 [26 U.S.C. §871\(b\)](#)

9 (b) Income connected with United States business - graduated rate of tax

10 (1) Imposition of tax

11 A nonresident alien individual engaged in trade or business within the United States during the taxable year  
12 shall be taxable as provided in section 1 [regular tax rates and rules] or 55 [alternative minimum tax rates and  
13 rules] on his taxable income which is effectively connected with the conduct of a trade or business within the  
14 United States.

15 (2) Determination of taxable income

16 In determining taxable income for purposes of paragraph (1), gross income includes only gross income which is  
17 effectively connected with the conduct of a trade or business within the United States.  
18

19 26 CFR §1.871-1 Classification and manner of taxing alien individuals.

20 (a) Classes of aliens. For purposes of the income tax, alien individuals are divided generally into two classes,  
21 namely, resident aliens and nonresident aliens. Resident alien individuals are, in general, taxable the same as  
22 citizens of the United States; that is, a resident alien is taxable on income derived from all sources, including  
23 sources without the United States. See §1.1-1(b). Nonresident alien individuals are taxable only on certain  
24 income from sources within the United States and on the income described in section 864(c)(4) from sources  
25 without the United States which is effectively connected for the taxable year with the conduct of a trade or  
26 business in the United States. However, nonresident alien individuals may elect, under section 6013 (g) or (h),  
27 to be treated as U.S. residents for purposes of determining their income tax liability under Chapters 1, 5, and  
28 24 of the code. Accordingly, any reference in §§1.1-1 through 1.1388-1 and §§1.1491-1 through 1.1494-1 of  
29 this part to non-resident alien individuals does not include those with respect to whom an election under section  
30 6013 (g) or (h) is in effect, unless otherwise specifically provided. Similarly, any reference to resident aliens or  
31 U.S. residents includes those with respect to whom an election is in effect, unless otherwise specifically  
32 provided.  
33

34 26 CFR §1.871-2 Determining residence of alien individuals.

35 (a) General.

36 The term nonresident alien individual means an individual whose residence is not within the United States, and  
37 who is not a [STATUTORY] citizen of the United States. The term includes a nonresident alien fiduciary. For  
38 such purpose the term fiduciary shall have the meaning assigned to it by section 7701(a)(6) and the regulations  
39 in part 301 of this chapter (Regulations on Procedure and Administration). For presumption as to an alien's  
40 nonresidence, see paragraph (b) of §1.871-4.

41 (Beyond the straightforward provisions of the law, such as are presented above, it is obvious that if the application of the  
42 tax relied upon "citizenship" or "residency", it would actually be a tax on one or both of those CONDITIONS-- the amount  
43 of which would be measured by economic activity (in whatever fashion and to whatever extent the taxing authority  
44 preferred)-- rather than a tax on an activity or activities. Such a tax would hardly qualify as an "excise"...)

45 In sum, the tax applies to "U.S. citizens", those who are NOT "U.S. Citizens" but are resident within the "United States",  
46 and those who are not "U.S. citizens" and ARE NOT resident within the "United States".

WRONG. The I.R.C. Subtitle A tax applies only to "resident aliens" as defined in [26 U.S.C. §7701\(b\)\(1\)\(A\)](#) and to those in receipt of payments on behalf of or from the United States government, all of which are documented in [26 U.S.C. §871](#). Statutory "U.S. citizens" as defined in [8 U.S.C. §1401](#) interface to the I.R.C. through a tax treaty with a foreign country, and do so as "resident aliens" with a legal domicile in the "United States", which the

U.S. Code defines as the District of Columbia in [26 U.S.C. §7701\(a\)\(9\)](#) and (a)(10) and federal territories and possessions in 4 U.S.C. §110(d). The moment a statutory “U.S. citizen” changes his legal domicile to the foreign country, he ceases to be a “U.S. citizen” and becomes a “non-citizen national” as defined in [8 U.S.C. §1101\(a\)\(21\)](#) and [8 U.S.C. §1452](#) who is no longer subject to the provisions of [26 U.S.C. §911](#) unless he mistakenly continues to file an IRS Form 1040 to identify himself as a “domiciliary” of the “United States”. [26 U.S.C. §7701\(a\)\(39\)](#) and [26 U.S.C. §7408\(d\)](#) would both be entirely unnecessary if legal domicile were irrelevant or if the I.R.C. had extraterritorial reach beyond the “United States” (which the I.R.C. defines as the District of Columbia and the territories and possessions of the United States).

1 The common denominator is the receipt of “income”-- a profit from the exercise of federal privilege or property. Thus,  
2 regardless of what assertions may be entered into some record today, if at any time in the future one is alleged to have  
3 engaged in a taxable activity, the allegation will be accorded standing until responded to, for there is no prior citizen or  
4 residency assertion that could establish one as incapable of owing “income” taxes (nor any other assertion that could do  
5 so). One can no more immunize oneself against a future allegation of a tax liability than one can do so against a future  
6 lawsuit, or indictment.

The common denominator is receipt of “income” COINCIDENT with domicile in the “United States”. See:

*Why Domicile and Becoming a “Taxpayer” Require Your Consent*, Form #05.002  
<http://sedm.org/Forms/FormIndex.htm>

The only provision of the I.R.C. we are aware of which SPECIFICALLY exempts anyone from the income tax is that connected with “nonresident aliens” not engaged in a “trade or business”/“public office”. No similar provisions occur for either statutory “U.S. citizens” as defined in [8 U.S.C. §1401](#) or “U.S. residents” as defined in [26 U.S.C. §7701\(b\)\(1\)\(A\)](#) or “U.S. persons” as defined in [26 U.S.C. §7701\(a\)\(30\)](#). See:

1. [26 U.S.C. §861\(a\)\(3\)\(C\)\(i\)](#)
2. [26 U.S.C. §864\(b\)\(1\)\(A\)](#)
3. 26 CFR §1.871-2(f)
4. 26 CFR §31.3406(g)-1(e)
5. 26 CFR §31.3401(a)(6)-1(b).

