

CORRECTING ERRONEOUS INFORMATION RETURNS

Last revised: 1/1/2025

**Information
Return**
(W-2, 1099)



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1 Introduction

Understanding why and how information returns become or are false or erroneous is a VERY important subject to learn. The reason is that they are often the ONLY legally admissible evidence the government can use to impute taxable statutory “income” to you necessary to establish an alleged but usually not actual tax liability.

In most cases, information returns are not only false but their falsity also becomes a crime when the filers are notified in advance that they cannot file them without committing a crime against you documented in 26 U.S.C. §7207: Fraudulent returns, statements, or other documents. Once you have evidence in your administrative record proving that the filers were notified that they are false and filing them is a criminal offense:

1. If a false return is filed beyond that point, the action is willful, malicious, and even fraudulent.
2. The filer of any subsequently filed information returns subsequently filed can be easily and successfully prosecuted for the crime of filing false returns.
3. The filer can no longer claim “plausible deniability” as a defense if they are criminally prosecuted.
4. Information returns they subsequently filed CEASE to be admissible as evidence that can be used to prosecute you for failure to file a return or pay a tax.

The authority for making fraudulent information returns inadmissible as evidence that can be used against you is a U.S. Supreme Court doctrine known as the Fruit of a Poisonous Tree Doctrine. If you never notify your withholding agent or the IRS at the beginning of your relationship that filing such false information returns is a crime, they can claim that they didn’t know, which means that “mens rea” or “wilfulness” cannot be established in satisfying the criteria to criminally prosecute them. Likewise, the IRS can also abuse “plausible deniability” defense so they too cannot be criminally prosecuted for accepting or processing the false information returns. Notifying the filers at both the withholding agent end and the IRS end as soon as possible about the falsity and criminality of the information returns is therefore a very good reliance defense that often can deflect both criminal prosecution and even civil IRS administrative enforcement.

The income tax described in the Internal Revenue Code, Subtitle A is an excise or privilege tax upon a top secret activity called a “trade or business”. A “trade or business” is defined statutorily as follows:

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

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

(26) Trade or business

“The term ‘trade or business’ includes the performance of the functions of a [public office](#).”

“public office” as used above is then legally defined as follows:

Public office

“Essential characteristics of a ‘public office’ are:

- (1) Authority conferred by law,*
- (2) Fixed tenure of office, and*
- (3) Power to exercise some of the sovereign functions of government.*
- (4) Key element of such test is that “officer is carrying out a sovereign function”.*

Essential elements to establish public position as ‘public office’ are:

- Position must be created by Constitution, legislature, or through authority conferred by legislature.*
- Portion of sovereign power of government must be delegated to position,*
- Duties and powers must be defined, directly or implied, by legislature or through legislative authority.*
- Duties must be performed independently without control of superior power other than law, and*
- Position must have some permanency.”*

[Black’s Law Dictionary, Sixth Edition, p. 1230]

Nowhere in the entire [I.R.C.](#) or any [IRS publication](#) is the above definition of "[trade or business](#)" expanded to include any activity other than a "public office", and therefore it is all-inclusive and limited to "public offices". This is also confirmed by the rules of statutory construction, which say on this subject:

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

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

Judges and even government administrators are NOT legislators and cannot by fiat or presumption add ANYTHING they want to the definition of statutory terms. If they do, they are:

1. Conducting a commercial invasion of the states in violation of Article 4, Section 4 of the United States Constitution if they expand territorial definitions that don't expressly include constitutional states of the union to add them.
2. Engaging in criminal identity theft, if they impute or assume that you as a PRIVATE human protected by the constitution are a STATUTORY "person" or "individual", which in nearly all cases is a public officer in the government. See [Government Identity Theft](#), Form #05.046.
3. Violating the separation of powers doctrine by acting as LEGISLATORS rather than EXECUTIVE branch employees. Adding things not expressly listed to statutory definitions is an act of legislation. See [Government Conspiracy to Destroy the Separation of Powers](#), Form #05.023.

Furthermore, according the creator of our three branch system of government, there is NO FREEDOM AT ALL and liberty is IMPOSSIBLE when the executive and LEGISLATIVE functions are united under a single person:

"When the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty; because apprehensions may arise, lest the same monarch or senate should enact tyrannical laws, to execute them in a tyrannical manner."

Again, there is no liberty, if the judiciary power be not separated from the legislative and executive. Were it joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control; for the judge would be then the legislator. Were it joined to the executive power, the judge might behave with violence and oppression [sound familiar?].

There would be an end of everything, were the same man or the same body, whether of the nobles or of the people, to exercise those three powers, that of enacting laws, that of executing the public resolutions, and of trying the causes of individuals."

[. . .]

In what a situation must the poor subject be in those republics! The same body of magistrates are possessed, as executors of the laws, of the whole power they have given themselves in quality of legislators. They may plunder the state by their general determinations; and as they have likewise the judiciary power in their hands, every private citizen may be ruined by their particular decisions."

[*The Spirit of Laws*, Charles de Montesquieu, 1758, Book XI, Section 6;
SOURCE: http://famguardian.org/Publications/SpiritOfLaws/sol_11.htm]

If you would like to learn more about what a "trade or business" and a "public office" is, see the following, because that subject is beyond the scope of this pamphlet:

The requirement for Information Returns originates from [Internal Revenue Code](#), Section 6041, which says under paragraph (a) that all payments of over \$600 that are made in connection with a "[trade or business](#)" must have Information Returns filed on them. To wit:

[TITLE 26](#) > [Subtitle F](#) > [CHAPTER 61](#) > [Subchapter A](#) > [PART III](#) > [Subpart B](#) > § 6041
[§ 6041. Information at source](#)

(a) Payments of \$600 or more

All persons engaged in a trade or business and making payment in the course of such trade or business to another person, of rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income (other than payments to which section 6042 (a)(1), 6044 (a)(1), 6047 (e), 6049 (a), or 6050N (a) applies, and other than payments with respect to which a statement is required under the authority of section 6042 (a)(2), 6044 (a)(2), or 6045), of \$600 or more in any taxable year, or, in the case of such payments made by the United States, the officers or employees of the United States having information as to such payments and required to make returns in regard thereto by the regulations hereinafter provided for, shall render a true and accurate return to the Secretary, under such regulations and in such form and manner and to such extent as may be prescribed by the Secretary, setting forth the amount of such gains, profits, and income, and the name and address of the recipient of such payment.

Information returns include, but are not limited to the following IRS Forms:

1. Form W-2: Wage and Tax Statement
2. IRS Form 1042-S: Foreign Persons U.S. Source Income Subject to Withholding
3. IRS Form 1098: Mortgage Interest
4. IRS Form 1099: Miscellaneous Income
5. IRS Form 8300: Currency Transaction Report
6. IRS Form K-1

The subject of information returns is VERY important. Information return filings received by the IRS:

1. Are the reason you receive collection notices from the IRS.
2. Are the basis for doing Substitute For Returns (S.F.R.'s) and involuntary assessments against parties who do not file tax returns pursuant to 26 U.S.C. §6020(b). See:

Why the Government Can't Lawfully Assess Human Beings With an Income Tax Liability Without Their Consent,
Form #05.011
<http://sedm.org/Forms/FormIndex.htm>

3. Are the basis for investigating and prosecuting people who refuse to file income tax returns under 26 U.S.C. §7203.
4. Are the basis for prosecuting those who understate their liability on a tax return for tax evasion under 26 U.S.C. §7201.
5. Create a "presumption" which is usually false that the party against whom they are filed:

- 5.1. Is a "taxpayer".
- 5.2. Is subject to the I.R.C.
- 5.3. Is in receipt of "income" or "gross income".

See the following for how these presumptions are abused unlawfully to injure innocent Americans:

Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction, Form #05.017
<http://sedm.org/Forms/FormIndex.htm>

If you never have these forms filed against you, in nearly all cases, it is impossible to become the target of IRS enforcement activity and the IRS has to leave you alone.

Most people and organizations who file information returns are ignorant of the law and do so falsely and incorrectly, because in most cases, the persons receiving said payments are not engaged in a "public office" in the U.S. government and would not consent if they knew their consent was required. In this sense, the consent of innocent third parties to engage in voluntary excise taxable federal franchises was procured fraudulently by encouraging and exploiting their ignorance and that of the payroll clerk:

1 "SUB SILENTIO. Under silence; without any notice being taken. Passing a thing sub silentio may be evidence of
2 consent."
3 [Black's Law Dictionary, Fourth Edition, p. 1593]
4

5 "In *Calder v. Bull*, which was here in 1798, Mr. Justice Chase said, that there were acts which the Federal and
6 State legislatures could not do without exceeding their authority, and among them he mentioned a law which
7 punished a citizen for an innocent act; a law that destroyed or impaired the lawful private [labor] contracts [and
8 labor compensation, e.g. earnings from employment through compelled W-4 withholding] of citizens; a law that
9 made a man judge in his own case; and a law that took the property from A [the worker], and gave it to B [the
10 government or another citizen, such as through social welfare programs]. 'It is against all reason and justice,'
11 he added, 'for a people to intrust a legislature with such powers, and therefore it cannot be presumed that they
12 have done it. They may command what is right and prohibit what is wrong; but they cannot change innocence
13 into guilt, or punish innocence as a crime, or violate the right of an antecedent lawful private [employment]
14 contract [by compelling W-4 withholding, for instance], or the right of private property. To maintain
15 that a Federal or State legislature possesses such powers [of
16 THEFT!] if they had not been expressly restrained, would, in my
17 opinion, be a political heresy altogether inadmissible in all free
18 republican governments.' 3 Dall. 388."
19 [Sinking Fund Cases, 99 U.S. 700 (1878)]

20 The false information returns filed against innocent third parties called "nontaxpayers" who are not engaged in the voluntary
21 "trade or business" franchise and who receive no benefit from participation are a violation of the laws found in the Holy
22 Bible.

23 "You shall not bear false witness against your neighbor."
24 [Exodus 20:16, Bible, NKJV]

25 "You shall not circulate a false report. Do not put your hand with the wicked to be an unrighteous witness."
26 [Exodus 23:1, Bible, NKJV]

27 Consequently, these false forms must be corrected on a routine and periodic basis until one of the following more permanent
28 solutions to this problem can be effected as described later in Section 13.5:

- 29 1. The submitters can be educated with the law to stop submitting these false returns with the following:
30 1.1. Demand for Verified Evidence of "Trade or Business" Activity: Information Return, Form #04.007
31 <http://sedm.org/Forms/FormIndex.htm>
32 1.2. The "Trade or Business" Scam, Form #05.001
33 <http://sedm.org/Forms/FormIndex.htm>
34 2. The submitters of these false returns can be criminally prosecuted under [26 U.S.C. §7206](#) and [26 U.S.C. §7207](#).
35 3. The submitters of these false returns can be civilly prosecuted under one of the following:
36 3.1. Equity or state law.
37 3.2. [26 U.S.C. §7434](#).
38 3.3. The False Claims Act, [31 U.S.C. §3729](#) as a qui tam action.

39 This short pamphlet will:

- 40 1. Show you how to correctly complete information returns.
41 2. Show you how to correct false or erroneous information returns that have already been filed against you by ignorant third
42 parties who are violating the law.
43 3. Direct you to tools to educate the filers of these false reports to stop them from being filed in the future.
44 4. Show you how to file a criminal complaint against those who file false information returns so the filers can be prosecuted.

45 Details about income tax withholding are beyond the scope of this pamphlet, but if you would like to learn more about these
46 subjects, please refer to Section 20 later:

47 Information returns are only one of MANY different devices abused illegally by government actors and agents to commit
48 criminal identity theft. All the various means of identity theft are described in the following document, along with ways of
49 preventing and prosecuting them:

2 Nature of the Internal Revenue Code, Subtitle A Income Tax

The income tax described in Internal Revenue Code, Subtitle A is an excise tax upon an activity referred to a “trade or business”, which is defined as “the functions of a public office” within the United States government. :

26 U.S.C. § 7701(a)(26)

“The term ‘trade or business’ includes the performance of the functions of a public office.”

A “public office” is a type of agency or employment within the federal government that is created by contract or agreement that you must implicitly or explicitly consent to. A “public office” also happens to be what is called a “franchise”, where the government is the grantor and the private citizen accepting the office is the grantee.

Public office

“Essential characteristics of a ‘public office’ are:

- (1) Authority conferred by law,*
- (2) Fixed tenure of office, and*
- (3) Power to exercise some of the sovereign functions of government.*
- (4) Key element of such test is that “officer is carrying out a sovereign function’.*
- (5) Essential elements to establish public position as ‘public office’ are:*
 - (a) Position must be created by Constitution, legislature, or through authority conferred by legislature.*
 - (b) Portion of sovereign power of government must be delegated to position,*
 - (c) Duties and powers must be defined, directly or implied, by legislature or through legislative authority.*
 - (d) Duties must be performed independently without control of superior power other than law, and*
 - (e) Position must have some permanency.”*

[Black’s Law Dictionary, Sixth Edition, p. 1230]

A person holding a “public office” has a fiduciary duty to the public as a “trustee” of the “public trust”:

“As expressed otherwise, the powers delegated to a public officer are held in trust for the people and are to be exercised in behalf of the government or of all citizens who may need the intervention of the officer. ¹ Furthermore, the view has been expressed that all public officers, within whatever branch and whatever level of government, and whatever be their private vocations, are trustees of the people, and accordingly labor under every disability and prohibition imposed by law upon trustees relative to the making of personal financial gain from a discharge of their trusts. ² That is, a public officer occupies a fiduciary relationship to the political entity on whose behalf he or she serves. ³ and owes a fiduciary duty to the public. ⁴ It has been said that the fiduciary responsibilities of a public officer cannot be less than those of a private individual. ⁵ Furthermore, it has been stated that any enterprise undertaken by the public official which tends to weaken public confidence and undermine the sense of security for individual rights is against public policy.⁶”
[63C American Jurisprudence 2d, Public Officers and Employees, §247 (1999)]

¹ State ex rel. Nagle v. Sullivan, 98 Mont 425, 40 P.2d. 995, 99 A.L.R. 321; Jersey City v. Hague, 18 N.J. 584, 115 A.2d. 8.

² Georgia Dep’t of Human Resources v. Sistrunk, 249 Ga. 543, 291 S.E.2d. 524. A public official is held in public trust. Madlener v. Finley (1st Dist) 161 Ill App 3d 796, 113 Ill.Dec. 712, 515 N.E.2d. 697, app gr 117 Ill.Dec. 226, 520 N.E.2d. 387 and revd on other grounds 128 Ill.2d. 147, 131 Ill.Dec. 145, 538 N.E.2d. 520.

³ Chicago Park Dist. v. Kenroy, Inc., 78 Ill.2d. 555, 37 Ill.Dec. 291, 402 N.E.2d. 181, appeal after remand (1st Dist) 107 Ill App 3d 222, 63 Ill.Dec. 134, 437 N.E.2d. 783.

⁴ United States v. Holzer (CA7 Ill) 816 F.2d. 304 and vacated, remanded on other grounds 484 U.S. 807, 98 L Ed 2d 18, 108 S Ct 53, on remand (CA7 Ill) 840 F.2d. 1343, cert den 486 U.S. 1035, 100 L Ed 2d 608, 108 S Ct 2022 and (criticized on other grounds by United States v. Osser (CA3 Pa) 864 F.2d. 1056) and (superseded by statute on other grounds as stated in United States v. Little (CA5 Miss) 889 F.2d. 1367) and (among conflicting authorities on other grounds noted in United States v. Boylan (CA1 Mass) 898 F.2d. 230, 29 Fed.Rules.Evid.Serv. 1223).

⁵ Chicago ex rel. Cohen v. Keane, 64 Ill.2d. 559, 2 Ill.Dec. 285, 357 N.E.2d. 452, later proceeding (1st Dist) 105 Ill App 3d 298, 61 Ill.Dec. 172, 434 N.E.2d. 325.

⁶ Indiana State Ethics Comm’n v. Nelson (Ind App) 656 N.E.2d. 1172, reh gr (Ind App) 659 N.E.2d. 260, reh den (Jan 24, 1996) and transfer den (May 28, 1996).

If you aren't engaged in a "public office", then the you can't be the proper subject of the income tax or truthfully or lawfully be described as THE "person", "individual", "employee", "employer", "citizen", "resident", or "taxpayer" described anywhere in the Internal Revenue Code UNLESS you volunteer by signing an agreement. Yes, you could be described by these terms in their ordinary English usage, but you would not fit the LEGAL meanings of these terms as they are defined in the Internal Revenue Code unless you in fact and in deed engage in a "public office" within the United States government through private contract or agreement that you consent to. Within this publication, we put quotes around words like those above when we wish to refer to the legally defined meaning of a term and exclude the common or ordinary definition. In that sense, the Internal Revenue Code, Subtitle A constitutes:

1. Private law:

"Private law. That portion of the law which defines, regulates, enforces, and administers relationships among individuals, associations, and corporations. As used in contradistinction to public law, the term means all that part of the law which is administered between citizen and citizen, or which is concerned with the definition, regulation, and enforcement of rights in cases where both the person in whom the right inheres and the person upon whom the obligation is incident are private individuals. See also Private bill; Special law. Compare Public Law."

[Black's Law Dictionary, Sixth Edition, p. 1196]

2. Special law:

"special law. One relating to particular persons or things; one made for individual cases or for particular places or districts; one operating upon a selected class, rather than upon the public generally. A private law. A law is "special" when it is different from others of the same general kind or designed for a particular purpose, or limited in range or confined to a prescribed field of action or operation. A "special law" relates to either particular persons, places, or things or to persons, places, or things which, though not particularized, are separated by any method of selection from the whole class to which the law might, but not such legislation, be applied. Utah Farm Bureau Ins. Co. v. Utah Ins. Guaranty Ass'n, Utah, 564 P.2d. 751, 754. A special law applies only to an individual or a number of individuals out of a single class similarly situated and affected, or to a special locality. Board of County Com'rs of Lemhi County v. Swensen, Idaho, 80 Idaho 198, 327 P.2d. 361, 362. See also Private bill; Private law. Compare General law; Public law."

[Black's Law Dictionary, Sixth Edition, pp. 1397-1398]

3. What the courts call a "franchise", which is a "privilege" or benefit offered only to those who volunteer:

FRANCHISE. A special privilege conferred by government on individual or corporation, and which does not belong to citizens of country generally of common right. Elliott v. City of Eugene, 135 Or. 108, 294 P. 358, 360. In England it is defined to be a royal privilege in the hands of a subject.

A "franchise," as used by Blackstone in defining quo warranto, (3 Com. 262 [4th Am. Ed.] 322), had reference to a royal privilege or branch of the king's prerogative subsisting in the hands of the subject, and must arise from the king's grant, or be held by prescription, but today we understand a franchise to be some special privilege conferred by government on an individual, natural or artificial, which is not enjoyed by its citizens in general. State v. Fernandez, 106 Fla. 779, 143 So. 638, 639, 86 A.L.R. 240.

In this country a franchise is a privilege or immunity of a public nature, which cannot be legally exercised without legislative grant. To be a corporation is a franchise. The various powers conferred on corporations are franchises. The execution of a policy of insurance by an insurance company [e.g. Social Insurance/Social Security], and the issuing a bank note by an incorporated bank [such as a Federal Reserve NOTE], are franchises. People v. Utica Ins. Co., 15 Johns., N.Y., 387, 8 Am.Dec. 243. But it does not embrace the property acquired by the exercise of the franchise. Bridgeport v. New York & N. H. R. Co., 36 Conn. 255, 4 Arn.Rep. 63. Nor involve interest in land acquired by grantee. Whitbeck v. Funk, 140 Or. 70, 12 P.2d. 1019, 1020 In a popular sense, the political rights of subjects and citizens are franchises, such as the right of suffrage. etc. Pierce v. Emery, 32 N.H. 484; State v. Black Diamond Co., 97 Ohio.St. 24, 119 N.E. 195, 199, L.R.A.1918E, 352.

Elective Franchise. The right of suffrage; the right or privilege of voting in public elections.

Exclusive Franchise. See Exclusive Privilege or Franchise.

General and Special. The charter of a corporation is its "general" franchise, while a "special" franchise consists in any rights granted by the public to use property for a public use but-with private profit. Lord v. Equitable Life Assur. Soc., 194 N.Y. 212, 81 N. E. 443, 22 L.R.A.,N.S., 420.

Personal Franchise. A franchise of corporate existence, or one which authorizes the formation and existence of a corporation, is sometimes called a "personal" franchise. as distinguished from a "property" franchise, which

authorizes a corporation so formed to apply its property to some particular enterprise or exercise some special privilege in its employment, as, for example, to construct and operate a railroad. See *Sandham v. Nye*, 9 Misc.ReP. 541, 30 N.Y.S. 552.

Secondary Franchises. The franchise of corporate existence being sometimes called the "primary" franchise of a corporation, its "secondary" franchises are the special and peculiar rights, privileges, or grants which it may, receive under its charter or from a municipal corporation, such as the right to use the public streets, exact tolls, collect fares, etc. *State v. Topeka Water Co.*, 61 Kan. 547, 60 P. 337; *Virginia Canon Toll Road Co. v. People*, 22 Colo. 429, 45 P. 398 37 L.R.A. 711. The franchises of a corporation are divisible into (1) corporate or general franchises; and (2) "special or secondary franchises. The former is the franchise to exist as a corporation, while the latter are certain rights and privileges conferred upon existing corporations. *Gulf Refining Co. v. Cleveland Trust Co.*, 166 Miss. 759, 108 So. 158, 160.

Special Franchisee. See *Secondary Franchises*, *supra*.
[*Black's Law Dictionary*, Fourth Edition, pp. 786-787]

4. An "excise tax" or "privilege tax" upon privileges incident to federal contracts, employment, or agency.

"Excises are taxes laid upon the manufacture, sale or consumption of commodities within the country, upon licenses to pursue certain occupations and upon corporate privileges...the requirement to pay such taxes involves the exercise of [220 U.S. 107, 152] privileges, and the element of absolute and unavoidable demand is lacking...

...It is therefore well settled by the decisions of this court that when the sovereign authority has exercised the right to tax a legitimate subject of taxation as an exercise of a franchise or privilege, it is no objection that the measure of taxation is found in the income produced in part from property which of itself considered is nontaxable...