Therefore, those seeking to legal evidence from within the I.R.C. itself that they are *not* the proper subject of the I.R.C. and earn no “gross income” or “taxable income” *must* claim to be “nonresident aliens” not engaged in a “trade or business”, which status is defined in 26 CFR §1.871-1(b)(1)(i). There are no similar provisions connected with statutory “U.S. citizens” as defined in [8 U.S.C. §1401](#) or statutory “residents” as defined in [26 U.S.C. §7701\(b\)\(1\)\(A\)](#). The reason for this is made clear in [26 U.S.C. §864\(c\)\(3\)](#), which establishes the “presumption” that everything from within the “United States” is connected with a “trade or business”:

[TITLE 26 > Subtitle A > CHAPTER 1 > Subchapter N > PART I > § 864](#)  
[§864. Definitions and special rules](#)

(c) *Effectively connected income, etc.*

(3) *Other income from sources within United States*

*All income, gain, or loss from sources within the United States (other than income, gain, or loss to which paragraph (2) applies) shall be treated as effectively connected with the conduct of a trade or business within the United States.*

Consequently, anyone who is a statutory “citizen” or “resident” within the I.R.C. is presumed to have a legal domicile within the “United States” (District of Columbia) pursuant to [26 U.S.C. §7701\(a\)\(39\)](#) and [26 U.S.C. §7408\(d\)](#), and such persons have a obligation to pay for the “protection” afforded by government in connection with the “domicile” franchise within said jurisdiction. Everything they make while working “within” said jurisdiction is therefore presumed to be connected with a privileged “trade or business” and to be taxable, which we assert constitutes evidence that the term “United States” as used in the I.R.C. really means the U.S. government and is NOT used in a geographical sense at all. See section 3.3 of the following for details:

The "Trade or Business" Scam, Form #05.001  
<http://sedm.org/Forms/FormIndex.htm>

The definition of "United States" found in [26 U.S.C. §7701](#)(a)(9) and (a)(10) only defines the term in the "geographic sense". Nowhere in the code is this sense inferred or imputed, and therefore this definition is a red herring to divert attention of the term from the real meaning intended, which is the GOVERNMENT sense. We allege that the term "sources within the United States" and "trade or business within the United States" all infer the U.S. government, and exclude any geographic area in the context of I.R.C. Subtitle A.

1 Although unnecessary to the point of this discussion, some may wish to reflect on the meaning of "trade or business"--  
2 "taxable income" connected with which, and accruing to non-resident aliens, "shall be taxable as provided in section 1 or  
3 55...":

4 *26 U.S.C. §7701. -Definitions*

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

7 *(a)(26) Trade or business*

8 *The term "trade or business" includes the performance of the functions of a public office.*  
9

10 *OFFICE. An office is a right to exercise a public function or employment, and to take the fees and emoluments*  
11 *belonging to it., Shelf. on Mortm. 797; Cruise, Dig. Index, h. t.; 3 Serg. & R. 149.*

12 *2. Offices may be classed into civil and military.*

13 *3. - 1. Civil offices may be classed into political, judicial, and ministerial.*

14 *4. - 1. The political offices are such as are not connected immediately with the administration of justice, or the*  
15 *execution of the mandates of a superior officer; the office of the president of the United States, of the heads of*  
16 *departments, of the members of the legislature, are of this number.*

17 *5. - 2. The judicial offices are those which relate to the administration of justice, and which must be exercised*  
18 *by persons of sufficient skill and experience in the duties which appertain to them.*

19 *6. - 3. Ministerial offices are those which give the officer no power to judge of the matter to be done, and*  
20 *require him to obey the mandates of a superior. 7 Mass. 280. See 5 Wend. 170; 10 Wend. 514; 8 Verm. 512;*  
21 *Breese, 280. It is a general rule, that a judicial office cannot be exercised by deputy, while a ministerial may.*

22 *[Bouvier's Dictionary of the Law, 6th Edition]*

23 Revised Statutes, Title XXXV- Internal Revenue, Section 3140 (currently represented by 26 U.S.C. §7701(a)(1) and (10),  
24 and [26 U.S.C. §7651](#)):

25 *"The word "State" when used in this title shall be construed to include the Territories and the District of*  
26 *Columbia, where such construction is necessary to carry out its provisions. And where not otherwise distinctly*  
27 *expressed or manifestly incompatible with the intent thereof, the word "person", as used in this title, shall be*  
28 *construed to mean and include a partnership, association, company, or corporation, as well as a natural*  
29 *person."*

30 The 'code' representation of the definition of "person", which is a consolidation of 10 statutes, leaves out the phrase  
31 'natural person'. The draftsmen relied on the term 'individual', which is incorporated in the language of several of those  
32 statutes, to express the same meaning. Nonetheless, the actual language of R.S. 3140 remains the law. Unfortunately,  
33 some theorists-- whose 'research' began and ended with nothing more than the code-- have erroneously concluded that  
34 "person" (and/or "individual") in the law only means some kind of artificial entity. This has led, as might be imagined, to  
35 all manner of wild flights of fancy regarding the nature of the "income" tax structure.

1 *Person.* In general usage, a human being (i.e. natural person), though by statute term may include a firm, labor  
2 organization, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy,  
3 or receivers.  
4 [Black's Law Dictionary, Fifth Edition.]

## 5 **4.2 A Brief Commentary On Misunderstandings Of 'Citizenship', Serving On Juries, Voting,** 6 **And The Fourteenth Amendment**

7 SOURCE: <http://www.losthorizons.com/tax/Misunderstandings/CitizenshipAndTheFourteenth.htm>

8 I recently became aware that some in the "tax honesty" community are promoting behavior which is likely (if not  
9 guaranteed) to result in the actor being denied opportunities to serve on a jury. In fact, it appears that this is precisely what  
10 is intended by at least one such advocate, who advises his readers to reply to a jury summons with the submission of a letter  
11 in which elements of the affidavit of citizenship and residency included with the summons are challenged. As though it is  
12 something to be proud of, this fellow claims on his website that, "To date, this jury letter has had a 100% success rate at  
13 stopping the jury summons process..."