Conceding the power of Congress to tax the business activities of private corporations.. the tax must be measured by some standard..."
[*Flint v. Stone Tracy Co.*, 220 U.S. 107 (1911)]

The IRS itself admitted some of the above in a letter documented below:

Hoverdale Letter, SEDM Exhibit #1000
<http://sedm.org/Exhibits/ExhibitIndex.htm>

The rules for administering the "trade or business" franchise followed universally by the IRS and the courts are as follows:

1. The method of conveying consent to participate in the "trade or business" franchise is any one or more of the following:

1.1. Signing and submitting SSA Form SS-5, the Application for Social Security. See:

Resignation of Compelled Social Security Trustee, Form #06.002
<http://sedm.org/Forms/FormIndex.htm>

1.2. Signing and submitting IRS Form W-4, which is the WRONG form for persons NOT engaging in the franchise. See:

Federal and State Tax Withholding Options for Private Employers, Form #04.101
<http://sedm.org/Forms/FormIndex.htm>

1.3. Signing and submitting IRS Form 1040 and assessing yourself with a liability:

"... the government can collect the tax from a district court suitor by exercising it's power of distraint... but we cannot believe that compelling resort to this extraordinary procedure is either wise or in accord with congressional intent. Our system of taxation is based upon VOLUNTARY ASSESSMENT AND PAYMENT , NOT UPON DISTRAINT" [Footnote 43] If the government is forced to use these remedies(distraint) on a large scale, it will affect adversely the taxpayers willingness to perform under our VOLUNTARY assessment system."
[*Flora v. U.S.*, 362 U.S. 145, (1959)]

1.4. Failing or refusing to rebut false information returns that connect you to the franchise. [26 U.S.C. §6041\(a\)](#) says that information returns, such as IRS Forms W-2, 1042-S, 1098, and 1099 may ONLY lawfully be filed against those engaged in the "trade or business" franchise. If you don't rebut these when they are mailed to you, then your failure to rebut is an admission that they are truthful. See:

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

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

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

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

1.4.3. Correcting Erroneous IRS Form 1099's, Form #04.005

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

1.4.4. Correcting Erroneous IRS Form W-2's, Form #04.006

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

1.5. Failing to rebut the use of federal identifying numbers on government correspondence sent to you, which constitute a “prima facie” license number to participate in “public rights” and franchises. See:

Wrong Party Notice, Form #07.105

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

2. Those who do NOT participate in the “trade or business” franchise:

2.1. Cannot legally withhold on their earnings. Anyone who withholds upon them against their will is committing THEFT for which they are personally liable.

2.2. Do not earn “wages” as legally defined in 26 U.S.C. §3401, 26 C.F.R. §31.3401(a)-3, or 26 C.F.R. §31.3402(p)-1. Therefore, any amount reported on an IRS Form W-2 MUST be ZERO, because it only reports “wages” as legally defined and not as commonly understood or used.

2.3. Have their private rights protected by the Constitution but not by most federal law. Most federal law is “foreign” in relation to them:

“The revenue laws are a code or system in regulation of tax assessment and collection. They relate to taxpayers, and not to nontaxpayers. The latter are without their scope. No procedure is prescribed for nontaxpayers, and no attempt is made to annul any of their rights and remedies in due course of law. With them Congress does not assume to deal, and they are neither of the subject nor of the object of the revenue laws...”
[Long v. Rasmussen, 281 F. 236 (1922)]

“Revenue Laws relate to taxpayers [instrumentalities, officers, employees, and elected officials of the Federal Government] and not to non-taxpayers [American Citizens/American Nationals not subject to the exclusive jurisdiction of the Federal Government]. The latter are without their scope. No procedures are prescribed for non-taxpayers and no attempt is made to annul any of their Rights or Remedies in due course of law. With them[non-taxpayers] Congress does not assume to deal and they are neither of the subject nor of the object of federal revenue laws.”
[Economy Plumbing & Heating v. U.S., 470 F.2d. 585 (1972)]

2.4. May not cite any provision of the franchise agreements codified in the I.R.C. and the Social Security Act because they are “foreign law” in relation to them and their estate is a “foreign estate” pursuant to [26 U.S.C. §7701\(a\)\(31\)](#).

2.5. If they cite any provision of the franchise agreements, it implies their voluntary consent to be bound by them, which is all that is needed to enforce these provisions of “private law”/“contract law” against them.

2.6. Are called the following in the context of federal law:

2.6.1. “nontaxpayers”. See:

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

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

2.6.2. “non-resident non-persons” not engaged in a “trade or business” as defined in 26 U.S.C. §7701(a)(26). See:

Non-Resident Non-Person Position, Form #05.020

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

2.6.3. “transient foreigners”

2.6.4. “stateless persons” in relation to the federal courts.

2.6.5. “non-citizen nationals”

2.6.6. American Citizens or “citizens of the United States **OF AMERICA**”. See 1 Stat. 477, in which the U.S. Congress identifies those domiciled in states of the Union as both “American Citizens” and “citizens of the United States **OF AMERICA**”

3. Those who participate in the “trade or business” franchise:

3.1. Earn “wages” as legally defined in 26 U.S.C. §3401 because they signed a voluntary W-4 “agreement” consenting to call such earnings “wages” pursuant to 26 C.F.R. §31.3401(a)-3, or 26 C.F.R. §31.3402(p)-1. Therefore, any amount reported on an IRS Form W-2 MUST include all earnings subject to the W-4 “agreement”.

3.2. If they are individuals, are called the following in the context of federal law:

3.2.1. “taxpayers”

3.2.2. “public officers”

3.2.3. “employees”

3.2.4. “employers”

3.2.5. "citizens" or "citizens of the United States" as defined in [8 U.S.C. §1401](#) and 26 C.F.R. §1.1-1(c)-1, where "United States" means either the federal zone or the U.S. government.

3.2.6. "residents of the United States" as defined in [26 U.S.C. §7701\(b\)\(1\)\(A\)](#), , where "United States" means either the federal zone or the U.S. government.

3.3. If they are states of the Union:

3.3.1. Must enter an Agreement on Coordination of Tax Administration (ACTA) agreement with the Secretary of the Treasury pursuant to:

3.3.1.1. 26 U.S.C. §6361 through 6365

3.3.1.2. [26 C.F.R. §301.6361-1](#) through [301.6361-5](#)

3.3.2. Are called "States" within federal law, which are territories and possessions of the United States pursuant to 4 U.S.C. §110(d). See also the following for further examples in state law:

*California Revenue and Taxation Code
Division 2: Other Taxes
Part 10: Personal Income Tax*

17018. "State" includes the District of Columbia, and the possessions of the United States.

*California Revenue and Taxation Code
Division 2: Other Taxes
Part 1: Sales and Use Taxes*

6017. "In this State" or "in the State" means within the exterior limits of the State of California and includes all territory within these limits owned by or ceded to the United States of America.

3.4. May have any provision of the franchise agreements codified in the Internal Revenue Code or the Social Security Act cited against them in court. See:

[Why You Shouldn't Cite Federal Statutes as Authority for Protecting Your Rights, Family Guardian Fellowship](http://famguardian.org/Subjects/Discrimination/CivilRights/DontCiteFederalLaw.htm)
<http://famguardian.org/Subjects/Discrimination/CivilRights/DontCiteFederalLaw.htm>

3.5. Become "trustees" of the "public trust" as well as officers of the federal corporation identified in [28 U.S.C. §3002\(15\)\(A\)](#).

3.6. Are acting in a representative capacity on behalf of the federal government pursuant to [Federal Rule of Civil Procedure 17\(b\)](#) as "officers of a federal corporation".

4. All franchises and "public rights" create federal agency and "public office" to one extent or another, and it is this agency that is the subject of most federal legislation. Nearly all laws passed by Congress pertain only to their own territory, possessions, offices, employees, and franchises. You must therefore become part of the government for them to lawfully regulate the exercise of the franchise.

"The restrictions that the Constitution places upon the government in its capacity as lawmaker, i.e., as the regulator of private conduct, are not the same as the restrictions that it places upon the government in its capacity as employer. We have recognized this in many contexts, with respect to many different constitutional guarantees. Private citizens perhaps cannot be prevented from wearing long hair, but policemen can. Kelley v. Johnson, 425 U.S. 238, 247 (1976). Private citizens cannot have their property searched without probable cause, but in many circumstances government employees can. O'Connor v. Ortega, 480 U.S. 709, 723 (1987) (plurality opinion); id., at 732 (SCALIA, J., concurring in judgment). Private citizens cannot be punished for refusing to provide the government information that may incriminate them, but government employees can be dismissed when the incriminating information that they refuse to provide relates to the performance of their job. Gardner v. Broderick, [497 U.S. 62, 95] 392 U.S. 273, 277-278 (1968). With regard to freedom of speech in particular: Private citizens cannot be punished for speech of merely private concern, but government employees can be fired for that reason. Connick v. Myers, 461 U.S. 138, 147 (1983). Private citizens cannot be punished for partisan political activity, but federal and state employees can be dismissed and otherwise punished for that reason. Public Workers v. Mitchell, 330 U.S. 75, 101 (1947); Civil Service Comm'n v. Letter Carriers, 413 U.S. 548, 556 (1973); Broadrick v. Oklahoma, 413 U.S. 601, 616-617 (1973)."
[Rutan v. Republican Party of Illinois, 497 U.S. 62 (1990)]

5. All privileged activities and franchises are usually licensed by the government and cause a surrender of constitutional rights:

5.1. The application of the license causes a surrender of constitutional rights.

"And here a thought suggests itself. As the Meadors, subsequently to the passage of this act of July 20, 1868, applied for and obtained from the government a license or permit to deal in manufactured tobacco, snuff and cigars, I am inclined to be of the opinion that they are, by this their own voluntary act, precluded from assailing

the constitutionality of this law, or otherwise controverting it. For the granting of a license or permit-the yielding of a particular privilege-and its acceptance by the Meadors, was a contract, in which it was implied that the provisions of the statute which governed, or in any way affected their business, and all other statutes previously passed, which were in pari materia with those provisions, should be recognized and obeyed by them. When the Meadors sought and accepted the privilege, the law was before them. And can they now impugn its constitutionality or refuse to obey its provisions and stipulations, and so exempt themselves from the consequences of their own acts?"

[In re Meador, 1 Abb.U.S. 317, 16 F.Cas. 1294, D.C.Ga. (1869)]

- 5.2. Those participating in the “benefits” of the franchise have implicitly surrendered the right to challenge any encroachments against their “private rights” or “constitutional rights” that result from said participation:

The Court developed, for its own governance in the cases confessedly within its jurisdiction, a series of rules under which it has avoided passing upon a large part of all the constitutional questions pressed upon it for decision. They are:

[. . .]

6. The Court will not pass upon the constitutionality of a statute at the instance of one who has availed himself of its benefits.^{FN7} Great Falls Mfg. Co. v. Attorney General, 124 U.S. 581, 8 S.Ct. 631, 31 L.Ed. 527; Wall v. Parrot Silver & Copper Co., 244 U.S. 407, 411, 412, 37 S.Ct. 609, 61 L.Ed. 1229; St. Louis Malleable Casting Co. v. Prendergast Construction Co., 260 U.S. 469, 43 S.Ct. 178, 67 L.Ed. 351.

^{FN7} Compare Electric Co. v. Dow, 166 U.S. 489, 17 S.Ct. 645, 41 L.Ed. 1088; Pierce v. Somerset Ry., 171 U.S. 641, 648, 19 S.Ct. 64, 43 L.Ed. 316; Leonard v. Vicksburg, etc., R. Co., 198 U.S. 416, 422, 25 S.Ct. 750, 49 L.Ed. 1108.

[Ashwander v. Tennessee Valley Authority, 297 U.S. 288, 56 S.Ct. 466 (1936)]

6. The Social Security Number is the “de facto” license number which is used to track and control all those who voluntarily engage in public franchises and “public rights”.

- 6.1. The number is “de facto” rather than “de jure” because Congress cannot lawfully license any trade or business, including a “public office” in a state of the Union, by the admission of no less than the U.S. Supreme Court:

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

But very different considerations apply to the **internal commerce** or **domestic trade** of the States. Over this commerce and trade Congress has **no power of regulation nor any direct control**. This power belongs **exclusively** to the States. **No interference by Congress with the business of citizens transacted within a State is warranted by the Constitution, except such as is strictly incidental to the exercise of powers clearly granted to the legislature.** The power to authorize a business within a State is plainly repugnant to the exclusive power of the State over the same subject. It is true that the power of Congress to tax is a very extensive power. It is given in the Constitution, with only one exception and only two qualifications. Congress cannot tax exports, and it must impose direct taxes by the rule of apportionment, and indirect taxes by the rule of uniformity. Thus limited, and thus only, it reaches every subject, and may be exercised at discretion. But, it reaches only existing subjects. **Congress cannot authorize a trade or business within a State in order to tax it.**”

[License Tax Cases, 72 U.S. 462, 18 L.Ed. 497, 5 Wall. 462, 2 A.F.T.R. 2224 (1866)]

- 6.2. If you don’t want to be in a “privileged” state and suffer the legal disabilities of accepting the privilege, then you CANNOT have or use Social Security Numbers.

7. Use of a Social Security Number constitutes prima facie consent to engage in the franchise. Use of this number constitutes prima facie evidence of implied consent because:

- 7.1. It is a crime to compel use or disclosure of Social Security Numbers. 42 U.S.C. §408.

- 7.2. You can withdraw from the franchise lawfully at any time if you don’t want to participate. See SSA Form 521. See:

Resignation of Compelled Social Security Trustee, Form #06.002
<http://sedm.org/Forms/FormIndex.htm>

- 7.3. If the government uses the SSN trustee licenses number to communicate with you and you don’t object or correct them, then you once again consented to their jurisdiction to administer the program. See:

Wrong Party Notice, Form #07.105
<http://sedm.org/Forms/FormIndex.htm>

8. The Social Security Number is property of the government and NOT the person using it. 20 C.F.R. §422.103(d).
- 8.1. The Social Security card confirms this, which says: “Property of the Social Security Administration and must be returned upon request.
- 8.2. Anything the Social Security Number is attached to becomes “private property” voluntarily donated to a “public use” to procure the benefits of the “public right” or franchise. Only “public officers” on official business may have public property in their possession such as the Social Security Number.

If you would like to learn more about how the “trade or business” franchise works, see:

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

If you would like to know the entire effect of participating in federal franchises upon your standing in a federal court, see Sections 3 through 3.6 of the following entitled “How statutory franchises and ‘public rights’ affect choice of law”:

Federal Jurisdiction, Form #05.018
<http://sedm.org/Forms/FormIndex.htm>

3 The Information Return Scam

As we said in the preceding section, the income tax described by Internal Revenue Code, Subtitle A is a franchise and excise tax upon “public offices” within the U.S. government, which the code defines as a “trade or business”. Before an income tax can lawfully be enforced or collected, the subject of the tax must be connected to the activity with court-admissible evidence. Information returns are the method by which the activity is connected to the subject of the tax under the authority of 26 U.S.C. §6041(a). When this connection is made, the person engaging in the excise taxable activity is called “effectively connected with the conduct of a trade or business within the United States”.

TITLE 26 > Subtitle F > CHAPTER 61 > Subchapter A > PART III > Subpart B > § 6041
§ 6041. Information at source

(a) Payments of \$600 or more

All persons engaged in a trade or business and making payment in the course of such trade or business to another person, of rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income (other than payments to which section 6042 (a)(1), 6044 (a)(1), 6047 (e), 6049 (a), or 6050N (a) applies, and other than payments with respect to which a statement is required under the authority of section 6042 (a)(2), 6044 (a)(2), or 6045), of \$600 or more in any taxable year, or, in the case of such payments made by the United States, the officers or employees of the United States having information as to such payments and required to make returns in regard thereto by the regulations hereinafter provided for, shall render a true and accurate return to the Secretary, under such regulations and in such form and manner and to such extent as may be prescribed by the Secretary, setting forth the amount of such gains, profits, and income, and the name and address of the recipient of such payment.

The government cannot lawfully regulate private conduct. The ability to regulate private conduct is, in fact, “repugnant to the constitution” as held by the U.S. Supreme Court. The only thing the government can regulate is “public conduct” and the “public rights” and franchises that enforce or implement it. Consequently, the government must deceive private parties into submitting false reports connecting their private labor and private property to such a public use, public purpose, and public office in order that they can usurp jurisdiction over it and thereby tax and plunder it.

“The power to “legislate generally upon” life, liberty, and property, as opposed to the “power to provide modes of redress” against offensive state action, was “repugnant” to the Constitution. Id., at 15. See also United States v. Reese, 92 U.S. 214, 218 (1876) ; United States v. Harris, 106 U.S. 629, 639 (1883) ; James v. Bowman, 190 U.S. 127, 139 (1903) . Although the specific holdings of these early cases might have been superseded or modified, see, e.g., Heart of Atlanta Motel, Inc. v. United States, 379 U.S. 241 (1964) ; United States v. Guest, 383 U.S. 745 (1966) , their treatment of Congress’ §5 power as corrective or preventive, not definitional, has not been questioned.”
[City of Boerne v. Flores, Archbishop of San Antonio, 521 U.S. 507 (1997)]

In a sense, the function of an information return therefore is to:

1. Provide evidence that the owner is consensually and lawfully engaged in the “trade or business” and public office franchise. These reports cannot lawfully be filed if this is not the case. 26 U.S.C. §7206 and 7207 make it a crime to file a false report.
2. Donate formerly private property described on the report to a public use, a public purpose, and a public office with the consent of the owner without any immediate or monetary compensation in order to procure the “benefits” incident to participation in the franchise.
3. Subject the property to indirect excise taxation upon the “trade or business” activity.
4. Subject the property to use and control by the government:

*“Men are endowed by their Creator with certain unalienable rights, -life, liberty, and the pursuit of happiness;’ and to ‘secure,’ not grant or create, these rights, governments are instituted. **That property [or income] which a man has honestly acquired he retains full control of, subject to these limitations: First, that he shall not use it to his neighbor’s injury, and that does not mean that he must use it for his neighbor’s benefit [e.g. SOCIAL SECURITY, Medicare, and every other public “benefit”]; second, that if he devotes it to a public use, he gives to the public a right to control that use; and third, that whenever the public needs require, the public may take it upon payment of due compensation.”** [Budd v. People of State of New York, [143 U.S. 517](#) (1892)]*

On the other hand, if the information return:

1. Was filed against an owner of the property described who is not lawfully engaged in a public office or a “trade or business” in the U.S. government. . .OR
2. Was filed in a case where the owner of the private property did not consent to donate the property described to a public use and a public office by signing a contract or agreement authorizing such as an IRS Form W-4. . .OR
3. Was filed mistakenly or fraudulently.

. . .then the following crimes have occurred:

1. A violation of the Fifth Amendment Takings Clause has occurred:

U.S. Constitution, Fifth Amendment

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor **be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.**

2. A violation of due process has occurred. Any taking of property without the consent of the owner is a violation of due process of law.
3. The subject of the information return is being compelled to impersonate a public officer in criminal violation of 18 U.S.C. §912.

[TITLE 18 > PART I > CHAPTER 43 > § 912](#)
[§ 912. Officer or employee of the United States](#)

Whoever falsely assumes or pretends to be an officer or employee acting under the authority of the United States or any department, agency or officer thereof, and acts as such, or in such pretended character demands or obtains any money, paper, document, or thing of value, shall be fined under this title or imprisoned not more than three years, or both.

4. An unlawful conversion of private property to public property has occurred in criminal violation of 18 U.S.C. §654. Only officers of the government called “withholding agents” appointed under the authority of 26 U.S.C. §7701(a)(16) and the I.R.C. can lawfully file these information returns or withhold upon the proceeds of the transaction. All withholding and reporting agents are public officers, not private parties, whether they receive direct compensation for acting in that capacity or not.

[TITLE 18 > PART I > CHAPTER 31 > § 654](#)
[§ 654. Officer or employee of United States converting property of another](#)

1 Whoever, being an officer or employee of the United States or of any department or agency thereof, embezzles
2 or wrongfully converts to his own use the money or property of another which comes into his possession or
3 under his control in the execution of such office or employment, or under color or claim of authority as such
4 officer or employee, shall be fined under this title or not more than the value of the money and property thus
5 embezzled or converted, whichever is greater, or imprisoned not more than ten years, or both; but if the sum
6 embezzled is \$1,000 or less, he shall be fined under this title or imprisoned not more than one year, or both.

7 If you would like to learn more about how the above mechanisms work, see:

The “Trade or Business” Scam, Form #05.001, Section 2
<http://sedm.org/Forms/FormIndex.htm>

8 Nearly all private Americans are not in fact and in deed lawfully engaged in a “public office” and cannot therefore serve
9 within such an office without committing the crime of impersonating a public officer. This is exhaustively proven in the
10 following:

The “Trade or Business” Scam, Form #05.001, Section 11.2
<http://sedm.org/Forms/FormIndex.htm>

11 What makes someone a “private American” is, in fact, that they are not lawfully engaged in a public office or any other
12 government franchise. All franchises, in fact, make those engaged into public officers of one kind or another and cause them
13 to forfeit their status as a private person and give up all their constitutional rights in the process. See:

Government Instituted Slavery Using Franchises, Form #05.030
<http://sedm.org/Forms/FormIndex.htm>

14 IRS therefore mis-represents and mis-enforces the Internal Revenue Code by abusing their tax forms and their untrustworthy
15 printed propaganda as a method:

- 16 1. To unlawfully create public offices in the government in places they are forbidden to even exist pursuant to 4 U.S.C.
17 §72.
- 18 2. To “elect” the average American unlawfully into such an office.
- 19 3. To cause those involuntarily serving in the office to unlawfully impersonate a public officer in criminal violation of 18
20 U.S.C. §912.
- 21 4. To enforce the obligations of the office upon those who are not lawfully occupying said office.
- 22 5. Of election fraud, whereby the contributions collected cause those who contribute them to bribe a public official to
23 procure the office that they occupy with unlawfully collected monies, in criminal violation of 18 U.S.C. §210. IRS
24 Document 6209 identifies all IRS Form W-2 contributions as “gifts” to the U.S. government, which is a polite way of
25 describing what actually amounts to a bribe.

26 [TITLE 18 > PART I > CHAPTER 11 > § 210](#)
27 [§ 210. Offer to procure appointive public office](#)

28 Whoever pays or offers or promises any money [withheld unlawfully] or thing of value, to any person, firm, or
29 corporation in consideration of the use or promise to use any influence to procure any appointive [public]
30 office or place under the United States for any person, shall be fined under this title or imprisoned not more
31 than one year, or both.

32 For instance, innocent Americans ignorant of the law are deceived into volunteering to unlawfully accept the obligations of
33 a public office by filing an IRS Form W-4 “agreement” to withhold pursuant to [26 U.S.C. §3402\(p\)](#) , 26 C.F.R. §31.3401(a)-
34 3(a) , and 26 C.F.R. §31.3402(p)-1. To wit:

35 [26 C.F.R. §31.3401\(a\)-3 Amounts deemed wages under voluntary withholding agreements.](#)

36 (a) In general.

37 Notwithstanding the exceptions to the definition of wages specified in section 3401(a) and the regulations
38 thereunder, the term “wages” includes the amounts described in paragraph (b)(1) of this section with respect
39 to which there is a voluntary withholding agreement in effect under section 3402(p). References in this chapter

to the definition of wages contained in section 3401(a) shall be deemed to refer also to this section (§31.3401(a)-3).

26 C.F.R. §31.3402(p)-1 Voluntary withholding agreements.

(a) In general.

An employee and his employer may enter into an agreement under section 3402(b) to provide for the withholding of income tax upon payments of amounts described in paragraph (b)(1) of §31.3401(a)-3, made after December 31, 1970. An agreement may be entered into under this section only with respect to amounts which are includible in the gross income of the employee under section 61, and must be applicable to all such amounts paid by the employer to the employee. The amount to be withheld pursuant to an agreement under section 3402(p) shall be determined under the rules contained in section 3402 and the regulations thereunder. See §31.3405(c)-1, Q&A-3 concerning agreements to have more than 20-percent Federal income tax withheld from eligible rollover distributions within the meaning of section 402.

Those who have not voluntarily signed and submitted the IRS Form W-4 contract/agreement and who are were not lawfully engaged in a “public office” within the U.S. government BEFORE they signed any tax form cannot truthfully or lawfully earn reportable “wages” as legally defined in 26 U.S.C. §3402. Therefore, even if the IRS sends a “lock-down” letter telling the private employer to withhold at a rate of “single with no exemptions”, he must withhold ONLY on the amount of “wages” earned, which is still zero. If a W-2 is filed against a person who does not voluntarily sign and submit the W-4 or who is not lawfully engaged in a public office:

1. The amount reported must be ZERO for everything on the form, and especially for “wages”.
2. If any amount reported is other than zero, then the payroll clerk submitting the W-2 is criminally liable for filing a false return under 26 U.S.C. §7206, punishable as a felony for up to a \$100,000 fine and three years in jail.
3. If you also warned the payroll clerk that they were doing it improperly in writing and have a proof you served them with it, their actions also become fraudulent and they additionally liable under 26 U.S.C. §7207, punishable as a felony for up to \$10,000 and up to one year in jail.

The heart of the tax fraud and SCAM perpetrated on a massive scale by our government then is:

1. To publish IRS forms and publications which contain untrustworthy information that deceives the public into believing that they have a legal obligation to file false information returns against their neighbor.

IRS Publications explain the law in plain language for taxpayers and their advisors. They typically highlight changes in the law, provide examples illustrating IRS positions, and include worksheets. Publications are nonbinding on the IRS and do not necessarily cover all positions for a given issue. While a good source of general information, publications should not be cited to sustain a position.
[Internal Revenue Manual (I.R.M.), Section 4.10.7.2.7 (01-1-2006); SOURCE: https://www.irs.gov/irm/part4/irm_04-010-007#idm139859652464096]

2. To reinforce the deliberate deception and omissions in their publications with verbal advice that is equally damaging and untrustworthy:

p. 21: “As discussed in §2.3.3, the IRS is not bound by its statements or positions in unofficial pamphlets and publications.”

p. 34: “6. IRS Pamphlets and Booklets. The IRS is not bound by statements or positions in its unofficial publications, such as handbooks and pamphlets.”

p. 34: “7. Other Written and Oral Advice. Most taxpayers’ requests for advice from the IRS are made orally. Unfortunately, the IRS is not bound by answers or positions stated by its employees orally, whether in person or by telephone. According to the procedural regulations, ‘oral advice is advisory only and the Service is not bound to recognize it in the examination of the taxpayer’s return.’ 26 C.F.R. §601.201(k)(2). In rare cases, however, the IRS has been held to be equitably estopped to take a position different from that stated orally to, and justifiably relied on by, the taxpayer. The Omnibus Taxpayer Bill of Rights Act, enacted as part of the Technical and Miscellaneous Revenue Act of 1988, gives taxpayers some comfort, however. It amended section 6404 to require the Service to abate any penalty or addition to tax that is attributable to advice furnished in writing by any IRS agent or employee acting within the scope of his official capacity. Section 6404 as amended protects the taxpayer only if the following conditions are satisfied: the written advice from the IRS was issued in response to a written request from the taxpayer; reliance on the advice was reasonable; and the error in the advice did not result from inaccurate or incomplete information having been furnished by the taxpayer. Thus, it will still be difficult to bind

the IRS even to written statements made by its employees. **As was true before, taxpayers may be penalized for following oral advice from the IRS.**"
[Tax Procedure and Tax Fraud, Patricia Morgan, 1999, ISBN 0-314-06586-5, West Group]

3. To make it very difficult to describe yourself as either a “nontaxpayer” or a person not subject to the Internal Revenue Code on any IRS form. IRS puts the “exempt” option on their forms, but has no option for “not subject”. You can be “not subject” and a “nontaxpayer” without being “exempt” and if you want to properly and lawfully describe yourself that way, you have to either modify their form or create your own substitute. You cannot, in fact be an “exempt individual” as defined in 26 U.S.C. §7701(b)(5) without first being an “individual” and therefore subject to the I.R.C.. The following entity would be “not subject” but also not an “exempt individual” or “exempt”, and could include people as well as property:

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

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

(31) Foreign estate or trust

(A) Foreign estate

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

If you would like to know more about this SCAM, see:

[Flawed Tax Arguments to Avoid, Form #08.004, Section 8.12](#)
<http://sedm.org/Forms/FormIndex.htm>

4. For the IRS to be protected by a judicial “protection racket” implemented by judges who have a conflict of interest as “taxpayers” in violation of 18 U.S.C. §208, 28 U.S.C. §144, and 28 U.S.C. §455. This protection racket was instituted permanently upon federal judges with the Revenue Act of 1932 as documented in:
- 4.1. [Evans v. Gore, 253 U.S. 245 \(1920\)](#)
 - 4.2. [O'Malley v. Woodrough, 307 U.S. 277 \(1939\)](#)
 - 4.3. [United States v. Hatter, 121 S.Ct 1782 \(2001\)](#)
5. To receive what they know in nearly all cases are false information returns against private parties.
6. To protect the filers of these false reports.
- 6.1. IRS Forms W-2, 1042-S, 1098, and 1099 do not contain the individual identity of the person who prepared the form.
 - 6.2. Only IRS forms 1096 and W-3 contain the identity and statement under penalty of perjury signed by the specific individual person who filed the false information return.
 - 6.3. If you send a FOIA to the Social Security Administration asking for the IRS Forms 1096 and W-3 connected to the specific information returns filed against you, they very conveniently will tell you that they don't have the documents, even though they are the **ONLY** ones who receive them in the government! They instead tell you to send a FOIA to the IRS to obtain them. For example, see the following:



SOCIAL SECURITY

Refer to:

9H: \B\82

September 1, 2008



Dear Mr. [REDACTED]

This is in response to your request for copies of your W-2 and W-3 tax documents.

These documents are not the Social Security Administration's records. Please contact your local Internal Revenue Service (IRS) office for this information. For your convenience, I have provided you with the address and telephone number of your local IRS office.

Internal Revenue Service
550 Main St.
Cincinnati, OH 45202
(513) 263-3333

I hope this information is helpful.

Sincerely,

Vincent A. Dormarunno
Privacy Officer

If you want to see the document the above request responds to, see:

Information Return FOIA: "Trade or Business", Form #03.023
<http://sedm.org/Forms/FormIndex.htm>

- 6.4. The IRS then comes back and says they don't keep the original IRS Forms 1096 and W-3 either! Consequently, there is no way to identify the specific individual who filed the original false reports or to prosecute them criminally under 26 U.S.C. §§7206 and 7207 or civilly under 26 U.S.C. §7434. In that sense, IRS FOIA offices act as "witness protection programs" for those communist informants for the government willfully engaged in criminal activity.

Internal Revenue Manual
21.3.6.4.6.4 (10-01-2024)

Requests for Copies of Forms 1096 and Forms 1099

(1) Advise taxpayer that IRS cannot provide copies of the actual forms. Actual forms, if submitted on paper, are destroyed once information is stored electronically.

a. Information shown on Form 1099, Information Return, is available on a Martinsburg Computing Center (MCC) transcript requested via Command Code (CC) IRPTR.

b. Information on Form 1096, Annual Summary and Transmittal of U.S. Information Returns, is available via CC PATRA.

c. Use CC IRPTR to request on line or hard copy transcripts from the Information Return Master File (IRMF). Refer to IRM 2.3.35.4, Command Code IRPTR Valid Tax Years, to determine the years available. You can request up to 10 years.

d. Use CC IRPTRW to request sanitized on-line payee transcript screens. This definer is used to print sanitized screens for taxpayers. Refer to IRM 2.3.35.10.8, Payee On-Line Sanitized Transcript (Definer W), for procedures. [SOURCE: https://www.irs.gov/irm/part21/irm_21-003-006#idm140362742962304]

7. To deliberately interfere with efforts to correct these false reports by those who are the wrongful subject of them:
 - 7.1. By penalizing filers of corrected information returns up to \$5,000 for each IRS Form 4852 filed pursuant to 26 U.S.C. §6702.
 - 7.2. By not providing forms to correct the false reports for ALL THOSE who could be the subject of them. IRS Form 4852, for instance, says at the top "Attach to Form 1040, 1040A, 1040-EZ, or 1040X." There is no equivalent form for use by nonresident aliens who are victims of false IRS Form W-2 or 1099-R and who file a 1040NR.
 - 7.3. To refuse to accept IRS Form W-2C filed by those other than "employers".
 - 7.4. To refuse to accept custom, substitute, or modified forms that would correct the original reports.
 - 7.5. To not help those submitting the corrections by saying that they were not accepted, why they were not accepted, or how to make them acceptable.
8. To ignore correspondence directed at remedying all the above abuses and thereby obstruct justice and condone and encourage further unlawful activity.

So what we have folks is a deliberate, systematic plan that:

1. Turns innocent parties called "nontaxpayers" into guilty parties called "taxpayers", which the U.S. Supreme Court said they cannot do.

"In Calder v. Bull, which was here in 1798, Mr. Justice Chase said, that there were acts which the Federal and State legislatures could not do without exceeding their authority, and among them he mentioned a law which punished a citizen for an innocent act; a law that destroyed or impaired the lawful private [labor] contracts [and labor compensation, e.g. earnings from employment through compelled W-4 withholding] of citizens; a law that made a man judge in his own case; and a law that took the property from A [the worker], and gave it to B [the government or another citizen, such as through social welfare programs]. 'It is against all reason and justice,' he added, 'for a people to intrust a legislature with such powers, and therefore it cannot be presumed that they have done it. They may command what is right and prohibit what is wrong; but they cannot change innocence into guilt, or punish [being a "nontaxpayer"] as a crime [being a "taxpayer"]', or violate the right of an antecedent lawful private [employment] contract [by compelling W-4 withholding, for instance], or the right of private property. To maintain that a Federal or State legislature possesses such powers [of THEFT!] if they had not been expressly restrained, would, in my opinion, be a political heresy altogether inadmissible in all free republican governments.' 3 Dall. 388."

[Sinking Fund Cases, 99 U.S. 700 (1878)]

2. Constitutes a conspiracy to destroy equal protection and equal treatment that is the foundation of the Constitution, assigning all sovereignty to the government, and compelling everyone to worship and serve it without compensation.
3. Constitutes a conspiracy to destroy all Constitutional rights by compelling Americans through false reports to service the obligations of an office they cannot lawfully occupy and derive no benefit from:

"It has long been established that a State may not impose a penalty upon those who exercise a right guaranteed by the Constitution." Frost & Frost Trucking Co. v. Railroad Comm'n of California, 271 U.S. 583. "Constitutional rights would be of little value if they could be indirectly denied," Smith v. Allwright, 321 U.S. 649, 644, or manipulated out of existence," Gomillion v. Lightfoot, 364 U.S. 339, 345."
[Harman v. Forssenius, 380 U.S. 528 at 540, 85 S.Ct. 1177, 1185 (1965)]

4. Constitutes an abuse of tax forms as a federal election device to unlawfully elect those who aren't eligible and without their consent into public office in the government, in criminal violation of 18 U.S.C. §912.

- 1 5. Encourages Americans on a massive scale to file false reports against their neighbor that compel them into economic
2 servitude and slavery without compensation:

3 "You shall not circulate a false report [information return]. Do not put your hand with the wicked to be an
4 unrighteous witness."
5 [Exodus, 23:1, Bible, NKJV]

6 "**You shall not bear false witness** [or file a FALSE REPORT or information return] against your neighbor."
7 [Exodus 10:16, Bible, NKJV]

8 "A false witness will not go unpunished, And he who speaks lies shall perish."
9 [Prov. 19:9, Bible, NKJV]

10 "**If a false witness rises against any man to testify against him of wrongdoing,** then both men in the controversy
11 shall stand before the LORD, before the priests and the judges who serve in those days. And **the judges shall**
12 **make careful inquiry, and indeed, if the witness is a false witness, who has testified falsely against his brother,**
13 **then you shall do to him as he thought to have done to his brother;** [enticement into slavery (pursuant to 42
14 U.S.C. §1994)] to the demands of others without compensation] so you shall put away the evil from among you.
15 And those who remain shall hear and fear, and hereafter they shall not again commit such evil among you. Your
16 eye shall not pity: life shall be for life, eye for eye, tooth for tooth, hand for hand, foot for foot."
17 [Deut. 19:16-21, Bible, NKJV]

- 18 6. Constitutes a plan to implement communism in America. The Second Plank of the Communist Manifesto, Karl Marx is
19 a heavy, progressive income tax that punishes the rich and abuses the taxation powers of the government to redistribute
20 wealth.
21 7. Constitutes a conspiracy to replace a de jure Constitutional Republic with nothing but a big for-profit private corporation
22 and business in which:
23 7.1. Government becomes a virtual or political entity rather than physical entity tied to a specific territory. All the
24 "States" after the Civil War rewrote their Constitutions to remove references to their physical boundaries. Formerly
25 "sovereign" and independent states have become federal territories and federal corporations by signing up for
26 federal franchises:

27 At common law, a "corporation" was an "artificial perso[n] endowed with the legal capacity of perpetual
28 succession" consisting either of a single individual (termed a "corporation sole") or of a collection of several
29 individuals (a "corporation aggregate"). 3 H. Stephen, *Commentaries on the Laws of England* 166, 168 (1st Am.
30 ed. 1845). The sovereign was considered a corporation. See id., at 170; see also 1 W. Blackstone, *Commentaries*
31 *467. Under the definitions supplied by contemporary law dictionaries, Territories would have been classified as
32 "corporations" (and hence as "persons") at the time that 1983 was enacted and the Dictionary Act recodified.
33 See W. Anderson, A Dictionary of Law 261 (1893) ("All corporations were originally modeled upon a state or
34 nation"); I. J. Bouvier, A Law Dictionary Adapted to the Constitution and Laws of the United States of America
35 318-319 (11th ed. 1866) ("In this extensive sense the United States may be termed a corporation"); Van
36 Brocklin v. Tennessee, 117 U.S. 151, 154 (1886) ("The United States is a . . . great corporation . . . ordained
37 and established by the American people") (quoting United [495 U.S. 182, 202] States v. Maurice, 26 F. Cas.
38 1211, 1216 (No. 15,747) (CC Va. 1823) (Marshall, C. J.)); Cotton v. United States, 11 How. 229, 231 (1851)
39 (United States is "a corporation"). See generally *Trustees of Dartmouth College v. Woodward*, 4 Wheat. 518,
40 561-562 (1819) (explaining history of term "corporation").
41 [Ngiraingas v. Sanchez, 495 U.S. 182 (1990)]

- 42 7.2. All rights have been replaced with legislatively created corporate "privileges" and franchises. See:

Government Instituted Slavery Using Franchises, Form #05.030
<http://sedm.org/Forms/FormIndex.htm>

- 43 7.3. "citizens" and "residents" are little more than "employees" and officers of the corporation described in 26 U.S.C.
44 §6671(b), 26 U.S.C. §7343, and 5 U.S.C. §2105. See:

Proof That There Is a "Straw Man", Form #05.042
<http://sedm.org/Forms/FormIndex.htm>

- 45 7.4. You join the club and become an officer and employee of the corporation by declaring yourself to be a statutory
46 but not constitutional "U.S. citizen" on a government form. See:

Why You are a "national" or a "state national" and Not a "U.S. citizen", Form #05.006
<http://sedm.org/Forms/FormIndex.htm>

- 47 7.5. Social Security Numbers and Taxpayer Identification Numbers serve as de facto license numbers authorizing those
48 who use them to act in the capacity of a public officer, trustee, and franchisee within the government. See:

Resignation of Compelled Social Security Trustee, Form #06.002
<http://sedm.org/Forms/FormIndex.htm>

7.6. Federal Reserve Notes (FRNs) serve as a substitute for lawful money and are really nothing but private scrip for internal use by officers of the government. They are not lawful money because they are not redeemable in gold or silver as required by the Constitution. See:

The Money Scam, Form #05.041
<http://sedm.org/Forms/FormIndex.htm>

7.7. So-called "Income Taxes" are nothing but insurance premiums to pay for "social insurance benefits". They are also used to regulate the supply of fiat currency. See:

The Government "Benefits" Scam, Form #05.040
<http://sedm.org/Forms/FormIndex.htm>

7.8. The so-called "law book", the Internal Revenue Code, is the private law franchise agreement which regulates compensation to and "kickbacks" from the officers of the corporation, which includes you. See:

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

7.9. Federal courts are really just private binding corporate arbitration for disputes between fellow officers of the corporation. See:

What Happened to Justice?, Form #06.012
<http://sedm.org/Forms/FormIndex.htm>

7.10. Terms in the Constitution have been redefined to limit themselves to federal territory not protected by the original de jure constitution through judicial and prosecutorial word-smithing.

"When words lose their meaning, people will lose their liberty."
[Confucius, 500 B.C.]

"Judicial verbicide is calculated to convert the Constitution into a worthless scrap of paper and to replace our government of laws with a judicial oligarchy."
[Senator Sam Ervin, during Watergate hearing]

See:

7.10.1. *Legal Deception, Propaganda, and Fraud*, Form #05.014

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

7.10.2. *Rules of Presumption and Statutory Interpretation*, Litigation Tool #01.006

<http://sedm.org/Litigation/LitIndex.htm>

8. Constitutes a plan to unwittingly recruit the average American into servitude of this communist/socialist effort.

[TITLE 50 > CHAPTER 23 > SUBCHAPTER IV > Sec. 841.](#)
[Sec. 841. - Findings and declarations of fact](#)

*The Congress finds and declares that the Communist Party of the United States [consisting of the IRS, DOJ, and a corrupted federal judiciary], although purportedly a political party, is in fact an instrumentality of a conspiracy to overthrow the [de jure] Government of the United States [and replace it with a de facto government ruled by the judiciary]. It constitutes an **authoritarian dictatorship [IRS, DOJ, and corrupted federal judiciary in collusion]** within a [constitutional] republic, demanding for itself the rights and privileges [including immunity from prosecution for their wrongdoing in violation of [Article 1, Section 9, Clause 8 of the Constitution](#)] accorded to political parties, but **denying to all others the liberties [Bill of Rights] guaranteed by the Constitution**. Unlike political parties, which evolve their policies and programs through public means, by the reconciliation of a wide variety of individual views, and submit those policies and programs to the electorate at large for approval or disapproval, the policies and programs of the Communist Party are secretly [by corrupt judges and the IRS in complete disregard of the tax laws] prescribed for it by the foreign leaders of the world Communist movement [the IRS and Federal Reserve]. **Its members [the Congress, which was terrorized to do IRS bidding recently by the framing of Congressman Traficant] have no part in determining its goals, and are not permitted to voice dissent to party objectives. Unlike members of political parties, members of the Communist Party are recruited for indoctrination [in the public schools by homosexuals, liberals, and socialists] with respect to its objectives and methods, and are organized, instructed, and disciplined [by the IRS and a corrupted judiciary] to carry into action slavishly the assignments given them by their hierarchical chieftains. Unlike political parties, the Communist Party [thanks to a corrupted federal judiciary] acknowledges no constitutional or statutory limitations upon its conduct or upon that of its members.** The Communist Party is relatively small numerically, and gives scant indication of capacity ever to attain its ends by lawful political means. **The peril inherent in its operation arises not from its numbers, but from its failure to acknowledge any limitation as to the nature of its activities, and its dedication to the proposition that the present constitutional Government of the United States ultimately must be brought to ruin by any available means, including resort to force and violence [or using income taxes]. Holding that doctrine, its role as the agency of a hostile foreign power [the Federal Reserve and the American Bar Association (ABA)] renders its existence a clear present and continuing danger to the security of the United States.** It is the means whereby individuals are seduced into the service of the world Communist*

movement, trained to do its bidding, and directed and controlled in the conspiratorial performance of their revolutionary services. Therefore, the Communist Party should be outlawed

9. Constitutes an effort to create and perpetuate a state-sponsored religion and to compel “tithes” called income tax to the state-sponsored church, which is the government:

[Socialism: The New American Civil Religion](http://sedm.org/Forms/FormIndex.htm), Form #05.016
<http://sedm.org/Forms/FormIndex.htm>

To close this section, we highly recommend the following FOIA you can send to the IRS and the Social Security Administration that is useful as a reliance defense to expose the FRAUD described in this section upon the American people:

[Information Return FOIA: "Trade or Business"](http://sedm.org/Forms/FormIndex.htm), Form #03.023
<http://sedm.org/Forms/FormIndex.htm>

4 Information returns NOT connected with the “trade or business” excise taxable franchise

As we said in the Introduction to this document, 26 U.S.C. §6041(a) identifies when information returns must be filed:

[TITLE 26 > Subtitle F > CHAPTER 61 > Subchapter A > PART III > Subpart B > § 6041 § 6041. Information at source](#)

(a) Payments of \$600 or more

All persons engaged in a trade or business and making payment in the course of such trade or business to another person, of rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income (other than payments to which section 6042 (a)(1), 6044 (a)(1), 6047 (e), 6049 (a), or 6050N (a) applies, and other than payments with respect to which a statement is required under the authority of section 6042 (a)(2), 6044 (a)(2), or 6045), of \$600 or more in any taxable year, or, in the case of such payments made by the United States, the officers or employees of the United States having information as to such payments and required to make returns in regard thereto by the regulations hereinafter provided for, shall render a true and accurate return to the Secretary, under such regulations and in such form and manner and to such extent as may be prescribed by the Secretary, setting forth the amount of such gains, profits, and income, and the name and address of the recipient of such payment.