- SEDM does NOT advocate that any American should avoid jury service or jury summons or voting. We agree with Pete Hendrickson that participation in these "franchises" is the only method available to peacefully ensure that our public servants obey the Constitution and enforce the law consistent with the Constitution. We do, however, suggest the following approaches in order to ensure that they are not inadvertently confused with a statutory "U.S. citizen" as defined in [8 U.S.C. §1401](#) and thereby inadvertently become subject to federal jurisdiction:

1. Attaching the following form when returning a response to a Jury Summons:

- [Affidavit of Citizenship, Domicile, and Tax Status](#), Form #02.001
- <http://sedm.org/Forms/FormIndex.htm>

2. Attaching the following form when applying for a USA passport.

- [USA Passport Application Attachment](#), Form #06.007
- <http://sedm.org/Forms/FormIndex.htm>

3. Attaching the, when registering to vote.

- [Voter Registration Attachment](#), Form #06.003
- <http://sedm.org/Forms/FormIndex.htm>

- The reasons for doing the above have nothing to do with avoiding taxes. Their main purpose is to prevent a surrender of sovereign immunity pursuant to [28 U.S.C. §1603\(b\)\(3\)](#), which says that a person cannot be a "foreign state" or instrumentality of a "foreign state" if they are statutory "U.S. citizens" pursuant to [8 U.S.C. §1401](#). This is further explained in section 5 of the document below:

- [Requirement for Consent](#), Form #05.003
- <http://sedm.org/Forms/FormIndex.htm>

14 The reason given for this bizarre advocacy is to prevent a respondent to a jury summons from declaring himself to be a  
15 "citizen of the United States", which declaration is imagined to impose a legal infirmity. It is imagined that to make this  
16 declaration risks transforming oneself from a citizen of one of the several States into a "citizen of the federal government",  
17 which is perceived to be a lesser status-- indeed, little more than a serf, with no inherent, unalienable rights-- as though  
18 somehow the federal government has the power to strip people of their unalienable, inherent rights. The perspective on the  
19 meaning of "resident" is even more strained.

20 This is, frankly, the "citizenship misunderstanding" discussed briefly in the [Digital Appendix](#), and somewhat more  
21 extensively at '[A New Snake Oil Warning](#)', gone seriously destructive.

22 The language of the Fourteenth Amendment is, in large part, the inspiration for these delusions. The meaning and effect of  
23 that amendment (and the legality of its adoption, for that matter) is a subject upon which much could be written, and I do

1 not intend to go into it here. (Nor will I discuss here the facts that the expression "citizen of the United States" predates the  
2 Fourteenth Amendment-- which was "adopted" in 1868, by 79 years; or that, absent a specification to the contrary or a clear  
3 contextual implication, the expression "The United States" means "The States United"\*.\*) It will suffice for now to refer to  
4 the following words of the United States Supreme Court, reflecting the fact that when one or more of the several States  
5 cedes territory to the federal government by any means or for any purpose, it does not hand over the inhabitants of that  
6 territory as slaves at the same time, the Fourteenth Amendment notwithstanding:

7 *"And as the guaranty of a trial by jury, in the third article, implied a trial in that mode, and according to the*  
8 *settled rules of common law, the enumeration, in the sixth amendment, of the rights of the accused in criminal*  
9 *prosecutions, is to be taken as a declaration of what those rules were, and is to be referred to the anxiety of the*  
10 *people of the states to have in the supreme law of the land, and so far as the agencies of the general government*  
11 *were concerned, a full and distinct recognition of those rules, as involving the fundamental rights of life, liberty,*  
12 *and property. This recognition was demanded and secured for the benefit of all the people of the United*  
13 *States, as well those permanently or temporarily residing in the District of Columbia as those residing or*  
14 *being in the several states. There is nothing in the history of the constitution, or of the original amendments,*  
15 *to justify the assertion that the people of this District may be lawfully deprived of the benefit of any of the*  
16 *constitutional guaranties of life, liberty, and property;..."*  
17 *[Callan v. Wilson, 127 U.S. 540 (1888) (Emphasis added)]*

18 *"The congress of the United States, being empowered by the constitution 'to exercise exclusive legislation in all*  
19 *cases whatsoever' over the seat of the national government, has the entire control over the District of Columbia*  
20 *for every purpose of government, national or local. It may exercise within the District all legislative powers*  
21 *that the legislature of a state might exercise within the state, and may vest and distribute the judicial authority*  
22 *in and among courts and magistrates, and regulate judicial proceedings before them, as it may think fit, so long*  
23 *as it does not contravene any provision of the constitution of the United States. Kendall v. U. S. (1838) 12 Pet.*  
24 *524, 619; Mattingly v. District of Columbia (1878) 97 U.S. 687, 690; Gibbons v. District of Columbia (1886)*  
25 *116 U.S. 404, 407, 6 S. Sup. Ct. 427."*  
26 *[United States Supreme Court, Capital Traction Co. v. Hof, 174 U.S. 1 (1899) (Emphasis added, and, for those*  
27 *who persist in misunderstanding or denying the point, the provisions of the Constitution which Congress cannot*  
28 *contravene even in DC include the prohibition against unapportioned direct taxes...)*  
29 *See your [CrC Companion CD](#) for both of these rulings in their entirety]*

30 I will further present the following on the general nature and meaning of "citizen of the United States":

31 *"Looking at the Constitution itself we find that it was ordained and established by 'the people of the United*  
32 *States, and then going further back, we find that these were the people of the several States that had before*  
33 *dissolved the political bands which connected them with Great Britain, and assumed a separate and equal*  
34 *station among the powers of the earth, and that had by Articles of Confederation and Perpetual Union, in which*  
35 *they took the name of 'the United States of America,' entered into a firm league of friendship with each other for*  
36 *their common defence, the security of their liberties and their mutual and general welfare, binding themselves*  
37 *to assist each other against all force offered to or attack made upon them, or any of them, on account of*  
38 *religion, sovereignty, trade, or any other pretence whatever.*

39 *Whoever, then, was one of the people of either of these States when the Constitution of the United States was*  
40 *adopted, became ipso facto a citizen-a member of the nation created by its adoption. He was one of the persons*  
41 *associating together to form the nation, and was, consequently, one of its original citizens. As to this there has*  
42 *never been a doubt. Disputes have arisen as to whether or not certain persons or certain classes of persons*  
43 *were part of the people at the time, but never as to their citizenship if they were.*

44 [...]

45 *The United States has no voters in the States of its own creation. The elective officers of the United States are*  
46 *all elected directly or indirectly by State voters. The members of the House of Representatives are to be chosen*  
47 *by the people of the States, and the electors in each State must have the qualifications requisite for electors of*  
48 *the most numerous branch of the State legislature. Senators are to be chosen by the legislatures of the States,*  
49 *and necessarily the members of the legislature required to make the choice are elected by the voters of the*  
50 *State. Each State must appoint in such manner, as the legislature thereof may direct, the electors to elect the*  
51 *President and Vice-President."*  
52 *[United States Supreme Court, Minor v. Happersett, 88 U.S. 162 (1874)]*

53 and that of residence:

54 *"Now, the point that you are to decide, gentlemen, is this: Did the plaintiff, Gus. B. Ohle, at any time leave the*  
55 *state of Iowa for the purpose of taking up, actually and in good faith, his residence and citizenship in Illinois?*  
56 *Now, I use the word 'residence,' meaning this: It would not be sufficient merely to show that he went and*  
57 *resided in the sense of living in Illinois. Residence is evidence of the citizenship. You are ultimately to find*  
58 *whether he became a citizen of Illinois. In deciding that question you have a right to consider what he did in the*

1 matter of residence; that is, where he actually lived; the place he occupied, what we ordinarily mean by the  
2 term living. ...[That is] that he had the intent at that time,- bona fide, actual intent,-of settling in Illinois."