For the most part, they must be filed when the FILER of the information return and not the PAYMENT RECIPIENT is LAWFULLY engaged in “the functions of a public office” as defined in 26 U.S.C. §7701(a)(26). There are cases where information returns are filed in cases where no public office or “trade or business” is necessarily involved. These are listed above as:

1. Payments not connected with a “trade or business”:
 - 1.1. 26 U.S.C. §6042(a)(1). Returns regarding payments of dividends and corporate earnings and profits
 - 1.2. 26 U.S.C. §6044(a)(1). Returns regarding payments of patronage dividends
 - 1.3. 26 U.S.C. §6047(e). Information relating to certain trusts and annuity plans. This covers “employee stock ownership plans”.
 - 1.4. 26 U.S.C. §6049(a). Returns regarding payments of interest.
 - 1.5. 26 U.S.C. §6050N(a). Returns regarding payments of royalties.
2. Payments where a statement instead of an information return is required:
 - 2.1. 26 U.S.C. §6042(a)(2). Returns regarding payments of dividends and corporate earnings and profits
 - 2.2. 26 U.S.C. §6044(a)(2). Returns regarding payments of patronage dividends
 - 2.3. 26 U.S.C. §6045. Returns of brokers.

Conspicuously absent from the above are “nonresident aliens” who are NOT engaged in a trade or business but who earn “gross income” under 26 U.S.C. §871(a). These parties typically have IRS Form 1042 or 1042-s filed against them ILLEGALLY. Why? Because there is no statutory provision REQUIRING the filing of information returns against nonresident aliens not engaged in the “trade or business” franchise listed in 26 U.S.C. §6041. The instructions for preparing the Form 1042 say to complete this form to document the receipt of “gross income”, but there is no statutory requirement to do so. So the filing of these information returns is ILLEGAL and not expressly authorized by the written law.

1 **5 Information returns are inadmissible “lay legal opinions”, not facts or evidence, even if**
2 **signed under penalty of perjury**

3 Money that third parties pay you for your services is your absolutely owned, PRIVATE property. You do no share ownership
4 or control or benefit of the payments with ANYONE else and cannot be compelled to do so. For a third party filing an
5 information return in connection with the payment to suggest otherwise is STEALING and fraud.

6 One method of converting ownership of a payment from PRIVATE ABSOLUTELY owned is to connect a STATUTORY
7 CIVIL STATUS to it that implies a tax obligation against it, such as STATUTORY “income”, “gross income”, “reportable
8 income”, “trade or business”, etc. Taxation itself is the institutionalized process of converting PRIVATE property to PUBLIC
9 property WITH THE CONSENT OF THE OWNER and by no other method, either directly and expressly in writing, or
10 through SOPHISTRY that in effect STEALS from and deceives people. That’s what we conclude in section 2 earlier, in fact.

11 Third parties filing information returns to the IRS or state revenue authorities are NOT submitting legal evidence of
12 ANYTHING. They are not schooled in the law, are not reading or following the law, but merely following INFORMAL
13 procedure or industry best practices that are NOT “law”. Form #05.048 defines what “law” is and these are NOT “law”.
14 Third parties therefore cannot make lawful legal determinations or conclusions about the STATUS or CHARACTER of the
15 money they pay to others, such as its status as STATUTORY “income”, “gross income”, “reportable income”, “taxable
16 income”, etc. under the Internal Revenue Code. They are PRIVATE persons, and they have NO SUCH LEGISLATIVELY
17 DELEGATED AUTHORITY to do so:

18 *“A private person cannot make constitutions or laws, nor can he with authority construe them, nor can he*
19 *administer or execute them.”*
20 *[United States v. Harris, 106 U.S. 629, 1 S.Ct. 601, 27 L.Ed. 290 (1883)]*

21 *“All the powers of the government [including ALL of its civil enforcement powers against the public] must be*
22 *carried into operation by individual agency, either through the medium of public officers, or contracts made*
23 *with [private] individuals.”*
24 *[Osborn v. Bank of U.S., 22 U.S. 738 (1824)]*

25 By “execute” above, the U.S. Supreme Court means ENFORCE. They are not enforcers. A central part of that enforcement
26 is the making of legal determinations or even withholdings on the payment. That would be an unconstitutional taking of
27 private property unless and until the ABSOLUTE, PRIVATE owner consents to connect the payment or money to a
28 STATUTORY civil status that would establish a tax obligation under the Internal Revenue Code FRANCHISE agreement
29 such as “income”, “gross income”, “reportable income”, “trade or business” income, etc. The ONLY thing that these third
30 parties can therefore lawfully do is accept YOUR evidence of the character of the payment, if any. They can’t make their
31 OWN determination about the status of that payment. Your determinations are contained on the withholding forms you
32 submit absent duress and under penalty of perjury. YOU and not the third party signs these forms under penalty of perjury.
33 The ONLY form that members can use in this regard without violating the Member Agreement is an IRS Form W-8BEN or
34 a substitute form. See:

About IRS Form W-8BEN, Form #04.202
<https://sedm.org/Forms/FormIndex.htm>

35 In order to even claim that withholding agents CAN lawfully be enforcement agents or can WITHHOLD against the wishes
36 of the recipient of the payment, Uncle would have to prove that they were lawfully elected or appointed to a public office,
37 have EXPRESS delegated authority to do what Uncle claims they can do. This is literally an IMPOSSIBLE burden of proof
38 that they can never meet. This is an outgrowth of the State Action Doctrine of the U.S. Supreme Court, which mandates that
39 only officers of the government can enforce, and that when a person is a lawful TARGET of enforcement, they are, by
40 implication “state actors” as well. More at:

Proof That There Is a “Straw Man”, Form #05.042, Chapter 15
<https://sedm.org/Forms/FormIndex.htm>

41 The ONLY person who can therefore lawfully and UNILATERALLY make legal determinations or assign such civil
42 STATUTORY statuses to your private, constitutionally protected earnings is the ABSOILUTE OWNER of the money paid,
43 which is the PAYEE. Why? Because just like the government under Article 4, Section 3, Clause 2 of the constitution, the
44 ABSOLUTE OWNER of the payment has a right to deny any and all others the use, benefit, or control of the property and

make any and all “rules” necessary to ensure that it has the legal status the OWNER, not the PAYER intended. This is what “ownership” and “property” implies, as a matter of fact:

Ownership. Collection of rights to use and enjoy property, including right to transmit it to others. Trustees of Phillips Exeter Academy v. Exeter, 92 N.H. 473, 33 A.2d. 665, 673. The complete dominion, title, or proprietary right in a thing or claim. The entirety of the powers of use and disposal allowed by law.

The right of one or more persons to possess and use a thing to the exclusion of others. The right by which a thing belongs to someone in particular, to the exclusion of all other persons. The exclusive right of possession, enjoyment, and disposal; involving as an essential attribute the right to control, handle, and dispose.

Ownership of property is either absolute or qualified. The ownership of property is absolute when a single person has the absolute dominion over it, and may use it or dispose of it according to his pleasure, subject only to general laws. The ownership is qualified when it is shared with one or more persons, when the time of enjoyment is deferred or limited, or when the use is restricted. Calif. Civil Code, §§678-680.

There may be ownership of all inanimate things which are capable of appropriation or of manual delivery; of all domestic animals; of all obligations; of such products of labor or skill as the composition of an author, the goodwill of a business, trademarks and signs, and of rights created or granted by statute. Calif. Civil Code, §655.

In connection with burglary, "ownership" means any possession which is rightful as against the burglar.

*See also Equitable ownership; Exclusive ownership; Hold; Incident of ownership; Interest; Interval ownership; Ostensible ownership; Owner; Possession; Title.
[Black's Law Dictionary, Sixth Edition, p. 1106]*

Uncle DOES NOT own any part of the payment, unless you consensually donate it as ABSOLUTELY owned private property to a public use, a public purpose, and a public office. When so converted CONSENSUALLY by a “nonresident alien” absolute owner, it is labeled “effectively connected to a trade or business”.

26 C.F.R. §1.872-1 Gross income of nonresident alien individuals.

(a) In general -

(1) Inclusions. The gross income of a nonresident alien individual for any taxable year includes only

*(i) the gross income which is derived from sources within the United States and which is not **effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual** and*

(ii) the gross income, irrespective of whether such income is derived from sources within or without the United States, which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual.

Notice the phrase “by that individual”, which means you consented to it. No one else is the owner or can give such consent. In the case of a STATUTORY “citizen” under 26 C.F.R. §1.1-1, the STATUS of citizen is a public office so the income is OWNED by the office, not the human filling the office. Therefore, attaching OWNERSHIP of the payment to an office such as STATUTORY “citizen” or STATUTORY “resident” is an indirect rather than direct conversion of the ownership of the payment to a public office. The taxation of the office, in turn, is the RENT paid to USE the civil status and office of “citizen or resident” paid to the owner of the office and its creator, Uncle. Anything Uncle creates is owns, including all of its franchise offices, as described in:

Hierarchy of Sovereignty: The Power to Create is the Power to Tax, Family Guardian Fellowship
<https://famguardian.org/Subjects/Taxes/Remedies/PowerToCreate.htm>

To suggest that anyone but you as the exclusive PRIVATE owner can convert the civil status or character of the payment without your consent would make you the “qualified owner” instead of the “absolute owner” and thus to STEAL or CONVERT private property or some measure of control over it, both of which are property. No third party can UNILATERALLY change the character or civil status of the payment without the express consent of the ABSOLUTE unqualified owner, which you should insist at ALL TIMES on being WRITTEN only. Filling out a government withholding form such as a Form W-4 under threat duress and coercion (TDC) of being either fired or not hired does not constitute consent or a change to the civil status of the payment either. It is DURESS which makes the change in status VOIDABLE but not

necessarily VOID. You must notify the RECIPIENT of the information return that duress was involved to void the false information return before it can BECOME VOID.

"An agreement [consensual contract] obtained by duress, coercion, or intimidation is invalid, since the party coerced is not exercising his free will, and the test is not so much the means by which the party is compelled to execute the agreement as the state of mind induced.⁷ Duress, like fraud, rarely becomes material, except where a contract or conveyance has been made which the maker wishes to avoid. As a general rule, duress renders the contract or conveyance voidable, not void, at the option of the person coerced,⁸ and it is susceptible of ratification. Like other voidable contracts, it is valid until it is avoided by the person entitled to avoid it.⁹ However, duress in the form of physical compulsion, in which a party is caused to appear to assent when he has no intention of doing so, is generally deemed to render the resulting purported contract void.¹⁰"
[American Jurisprudence 2d, Duress, §21 (1999)]

Information returns unilaterally submitted by third parties:

1. Do not require your consent to file.
2. Are printed on FORMS that the government specifically says are UNTRUSTWORTHY and NOT LEGAL EVIDENCE of ANYTHING. The courts have routinely and consistently held that both IRS publications and EVERYTHING any government employee says is not a reasonable basis or legally admissible evidence of ANYTHING. See:

[Avoiding Traps in Government Forms Course](https://sedm.org/Forms/FormIndex.htm), Form #12.023
<https://sedm.org/Forms/FormIndex.htm>
3. Merely document the transfer of funds, but NOT:
 - 3.1. The GEOGRAPHICAL LOCATION of the payment WITHIN the "United States*" as required by 26 U.S.C. §872 in the case of nonresident aliens.
 - 3.2. The CHARACTER of the payment as STATUTORY "income", "gross income", "taxable income", "reportable income", or "trade or business" income, NO MATTER WHAT THE LABELS ON THE FORMS SAY.
4. Do not and CANNOT UNILATERALLY assign a CIVIL STATUS or character to the funds such as "income", "gross income", or "wages" under the Internal Revenue Code in a way that produces LEGALLY ADMISSIBLE EVIDENCE under the Federal Rules of Evidence.
5. If they DID allege to assign a civil status such as "income", "gross income", "wages", etc., would constitute a "lay legal conclusion" by OTHER than a legal professional and therefore would be UNTRUSTWORTHY.
6. Even if they are signed under penalty of perjury, the above character of ALL information returns is UNCHANGED and they STILL are not legal evidence that the earnings have ANY CIVIL STATUS or character at all under the Internal Revenue Code.
7. May not be used by the IRS or state revenue agencies as an evidentiary basis for ANYTHING, and especially not an assessment.
8. If they are used as evidence to make a STATUTORY assessment, the assessment was:
 - 8.1. Executed based MERELY on a presumption that is not evidence. See:

[Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction](https://sedm.org/Forms/FormIndex.htm), Form #05.017
<https://sedm.org/Forms/FormIndex.htm>
 - 8.2. Done in violation of due process. Only court admissible EVIDENCE can be a reasonable basis for any governmental action. See:

[Requirement for Due Process of Law](https://sedm.org/Forms/FormIndex.htm), Form #05.045
<https://sedm.org/Forms/FormIndex.htm>
9. If their accuracy is challenged by the TARGET of the information return, the IRS and state revenue agencies have a DUTY to verify the accuracy BEFORE they can make or enforce a lawful assessment based upon them. If any of the following aspects of the information returns filed are FALSE, the assessment is INVALID and unenforceable in the case of a nonresident alien:

⁷ Brown v. Pierce, 74 U.S. 205, 7 Wall 205, 19 L.Ed. 134

⁸ Barnette v. Wells Fargo Nevada Nat'l Bank, 270 U.S. 438, 70 L.Ed. 669, 46 S.Ct. 326 (holding that acts induced by duress which operate solely on the mind, and fall short of actual physical compulsion, are not void at law, but are voidable only, at the election of him whose acts were induced by it); Fiske v. Gershman, 30 Misc.2d. 442, 215 N.Y.S.2d. 144; Glenney v. Crane (Tex Civ App Houston (1st Dist)), 352 S.W.2d. 773, writ ref n r e (May 16, 1962); Carroll v. Fetty, 121 W.Va. 215, 2 S.E.2d. 521, cert den 308 U.S. 571, 84 L.Ed. 479, 60 S.Ct. 85.

⁹ Fiske v. Gershman, 30 Misc.2d. 442, 215 N.Y.S.2d. 144; Heider v. Unicume, 142 Or. 416, 20 P.2d. 384; Glenney v. Crane (Tex Civ App Houston (1st Dist)), 352 S.W.2d. 773, writ ref n r e (May 16, 1962)

¹⁰ Restatement 2d, Contracts §174, stating that if conduct that appears to be a manifestation of assent by a party who does not intend to engage in that conduct is physically compelled by duress, the conduct is not effective as a manifestation of assent.

- 1 9.1. The payment did not originate from the STATUTORY geographical "United States" described in 26 U.S.C.
2 §7701(a)(9) and (a)(10), meaning the District of Columbia ONLY.
- 3 9.2. The payment was not connected to a STATUTORY "trade or business" defined in 26 U.S.C. §7701(a)(26), meaning
4 "the functions of a public office". Note that only a PUBLIC OFFICER can lawfully execute "the functions of a
5 public office" and you are NOT such officer unless you were lawfully elected or appointed. You can't unilaterally
6 APPOINT yourself to such an office by filling out a tax or withholding form EITHER.
- 7 9.3. The payment does not have the character or status imputed to it on the form as CIVIL STATUTORY "wages",
8 "income", "gross income", "taxable income", "reportable income", etc.
- 9 9.4. You as the OWNER of the entire payment did not CONSENT to assign the civil status imputed by the form. Thus,
10 the funds or were unlawfully and unilaterally donated by a third party to a public use, a public purpose, or a public
11 office WITHOUT the express consent of the owner and thus STOLEN.

12 Below is some of the proof of the above:

13 ". . . lay legal conclusions [such as information returns] are inadmissible in evidence"
14 [Christiansen v. National Savings and Trust Co., 683 F.2d. 520, 529 (D.C. Cir. 1982)]
15

16 Generally, neither an expert witness nor a lay person may give testimony that amounts to a legal conclusion.
17 Berkeley Inv. Group, Ltd. v. Colkitt, 455 F.3d. 195, 217 (3d Cir. 2006); Hogan v. American Telephone
18 Telegraph, 812 F.2d. 409, 411-12 (8th Cir. 1987) (lay opinion is not helpful if couched as legal conclusion);
19 Christiansen v. National Savings and Trust Co., 683 F.2d. 520, 529 (D.C. Cir. 1982) ("lay legal conclusions are
20 inadmissible in evidence").
21 [Langbord v. U.S. Department of Treasury, CIVIL ACTION No. 06-5315, at *22 (E.D. Pa. July 5, 2011)]
22

23 In Taxpayer Bill of Rights [TBOR]2 sec. 602, 110 Stat. 1463, Congress required that the Government conduct a
24 reasonable investigation of a disputed information return because of difficulties imposed on a taxpayer by third
25 parties' filing fraudulent information returns or issuing erroneous returns and refusing to correct the information.
26 H. Rept. 104-506, at 36 (1996), 1996-3 C.B. 49, 84. In any Court proceeding where a taxpayer asserts a
27 reasonable dispute with respect to income reported on a third-party information return and fully cooperates with
28 the IRS, "the Secretary shall have the burden of producing reasonable and probative information concerning
29 such deficiency in addition to such information return." [7] Sec. 6201(d). Full cooperation requires informing
30 the IRS of the dispute within a reasonable time. H. Rept. 104-506, supra at 36, 1996-3 C.B. at 84. In addition, a
31 taxpayer must provide timely "access to and inspection of all witnesses, information, and documents within the
32 control of the taxpayer". Sec. 6201(d).
33 [T.C. Summary Opinion 2009-102 UNITED STATES TAX COURT NICHOLAS AND KERRI A. FITZPATRICK,
34 Petitioners v. COMMISSIONER OF INTERNAL REVENUE, Respondent]

35
36 FOOTNOTES:

37 [7] Because sec. 6201(d) applies only to court proceedings, it does not bear directly on the Commissioner's
38 administrative position, but it does bear directly on his litigation position. As indicated, petitioners are not seeking
39 administrative costs. Thus, we need not decide whether the Commissioner's position qua administrative position
40 was reasonable. Nevertheless, it is conceivable that a position could be reasonable at the administrative stage
41 but less so at the litigation stage as a result of the sec. 6201 burden of production. Cf. Huffman v. Commissioner,
42 978 F.2d. 1139, 1148 (9th Cir. 1992) [*14] (the Commissioner's administrative position, established by the
43 notice of deficiency, was not substantially justified, but his subsequent litigation position was substantially
44 justified because in his answer he conceded the unreasonable position), affg. in part, revg. in part on other
45 grounds and remanding T.C. Memo. 1991-144.
46

47 "The government argues that its position was reasonable in light of the facts of this case. The contention is that
48 it was reasonable to attribute veracity to Mr. Navarro rather than Mr. Portillo. The government makes this
49 argument despite the ruling in Portillo that this was an arbitrary and erroneous basis for a notice of deficiency.
50 Whether Navarro made a more 29*29 credible witness than Portillo is not the issue. A cursory reading of Portillo
51 makes it clear that one person's word, i.e. "a naked assertion," is not sufficient support for a notice of
52 deficiency."

53 "In these types of unreported income cases, the Commissioner ... [cannot] choose to rely solely upon the naked
54 assertion that the taxpayer received a certain amount of unreported income for the tax period in question."
55 Portillo, 932 F.2d at 1134. A naked assessment without any foundation is arbitrary and erroneous. United
56 States v. Janis, 428 U.S. 433, 442, 96 S.Ct. 3021, 3026, 49 L.Ed.2d 1046 (1976). The previous panel of this
57 Court held that the deficiency notice "lacked any ligaments of fact" and was "clearly erroneous" as a matter

of law.^[2] Portillo, 932 F.2d 1128, at page 1133 (5th Cir.1991). There can be no clearer indication from this Court that the government's position in relying on such an unsupported notice of deficiency was not justified. The facts of this case dictate that the denial of litigation costs was an abuse of discretion.

The government contends that the reversal of the initial Tax Court decision created a new rule. This "new rule" argument is supposed to lend credence to the reasonableness of the government's position in relying on the "old rule."

In asserting that a new rule was pronounced in this case, the government turns its back on United States v. Janis, 428 U.S. 433, 96 S.Ct. 3021, 49 L.Ed.2d. 1046 (1976). Janis holds that where "the assessment is shown to be naked and without any foundation," it is not entitled to the presumption of correctness ordinarily conferred upon a notice of tax deficiency. The inception of this holding is found in Helvering v. Taylor, 293 U.S. 507, 55 S.Ct. 287, 79 L.Ed. 623, a case which was decided in 1935!

The unsubstantiated and unreliable 1099 Form submitted to the IRS by Navarro was insufficient to form a rational foundation for the tax assessment against the Portillos. This was made abundantly clear by the opinion rendered in the initial appeal. The Court found that the notice of deficiency lacked "any ligaments of fact" and that the assessment was "arbitrary and erroneous." Portillo, supra. [*Portillo v. C.I.R.*, 988 F.2d. 27 (1993)]

The district court rejected Cavoto's contention that a Form 1099-C filed by someone other than a financial entity is necessarily fraudulent. Although Hayes was not required to file a Form 1099-C, the court explained, she was not prohibited from doing so. Moreover, the court added, filing a Form 1099-C is not equivalent to filing a false return, so long as the information in the form is accurate. Cavoto v. Hayes, No. 08 C 6957, 2009 U.S. Dist. LEXIS 96868, 2009 WL 3380664, at *3-*4 (N.D. Ill. Oct. 19, 2009). The district court then conducted a bench trial to resolve the competing claims.

At trial the district court heard testimony from Hayes, Cavoto, and his ex-wife. The district court found that Cavoto had agreed with Hayes that she would loan him the \$30,000 and in return he would repay the entire sum. Cavoto, 2010 U.S. Dist. LEXIS 66017, 2010 WL 2679973, at *5. Because Cavoto agreed to reimburse Hayes, according to the court, she had a good-faith belief that when she filed the Form 1099-C she was cancelling a bona fide debt, and this meant that the Form 1099-C was not fraudulent. 2010 U.S. Dist. LEXIS 66017, [WL] at *4. The district court also found that Hayes had shown Cavoto had breached the contract by failing to repay her, and thus found for her on this claim as well. 2010 U.S. Dist. LEXIS 66017, [WL] at *5. [*Cavoto v. Hayes*, 634 F.3d. 921, 923 (7th Cir. 2011)]

For additional proof like the above, see:

Sovereignty Forms and Instructions Online, Form #10.004, Cites by Topic: "information return"
<https://famguardian.org/TaxFreedom/CitesByTopic/InformationReturn.htm>

More on the rules for lawfully converting PRIVATE property to PUBLIC property can be found at:

Separation Between Public and Private Course, Form #05.025
<http://sedm.org/Forms/FormIndex.htm>

6 Principles of property law relating to information returns

1. The earnings as property have an owner, and a third party can't change the owner without stealing. That owner is either PRIVATE or PUBLIC at the property was earned. Proving who the owner was and whether the owner was private at the time it was earned should be all that is required.
2. The character of the property **at the time it was earned** therefore determines the "choice of law" for all future disputes affecting it. To ignore that choice of law and its limitations is to STEAL
3. Congress cannot make rules under Article 4, Section 3, Clause 2 of the Constitution for property they do not own, and third parties with no shared interest in the property cannot convert someone ELSE'S property to public property without the consent of the owner, and CERTAINLY not as an officer of the government in relation to someone protected by the Constitution.