3 [The lower court jury instruction challenged and upheld in the United States Supreme Court in  
4 Chicago & NW RR Co. v. Ohle, 117 U.S. 123 (1886);  
5 Both of these rulings are well worth reading in their entirety. They can be accessed [here](#).]

6 The citizenship and residency qualifications for being a juror are simply that one be an American citizen, and that one be  
7 resident in the judicial district deemed to have been appropriate for the trial which will be conducted. This is true in federal  
8 as well as state trials. As the U.S. District Court for the Southern District of Indiana helpfully puts it:

9 *QUALIFICATIONS FOR FEDERAL JURY SERVICE*

10 *1. Must be a citizen of the United States of America, at least 18 years of age, who resided for a period of 1 year*  
11 *within the judicial district.*

12 [SOURCE: [http://www.insd.uscourts.gov/Jury/qual\\_exempt.htm](http://www.insd.uscourts.gov/Jury/qual_exempt.htm)]

13 The District Court for the Middle District of Florida puts it this way:

14 *1) Must be a citizen of the United States of America, at least 18 years of age, who has resided for a period of 1*  
15 *year within the judicial district;*

16 [SOURCE: <http://www.flmd.uscourts.gov/Jury/PermExcuse.htm>]

17 Some other districts express the same thing using only "United States citizen" or "citizen of the United States", because in  
18 the context of jury duty, they all mean the same thing. Just as they all mean the same thing in the context of voting in  
19 federal elections, by the way... (By-the-way-II, judicial districts, and residing therein, also have no nefarious, secret  
20 character. A judicial district is just an imaginary subdivision of the population to which a serving court is assigned, in what  
21 is intended to be an equitable distribution of resources.)

Hendrickson clearly does not understand that a "judicial district" in the context of federal courts can only encompass the territory of the United States under its exclusive jurisdiction. This is a consequence of the Separation of Powers doctrine. See:

[Government Conspiracy to Destroy the Separation of Powers Doctrine](http://sedm.org/Forms/FormIndex.htm), Form #05.023  
<http://sedm.org/Forms/FormIndex.htm>

States of the Union are NOT "territories" as that word is commonly used in the legal field, are not "domestic" in the sense of laws passed by Congress, and are described as "foreign states" that are represented with the lower case word "state" in federal law. The term "State" within Acts of Congress is defined as a "territory or possession of the United States" in [4 U.S.C. §110\(d\)](#) and nowhere is defined to include states of the Union:

*"Territories' or 'territory' as including 'state' or 'states." While the term 'territories of the' [United States](#) may, under certain circumstances, include the states of the Union, as used in the federal Constitution and in ordinary acts of congress "territory" does not include a [foreign state](#).  
[86 C.J.S. [Corpus, Juris, Secundum, Legal Encyclopedia], Territories, §1]*

*"Foreign states. Nations which are outside the United States. Term may also refer to another state; i.e. a sister state."  
[Black's Law Dictionary, Sixth Edition, p. 648]*

Therefore, United States judicial districts DO NOT include any portion of land not under the exclusive jurisdiction of the United States as either a territory or possession.

22 Oddball notions abound, of course, and many are harmless eccentricities. This one is not harmless. The power of the jury  
23 is the most significant check on the exercise of tyranny provided for by the Founders short of the power secured by the  
24 Second Amendment. The very idea that members of the "tax honesty" community-- arguably the most plugged-in,  
25 courageous and reliably principled Americans gracing this great country-- are being persuaded to withhold their wisdom  
26 and courage from the jury room where the fate of their neighbors is determined, and where judgment is rendered on the

1 validity of every law which our servant government's seek to impose upon us all, is appalling! I call upon everyone to do  
2 everything possible to see to it that this nonsense goes no further than it already has.

3 In the interest of helping to make the critical importance of this issue clear, I ask you all to read:

*The Power Of The Jury*  
<http://www.losthorizons.com/comment/archives/ThePowerOfTheJury.pdf>

4 \*But see, for instance the following from [Bouvier's Dictionary of Law](#), 6th edition, 1856:

5 *CITIZEN. 4. A citizen of the United States, residing in any state of the Union, is a citizen of that state. 6 Pet.*  
6 *761 Paine, 594; 1 Brock. 391; 1 Paige, 183 Metc. & Perk. Dig. h. t.; vide 3 Story's Const. '1687 Bouv. Inst.*  
7 *Index, b. t.; 2 Kent, Com. 258; 4 Johns. Ch. R. 430; Vatt. B. 1, c. Id, '212; Poth. Des Personnes, tit. 2, s. 1. Vide*  
8 *Body Politic; Inhabitant.*

9  
10 *UNITED STATES OF AMERICA. The name of this country. The United States, now thirty-one in number, are*  
11 *Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana,*  
12 *Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York*  
13 *North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia,*  
14 *Wisconsin, and California.*


15 And the words of the United States Supreme Court, after an exhaustive review of the subject in *United States v. Wong Kim*  
16 *Ark*, 169 U.S. 649 (1898):

17 *"The real object of the Fourteenth Amendment of the Constitution, in qualifying the words, "All persons born in*  
18 *the United States" by the addition "and subject to the jurisdiction thereof," would appear to have been [merely]*  
19 *to exclude, by the fewest and fittest words (besides children of members of the Indian tribes, standing in a*  
20 *peculiar relation to the National Government, unknown to the common law), the two classes of cases -- children*  
21 *born of alien enemies in hostile occupation and children of diplomatic representatives of a foreign State -- both*  
22 *of which, as has already been shown, by the law of England and by our own law from the time of the first*  
23 *settlement of the English colonies in America, had been recognized exceptions to the fundamental rule of*  
24 *citizenship by birth within the country. Calvin's Case, 7 Rep. 1, 18b; Cockburn on Nationality, 7; Dicey Conflict*  
25 *of Laws, 177; Inglis v. Sailors' Snug Harbor, 3 Pet. 99, 155; 2 Kent Com. 39, 42."*

## 26 **5 SEDM overall policy towards the Hendrickson Approach**

27 SOURCE: <http://sedm.org/LibertyU/LibertyU.htm>

28 We caution our readers of the following differences of opinion that we have with Pete Hendrickson's approach:

- 29 1. Pete Hendrickson's approach to getting refunds of earnings unlawfully withheld against his wishes and without a  
30 VOLUNTARY W-4 is to submit IRS Form 1040. We disagree with this approach, and instead use the 1040NR for such  
31 a case so that we are not mistaken by the courts and the IRS as a statutory "[U.S. citizen](#)" or "[resident](#)" who has a  
32 [domicile](#) in the District of Columbia.
- 33 2. Several have contacted Pete about this almost singular defect in his approach. Some have pointed to the [IRS](#)  
34 [Document 7130](#), which says that IRS Form 1040 is only for "U.S. citizens and residents". They have also pointed out  
35 to him the definition of "[individual](#)" which appears at the top of IRS Form 1040 found in 26 CFR §1.1441-1(c)(3),  
36 which is defined as an "alien" or "nonresident alien". Pete agrees that those domiciled in states of the Union are all "  
37 [nonresident aliens](#)". However, he isn't willing to translate this understanding of the I.R.C. into practice by filing the  
38 correct form, the 1040NR form, when he asks for a refund, and we believe this is a grave mistake.
- 39 3. Anyone who starts out as a "nonresident alien" and who files an IRS Form 1040 is making an "election" to be treated  
40 as a "[U.S. person](#)" and a "resident alien" pursuant to [26 U.S.C. §6013\(g\)](#) and (h) and [26 U.S.C. §7701\(b\)\(4\)\(B\)](#). This  
41 is a very dangerous way to jeopardize your sovereignty and waive sovereign immunity pursuant to [28 U.S.C.](#)  
42 [§1603\(b\)\(3\)](#).  [Click here](#) and read sections 11, 14.4, and 14.5 for details on how this "election" works.
- 43 4. Pete suggests attaching IRS form 4852 to correct false W-2 forms. However, those filing IRS Form 1040NR cannot  
44 use this form. The top of the Form 4852 says "Attach to form 1040, 1040A, 1040-EZ, or 1040X." Form 1040NR is  
45 not included in the list, so obviously, this is a "resident alien" form available only to those with a domicile on federal

territory and therefore whom the government has jurisdiction over to penalize. We therefore suggest either using form W-2C or making your own substitute form in the following article on our website:

*Correcting Erroneous IRS Form W-2's*, Form #04.006  
<http://sedm.org/Forms/FormIndex.htm>

5. We therefore strongly discourage our [Members](#) or readers from filing IRS Form 1040's as Pete suggests. The ONLY form they can file to get a refund and still remain members is either an [Amended IRS Form 1040NR](#), or our Federal Nonresident Nonstatutory Claim for Return of Funds Unlawfully Paid to the Government-Long, Form #15.001. The reasoning behind this is exhaustively described in the following memorandum of law:

*Nonresident Alien Position*, Form #05.020  
<http://sedm.org/Forms/FormIndex.htm>

On a more positive note, we admire Pete Hendrickson's research for the most part, with the singular exception above, as well as his brave efforts to inform the American public on his Lost Horizons website of the deliberate misapplication of the Internal Revenue Code by private employers and the government. Of all the freedom researchers we know of, he has come closer to the truth about the income tax than anyone else to date, except possibly us, of course. We wouldn't have posted a link to his work here if he didn't have important or valuable information to offer our Members.

The links below are offsite links and we are not responsible for the content. We encourage you to visit either of the two offsite links and to share the links with your friends, but please be sure to warn them about the above defects in Pete's approach:

- On the Meaning of "income"
  - [Video](http://video.google.com/videoplay?docid=-7168065131939251968): [<http://video.google.com/videoplay?docid=-7168065131939251968>]
  - [Audio](#) (MP3, 28 Minutes): [<http://famguardian.org/Subjects/Taxes/Articles/PeteHendrickson-20060217.mp3>]
- [About the Income Tax FRAUD](#): [<http://video.google.com/videoplay?docid=-5896474392571120895>]

## **6 Family Guardian overall policy towards the Hendrickson Approach**

SOURCE: [http://famguardian.org/Subjects/Taxes/CaseStudies/WhosWho/WhosWho.htm#Hendrickson\\_Pete](http://famguardian.org/Subjects/Taxes/CaseStudies/WhosWho/WhosWho.htm#Hendrickson_Pete)

Works in the real estate industry. Advocates home schooling. Offers a book called "Cracking the Code" on his website. This book is a compilation of his research over the years into the tax fraud and it very lucidly explains using historical documents why Subtitle A describes an indirect excise tax upon privileged federal "public office". His argument centers on the meaning of words, due process, and the "includes" argument. This is also the position taken on this website as well.

- [Click here](http://famguardian.org/Subjects/Taxes/Articles/TradeOrBusinessScam.htm) (<http://famguardian.org/Subjects/Taxes/Articles/TradeOrBusinessScam.htm>) for an article agreeing with his findings entitled "The Trade or Business Scam".
- [Click here](http://famguardian.org/Subjects/Taxes/FalseRhetoric/Includess.pdf) (<http://famguardian.org/Subjects/Taxes/FalseRhetoric/Includess.pdf>) for another article on the word "Includes" which is consistent with Pete's research on the subject

Mr. Hendrickson's approach is to file a 1040 return asking for all the money back, and attaching IRS form 4852's showing that the amounts reported by employers are in error because he is not engaged in a "[trade or business](#)". The technique has worked for several. In April 2006, IRS initiated a lawsuit against Hendrickson and six others, trying to recover monies they refunded to him. We agree with his research on the [trade or business scam](#). However, we disagree about the best technique for getting unlawfully withheld or paid earnings returned to the victim. We think the IRS form 1040 is the WRONG form because:

1. The IRS form 1040 is only for use by "[U.S. persons](#)" [domiciled](#) in the federal zone, which doesn't fit most Americans. It is also the wrong form because everything that goes on an IRS form 1040 is "[trade or business](#)" earnings subject to deductions under [26 U.S.C. §162](#).
2. The form is only for use by "[U.S. persons](#)" [domiciled](#) in the federal zone, which doesn't fit most Americans.
3. Everything listed in 26 U.S.C. §1 and everything that goes on an IRS Form 1040 is "[trade or business](#)" earnings subject to deductions under [26 U.S.C. §162](#).