"Quod meum est sine me auferri non potest. What is mine cannot be taken away without my consent. Jenk. Cent. 251. Sed vide Eminent Domain."
[Bouvier's Maxims of Law, 1856;
<https://famguardian.org/Publications/BouvierMaximsOfLaw/BouviereMaxims.htm>]

4. To change the civil status of the property and thereby donate it to the government is a taking in violation of the Fifth Amendment.
5. The limitation set forth in the regs you cite would apply to earnings you as the owner voluntarily converted IN WRITING BEFORE it was earned, no question. However, if they weren't consensually converted by the original owner but rather STOLEN through unlawful conversion by the withholding agent of private property, those regs wouldn't apply but the Fifth Amendment would apply. Fifth Amendment claims cannot be limited by statute. Evidence of express consent must be provided by the original owner before a lawful conversion can acquire the "force of law". Until then, third party reports are merely "hearsay" indirect evidence at best.
6. That is why the constitution has to be self-executing with no statutes.

*The design of the Fourteenth Amendment has proved significant also in maintaining the traditional separation of powers 524*524 between Congress and the Judiciary. **The first eight Amendments to the Constitution set forth self-executing prohibitions on governmental action, and this Court has had primary authority to interpret those prohibitions.** The Bingham draft, some thought, departed from that tradition by vesting in Congress primary power to interpret and elaborate on the meaning of the new Amendment through legislation. Under it, "Congress, and not the courts, was to judge whether or not any of the privileges or immunities were not secured to citizens in the several States." *Flack, supra*, at 64. While this separation-of-powers aspect did not occasion the widespread resistance which was caused by the proposal's threat to the federal balance, it nonetheless attracted the attention of various Members. See *Cong. Globe*, 39th Cong., 1st Sess., at 1064 (statement of Rep. Hale) (noting that Bill of Rights, unlike the Bingham proposal, "**provide[s] safeguards to be enforced by the courts, and not to be exercised by the Legislature**"); *id.*, at App. 133 (statement of Rep. Rogers) (prior to Bingham proposal it "was left entirely for the courts . . . to enforce the privileges and immunities of the citizens"). As enacted, the Fourteenth Amendment confers substantive rights against the States which, like the provisions of the Bill of Rights, are self-executing. Cf. *South Carolina v. Katzenbach*, 383 U.S., at 325 (discussing Fifteenth Amendment). The power to interpret the Constitution in a case or controversy remains in the Judiciary. [*City of Boerne v. Flores*, 521 U.S. 507 (1997)]*

"Where rights secured by the Constitution are involved, there can be no rule [regulation] making or legislation [civil statute] which would abrogate them."
[*Miranda v. Arizona*, 384 U.S. 436, 491 (1966)]

"Due process of law is violated when the government vindictively attempts to penalize a person for exercising a protected statutory or constitutional right." [limiting a refund is a talking of property rights for penalty purposes]
[*United States v. Conkins*, 9 F.3d 1377, 1382 (9th Cir. 1993)]

"Under basic rules of construction, statutory laws enacted by legislative bodies cannot impair rights given under a constitution. 194 B.R. at 925. "
[*In re Young*, 235 B.R. 666 (Bankr.M.D.Fla., 1999)]

7. Only AFTER consent by the original absolute owner of earnings is provided to convert the payment from PRIVATE to PUBLIC can the payment convert from PRIVATE to PUBLIC and be the proper subject of any aspect of the regulation of PUBLIC property found in the Internal Revenue Code. Below is an example of such rules:

26 C.F.R. §301.6402-2

b)Grounds set forth in claim.

(1) No [STATUTORY] refund or credit [of FRANCHISE property that is NOT PRIVATE] will be allowed after the expiration of the statutory period of limitation applicable to the filing of a claim therefor except upon one or more of the grounds set forth in a claim filed before the expiration of such period. The claim must set forth in detail each ground upon which a credit or refund is claimed and facts sufficient to apprise the Commissioner of the exact basis thereof. The statement of the grounds and facts must be verified by a written declaration that it is made under the penalties of perjury. A claim which does not comply with this paragraph will not be considered for any purpose as a claim for refund or credit.

8. A constitutional refund MUST be provided to those who are not franchisees or taxpayers, but it may not be ADMINISTRATIVE and may need to be pursued in court under the constitution. Below are merely EXAMPLES of such a principle, but which would not necessarily be the source of standing for a purely constitutional claim:

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

California Civil Code
Section 2224

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

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

[*Bull v. United States*, 295 U.S. 247, 261, 55 S.Ct. 695, 700, 79 L.Ed. 1421]

“A claim against the United States is a right to demand money from the United States. [1] Such claims are sometimes spoken of as gratuitous in that they cannot be enforced by suit without statutory consent. [2] **The general rule of non-liability of the United States does not mean that a citizen cannot be protected against the wrongful governmental acts that affect the citizen or his or her property.** [3] **If, for example, money or property of an innocent person goes into the federal treasury by fraud to which a government agent was a party, the United States cannot [lawfully] hold the money or property against the claim of the injured party.**[4]”

[*American Jurisprudence 2d, United States*, §45 (1999)]

FOOTNOTES:

[1] *United States ex rel. Angarica v. Bayard*, 127 U.S. 251, 32 L.Ed. 159, 8 S.Ct. 1156, 4 AFTR 4628 (holding that a claim against the Secretary of State for money awarded under a treaty is a claim against the United States); *Hobbs v. McLean*, 117 U.S. 567, 29 L.Ed. 940, 6 S.Ct. 870; *Manning v. Leighton*, 65 Vt. 84, 26 A. 258, motion dismd 66 Vt. 56, 28 A. 630 and (disapproved on other grounds by *Button’s Estate v. Anderson*, 112 Vt. 531, 28 A.2d. 404, 143 A.L.R. 195).

[2] *Blagge v. Balch*, 162 U.S. 439, 40 L.Ed. 1032, 16 S.Ct. 853.

[3] *Wilson v. Shaw*, 204 U.S. 24, 51 L.Ed. 351, 27 S.Ct. 233.

[4] *Bull v. United States*, 295 U.S. 247, 79 L.Ed. 1421, 55 S.Ct. 695, 35-1 USTC ¶9346, 15 AFTR 1069; *United States v. State Bank*, 96 U.S. 30, 96 Otto 30, 24 L.Ed. 647.

9. A claim for constitutional return of the unlawfully withheld monies would NOT be a claim under ANY act of Congress, INCLUDING the Tucker Act. It would solely be a claim under the Fifth Amendment. Citing ANY federal civil statute presupposes a domicile on federal territory that would cause a waiver of sovereign immunity. See:

[Why You Shouldn't Cite Federal Statutes As Authority for Protecting Your Rights](https://famguardian.org/Subjects/Discrimination/CivilRights/DontCiteFederalLaw.htm), Great IRS Hoax, section 4.3.8
<https://famguardian.org/Subjects/Discrimination/CivilRights/DontCiteFederalLaw.htm>

10. Even the Writ of Certiorari Act enacted and promoted by traitor and ex U.S. President William H Taft while he was Chief Justice of the U.S. Supreme Court can limit constitutional appeals to the U.S. Supreme Court NOT based on statutes.¹¹ Congress cannot by legislation limit or curtail constitutional rights nor conspire with the Judicial Branch in doing so in any way whatsoever without violating the Separation of Powers. Congress can only destroy through legislation rights and remedies that it created legislatively in the first place. They didn’t create the Bill of Rights. The PEOPLE did in the Constitution.

“What is a Constitution? It is the form of government, delineated by the mighty hand of the people, in which certain first principles of fundamental laws are established. The Constitution is certain and fixed; it contains the

¹¹ For proof that Taft was the worst type of TRAITOR, See: *Great IRS Hoax*, Form #11.302, Section 6.7.1; <https://famguardian.org/Publications/GreatIRSHoax/GreatIRSHoax.htm>.

permanent will of the people, and is the supreme law of the land; it is paramount to the power of the Legislature, and can be revoked or altered only by the authority that made it. **The life-giving principle and the death-doing stroke must proceed from the same hand.**”
[*VanHorne's Lessee v. Dorrance*, 2 U.S. 304 (1795)]

“The great principle is this: because the constitution will not permit a state to destroy, it will not permit a law [including a tax law] involving the power to destroy.”
[*Providence Bank v. Billings*, 29 U.S. 514 (1830)]

“The distinction between public rights and private rights has not been definitively explained in our precedents. Nor is it necessary to do so in the present cases, for it suffices to observe that a matter of public rights must at a minimum arise “between the government and others.” Ex parte Bakelite Corp., supra, at 451, 49 S.Ct., at 413. In contrast, “the liability of one individual to another under the law as defined,” *Crowell v. Benson*, supra, at 51, 52 S.Ct., at 292, is a matter of private rights. Our precedents clearly establish that only controversies in the former category may be removed from Art. III courts and delegated to legislative courts or administrative agencies for their determination. See *Atlas Roofing Co. v. Occupational Safety and Health Review Comm’n*, 430 U.S. 442, 450, n. 7, 97 S.Ct. 1261, 1266, n. 7, 51 L.Ed.2d. 464 (1977); *Crowell v. Benson*, supra, 285 U.S., at 50-51, 52 S.Ct., at 292. See also *Katz*, *Federal Legislative Courts*, 43 Harv.L.Rev. 894, 917-918 (1930).FN24Private-rights disputes, on the other hand, lie at the core of the historically recognized judicial power.”

[. . .]

Although *Crowell* and *Raddatz* do not explicitly distinguish between rights created by Congress [PUBLIC RIGHTS] and other rights, such a distinction underlies in part *Crowell*’s and *Raddatz*’ recognition of a critical difference between rights created by federal statute and rights recognized by the Constitution. Moreover, such a distinction seems to us to be necessary in light of the delicate accommodations required by the principle of separation of powers reflected in Art. III. The constitutional system of checks and balances is designed to guard against “encroachment or aggrandizement” by Congress at the expense of the other branches of government. *Buckley v. Valeo*, 424 U.S., at 122, 96 S.Ct., at 683. But when Congress creates a statutory right [a “privilege” or “public right” in this case, such as a “trade or business”], it clearly has the discretion, in defining that right, to create presumptions, or assign burdens of proof, or prescribe remedies; it may also provide that persons seeking to vindicate that right must do so before particularized tribunals created to perform the specialized adjudicative tasks related to that right. FN35 Such provisions do, in a sense, affect the exercise of judicial power, but they are also incidental to Congress’ power to define the right that it has created. No comparable justification exists, however, when the right being adjudicated is not of congressional creation. In such a situation, substantial inroads into functions that have traditionally been performed by the Judiciary cannot be characterized merely as incidental extensions of Congress’ power to define rights that it has created. Rather, such inroads suggest unwarranted encroachments upon the judicial power of the United States, which our Constitution reserves for Art. III courts.
[*Northern Pipeline Const. Co. v. Marathon Pipe Line Co.*, 458 U.S. 50, 102 S.Ct. 2858 (1983)]

More on this subject at:

1. *Hierarchy of Sovereignty: The Power to Create is the Power to Tax*, Family Guardian Fellowship
<https://famguardian.org/Subjects/Taxes/Remedies/PowerToCreate.htm>
2. *Why Statutory Civil Law is Law for Government and Not Private Persons*, Form #05.037
<https://sedm.org/Forms/FormIndex.htm>
3. *Why You Shouldn’t Cite Federal Statutes as Authority for Protecting Your Rights*, Family Guardian Fellowship
<https://famguardian.org/Subjects/Discrimination/CivilRights/DontCiteFederalLaw.htm>

7 Nonresident aliens who do not voluntarily "effectively connect" their earnings cannot earn "wages" or "gross income" if the earnings originate from OUTSIDE the "United States"

A compliant member, who properly represents himself at all time as a nonresident alien, earns no "wages" or "gross income" from the "United States". Thus, all of they at all time represents themselves as outside the "United States" and their earnings in that scenario are:

1. NOT "gross income" per [26 U.S.C. §872](#) and [26 C.F.R. §1.872-2\(f\)](#).
2. NOT "wages" in the case of income tax per [26 C.F.R. §31.3401\(a\)\(6\)-1\(b\)](#).
3. NOT "wages" in the case of Social Security per [26 C.F.R. §31.3121\(b\)-3\(c\)\(1\)](#).

The above and more, in fact, fall within the definition of "non-person" for the purposes of our Disclaimer, Section 4:

1 SEDM Disclaimer

2 4. Meaning of Words

3 4.25 "Non-Person" or "Non-Resident Non-Person"

4 1. Tax status:

5 1.1. Is NOT a STATUTORY "nonresident alien individual" as defined in [26 U.S.C. §1441\(e\)](#) and [26 C.F.R. §1.1441-1\(c\)\(3\)\(ii\)](#), both of which are alien residents of Puerto Rico AND NO ONE ELSE.

6 1.2. Because they are "nonresident aliens" but not "nonresident alien individuals", then they are not a statutory
7 "person". You must be an statutory "individual" to be a statutory "person" per [26 U.S.C. §7701\(a\)](#) if you are a
8 man or woman.

9 More on this at: [Tax Status Presentation, Form #12.043](#).

10
11 2. Not domiciled on federal territory and not representing a corporate or governmental office that is so
12 domiciled under [Federal Rule of Civil Procedure 17](#). See [Form #05.002](#) for details.

13 3. Not engaged in a public office within any government. This includes the civil office of "person", "individual",
14 "citizen", or "resident". See [Form #05.037](#) and [Form #05.042](#) for court-admissible proof that statutory
15 "persons", "individuals", "citizens", and "residents" are public offices.

16 4. Not "purposefully or consensually availing themselves" of commerce with any government. Therefore, they do
17 not waive sovereign immunity under the [Foreign Sovereign Immunities Act \(FSIA\)](#), [28 U.S.C. Chapter 97](#).

18 5. Obligations and Rights in relation to Governments:

19 5.1. Waives any and all privileges and immunities of any civil status and all rights or "entitlements" to receive
20 "benefits" or "civil services" from any government. It is a maxim of law that [REAL de jure governments \(Form](#)
21 [#05.043\)](#) MUST give you the right to not receive or be eligible to receive "benefits" of any kind. See [Form](#)
22 [#05.040](#) for a description of the SCAM of abusing "benefits" to destroy sovereignty. The reason is because they
23 MUST guarantee your right to be self-governing and self-supporting:

24 *Invito beneficium non datur.*

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

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

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

30 *Quilibet potest renunciare juri pro se inducto.*

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

33 [Bouvier's Maxims of Law, 1856;

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

35 5.2. Because they are not in receipt of or eligible to receive property or benefits from the government, they owe
36 no CIVIL STATUTORY obligations to that government or any STATUTORY "citizen" or STATUTORY
37 "resident", as "obligations" are described in [California Civil Code Section 1428](#). This means they are not party
38 to any contracts or compacts and have injured NO ONE as injury is defined NOT by statute, but by the common
39 law. See [Form #12.040](#) for further details on the definition of "obligations".

40 5.3. Because they owe no statutory civil obligations, the definition of "justice" REQUIRES that they MUST be
41 left alone by the government. See [Form #05.050](#) for a description of "justice".

42 6. For the purposes of citizenship on government forms:

43 6.1. Does NOT identify as a STATUTORY "citizen" ([8 U.S.C. §1401](#) and [26 C.F.R. §1.1-1\(c\)](#)), "resident" (alien
44 under [26 U.S.C. §7701\(b\)\(1\)\(A\)](#)), "U.S. citizen" (not defined in any statute), "U.S. resident" (not defined in any
45 statute), or "U.S. person" ([26 U.S.C. §7701\(a\)\(30\)](#)).

46 6.2. Identifies themselves as a "national" per [8 U.S.C. §1101\(a\)\(21\)](#) and per common law by virtue of birth or
47 naturalization within the CONSTITUTIONAL "United States***".

48 7. Earnings originate from outside:

49 7.1. The STATUTORY "United States**" as defined in [26 U.S.C. §7701\(a\)\(9\)](#) and [\(a\)\(10\)](#) (federal zone) and
50 7.2. The U.S. government federal corporation as a privileged legal fiction.

51 Thus, their earnings are not includible in "gross income" under [26 U.S.C. §871](#) and are a "foreign estate"
52 under [26 U.S.C. §7701\(a\)\(31\)](#). See [26 U.S.C. §872](#) and [26 C.F.R. §1.872-2\(f\)](#) and [26 C.F.R. §1.871-7\(a\)\(4\)](#) and
53 [26 U.S.C. §861\(a\)\(3\)\(C\)\(i\)](#) for proof.

8. Does not and cannot earn STATUTORY "wages" as defined in [26 U.S.C. §3401\(a\)](#) for services performed outside the [STATUTORY "United States"](#) as defined in [26 U.S.C. §7701\(a\)\(9\) and \(a\)\(10\)](#) (federal zone) and the CORPORATION "United States" as a legal fiction. Not subject to "wage" withholding of any kind for such services per:

- 8.1. [26 C.F.R. §31.3401\(a\)\(6\)-1\(b\)](#) in the case of income tax.
- 8.2. [26 C.F.R. §31.3121\(b\)-3\(c\)\(1\)](#) in the case of Social Security.

9. Expressly exempt from income tax reporting under:

- 9.1. [26 C.F.R. §1.1441-1\(b\)\(5\)\(i\)](#).
- 9.2. [26 C.F.R. §1.1441-1\(e\)\(1\)\(ii\)\(A\)\(I\)](#).
- 9.3. [26 C.F.R. §1.6041-4\(a\)\(1\)](#).

10. Exempt from backup withholding because earnings are not reportable by [26 U.S.C. §3406\(g\)](#) and 26 C.F.R. §31.3406(g)-1(e). Only "reportable payments" are subject to such withholding.

11. Because they are exempt from income tax reporting and therefore withholding, they have no "taxable income".

11.1. Only reportable income is taxable.

11.2. There is NO WAY provided within the Internal Revenue Code to make earnings not connected to a statutory "trade or business"/public office (Form #05.001) under [26 U.S.C. §6041](#) reportable.

11.3. The only way to make earnings of a nonresident alien not engaged in the "trade or business" franchise taxable under [26 U.S.C. §871\(a\)](#) is therefore only when the PAYOR is lawfully engaged in a "trade or business" but the PAYEE is not. This situation would have to involve the U.S. government ONLY and not private parties in the states of the Union. The information returns would have to be a [Form 1042s](#). It is a crime under [18 U.S.C. §912](#) for a private party to occupy a public office or to impersonate a public office, and Congress cannot establish public offices within the exclusive jurisdiction of the states of the Union to tax them, according to the [License Tax Cases, 72 U.S. 462, 18 L.Ed. 497, 68 S.Ct. 331 \(1866\)](#).

12. Continue to be a "national of the United States*" (Form #05.006) and not lose their CONSTITUTIONAL citizenship while filing form 1040NR. See [26 U.S.C. §873\(b\)\(3\)](#). They do NOT need to "expatriate" their nationality to file as a "nonresident alien" and will not satisfy the conditions in [26 U.S.C. §877](#) (expatriation to avoid tax). Expatriation is loss of NATIONALITY, and NOT loss of STATUTORY "citizen" status under [8 U.S.C. §1401](#).

13. If they submit a Form W-8 to control withholding and revoke Form W-4, then they:

- 13.1. Can submit [SSA Form 7008](#) to correct their SSA earnings to zero them out. See [SEDM Form #06.042](#).
- 13.2. Can use [IRS Form 843](#) to request a full refund or abatement of all FICA and Medicare taxes withheld if the employer or business associate continues to file W-2 forms or withhold against your wishes. See [SEDM Form #06.044](#).

14. Are eligible to replace the SSN with a TEMPORARY International Taxpayer Identification Number (ITIN) that expires AUTOMATICALLY every year and is therefore NOT permanent and changes. If you previously applied for an SSN and were ineligible to participate, you can terminate the SSN and replace it with the ITIN. If you can't prove you were ineligible for Social Security, then they will not allow you to replace the SSN with an ITIN. See:

- 14.1. [Form W-7](#) for the application.
- 14.2. [Understanding Your IRS Individual Taxpayer Identification Number, Publication 1915](#)
- 14.3. [Why You Aren't Eligible for Social Security, Form #06.002](#) for proof that no one within the exclusive jurisdiction of a constitutional state of the Union is eligible for Social Security.

15. Must file the paper version of IRS Form 1040NR, because there are no electronic online providers that automate the preparation of the form or allow you to attach the forms necessary to submit a complete and accurate return that correctly reflects your status. This is in part because the IRS doesn't want to make it easy or convenient to leave their slave plantation.

16. Is a SUBSET of "nonresident aliens" who are not required to have or to use Social Security Numbers (SSNs) or Taxpayer Identification Numbers (TINs) in connection with tax withholding or reporting. They are expressly exempted from this requirement by:

- 16.1. [31 C.F.R. §1020.410\(b\)\(3\)\(x\)](#).
- 16.2. [26 C.F.R. §301.6109-1\(b\)\(2\)](#).
- 16.3. [W-8BEN Inst. p. 1,2,4,5 \(Cat 25576H\)](#).
- 16.4. [Instructions for the Requesters of Forms W-8BEN, W-8BEN-E, W-8ECI, W-8EXP, and W-8IMY, p. 1,2,6 \(Cat 26698G\)](#).
- 16.5. [Pub 515 Inst. p. 7 \(Cat. No 16029L\)](#).

More on SSNs and TINs at:

- [About SSNs and TINs on Government Forms and Correspondence, Form #05.012](#)
- [About SSNs and TINs on Government Forms and Correspondence, Form #04.104](#)

Note that a member claiming to be a "non-person" as defined above is NOT claiming they are NOT a statutory "person" under all scenarios, but rather is claiming that they are NOT privileged or consensually participating in any government franchise. This is because the only method we are aware of to BECOME a statutory "person" is to engage in a government civil privilege or franchise. In fact, the IRS lists it as a frivolous argument to claim the civil status of "not a person" as the only excuse for why they are not "liable" for the tax. This is because it doesn't deal with the underlying evidence of WHY one is not liable or has no "gross income" or "wages". We agree with them on this subject, in fact. We further clarify this in:

Policy Document: IRS Fraud and Deception About the Statutory Word "Person", Form #08.023
<https://sedm.org/Forms/08-PolicyDocs/IRSPerson.pdf>

Those who are members of this fellowship, if they file withholding documents or tax returns, MUST claim and act as if they are "nonresident aliens" in order to be compliant. This means they must submit a [W-8BEN](#) instead of a W-4 for withholding and a 1040NR instead of a 1040 for their tax return. This is covered in:

1. [About IRS Form W-8BEN](#), Form #04.202
<https://sedm.org/Forms/04-Tax/2-Withholding/W-8BEN/AboutIRSFormW-8BEN.htm>
2. [How to File Returns](#), Form #09.074 (Member Subscriptions)
<https://sedm.org/product/filing-returns-form-09-074/>

If a compliant member is subject to duress in submitting their withholding documents by their PRIVATE employers or financial institutions, then they must still submit IRS Form 1040NR for their tax return and reflect that in their filing.