1 We have talked with him about this problem, but doesn't seem inclined to change his approach and thereby may be  
2 needlessly subjecting those who imitate his approach to federal jurisdiction that they wouldn't otherwise be subject to.

3 In Pete's defense, he says it doesn't matter what form you file as long as you put "zero" for earnings. We disagree with  
4 Pete, however, because a "[nonresident alien](#)" filing the 1040 form constitutes an "election" to become a "[resident alien](#)"  
5 subject to the jurisdiction of the federal courts pursuant to [26 U.S.C. §6013](#)(g) and (h), [26 U.S.C. §7701](#)(b)(4)(B), and the  
6 [IRS Published Products Catalog, Document 7130](#). All "[taxpayers](#)" within the I.R.C. Subtitle A are "aliens" per 26 CFR  
7 §1.1-1(a)(2)(ii) and a "[nonresident alien](#)" as defined in [26 U.S.C. §7701](#)(b)(1)(B) is NOT equivalent to an "alien" as defined  
8 in [26 U.S.C. §7701](#)(b)(1)(A). The IRS tries to deliberately confuse this issue in its [Publication 519](#) so that people will treat  
9 "nonresident aliens" and "aliens" as equivalent, but they in fact are not statutorily. The ONLY way a "nonresident alien"  
10 can become a "[resident alien taxpayer](#)" is to make a voluntary election to become one by filling out the WRONG form, the  
11 1040 form. Folks, if you are going to use his approach, DON'T use the IRS Form 1040, but the 1040NR-EZ or else you'll  
12 eventually end up needlessly jeopardizing your [sovereign immunity](#) and becoming an effective "resident" of the federal  
13 zone and your local federal judicial district.

- 14 • [Click here \[http://sedm.org/Forms/MemLaw/NonresidentAlienPosition.pdf\]](#) (OFFSITE LINK) to learn more about  
15 why the 1040NR and not the 1040 is the correct form.
- 16 • [Click here \[http://famguardian.org/Subjects/LawAndGovt/Citizenship/WhyANational.pdf\]](#) to learn why  
17 citizenship and domicile is HUGELY important to the jurisdiction and sovereignty issue.

18 In response to the above, Pete sent us the following:

19 *In a technical sense, a non-federal-zone-located person could be characterized as a "[non-resident alien](#)" in the*  
20 *context of the revenue law, [ . . . ] but this is absolutely immaterial to the fundamental application of the tax,*  
21 *which has nothing to do with either citizenship or residency [ . . . ]. See*  
22 [http://www.losthorizons.com/appendix.htm#RegardingNon-ResidentAliens](#).

23 *As noted in the Appendix section indicated, the distinction between the use of a 1040 and a 1040NR is moot for*  
24 *most-- that is, for anyone not needing to take advantage of provisions offering "income"-taxation*  
25 *exclusions based on certain tax treaty structures. See*

- 26 [http://www.losthorizons.com/tax/Misunderstandings/snakeoilwarning.htm](#),
- 27 [http://www.losthorizons.com/tax/Misunderstandings/praand1040s.htm](#) and
- 28 [http://www.losthorizons.com/tax/Misunderstandings/CitizenshipAndTheFourteenth.htm](#),

29 *for a good deal more on this, and please read them through carefully.*

30 Based on the above, we agree with Pete that the [I.R.C. Subtitle A](#) income tax does not apply to someone ONLY because of  
31 where they live, as he points out. Instead, liability is based on the COINCIDENCE of one's legal domicile AND the taxable  
32 activities (e.g. "[trade or business](#)") they are involved in coincident with said legal [domicile](#). We also add that even if you  
33 are engaged in a "[trade or business](#)", you won't be a "[taxpayer](#)" or have a liability if your legal domicile is not ***within*** federal  
34 territory, which the I.R.C. calls the "[United States](#)". In this regard, Pete has grossly oversimplified his argument. For  
35 instance:

36 *Title 26: Internal Revenue*  
37 [PART 1—INCOME TAXES](#)  
38 [nonresident alien individuals](#)  
39 [§ 1.872-2 Exclusions from gross income of nonresident alien individuals.](#)

40 *(f) [Other exclusions.](#)*

41 ***Income which is from sources without [outside] the United States [District of***  
42 ***Columbia, see 26 U.S.C. §7701(a)(9) and (a)(10)], as determined under the provisions***  
43 ***of sections 861 through 863, and the regulations thereunder, is not included in the***  
44 ***gross income of a nonresident alien individual unless such income is effectively***  
45 ***connected for the taxable year with the conduct of a trade or business in the United***  
46 ***States by that individual.*** *To determine specific exclusions in the case of other items*  
47 *which are from sources within the United States, see the applicable sections of the Code.*

1           For special rules under a tax convention for determining the sources of income and for  
2           excluding, from gross income, income from sources without the United States which is  
3           effectively connected with the conduct of a trade or business in the United States, see the  
4           applicable tax convention. For determining which income from sources without the  
5           United States is effectively connected with the conduct of a trade or business in the  
6           United States, see section [864\(c\)\(4\)](#) and §1.864-5.

7           The above is based on [26 U.S.C. §871](#), which imposes a tax upon nonresident aliens ONLY in connection with sources of  
8           income within the federal "[United States](#)" or "federal zone". Note that based on the above, the requirement for "in the  
9           United States" would not be satisfied if the income was earned OUTSIDE the federal "[United States](#)" by the nonresident  
10          alien.

11          We also disagree that residency is NOT a criteria for the tax. All income taxes are based on legal "[domicile](#)", and domicile  
12          is synonymous with "residency" as Mr. Hendrickson uses it above. This is confirmed by carefully reading [26 U.S.C. §911](#)  
13          and by reading Cook v. Tait, 265 U.S. 47 (1924). Domicile is also the source of jurisdiction for all civil matters in federal  
14          court, and therefore it IS very important, especially if or when the IRS attempts enforcement actions. See:

<p><a href="#">Why Domicile and Becoming a "Taxpayer" Require Your Consent</a>, Form #05.002 <a href="http://sedm.org/Forms/FormIndex.htm">http://sedm.org/Forms/FormIndex.htm</a></p>
--

15          All statutory, but not constitutional, citizens maintain a legal domicile on federal territory, based on the above article about  
16          domicile.

17          Pete also points out that some are advocating that people NOT register to serve as jurists based on mistaken notions about  
18          citizenship. We are not among the persons to whom he refers. HOWEVER, we also advise our readers that they should do  
19          the following to ensure that they do not compromise their [sovereign immunity](#) and are NOT mistaken for a statutory "[U.S.](#)  
20          [citizen](#)" as defined in [8 U.S.C. §1401](#) or a "resident alien" as defined in [26 U.S.C. §7701\(b\)\(1\)\(A\)](#), both of whom have a  
21          domicile on federal [territory](#) as "[U.S. persons](#)" and "[taxpayers](#)":

- 22          1. They should attach the following to their voter registration.  
23             [Voter Registration Attachment, Form #06.003](#) (OFFSITE LINK)
- 24          2. They should attach the following to their Jury Summons Response:  
25             [Affidavit of Citizenship, Domicile, and Tax Status, Form #02.001](#) (OFFSITE LINK)

## 26          **7 Conclusions**

27          The differences between the Pete Hendrickson approach and that documented on the SEDM website pertaining to federal  
28          income taxes described in I.R.C. Subtitle A are minor but not inconsequential. Most of these differences result from  
29          Hendrickson's obvious desire to simplify his approach to taxation so as to broaden the appeal of that approach to all  
30          Americans so that they can avoid having to learn too much about law in order to defend their status and return unlawfully  
31          withhold earnings. We believe this desire of his is laudable and admirable. However, we also think that because of the  
32          shear size and volume of the Internal Revenue Code, being 9,500 pages:

- 33          1. Hendrickson's approach is grossly oversimplified. It does not give his followers enough information to:
  - 34             1.1. Defend their status as a "nontaxpayer" with no "gross income" or "taxable income" using the I.R.C. and Treasury  
35                 Regulations themselves.
  - 36             1.2. Develop evidence and an administrative record that will immunize them from IRS enforcement or criminal  
37                 prosecution.
  - 38             1.3. Defend themselves administratively against all the meritless IRS propaganda and subterfuge they will get in  
39                 collection notices and correspondence they will receive from the government.
  - 40             1.4. Litigate in federal court without the aid of a licensed attorney, who in most cases will sell EVERYONE down the  
41                 river and cave in to the government. This will lead those who have a valid approach to tarnish and discredit the  
42                 approach because of the counsel who represents them.
- 43          2. Hendrickson's understanding of the relationship of domicile to taxation is incomplete and is missing some very  
44          important information. Lack of knowledge of these subjects are commonplace and have resulted in successful criminal  
45          prosecutions of previous freedom movement leadership such as Larken Rose, Irwin Schiff, etc.

- 1 2.1. The purpose of government is “protection”, and domicile is the institutionalized means by which that protection  
 2 or “tribute” is paid for. Domicile is the origin of the all of the government’s jurisdiction to impose an income tax.  
 3 2.2. Domicile is a First Amendment, Constitutionally protected choice of political affiliation which no court may  
 4 lawfully interfere with because no court can entertain “political questions” without violating the separation of  
 5 powers doctrine.  
 6 2.3. Understanding of “domicile” is important, because understanding and correctly describing your status it is the key  
 7 to avoiding becoming the target of illegal enforcement of the Internal Revenue Code, disconnecting from the  
 8 government “beast”, and restoring your sovereignty. Lawfully avoiding income taxation is only a very small part  
 9 of restoring one’s sovereignty.  
 10 2.4. The IRS Form 1040 is a “resident” (alien) form to be filled out by “resident aliens” ONLY who are engaged in  
 11 the “trade or business” franchise and who are subject to the tax imposed by 26 U.S.C. §1. These “resident aliens”  
 12 include statutory citizens temporarily abroad and coming under a tax treaty with a foreign country pursuant to 26  
 13 U.S.C. §911. In this capacity, they interface to the I.R.C. as “resident aliens” because they are aliens in relation  
 14 to the foreign country they interface through.  
 15 2.4.1. Everything that goes on IRS Form 1040 is “trade or business” earning subject to deductions pursuant to 26  
 16 U.S.C. §162. [26 CFR §301.7701-5](http://www.famguardian.org/TaxFreedom/CitesByTopic/Resident-26cfr301.7701-5.pdf) (older versions of this reg, not current version) implies that all persons  
 17 engaged in said franchise are “residents”.  
 18 <http://famguardian.org/TaxFreedom/CitesByTopic/Resident-26cfr301.7701-5.pdf>  
 19 2.4.2. [26 U.S.C. §7701\(a\)\(39\)](#), and [26 U.S.C. §7408\(d\)](#) say that these “residents” consent to be treated as though  
 20 they live in the District of Columbia for the purposes of judicial jurisdiction.  
 21 2.4.3. [26 U.S.C. §7701\(b\)\(4\)\(B\)](#) and [26 U.S.C. §6013\(g\)](#) or (h) authorize nonresident aliens to make an election to  
 22 be treated as “resident aliens”, but only when married to statutory “U.S. citizens”. It is ILLEGAL for a  
 23 nonresident alien not married to a statutory U.S. citizen to file IRS form 1040.  
 24 2.5. For further details on the importance of “domicile”, see and rebut the following:  

<i>Why Domicile and Becoming a “Taxpayer” Require Your Consent</i> , Form #05.002 <a href="http://sedm.org/Forms/FormIndex.htm">http://sedm.org/Forms/FormIndex.htm</a>
--

 25 3. Hendrickson does not understand who the real “taxpayers” are, and that they are all “resident aliens” of one kind or  
 26 another.  
 27 3.1. All “individuals” within the I.R.C. are “aliens” or “nonresident aliens” pursuant to 26 CFR §1.1441-1(c)(3).  
 28 3.2. Those who are “nonresident aliens” must make a voluntary election to become “resident aliens” pursuant to 26  
 29 U.S.C. §6013(g) and (h) before they can become “taxpayers”.  
 30 3.3. A “nonresident alien” who engages in a “trade or business” becomes a “resident alien”, whether he likes it or  
 31 knows it or not, pursuant to [28 U.S.C. §1605\(a\)\(2\)](#) and older versions of [26 CFR §301.7701-5](#). See also:  

<i>Who are “taxpayers” and who needs a “Taxpayer Identification Number”?</i> , Form #05.013 <a href="http://sedm.org/Forms/FormIndex.htm">http://sedm.org/Forms/FormIndex.htm</a>
--