As far as the meaning of "[United States](#)", members acknowledge that the only rational thing that it can mean for the purposes of withholding and tax returns is the "United States" federal corporation and not the geographical "United States" described in 26 U.S.C. 7701(a)(9) and (a)(10) and 4 U.S.C. §110(d). Below is the reason for this:

11. Insofar as "sources in the United States" is concerned, it appears to me that the United States in the I.R.C. is mostly referring to is the FICTIONAL corporation as a public officer and not the geography, because slavery, peonage, and human trafficking are unconstitutional and possibly even criminal everywhere in the Union and even the world, not just within a physical state protected by the Constitution. Any other interpretation would lead to an interference with the private right to contract and associate. The U.S. Supreme Court held in Downes v. Bidwell, 182 U.S. 244 (1901) and Loughborough v. Blake, 5 Wheat. 317, 5 L.Ed. 98 that an income tax on the District of Columbia, which is what "United States" is defined as in 26 U.S.C. §7701(a)(9) and (a)(10), is a tax upon THE GOVERNMENT and not upon the GEOGRAPHY, and extends wherever and ONLY where that GOVERNMENT extends. To claim that I am IN THIS "United States" or worst yet that I am rendering "services in THIS United States" is to falsely claim that I am a public officer participating in an excise taxable franchise, which I am not in this case and which the national government cannot even lawfully do within the borders of a constitutional state per the License Tax Cases, 72 U.S. 462 (1866) without unconstitutionally INVADING them in violation of Article 4, Section 4 of the Constitution.

*[Using the Laws of Property to Respond to a Federal or State Tax Collection Notice, Form #14.015;
<https://sedm.org/using-the-laws-of-property-to-respond-to-a-federal-or-state-tax-collection-notice/>]*

Obviously, those collecting a government check from the national government would still be subject to taxation on their entire earnings in most cases under the above scenario. This would mean they may need deductions to reduce their tax liability. This would happen usually through making their NONTAXABLE earnings "effectively connected". We cover this next.

Even after complying at a withholding and tax return level with the nonresident alien status, there are STILL opportunities for a nonresident alien to make their earnings taxable statutory "gross income" by simply "electing" to make them "effectively connected". This happens when they simply DECLARE an otherwise NONTAXABLE earning as TAXABLE for the purposes of procuring deductions on that earning. Don't do it! This is because a nonresident alien who earns no statutory "wages" or "gross income" doesn't need deductions to reduce their liability. Their earnings are "EXCLUDED" but not statutorily "exempt", and this is the BEST status to have, in fact! It means you are NOT "privileged" and your earnings are entirely PRIVATE and constitutionally protected.

We therefore cannot emphasize enough that it is important to avoid all the pitfalls for making your earnings "gross income" or "wages" to retain your private property, rights, and the correct civil status. Most people fall prey to one or more of these

pitfalls or are simply overwhelmed by the complexity of being a "nonresident alien" and simply punt and take the path of least resistance and the simplest path, which is being a full-time privileged government officer called a "U.S. person" or "citizen" or "resident" who owes tax on their WORLDWIDE EARNINGS! Watch out!

In the context of "wage" reporting on the W-2 form, if you are in fact are a "nonresident alien" who earns no statutory privileged "wages" or "gross income" as described above, then any W-2 filed against you will be FALSE. Our [amended W-8BEN \(Form #04.202\)](#) serves the purpose to notify your business associates of this IN ADVANCE of them even thinking about doing so. This is important, if you want to establish a mens rea (evil intent) later, if they file the W-2 anyway or if you want legal recourse against them for filing it in a civil court.

It is important to be able to understand and explain WHY the W-2 filed against you is FALSE and why the filer KNEW it was false if you receive a tax collection notice. If aren't able to succinctly and convincingly explain this, then you will be a deer in the headlights and simply be run over. The above [Using the Laws of Property to Respond to a Federal or State Tax Collection Notice, Form #14.015](#) is a good starting point for such a scenario to keep you out of a LOT of trouble if you had a W-2 filed against you and you didn't file a tax return to correct the mistake. We emphasize that this is merely a band aid that is only temporary. The best long-term strategy if they ignore the collection response or if you want to feel safer is to simply file a CORRECT 1040NR tax return. This will start the statute of limitations clock so they eventually have to leave you alone. The procedure for doing that is discussed in:

How to File Returns, Form #09.074 https://sedm.org/product/filing-returns-form-09-074/
--

8 The legal effect of filing information returns upon the civil status of the payments they relate to

Information returns are classified by the IRS as Tax Class 5, which means GIFTS. When an amount is deducted, as soon as the amount is paid by the withholding agent to the party withheld against, the funds are PRESUMED by the courts to have been GIFTED to the government and thereby converted from PRIVATE property to PUBLIC property owned by the government. As such, those who deduct and withhold on ANYONE are PRESUMED to:

1. Be doing so by the CONSENT of the party they are withholding against. Otherwise they would be STEALING if the party didn't consent and the property could no longer be classified as a GIFT.
2. Voluntarily become "transferors", fiduciaries, and "withholding agents" while in the care, custody and control of monies already withheld, as indicated in 26 U.S.C. §6901.
3. Cease to be "transferors" AFTER they remit the accumulated amounts withheld to the government.

The laws of property in general convey the right of the government to control and regulate the withholding agent after receiving funds not yet paid to the government. Recall that an essential element of "ownership" is to place conditions upon the use or control of the property that belongs to you that is in the temporary custody of others or which has been effectively "loaned" to others, such as withholding agents. The terms of the loan terminate after all funds withheld are paid to their rightful owner, which is the government. That, in fact, is ALSO how all franchises are classified: Loans of government property to otherwise private people with strings or conditions attached.

The important thing to remember is that if you NEVER consented to withhold or were not a public officer while receiving the earnings, then the government cannot compel you to withhold and you don't suddenly become a "taxpayer" or public officer that they can regulate because of your failure to withhold or failure to file a withholding document. That would be unconstitutional slavery in violation of the Thirteenth Amendment and also an unconstitutional taking of private property under the Fifth Amendment. IRS knows this, which is why the only parties subject to backup or FORCED withholding in 26 U.S.C. §3406 are "nonresident" parties not on land protected by the Constitution and as such, who can't have their rights violated by involuntary withholding. See 26 U.S.C. §1441. Everyone else who is protected by the constitution is what most withholding agents would say is a "U.S. person" under 26 U.S.C. §7701(a)(30) who is exempt from withholding AND reporting under 26 C.F.R. §1.1441-1(d)(1) and [Treasury Decision 8734 \(62 F.R. 53391, SEDM Exhibit #09.038\)](#).

The following subsections with definitively prove that tax withholdings are classified by the IRS as "gifts" and therefore "public property" beyond the control of the party against whom they were withheld. In most cases, this classification is FALSE because most people are under duress to withhold by employers and business associates. As such, you should

vociferously remind the IRS of this by stating that you under duress to file withholding documents or were illegally withheld against, and therefore, the property remains YOURS instead of the governments.

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

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

California Civil Code Section 2224

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

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

Because withholding against your consent or under duress is illegal and THEFT, YOU have the right to control THEM under the terms of your OWN loan agreement until they (the government) return the property that doesn't belong to them, just like the withholding agent has to return withholdings in their temporary custody. That agreement should look something like the document below:

Injury Defense Franchise and Agreement, Form #06.027
<https://sedm.org/Forms/FormIndex.htm>

Lastly, also note that the Bull case above implies that they have to return the monies NO MATTER WHAT under the common law, even if you are a statutory "non-resident non-person" who is not subject to any statute and even if there is no tax return form you can use BECAUSE you are a non-resident not subject to any statute.

8.1 Employment Withholding Taxes are Gifts to the U.S. Government!¹²

That's right! If you examine a copy of IRS Publication 6209 available on our website, which shows you how to decode your Individual Master File (IMF), you will find out that employment withholding taxes that you pay after you fill out a W-4 with your employer are assigned to Tax Class 5, which is classified as "Estate and Gift Taxes". Income taxes, on the other hand, are listed as tax class 2. Even more interesting, is that IRS Publication 6209, also called the "ADP/IDRS Manual" on their website, used to indicate what the various Tax Classes were, but when people found out that employment taxes were gifts and got outraged and litigated to get their money back, the IRS conveniently:

1. Removed the identification of Tax Classes from IRS Publication 6209, thus making it difficult to impossible for the average individual to figure out or prove in court that employment taxes are gifts.
2. Classified Publication 6209 on every page at the bottom as "For Official Use Only", which is a code word for "Don't Let This Get In The Hands of Those Taxpayer Bastards or They Will Sue us in Court!"

¹² Source: *Great IRS Hoax*, Form #11.302, Section 5.6.8; <https://famguardian.org/Publications/GreatIRSHoax/GreatIRSHoax.htm>.

1 3. Eventually removed the document entirely from their website and classified the entire document as “For Official Use
2 Only” so that it cannot be disclosed to the public.

3 After all the difficulty raised by the embarrassing information exposed in this publication, the IRS subsequently restored the
4 list of tax classes to the beginning of Chapter 4 of the 6209 Document 6209 on about June of 2002. The above types of
5 shenanigans by the IRS are only the tip of the iceberg and provide compelling proof that getting the IRS to tell the WHOLE
6 truth is like trying to get someone into a dentist’s office so you can pull their teeth out! Chapter 4 of this manual is available
7 on our website below and the tax class table is listed on pages 4-1 and 4-2:

8 <http://famguardian.org/PublishedAuthors/Govt/IRS/6209Manual/toc.htm>

9 The IRS, by the way, used to offer this document on their website but after we started referring to it in this book, they
10 mysteriously removed it on March 17, 2003 to cover evidence of their wrongdoing. Below is a summary of that table, and
11 keep in mind that the Tax Class is the third digit of any Document Locator Number (DLN) that you can request from your
12 Individual Master File (IMF) using the Freedom Of Information Act (FOIA) request:
13

1 **Table 1: Tax Class as appearing in Section 4 of the 6209 or ADP/IDRS Manual**

<i>Tax Class (Third digit of Document Locator Number or DLN)</i>	<i>Tax Class</i>
0	Employee Plans Master File (EPMF)
1	Withholding and Social Security
2	Individual Income Tax, Fiduciary Income Tax, Partnership return
3	Corporate Income Tax, 990C, 990T, 8083 Series, 8609, 8610
4	Excise Tax
5	Information Return Processing (IRP), Estate and Gift Tax
6	NMF
7	CT-1
8	FUTA
9	Mixed-Segregation by tax class not required

2 To help you further in associating tax classes listed above with specific taxes, we have prepared a listing of the Tax Classes
3 and the associated tax and Subtitle of the Internal Revenue Code (I.R.C.) below for your benefit:

4 **Table 2: Tax Classes Used for Various IRS Forms and filings**

<i>Tax or Topic</i>	<i>Subtitle</i>	<i>Tax Class (as used in your Individual Master File, or IMF)</i>
Income Taxes	A	2
Estate and Gift Taxes	B	5
Employment Taxes	C	1
Miscellaneous Excises	D	4
Alcohol, Tobacco, and Certain Other Excises	E	4
Procedure Administration	F	NA
Joint Committee on Taxation	G	NA
Financing Presidential Election Campaigns	H	NA
Trust Fund Code	I	NA

5 If you don't believe this, examine Chapter 2 of IRS Publication 6209 for yourself, which is entitled "Tax Returns and Forms".
6 You can view a current version of the IRS Publication 6209 on our website at:

7 <http://famguardian.org/PublishedAuthors/Govt/IRS/6209Manual/toc.htm>

8 We have included a summary of the main forms below for your benefit derived directly from that chapter, which is very
9 instructive:
10

Table 3: Tax Classes Used for Various IRS Forms and filings

<i>IRS Form number</i>	<i>Tax Class (as used in your Individual Master File, or IMF)</i>
1040	2, 6
1040NR	2, 6
1040X	2
1099	5
940	8
941-M	1, 6
SS-4	0, 9
W-2	5
W-4	5
W-4E	5

Doesn't this kind of sly treachery and deception make you even a tiny bit mad? If I.R.C., Subtitle A really were mandatory, don't you think that the W-2 would be listed as tax class 2? Instead, the employment taxes you pay are gifts to the government and then, in their guilt, they try to hide this fact from you by obfuscating Publication 6209 and classifying it as "For Official Use Only" so it doesn't get into your hands! It is precisely this kind of treachery and deception that is the reason we like to say:

"The U.S. Government is so protective of the truth about income taxes that they have to surround it with a bodyguard of lies."
[S. Jackson]

Incidentally, if you want to get a copy of IRS Publication 6209, it doesn't appear on their Document 7130 which lists all of their forms and publications. You may also not be able to obtain it under the Freedom Of Information Act (FOIA) because they simply do not want you to have it. Consequently, we have posted it on our website below:

<http://famguardian.org/PublishedAuthors/Govt/IRS/6209Manual/toc.htm>

8.2 IRS Has no Authority to Convert a Tax Class 5 "gift" into a Tax Class 2 liability¹³

This section builds on the content of section 0, where we showed that payroll deductions you make to the federal government are classified as Tax Class 5, which means estate and gift taxes, and that these taxes are donations or gifts to the U.S. government. In this section we will add to this analysis to also show that the IRS has no delegated authority to change a Tax Class 5 gift into a Tax Class 2 Liability that would appear on an IRS Form 1040. This is equivalent to saying that the IRS has no authority to do a Substitute For Return (SFR) on a natural person.

The table below establishes the various tax classes.

¹³ Source: *Great IRS Hoax*, Form #11.302, Section 5.6.16; <https://famguardian.org/Publications/GreatIRSHoax/GreatIRSHoax.htm>.

Table 4: Tax Class as appearing in Section 4 of the 6209 or ADP/IDRS Manual

<i>Tax Class (Third digit of Document Locator Number or DLN)</i>	<i>Tax Class</i>
0	Employee Plans Master File (EPMF)
1	Withholding and Social Security
2	Individual Income Tax, Fiduciary Income Tax, Partnership return
3	Corporate Income Tax, 990C, 990T, 8083 Series, 8609, 8610
4	Excise Tax
5	Information Return Processing (IRP), Estate and Gift Tax
6	NMF
7	CT-1
8	FUTA
9	Mixed-Segregation by tax class not required

When you submit IRS Form W-4 to your private employer, he becomes the equivalent of a de facto, unlawful withholding agent for Tax Class 5 gifts to the U.S. government. After you submit this form, he will complete and submit an IRS Form W-2 at the end of each year, which is called an "Information Return". The above table also classifies Information Returns as Tax Class 5, which means a gift or estate tax. Since an Information Return is NOT a tax, then the only type of tax it can be is one of these two types. However, notice that:

1. IRS Form 1040 is Tax Class 2, which means "Individual Income Tax, Fiduciary Tax, Partnership return".
2. Tax Class 5 is NOT the same as Tax Class 2, and that they may not be interchanged, because doing so would convert what amounts to a gift into a liability.
3. There is no statute in the Internal Revenue Code nor implementing regulation in 26 C.F.R. that authorizes the IRS to convert what amounts to a gift made through withholding into a liability that is owed.
4. Only the filing of an IRS Form 1040 or some variant can turn the gift into a liability, which is why when you file a 1040, you must staple the Information Returns, including W-2, 1099's, etc to the return and sign the form under penalty of perjury indicating a liability.
5. No statute or authorizes the IRS to do an involuntary Substitute For Return upon a natural person. This is covered in *Why the Government Can't Lawfully Assess Human Beings with an Income Tax Liability Without Their Consent*, Form #05.011.
6. No provision within the Internal Revenue Manual authorizes Substitute For Returns against natural persons. In fact, Internal Revenue Manual (I.R.M.), Section 5.1.11.6.8 specifically exempts IRS Form 1040 and all its variants from the Substitute For Return program.

One of our readers did a Freedom Of Information Act request asking the IRS for the statute, implementing regulation, and the Internal Revenue Manual (I.R.M.), Section authorizing the IRS to convert a Tax Class 5 Information Return into a Tax Class 2 liability, and below is the response they got back:

"We have no documents responsive to your request."

What they are admitting indirectly is that they have no authority to perform involuntary assessments or Substitute For Returns against natural persons who would ordinarily file an IRS Form 1040. This is consistent with Internal Revenue Manual (I.R.M.), Section 5.1.11.6.8, which indicates that SFR's using IRS Form 1040 are NOT legally allowed.

9 When information returns are NOT required or ALLOWED to be filed

It is very important for those receiving payments of any kind to be able to produce legal evidence PROVING that the filing of information returns against them is either not require or in fact is a criminal offense. Producing such legal evidence is the ONLY way to PREVENT the filing of false information returns in the first place, and all of the collection activity that inevitably follows which such false information causes. That is the focus of the following subsections.

9.1 Parties IMPLIEDLY exempt from information return reporting

In this section, we list major parties who are IMPLIEDLY exempt from information return reporting. By this we mean those who satisfy any one or more of the following:

1. Are being paid by someone who is NOT a statutory Withholding agent per 26 U.S.C. §7701(a)(16).
 - 1.1. You must be lawfully and personally appointed by the Treasury Secretary to actually BE a “withholding agent” and you must have in your possession a valid IRS Form 2678. See:
<https://www.irs.gov/pub/irs-pdf/f2678.pdf>
 - 1.2. The designated statutory “withholding agent” must be an elected or appointed office within the government and NOT a private party. All statutory “persons” are public officers in the government, regardless of their citizenship or nationality status. See:

Why Statutory Civil Law is Law for Government and Not Private Persons, Form #05.037
<https://sedm.org/Forms/FormIndex.htm>
2. Do not fit the EXPRESS requirements for the filing of information return because they are NOT engaged in a STATUTORY “trade or business” as defined in 26 U.S.C. §7701(a)(26). . .OR
3. Do not satisfy the definition of “person” defined for the specific type of payment involved. All human beings who are also “persons” are “aliens” under 26 C.F.R. §1.1441-1(c)(3) . . .OR
4. Are not statutory “payees”. All statutory “payees” are statutory “persons” and subsets of “persons”.. Therefore, if you as a human being are NOT a statutory “individual” (alien) under 26 C.F.R. §1.1441-1(c)(3) and therefore “person” under 26 U.S.C. §7701(a)(1), then you cannot be a “payee”:

[Title 26 > Chapter I > Subchapter A > Part I > Section 1.1441-1](#)
[26 C.F.R. §1.1441-1 - Requirement for the deduction and withholding of tax on payments to foreign persons.](#)

§ 1.1441-1 [Requirement](#) for the deduction and [withholding](#) of tax on [payments](#) to foreign [persons](#).

(b) General rules of withholding-

(2) Determination of payee and payee's status-

(i) In general.

[. . .] “[a payee is the person to whom a payment is made](#), regardless of whether such [person](#) is the [beneficial owner](#) of the [amount](#) (as [defined](#) in [paragraph \(c\)\(6\)](#) of this section).”

[Title 26 > Chapter I > Subchapter A > Part I > Section 1.1441-1](#)
[26 C.F.R. §1.1441-1 - Requirement for the deduction and withholding of tax on payments to foreign persons.](#)

§ 1.1441-1 [Requirement](#) for the deduction and [withholding](#) of tax on [payments](#) to foreign [persons](#).

(c) Definitions—

(6) **Beneficial owner**—

(i) General rule.

*This paragraph (c)(6) defines the term beneficial owner for payments of income other than a payment for which a reduced rate of withholding is claimed under an income tax treaty. **The term beneficial owner means the person who is the owner of the income for tax purposes and who beneficially owns that income. A person shall be treated as the owner of the income to the extent that it is required under U.S. tax principles to include the amount paid in gross income under section 61 (determined without regard to an exclusion or exemption from gross income under the Internal Revenue Code). Beneficial ownership of income is determined under the provisions of section 7701(l) and the regulations under that section and any other applicable general U.S. tax principles, including principles governing the determination of whether a transaction is a conduit transaction. Thus, a person receiving income in a capacity as a nominee, agent, or custodian for another person is not the beneficial owner of the income.** In the case of a scholarship, the student receiving the scholarship is the beneficial owner of that scholarship. In the case of a payment of an amount that is not income, the beneficial owner determination shall be made under this paragraph (c)(6) as if the amount were income.*

(ii) Special rules—

(A) General rule. The beneficial owners of income paid to an entity described in this paragraph (c)(6)(ii) are those persons described in paragraphs (c)(6)(ii)(B) through (D) of this section.

...OR

5. Are:

5.1. NOT Domiciled on federal territory.

5.2. NOT representing a public office domiciled on federal territory in a place expressly authorized as required by 4 U.S.C. §72.

5.3. NOT consensually doing business within federal territory or with the United States government and therefore waiving sovereign immunity under 28 U.S.C. §1605(a)(2).

Therefore, they are not subject to federal civil law as required by Federal Rule of Civil Procedure 17.

Below is the list of parties IMPLIEDLY exempt from information return reporting because of the above considerations. This is not an EXHAUSTIVE list, but merely a list of the most frequent items that would affect the average PRIVATE state citizen and American national not domiciled in the STATUTORY “United States”:

1. Those not mentioned in 26 U.S.C. §6041(a), which says that only those engaged in a statutory “trade or business” are subject to information return reporting.

[TITLE 26](#) > [Subtitle F](#) > [CHAPTER 61](#) > [Subchapter A](#) > [PART III](#) > [Subpart B](#) > § 6041
[§ 6041. Information at source](#)

(a) Payments of \$600 or more

All persons engaged in a trade or business and making payment in the course of such trade or business to another person, of rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income (other than payments to which section 6042 (a)(1), 6044 (a)(1), 6047 (e), 6049 (a), or 6050N (a) applies, and other than payments with respect to which a statement is required under the authority of section 6042 (a)(2), 6044 (a)(2), or 6045), of \$600 or more in any taxable year, or, in the case of such payments made by the United States, the officers or employees of the United States having information as to such payments and required to make returns in regard thereto by the regulations hereinafter provided for, shall render a true and accurate return to the Secretary, under such regulations and in such form and manner and to such extent as may be prescribed by the Secretary, setting forth the amount of such gains, profits, and income, and the name and address of the recipient of such payment.

The implication is that all those NOT engaged in said activity (a public office) are PURPOSEFULLY excluded under the rules of statutory construction:

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

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

Those NOT engaged in a “trade or business” would NOT be “exempt” but rather NOT SUBJECT. “Exempt” is a “term of art” or “word of art” meaning someone who is a “taxpayer” but who is exempted from owing a tax for a SPECIFIC circumstance.

2. Those not engaged in a public office. In order to be lawfully engaged in a public office, one must:

- 2.1. Make application for a position on a Form SF-171.
- 2.2. Be lawfully appointed or elected.
- 2.3. Take an oath of allegiance to the constitution.
- 2.4. Take an oath of office. See 5 U.S.C. §3331.