 32 4. His description of the “trade or business” scam is incomplete and is not packaged to make it directly useful in  
 33 correspondence with the IRS nor is it useful for litigation purposes. For a more succinct and immediately useful  
 34 description, see the following free memorandum of law available on our website:  

<i>The “Trade or Business” Scam</i> , Form #05.001 <a href="http://sedm.org/Forms/FormIndex.htm">http://sedm.org/Forms/FormIndex.htm</a>
---

 35 11. Hendrickson believes that the use of Social Security Numbers does not change one’s status or imply that one is  
 36 engaged in a “trade or business”. We completely disagree. NO ONE who wants their sovereignty back should be  
 37 applying for, using or providing government-issued numbers because doing so makes them a fiduciary over public  
 38 property. Everything they connect that number to becomes private property voluntarily donated to a “public use”  
 39 which is subject to control and forfeiture to the government. See:  
 40 11.1. *About SSNs and TINs on Government Forms and Correspondence*, Form #05.012  
 41 <http://sedm.org/Forms/FormIndex.htm>  
 42 11.2. *About SSNs and TINs on Government Forms and Correspondence*, Form #07.004  
 43 <http://sedm.org/Forms/FormIndex.htm>  
 44 11.3. *Resignation of Compelled Social Security Trustee*, Form #06.002  
 45 <http://sedm.org/Forms/FormIndex.htm>  
 46 11.4. *Social Security: Mark of the Beast* book, Form #11.407  
 47 <http://sedm.org/Forms/FormIndex.htm>  
 48 11.5. *Socialism: The New American Civil Religion*, Form #05.016  
 49 <http://sedm.org/Forms/FormIndex.htm>

- 1 5. Hendrickson understands the distinctions between “taxpayers” and “nontaxpayers”, and yet he misrepresents his status  
2 as that of a “taxpayer” by using “taxpayer” forms such as IRS form 1040 and not at least attaching something to clarify  
3 that he is not a “taxpayer”. This oversight and omission:  
4 5.1. Encourages the IRS to impose penalties and enforcement against those who use his method.  
5 5.2. Needlessly subjects those imitating his methods to the jurisdiction of federal Article IV franchise courts such as  
6 District and Circuit courts. The only persons these courts have jurisdiction over are those engaged in federal  
7 franchises and who have a domicile on federal territory, and those who submit IRS Form 1040 meet BOTH  
8 criteria.  
9 6. We believe that people domiciled in states of the Union who are seeking a refund of unlawfully withheld or paid  
10 earnings:  
11 6.1. Shoud properly declare their status as nonresident aliens not engaged in a “trade or business”.  
12 6.2. Should NOT file an IRS Form 1040 as Hendrickson advocates, because that form is ONLY for use by “resident  
13 aliens” with a legal domicile in the District of Columbia and who are completely subject to the legislative  
14 jurisdiction of the federal courts. See:

*Nonresident Alien Position*, Form #05.020

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

- 15 6.3. If they are Members of SEDM, may ONLY file one of the following three methods and still remain Members in  
16 Good Standing, in descending order of preference where the lowest numbered item is the highest priority:  
17 6.3.1. *Federal Nonresident Nonstatutory Claim for Return of Funds Unlawfully Paid to the Government-Long*,  
18 Form #15.001  
19 <http://sedm.org/Forms/FormIndex.htm>  
20 6.3.2. *Amended IRS Form 1040NR*  
21 <http://famguardian.org/TaxFreedom/Forms/IRS/IRSFormsPubs.htm>  
22 6.3.3. IRS form 1040NR with the following form attached:

*Tax Form Attachment*, Form #04.201

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

- 23 7. Hendrickson does not understand the distinctions between *statutory* “citizens of the United States” and *constitutional*  
24 “citizens of the United States”. These distinctions are *very important* in:  
25 7.1. Preserving and protecting and defending your sovereignty and sovereign immunity as a “stateless person” in  
26 federal district court.  
27 7.2. Determining the jurisdiction of federal courts.  
28 7.3. Determining the correct tax form(s) to file, which is the IRS Form 1040NR, and not the IRS Form 1040.  
29 7.4. Determining how to administratively defend your status with the I.R.S. in a way that will keep you outside their  
30 jurisdiction and as far away as possible from their unlawful activities.

31 Those wishing to understand this important issue should consult the following on our website:

*Why You Are a “national”, “state national”, and Constitutional but not Statutory Citizen*, Form #05.006

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

- 32 8. The subtleties and nuances described in this section are very easy to overlook, even for seasoned tax professionals and  
33 tax attorneys. It is not a sin or transgression for Mr. Hendrickson to overlook them, but continuing to overlook them or  
34 refusing to rebut them once he has been informed of them is inexcusable for a person who is exercising any kind of  
35 educational or leadership role or has a large number of followers. On this important subject, the Bible says:

36 *“My brethren, let not many of you become teachers, knowing that we shall receive a stricter judgment.”*  
37 *[James 3:1, Bible, NKJV]*

38 We therefore hope that he will take his responsibility very seriously to read and rebut any aspect of the information  
39 contained herein or on our website that is in fact inconsistent with reality or prevailing law, because many may be  
40 influenced by it and if they are influenced improperly, hurt by it.

- 41 9. We predict that the deficiencies in his approach will invite persecution against those who imitate it eventually on the  
42 part of the IRS and the Dept. of Justice.

43 In closing, we wish to thank Pete Hendrickson for his excellent and important research and his brave attempt to educate the  
44 American public about their legal obligations in relation to federal taxation. He is an intelligent and articulate man who we  
45 believe has the best intentions and who diligently seeks to learn about and comply with all that federal law requires of him.  
46 In that sense, he is a good and responsible citizen and we wish there were many more people like him.

1 We welcome Mr. Hendrickson to respond to or rebut anything in this pamphlet that he find objectionable and will  
2 incorporate all such feedback into this document if or when we receive it. The goal is not to be “right”, but to educate and  
3 inform the American public about what the law requires of them through rational debate that is completely consistent with  
4 prevailing law. We do not desire to compete with or denigrate anyone, but simply to come to the Truth of the matter.

5 We also welcome our readers to notify us on our Contact Us page if they find anything on our website that is inconsistent  
6 with what appears in this document, or which is inconsistent with prevailing law or legal precedent. We desire to bring  
7 nothing but honor and glory to the Lord in all that we do in connection with this religious ministry.