[U.S. Code § 3331 - Oath of office](#)

An individual, except the President, elected or appointed to an office of honor or profit in the civil service or uniformed services, shall take the following oath:

"I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

This section does not affect other oaths required by law.

([Pub. L. 89-554](#), Sept. 6, 1966, [80 Stat. 424](#).)

2.5. Have an appointment document recorded with the agency hiring you.

3. Those receiving payments of remuneration for services and direct sales paid by those engaged in a "trade or business" but who are not "persons" working for the government. 26 U.S.C. §6041A(d)(1).
4. Those receiving interest or original issue discounts payments paid by those engaged in a "trade or business" but who are not "persons" working for the government or a privileged international organization. 26 U.S.C. §6049(d)(1) and 26 C.F.R. §1.6049-4(f).

Let's examine the last two items above. When the transaction involves only one "taxpayer", the code does NOT create a liability to report against the withholding agent because the recipient is not a "person" (or "another person" as referred to in 26 U.S.C. §6041(a) and 26 U.S.C. §1461) as a nonresident. 26 U.S.C. §6041A(d)(1) and 26 U.S.C. §6049(d)(1) both establish that BOTH the PAYEE AND THE PAYOR must be STATUTORY "persons" and therefore public officers in order for a payment to be reportable as "gross income" on an information return (e.g. W-2, 1099, etc):

[26 U.S. Code § 6041A - Returns regarding payments of remuneration for services and direct sales](#)

(a) Returns regarding remuneration for services.

If—

(1) any service-recipient engaged in a trade or business pays in the course of such trade or business during any calendar year remuneration to any person for services performed by such person, and

[. . .]

(d) Applications to governmental units

(1) Treated as persons

The term "person" includes any governmental unit (and any agency or instrumentality thereof).

[26 U.S. Code § 6049 - Returns regarding payments of interest](#)

(a) Requirement of reporting

Every person—

(1) who makes payments of interest (as defined in subsection (b)) aggregating \$10 or more to any other person during any calendar year, or

(2) who receives payments of interest (as so defined) as a nominee and who makes payments aggregating \$10 or more during any calendar year to any other person with respect to the interest so received, shall

1 make a return according to the forms or regulations prescribed by the Secretary, setting forth the aggregate
2 amount of such payments and the name and address of the person to whom paid.

3 [...]

4 (d) Definitions and special rules

5 For purposes of this section—

6 **(1) Person**

7 **The term “person” includes any governmental unit and any agency or instrumentality thereof and any**
8 **international organization and any agency or instrumentality thereof.**

9 Note that:

- 10 1. As we frequently emphasize throughout our writings, Title 26 or the U.S. Code is called the “INTERNAL Revenue
11 Code”, which means INTERNAL to the U.S. government, not INTERNAL to the CONSTITUTIONAL or even the
12 GEOGRAPHICAL “United States”.
- 13 2. NOWHERE is the STATUTORY term “person” as used in the above two statutes defined to include anything OTHER
14 than a GOVERNMENT or a PRIVILEGED FEDERAL CORPORATION. The “international organization” they are
15 talking about above is, in fact a federal corporation involved in foreign commerce. That is how 26 U.S.C.
16 §7701(a)(18) defines an “international organization”.

17 [26 U.S. Code § 7701 - Definitions](#)

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

20 (18) International organization

21 The term “international organization” means a **public** international organization entitled to enjoy
22 privileges [FRANCHISES], exemptions, and immunities as an international organization under the
23 International Organizations Immunities Act ([22 U.S.C. 288–288f](#)).

- 24 3. The definition of “person” above is the ONLY type of “person” to which information return reporting applies, because
25 the definition SUPERSEDES that found in 26 U.S.C. §7701(a)(1) for the purposes of reporting only and this section.
- 26 3.1. 26 U.S.C. §6041A(d)(1) and 26 U.S.C. §6049(d)(1) above do NOT say, for instance, “in ADDITION to the
27 definition of person found in 26 U.S.C. §7701(a)(1)”, but rather REPLACE THAT definition for the purposes of
28 reporting.
- 29 3.2. 26 U.S.C. §6041A(d) says “**(d) Applications to governmental units**” but this heading does not betray ANY
30 meaning according to 26 U.S.C. §7806(b) or Railroad Trainmen v. B. & O.R. Co., 331 U.S. 519 (1947). That
31 heading or subsection also does NOT indicate an ADDITION to the definition of “person” found in 26 U.S.C.
32 §7701(a)(1), and therefore does not imply such an addition.
- 33 4. When a definition is provided, it SUPERSEDES the common meaning and by implication EXCLUDES both the
34 common meaning or ALL OTHER meanings provided elsewhere in the code:

35 Those who would argue with the notion that there is NO SUCH THING as “impliedly exempt” are directed to read the Rules
36 of Statutory Construction, which state on the matter:

37 “**Expressio unius est exclusio alterius.** A maxim of statutory interpretation meaning that **the expression of one**
38 **thing is the exclusion of another.** *Burgin v. Forbes*, 293 Ky. 456, 169 S.W.2d. 321, 325; *Newblock v. Bowles*,
39 170 Okl. 487, 40 P.2d. 1097, 1100. Mention of one thing implies exclusion of another. **When certain persons or**
40 **things are specified in a law, contract, or will, an intention to exclude all others from its operation may be**
41 **inferred.** Under this maxim, if statute specifies one exception to a general rule or assumes to specify the effects
42 of a certain provision, other exceptions or effects are excluded.”
43 [Black’s Law Dictionary, Sixth Edition, p. 581]

44 “**When a statute includes an explicit definition, we must follow that definition, even if it varies from that term’s**
45 **ordinary meaning.** *Meese v. Keene*, 481 U.S. 465, 484-485 (1987) (“It is axiomatic that the statutory definition
46 of the term excludes unstated meanings of that term”); *Colautti v. Franklin*, 439 U.S. at 392-393, n. 10 (“As a
47 rule, `a definition which declares what a term “means” . . . excludes any meaning that is not stated”); *Western*

Union Telegraph Co. v. Lenroot, 323 U.S. 490, 502 (1945); Fox v. Standard Oil Co. of N.J., 294 U.S. 87, 95-96 (1935) (Cardozo, J.); see also 2A N. Singer, Sutherland on Statutes and Statutory Construction § 47.07, p. 152, and n. 10 (5th ed. 1992) (collecting cases). That is to say, the statute, read "as a whole," post at 998 [530 U.S. 943] (THOMAS, J., dissenting), leads the reader to a definition. That definition does not include the Attorney General's restriction -- "the child up to the head." Its words, "substantial portion," indicate the contrary." [Stenberg v. Carhart, 530 U.S. 914 (2000)]

"The United States Supreme Court cannot supply what Congress has studiously omitted in a statute."
[Federal Trade Com. v. Simplicity Pattern Co., 360 U.S. 55, p. 55, 475042/56451 (1959)]

9.2 Parties EXPRESSLY exempt from information return reporting

Next, we must examine what the statutes and regulations say about when information returns are expressly NOT required. All such instances relate to people who are statutory "persons", "individuals" and "taxpayers". It does NOT include people who are none of these such as those who are "non-resident non-persons".

1. Treasury Decision 8734 identifies U.S. Persons as expressly exempt from withholding and reporting:

Treasury Decision 8734

General Revision of Regulations Relating to Withholding of Tax on Certain U.S. Source Income Paid to Foreign Persons and Related Collection, Refunds, and Credits; Revision of Information Reporting and Backup Withholding Regulations; and Removal of Regulations Under Part 35a and of Certain Regulations Under Income Tax Treaties

[...]

As a general matter, a withholding agent (whether U.S. or foreign) must ascertain whether the payee is a U.S. or a foreign person. If the payee is a U.S. person, the withholding provisions under chapter 3 of the Code do not apply; however, information reporting under chapter 61 of the Code may apply; further, if a TIN is not furnished in the manner required under section 3406, backup withholding may also apply. If the payee is a foreign person, however, the withholding provisions under chapter 3 of the Code apply instead. To the extent withholding is required under chapter 3 of the Code, or is excused based on documentation that must be provided, none of the information reporting provisions under chapter 61 of the Code apply, nor do the provisions under section 3406. If, however, withholding under chapter 3 of the Code does not apply irrespective of documentation (e.g., in the case of foreign source income or gross proceeds dealt with under section 6045), documentation may nevertheless have to be furnished to the withholding agent under the provisions of chapter 61 of the Code in order to be excused from Form 1099 information reporting and, possibly, from backup withholding under section 3406. Determinations of payee's status are generally made at each level of the chain of payment, until, ultimately, the payment is made to the beneficial owner. The following example illustrates how these rules interact under the final regulations.

[SOURCE: <http://www.unclefed.com/ForTaxProfs/irs-regs/1997/td8734.txt>]

2. 26 C.F.R. §1.1441-1(c)(20) defines an "exempt recipient" as someone who is exempt from information return reporting for SPECIFIC types of transactions but not ALL transactions. These people are engaged in a statutory "trade or business" as required by 26 U.S.C. §6041 but are expressly exempt from REPORTING specific activities.

Title 26 › Chapter I › Subchapter A › Part I › Section 1.1441-1
[26 C.F.R. §1.1441-1 - Requirement for the deduction and withholding of tax on payments to foreign persons.](#)

(c) **Definitions.** The following [definitions](#) apply for [purposes](#) of sections 1441 through 1443, 1461, and regulations under those sections. For [definitions](#) of [terms](#) used in these regulations that are [defined](#) under sections 1471 through 1474, see subparagraphs (43) through (56) of this paragraph.

[...]

(20) Exempt recipient.

The term exempt recipient means a [person](#) that is [exempt from reporting under chapter 61 of the Internal Revenue Code and backup withholding under section 3406 and that is described in §§ 1.6041-3\(q\), 1.6045-2\(b\)\(2\)\(i\), and 1.6049-4\(c\)\(1\)\(ii\), and § 5f.6045-1\(c\)\(3\)\(i\)\(B\) of this chapter. Exempt recipients](#) are not exempt from [withholding](#) under chapter 3 of the Internal Revenue Code unless they are [U.S. persons](#) or [foreign persons](#) entitled to an exemption from [withholding](#) under chapter 3.

Notes on the above:

- 2.1. The above list does NOT identify as an “exempt recipient” those who are not engaged in a “trade or business”.
- 2.2. The term “and” implies that the payee must ALSO fall within “§§ 1.6041-3(q), 1.6045-2(b)(2)(i), and 1.6049-4(c)(1)(ii), and § 5f.6045-1(c)(3)(i)(B) of this chapter”. Those who do not fall within these regulations but who are not subject to reporting because not engaged in a “trade or business” are NOT expressly identified as “exempt recipients”.
- 2.3. You can be exempt from reporting WITHOUT being an “exempt recipient” as defined above. This would include people not engaged in a statutory “trade or business”.
3. 26 C.F.R. §1.1441-1(d)(3) says that “payees” (recipients of payments) who are NOT required to furnish a Form W-9 include those NOT subject to information return reporting under Chapter 61 of the Internal Revenue Code. It establishes that such people **MAY** ELECT to file a Form W-9 but are not **REQUIRED** to file one in order to establish their status as an “exempt recipient”. Note that “U.S. payee” as indicated in this regulation is defined in 26 C.F.R. §1.1471-1(139) as a statutory “U.S. person” in 26 U.S.C. §7701(a)(30):

*Title 26 › Chapter I › Subchapter A › Part I › Section 1.1441-1
§ 1.1441-1 Requirement for the deduction and withholding of tax on payments to foreign persons.*

[...]

(d) Beneficial owner's or payee's claim of U.S. status

(3) Payments for which a Form W-9 is not otherwise required.

In the case of a payee who is not required to furnish a Form W-9 under section 3406 (e.g., a person exempt from reporting under chapter 61 of the Internal Revenue Code), the withholding agent may treat the payee as a U.S. payee if the payee provides the withholding agent with a Form W-9 or a substitute form described in § 31.3406(h)-3(c)(2) of this chapter (relating to forms for exempt recipients) that contains the payee's name, address, and TIN. The form must be signed under penalties of perjury by the payee if so required by the form or by § 31.3406(h)-3 of this chapter. Providing a Form W-9 or valid substitute form shall serve as a statement that the person whose name is on the certificate is a U.S. person. A Form W-9 or valid substitute form shall not be provided by a foreign person, including any U.S. branch of a foreign person whether or not the branch is treated as a U.S. person under paragraph (b)(2)(iv) of this section. See paragraph (e)(3)(v) of this section for withholding certificates provided by U.S. branches described in paragraph (b)(2)(iv) of this section. The procedures described in § 31.3406(h)-2(a) of this chapter shall apply to payments to joint payees. A withholding agent that receives a Form W-9 to satisfy this paragraph (d)(3) must retain the form in accordance with the provisions of § 31.3406(h)-3(g) of this chapter, if applicable, or of paragraph (e)(4)(iii) of this section (relating to the retention of withholding certificates) if § 31.3406(h)-3(g) of this chapter does not apply. The rules of this paragraph (d)(3) are only intended to provide a method by which a withholding agent may determine that a payee is a U.S. person and do not otherwise impose a requirement that documentation be furnished by a person who is otherwise treated as an exempt recipient for purposes of the applicable information reporting provisions under chapter 61 of the Internal Revenue Code (e.g., § 1.6049-4(c)(1)(ii) for payments of interest).

IMPORTANT NOTES ON THE ABOVE:

- 3.1. Based on the above, a Form W-9 would only be required for STATUTORY “U.S. persons” who are ALSO STATUTORY “persons” under 26 C.F.R. §1.1441-1(c)(3), meaning ONLY “aliens”. Note the following language containing the word “person” as proof:

“In the case of a payee who is not required to furnish a Form W-9 under section 3406 (e.g., a person exempt from reporting under chapter 61 of the Internal Revenue Code)”

- 3.2. The implication of the above is that the Form W-9 is not the ONLY method of establishing one is a “U.S. person”. There MUST be another method, because the Form W-9 can ONLY be used for “U.S. persons” who are ALSO STATUTORY “individuals” per 26 C.F.R. §1.1441-1(c)(3) (aliens) and therefore “persons” under 26 U.S.C. §7701(a)(1).
- 3.3. Payees who are statutory “U.S. persons” but not statutory “persons” or “individuals” because not “aliens” or not domiciled or present on federal territory or abroad may ALSO provide an affidavit documenting their status as “Not subject” but not an “exempt recipient”. They CANNOT use the Form W-9, which only applies to

“persons”. They also cannot be subjected to the presumption rules found in 26 C.F.R. §1.1441-1(b)(3), which ALSO only apply to “persons”. An example of such an affidavit is the following form on our site:

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

4. 26 C.F.R. §1.1441-1(d)(2) states that a U.S. branch of a foreign person may establish its status as a foreign person **exempt from reporting under chapter 61 and backup withholding under section 3406** by providing a withholding certificate on Form W-8. This would include “non-resident non-persons” as described in *Non-Resident Non-Person Position*, Form #05.020.
5. The following regulations identify specific types of activities **expressly exempt** from reporting executed by those who are engaged in a “trade or business” and who would therefore OTHERWISE be liable to report them. These people are PRIVILEGED because of the “trade or business” but also DOUBLY privileged because of the statutory exemption:
 - 5.1. 26 C.F.R. §1.6049-4(c)(1) says that information returns are NOT required for interest payments or original issue discounts paid to “exempt recipients”. “Exempt recipients” are defined to include:
 - 5.1.1. Corporations.
 - 5.1.2. Tax exempt organizations.
 - 5.1.3. Individual retirement plans.
 - 5.1.4. United States.
 - 5.1.5. State.
 - 5.1.6. Foreign government
 - 5.1.7. International organization.
 - 5.1.8. Foreign central bank of issue.
 - 5.1.9. Securities or commodities dealers.
 - 5.1.10. Real estate investment trust.
 - 5.1.11. Entity registered under the Investment Company Act of 1940.
 - 5.2. 26 C.F.R. §1.6049-4(c)(2) says that information returns are NOT required for interest payments to “certain middlemen”.
 - 5.3. 26 C.F.R. §1.6041-3 identifies payments for which no information return is required under 26 U.S.C. §6041 EVEN THOUGH such payments are in connection with a statutory “trade or business”. These include:
 - 5.3.1. (a) Payments of income required to be reported on Forms 1120-S, 941, W-2, and W-3 (however, see §1.6041-2(a) with respect to Forms W-2 and W-3).
 - 5.3.2. (b) Payments by a broker to his customer (but for reporting requirements as to certain of such payments, see sections 6042, 6045, and 6049 and the regulations thereunder in this part).
 - 5.3.3. (c) Payments of bills for merchandise, telegrams, telephone, freight, storage, and similar charges.
 - 5.3.4. (d) Payments of rent made to rental agents (but the agent is required to report payments of rent to the landlord in accordance with §1.6041-1(a)(1)(i)(B) and (2)).
 - 5.3.5. (e) Payments representing earned income for services rendered without the United States made to a citizen of the United States, if it is reasonable to believe that such amounts will be excluded from gross income under the provisions of section 911 and the regulations thereunder.
 - 5.3.6. (f) Compensation and profits paid or distributed by a partnership to the individual partners (but for reporting requirements, see §1.6031-1).
 - 5.3.7. (g) Payments of commissions to general agents by fire insurance companies or other companies insuring property, except when specifically directed by the Commissioner to be filed.
 - 5.3.8. (h) Payments made under reimbursement or other expense allowance arrangements that meet the requirements of section 62(c) of the Code and §1.62-2, that do not exceed the amount of the expenses substantiated (i.e., amounts which are treated as paid under an accountable plan), and that are received by an employee on or after January 1, 1989, with respect to expenses paid or incurred on or after January 1, 1989.
 - 5.3.9. (i) Payments of interest on obligations of the United States, or a State, Territory, or political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing (but for requirements for reporting certain such payments by the United States or any agency or instrumentality thereof, see §§1.1461-1 to 1.1461-3, inclusive).
 - 5.3.10. (j) Payments of interest on corporate bonds (but for reporting requirements as to payments on certain corporate bonds, see §1.6049-5).
 - 5.3.11. (k) Amounts paid as an allowance or reimbursement for traveling or other bona fide ordinary and necessary expenses, including an allowance for meals and lodging or a per diem allowance in lieu of subsistence, to persons in the service of an international organization (without regard to whether there is a requirement to account for such amounts)

- 5.3.12. (l) A payment to an informer as an award, fee, or reward for information relating to criminal activity, but only if such payment is made by the United States, a State, Territory, or political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing, or, with respect to payments made after December 31, 1987, by an organization that is described in section 501(c)(3) and that makes such payments in furtherance of a charitable purpose to lessen the burdens of government within the meaning of §1.501(c)(3)–1(d)(2).
- 5.3.13. (m) On and after September 9, 1968, payments by a person carrying on the banking business of interest on a deposit evidenced by a negotiable time certificate of deposit (but for reporting requirements as to payments made after December 31, 1962, of interest on certain deposits, see sec. 6049 and the regulations thereunder in this part).
- 5.3.14. (n) Payments to individuals as scholarships or fellowship grants within the meaning of section 117(b)(1), whether or not “qualified scholarships” as described in section 117(b). This exception does not apply to any amount of a scholarship or fellowship grant that represents payment for services within the meaning of section 117(c). Instead, these amounts are required to be reported as wages on Form W-2. See §1.1461–1(c) for applicable reporting requirements for amounts paid to foreign persons.
- 5.3.15. (o) Per diem of certain alien trainees described under section 1441(c)(6).
- 5.3.16. (p) Payments made to the following persons:
- 5.3.16.1. (1) A corporation described in §1.6049–4(c)(1)(ii)(A), except with respect to payments made to a corporation after December 31, 1997 for attorneys' fees, and except a corporation engaged in providing medical and health care services or engaged in the billing and collecting of payments in respect to the providing of medical and health care services. However, no reporting is required where payment is made to a hospital or extended care facility described in section 501(c)(3) which is exempt from taxation under section 501(a) or to a hospital or extended care facility owned and operated by the United States, a State, the District of Columbia, a possession of the United States, or a political subdivision, agency or instrumentality of any of the foregoing. For reporting requirements as to payments by cooperatives, and to certain other payments, see sections 6042, 6044, and 6049 and the regulations thereunder in this part.
- 5.3.16.2. (2) An organization exempt from taxation under section 501(a), as described in §1.6049–4(c)(1)(ii)(B)(I), or an individual retirement plan, as described in §1.6049–4(c)(1)(ii)(C).
- 5.3.16.3. (3) The United States, as described in §1.6049–4(c)(1)(ii)(D).
- 5.3.16.4. (4) A State, the District of Columbia, a possession of the United States, or any political subdivision of any of the foregoing, as described in §1.6049–4(c)(1)(ii)(E).
- 5.3.16.5. (5) A foreign government or political subdivision of a foreign government, as described in §1.6049–4(c)(1)(ii)(F).
- 5.3.16.6. (6) An international organization, as described in §1.6049–4(c)(1)(ii)(G).
- 5.3.16.7. (7) A foreign central bank of issue, as described in §1.6049–4(c)(1)(ii)(H) and the Bank for International Settlements.
- 5.3.16.8. (8) Any wholly owned agency or instrumentality of any person described in paragraph (p) (2), (3), (4), (5), (6), or (7) of this section.
- 5.4. 26 C.F.R. §1.6045-2(b)(2)(i) identifies payments connected to a “trade or business” that are expressly exempt from 26 U.S.C. §6041 reporting relating to substitute payments:

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PART 1—INCOME TAXES

information returns

§1.6045-2 Furnishing statement required with respect to certain substitute payments.

(b) Exceptions—

(1) *Minimal payments.* No statement is required to be furnished under section 6045(d) or this section to any customer if the aggregate amount of the substitute payments received by a broker on behalf of the customer during a calendar year for which a statement must be furnished is less than \$10.

(2) *Exempt recipients—(i) In general.* A statement shall not be required to be furnished with respect to substitute payments made to a broker on behalf of—

(A) An organization exempt from taxation under section 501(a);

(B) An individual retirement plan;

(C) The United States, a possession of the United States, or an instrumentality or a political subdivision or a wholly-owned agency of the foregoing;

(D) A State, the District of Columbia, or a political subdivision or a wholly-owned agency or instrumentality of either of the foregoing;

(E) A foreign government or a political subdivision thereof;

(F) An international organization; or

(G) A foreign central bank of issue, as defined in §1.6049-4(c)(1)(ii)(H), or the Bank for International Settlements.

At this point, we wish to emphasize that the EASIEST way to DESTROY private rights and private property or to convert them to PUBLIC/GOVERNMENT property is merely to refuse to acknowledge their existence in court, in the statutes and in the regulations that implement them. That is what all statutes and regulations do, in fact, because they ONLY apply to public officers on official business and cannot regulate private conduct. We prove this in:

1. Proof That There Is a "Straw Man", Form #05.042
<https://sedm.org/Forms/FormIndex.htm>
2. Why Statutory Civil Law is Law for Government and Not Private Persons, Form #05.037
<https://sedm.org/Forms/FormIndex.htm>
3. Why Your Government is Either a Thief or You are a "Public Officer" for Income Tax Purposes, Form #05.008
<https://sedm.org/Forms/FormIndex.htm>

We also emphasize that the act of IGNORING or refusing to recognize private rights or the limits they place upon the government's enforcement actions is an act of COMMUNISM, because the essence of what it means to be a communist is a refusal to recognize the limits placed by the law or the constitution upon the authority of government. The MAIN limit is the existence of PRIVATE property and PRIVATE rights, which government must LEAVE ALONE and NOT REGULATE or control with any statute. This is because the essence of ownership itself is the right to exclude ANYONE and EVERYONE, including governments, from using, controlling, or benefiting from the property so long as you don't hurt anyone with it. The right to be left alone is, in fact, the very definition of "justice" itself and the reason judges call themselves "justices", as be establish in:

What is "Justice"?, Form #05.050
<https://sedm.org/Forms/FormIndex.htm>

The protection of PRIVATE rights and PRIVATE property is, in fact, the MAIN reason for the establishment of government in the first place! A government that refuses to recognize their existence is NO GOVERNMENT AT ALL, but an organized crime MAFIA as described in Form #05.043:

TITLE 50 > CHAPTER 23 > SUBCHAPTER IV > Sec. 841.
Sec. 841. - Findings and declarations of fact

The Congress finds and declares that the Communist Party of the United States [consisting of the IRS, DOJ, and a corrupted federal judiciary], although purportedly a political party, is in fact an instrumentality of a conspiracy to overthrow the [de jure] Government of the United States [and replace it with a de facto government ruled by the judiciary]. It constitutes an authoritarian dictatorship [IRS, DOJ, and corrupted federal judiciary in collusion] within a [constitutional] republic, demanding for itself the rights and [FRANCHISE] privileges [including immunity from prosecution for their wrongdoing in violation of Article 1, Section 9, Clause 8 of the Constitution] accorded to political parties, but denying to all others the liberties [Bill of Rights] guaranteed by the Constitution [Form #10.002]. Unlike political parties, which evolve their policies and programs through public means, by the reconciliation of a wide variety of individual views, and submit those policies and programs to the electorate at large for approval or disapproval, the policies and programs of the Communist Party are secretly [by corrupt judges and the IRS in complete disregard of, Form #05.014, the tax franchise "codes", Form #05.001] prescribed for it by the foreign leaders of the world Communist movement [the IRS and Federal Reserve]. Its members [the Congress, which was terrorized to do IRS bidding by the framing of Congressman Traficant] have no part in determining its goals, and are not permitted to voice dissent to party objectives. Unlike members of political parties, members of the Communist Party are recruited for indoctrination [in the public FOOL system by homosexuals, liberals, and socialists] with respect to its objectives and methods, and are organized, instructed, and disciplined [by the IRS and a corrupted judiciary] to carry into action slavishly the assignments given them by their hierarchical chieftains. Unlike political parties, the Communist Party [thanks to a corrupted federal judiciary] acknowledges no constitutional or statutory

limitations upon its conduct or upon that of its members [ANARCHISTS!, Form #08.020]. The Communist Party is relatively small numerically, and gives scant indication of capacity ever to attain its ends by lawful political means. The peril inherent in its operation arises not from its numbers, but from its failure to acknowledge any limitation as to the nature of its activities, and its dedication to the proposition that the present constitutional Government of the United States ultimately must be brought to ruin by any available means, including resort to force and violence [or using income taxes]. Holding that doctrine, its role as the agency of a hostile foreign power [the Federal Reserve and the American Bar Association (ABA)] renders its existence a clear present and continuing danger to the security of the United States. It is the means whereby individuals are seduced [illegally KIDNAPPED via identity theft!, Form #05.046] into the service of the world Communist movement [using FALSE information returns and other PERJURIOUS government forms, Form #04.001], trained to do its bidding [by FALSE government publications and statements that the government is not accountable for the accuracy of, Form #05.007], and directed and controlled [using FRANCHISES illegally enforced upon NONRESIDENTS, Form #05.030] in the conspiratorial performance of their revolutionary services. Therefore, the Communist Party should be outlawed

If you want to know more about those who are not STATUTORY “exempt recipients” but who are nevertheless NOT SUBJECT, and how the IRS deliberately and maliciously and covetously avoids talking about such people or recognizing their PRIVATE, nonresident, sovereign, and foreign status, see:

Flawed Tax Arguments to Avoid, Form #08.004, Section 8.13
<https://sedm.org/Forms/FormIndex.htm>

10 Information returns as legal evidence of receipt of “gross income”

The following subsections deal with information returns as legal evidence, how to undermine their value as legal evidence if they are false, and what government records need to be corrected if they are submitted erroneously or contain false information.

10.1 Evidentiary value of information returns

An important subject is the evidentiary value of information returns for use in a legal proceeding in court. Here is some information on this subject:

1. Most information returns are submitted ELECTRONICALLY and unsigned.
2. The filer of information returns SEPARATELY submits a written PAPER document attesting that the information returns associated with that document are accurate under penalty of perjury. For instance:
 - 2.1. IRS Form W-3’s are filed separately to validate a group of IRS Form W-2’s.
 - 2.2. IRS Form 1096’s are filed separately to validate a group of IRS Form 1099’s.
 - 2.3. There is no separate validating form for IRS Form 1042-S.
3. Forms not validated with a separate perjury statement are NOT admissible as legal evidence and therefore constitute “hearsay evidence”.

On the subject of the evidentiary value of informal administrative reports, the U.S. Supreme Court held the following:

"The companies urge that the Board received "remote hearsay" and "mere rumor." The statute provides that "the rules of evidence prevailing in courts of law and equity shall not be controlling." [7] The obvious purpose of this and similar provisions is to free administrative boards from the compulsion of technical rules so that the mere admission of matter which would be deemed incompetent in judicial proceedings would not invalidate the administrative order. Interstate Commerce Comm'n v. Baird, 194 U.S. 25, 44; Interstate Commerce Comm'n v. Louisville & Nashville R. Co., 227 U.S. 88, 93; United States v. Abilene & Southern Ry. Co., 265 U.S. 274, 288; Tagg Bros. & Moorhead v. United States, 280 U.S. 420, 442. But this assurance of a desirable flexibility in administrative procedure does not go so far as to justify orders without a basis in evidence having rational probative force. Mere uncorroborated hearsay or rumor does not constitute substantial evidence."
[Consolidated Edison Co. Et Al. v. National Labor Relations Board Et Al, 305 U.S. 197 (1938);
http://scholar.google.com/scholar_case?case=17365053589280103136&q=administrative+%22rules+of+evidence%22&hl=en&as_sdt=4,60

A false information return that has been controverted with a perjury statement of equal value to the original validating perjury statement on the W-3 or 1096 would constitute:

1. Hearsay evidence not admissible as evidence.

2. Legal evidence of the following crimes by the filer if the filer was notified that the subject is NOT a statutory “taxpayer” or public officer lawfully engaged in a statutory “trade or business” and the filer REFUSED to correct the false report.
 - 2.1. 26 U.S.C. §7204: Fraudulent returns, statements, or other documents
 - 2.2. 26 U.S.C. §7206: Fraud and false statements
 - 2.3. 18 U.S.C. §1002: Possession of false papers to defraud the United States.
 - 2.4. 18 U.S.C. §1018: False certificates or writings.
 - 2.5. 18 U.S.C. §1030: Fraud and related activity in connection with computers.
 - 2.6. 18 U.S.C. §1001, 18 U.S.C. §1542, 18 U.S.C. §1621: Perjury. W-3’s and 1096’s are signed under penalty of perjury.

It ought to be obvious that the FRUIT of the above crimes CANNOT lawfully be used as legal evidence of anything against the WRONGFUL target, and especially if the crime itself is what MADE the information returns evidence against the wrongful target of them in the first place. The false information returns would be excluded as evidence in a criminal trial by what is called the “fruit of a poisonous tree” doctrine and the “exclusionary rule”. See *Wong Sun and James Wah v. United States*, 371 U.S. 471, 83 S.Ct. 407, 9 L.Ed.2d. 441 (1963).

10.2 IRS Systems of Records

Information Returns are maintained in what are called “Treasury Systems of Records” as follows:

1. Treasury/IRS 22.026 Form 1042-S, Index by Name of Recipient
2. Treasury/IRS 22.061 Information Return Master File (IRMF)

Knowing about IRS Systems of Records is important if you are preparing a Freedom of Information Act or Privacy Act request to obtain these records. If you want a complete list of Treasury/IRS Systems of Records, consult the following:

SEDM Exhibit Page, Exhibit 1052: Internal Revenue Service (IRS), Systems of Records, Federal Register Vol. 66, pp. 63784 through 63875
<http://sedm.org/Exhibits/ExhibitIndex.htm>

For further details on how to obtain records under the Freedom of Information Act and the Privacy Act, refer to the following:

1. *Disclosure Litigation Reference Book (IRS)*, Document 8448, Internal Revenue Service
<http://famguardian.org/PublishedAuthors/Govt/IRS/IRSDiscLitRefBook.pdf>
2. *Citizens Guide to Using the Freedom of Information Act and the Privacy Act*, House Report 105-37
<http://famguardian.org/TaxFreedom/LegalRef/FOIACitizensGuide.pdf>
3. Important Government Contacts, Family Guardian Fellowship
<http://famguardian.org/Subjects/Taxes/Contacts/Contacts.htm>
4. *Overview of the Privacy Act of 1974*, Department of Justice
http://famguardian.org/Publications/PrivActOvw/04_7_1.htm
5. *The Internal Revenue Service's Voluntary Disclosure Policy*, United States Attorney Bulletin, Vol. 49, No. 4, July 2001
<http://famguardian.org/Publications/USAttyBulletins/usab4904.pdf>
6. Internal Revenue Manual (I.R.M.), Section 1.15: Records and Information Management
<https://www.irs.gov/irm/part1>

10.3 Obtaining copies of information returns that you don’t have

It can be difficult to correct an information return filed against you that you never in fact received. The best way to get older versions of these reports is to contact the original submitter, who is usually an employer, financial institution, or organization. If that doesn’t work, below are techniques for obtaining copies of these reports directly from the IRS:

#	Information Return Type	Method to obtain
1	IRS Form W-2	Fill out IRS Form 4506 and check Block 8(c). See: http://famguardian.org/TaxFreedom/Forms/IRS/IRSForm4506.pdf

#	Information Return Type	Method to obtain
2	IRS Form 1042-S	Privacy Act Request
3	IRS Form 1098	Privacy Act Request
4	IRS Form 1099	Privacy Act Request

On the subject of obtaining copies of information returns, the IRS Internal Revenue Manual says the following:

*Internal Revenue Manual
21.3.6.4.6.4 (10-01-2024)*

Requests for Copies of Forms 1096 and Forms 1099

(1) Advise taxpayer that IRS cannot provide copies of the actual forms. Actual forms, if submitted on paper, are destroyed once information is stored electronically.

a. Information shown on Form 1099, Information Return, is available on a Martinsburg Computing Center (MCC) transcript requested via Command Code (CC) IRPTR.

b. Information on Form 1096, Annual Summary and Transmittal of U.S. Information Returns, is available via CC PATRA.

c. Use CC IRPTR to request on line or hard copy transcripts from the Information Return Master File (IRMF). Refer to IRM 2.3.35.4, Command Code IRPTR Valid Tax Years, to determine the years available. You can request up to 10 years.

d. Use CC IRPTRW to request sanitized on-line payee transcript screens. This definer is used to print sanitized screens for taxpayers. Refer to IRM 2.3.35.10.8, Payee On-Line Sanitized Transcript (Definer W), for procedures. [SOURCE: https://www.irs.gov/irm/part21/irm_21-003-006#idm140362742962304]

Therefore, it would appear that the best way to obtain information return information for other than forms W-2 is to:

1. Send a Privacy Act Request to the IRS
2. Send the request to the offices listed near the end of the article below:
<http://famguardian.org/Subjects/Taxes/Contacts/Contacts.htm>

As a last resort, you can also visit the IRS website and read the following related articles:

1. Information Returns, Internal Revenue Service
<https://www.irs.gov/government-entities/federal-state-local-governments/information-returns>
2. A Guide To Information Returns, Internal Revenue Service
<https://www.irs.gov/businesses/small-businesses-self-employed/a-guide-to-information-returns>
3. IRS Topic 154 - 2004 Forms W-2 and Form 1099-R (What to Do if Not Received), Internal Revenue Service
<http://www.irs.gov/taxtopics/tc154>
4. IRS Topic 159 - Prior Year(s) Form W-2 (How to Get a Copy of), Internal Revenue Service
<https://www.irs.gov/taxtopics/tc159>

Fortunately, if you are going to zero out information returns, you don't need all the original information in order to complete a corrected return. Simply make all the blocks ZERO. However, because it is such a hassle to obtain copies of information returns from the IRS directly, its best to carefully organize, store, and protect this information at all times as described in the next section in order to avoid being caught in a bind.

10.4 Keeping records of all Information Returns and Efforts to Correct Those that are False

IRS Form W-2, 1042-S, 1098, and 1099 reports are called "Information Returns" by the IRS. The IRS and state revenue agencies make it very difficult for you to rebut the bogus W-2, 1099, and 1098 reports by:

1. Not including with their collection notices a copy of or mention of the specific W-2 report(s) upon which the collection is based. The Fair Debt Collection Practices Act (FDCPA) requires that anyone collecting a debt, including a tax debt,

must supply upon demand a copy of the original debt instrument, which in this case is based ONLY on the Information Return. Therefore, the IRS must provide not only the Information Return, but also the lawful assessment upon which the collection is based, and they must do so within 20 days of request. See the following for an example for asking for a copy of the lawful assessment documents.

Demand for Verified Evidence of Lawful Federal Assessment, Form #07.304
<http://sedm.org/Forms/FormIndex.htm>

2. Making it difficult for you to obtain a copy of the reports directly from them. This ought to be an electronic service that anyone can access on their website.

Consequently, it is VERY IMPORTANT that you maintain an archive of all of the Information Returns filed on you, along with the rebuttal to each one in the form of either a 4852, an amended W-2, a corrected 1042s, 1098, or 1099, etc. That way, when the IRS institutes collection activity, you can include the following in your response:

1. Include rebutted versions of the Information Returns with your response.
2. Proof of your efforts to prevent further filing of these false reports.
3. A request that they either penalize the submitters because of their refusal to obey the law or criminally prosecute them.

11 Stopping the false Information Returns from being filed so they don't need to be corrected afterward

The following IRS Forms are for use primarily in undoing the damage done by private employers, who usually because of their ignorance of the law, either unlawfully complete and submit Information Returns such, or who unlawfully put false information on these returns.

1. IRS Form 4852 is used to correct false W-2's with the submission of a tax return or tax statement.

WARNING: This is a "taxpayer" form that you should avoid. Use the SUBSTITUTE or AMENDED versions of the forms we provide instead in order to avoid penalty and subject the IRS to the same penalty they try to subject you to.

2. IRS Form W-2C corrects false W-2's without filing a tax return or tax statement.
3. IRS Form 1042-S with the "CORRECTED" box checked corrects false 1042s.
4. IRS Form 1098 with the "CORRECTED" box checked corrects false 1098's.
5. IRS Form 1099 with the "CORRECTED" box checked corrects false 1099's.

11.1 Civil Arbitration Procedure

If you would like to permanently prevent false information returns from being filed against you by ignorant, presumptuous clerks, employers, and financial institutions who believe the DECEIT and SELF-SERVING OMISSIONS in IRS publications in the future, then we suggest using the following procedure below:

1. Try submitting the correct withholding paperwork in accordance with the following:

Federal and State Tax Withholding Options for Private Employers, Form #04.101
<http://sedm.org/Forms/FormIndex.htm>

The form to file will usually be:

- 1.1. *New Hire Paperwork Attachment*, Form #04.203

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

- 1.2. *Affidavit of Citizenship, Domicile, and Tax Status*, Form #02.001

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

2. If they will not accept your withholding paperwork, meet privately with the filer of the false reports and bring a witness. DO NOT meet without witnesses or you are SURE to be railroaded. Use the following documents to quickly educate them about their duties:

- 2.1. *Federal and State Income Taxation of Individuals*, Form #12.003

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

- 2.2. *Income Tax Withholding and Reporting Course*, Form #12.004

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

- 2.3. *Tax Withholding and Reporting: What the Law Says*, Form #04.103

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

3. Submit the following form to the filer of the false form and demanding that they prove with evidence that you are engaged in a "trade or business". Do so with a [Certificate/Proof/Affidavit of Service, Form #01.002](#) and have it notarized. Send via certified mail or personally by a neutral third party. This will provide formal notice and legal evidence that they have been notified. If they do not rebut the information, you have readily admissible evidence that their conduct beyond that point becomes legally actionable and FRAUDULENT.

Demand for Verified Evidence of "Trade or Business" Activity: Information Return, Form #04.006
<http://sedm.org/Forms/Tax/DmdVerEvOfTradeOrBusiness-IR.pdf>

4. Send in corrected information returns containing a criminal complaint against the filer of the false reports. This letter provides a Form 4598 that the IRS will then send to the private employer demanding that they correct the false reports:

Corrected Information Return Attachment Letter, Form #04.002
<http://sedm.org/Forms/FormIndex.htm>

5. Next, if the above does not resolve the dispute with your private employer or financial institution, you can send in an amended [IRS Form SS-8](#) asking them to issue what amounts to a declaratory judgment on the dispute between you and your private employer. You may want to send in this form BEFORE you even begin looking for new employment, and keep it in your back pocket so that the hiring process is not delayed waiting for a response from the IRS. Attach to the SS-8 form the following:

5.1. The [Demand for Verified Evidence of "Trade or Business" Activity: Information Return, Form #04.006](#) above.

5.2. Our free memorandum of law entitled [The "Trade or Business" Scam, Form #05.001](#). Have them answer the questions at the end of this pamphlet so that the parties are clear on what the law requires.

5.3. Our free memorandum of law entitled [Reasonable Belief About Income Tax Liability, Form #05.007](#). Emphasize that the IRS' answers must be consistent with the content of this pamphlet, which means that the only thing they can suggest as a basis for reasonable belief, according to the courts and their own Internal Revenue Manual (I.R.M.), is 1. The Statutes at Large after January 2, 1939; 2. The Constitution; 3. The rulings of the U.S. Supreme Court and not lower courts; 4. NOT the Internal Revenue Code; 5. Not any IRS Form, publication, or revenue ruling. Explain that this pamphlet is the government's and courts own words on the subject of what you can believe, and nothing the IRS says or writes are included in what you can believe. Therefore, the only thing you can accept is legally admissible evidence in the form of an affidavit under penalty of perjury where the speaker is held personally accountable for his untruths, not unlike what we have to do when we send the IRS a tax return.

You can find an amended IRS form SS-8 on our website at the address below:

Amended IRS Form SS-8
<http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/FormW2/IRSFormSS-8.pdf>

6. Emphasize to the IRS that you want the questions on the SS-8 form answered under penalty of perjury as required by [26 U.S.C. §6065](#), that the real legal name and STATE ID, not IRS ID be included in the IRS response showing the real identity of the agent, and that if they deviate from the requirements of the [Reasonable Belief About Income Tax Liability, Form #05.007](#), they must cite stare decisis and enactments from the Statutes At Large as authority for doing so, because you can't accept "policy", but only legally admissible evidence signed under penalty of perjury. Remind them that the U.S. Supreme Court said we are a society of law and not men, or the policies of men not demonstrably derived DIRECTLY from law. Emphasize that the I.R.C. is not positive, but simply a presumption, according to [1 U.S.C. §204](#), and that [presumptions](#) are a violation of due process and are not evidence. See the following for details on why the I.R.C. is not a suitable basis for belief because it is simply a presumption and a state sponsored religion.

Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction, Form #05.017
<http://sedm.org/Forms/FormIndex.htm>

7. If the financial institution or private employer insists that you contact the legal department of the company to resolve your dispute about fraudulent filing of information returns and unlawful withholding, we suggest sending the following very powerful letter directly to the employer or financial institution legal office according to the instructions:

Legal Notice to Correct Fraudulent Tax Status, Reporting, and Withholding, Form #04.404
<http://sedm.org/Forms/FormIndex.htm>

8. If the legal department doesn't correct the illegal, harmful, and fraudulent reporting and withholding of the company based on the above letter, you may consider suing the payroll, withholding, or reporting person individually and by name. We are working on a canned lawsuit suitable for this purpose which will be referenced in this document when available.

9. After the private employer has been confronted about the false information returns, if the IRS refuses its legal duty to resolve the dispute in compliance with step 2 above, and if the private employer persists and insists on continuing to violate the laws on either withholding or reporting, you can write the IRS to ask them to correct the false information return and also financially and civilly penalize the employer for submitting false information pursuant to [26 U.S.C. §6702](#). Starting in January 2007, the IRS posted a notice warning those who submit false 4852's that they could be civilly penalized for submitting a false return. This penalty applies just as readily to the submitters of the original false

information return as it does to those who are submitting the corrections. See the following to view the current version of the form that shows the penalty language.

<http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/FormW2/IRSForm4852.pdf>

You can cite the language on the form as your authority for demanding that the submitter of the false returns be penalized.

9.1. You should also do follow-up to ensure that this penalty is instituted. Once their violations of law begin affecting their bottom line, usually the submitters of the false returns will reform their ways.

9.2. If the IRS refused to EQUALLY enforce the law, inform them that a criminal complaint will be filed against the IRS Commissioner for the following:

9.2.1. [18 U.S.C. §3: Accessory after the fact](#). The IRS, by refusing to remedy the situation, becomes an accessory after the fact to fraud and false statement by the submitter of the false information returns.

9.2.2. [18 U.S.C. §912: Falsely impersonating an officer \[PUBLIC OFFICER\] or employee of the United States](#). The IRS is causing you to be misrepresented as a "public official". The tax in [Subtitle A of the I.R.C.](#) is a tax upon a "trade or business", which is defined as "the functions of a public office" in [26 U.S.C. §7701\(a\)\(26\)](#). By allowing their records to falsely reflect the fact that you are a "public official", they are causing you to involuntarily and falsely impersonate an officer of the United States government.

9.2.3. [18 U.S.C. §1030: Fraud and related activity in connection with computers](#). The IRS is deliberately and willfully falsifying the records that describe your status and they should be prosecuted.

9.2.4. [26 U.S.C. §7207: Fraudulent Returns, Statements, or other documents](#). The IRS is facilitating the submission and processing of knowingly false information returns, such as IRS Forms W-2, 1042-S, 1098, and 1099.

10. Next, you can file a civil lawsuit as follows:

10.1. [26 U.S.C. §7434: Civil Damages for Fraudulent Filing of Information Returns](#). To recover civil damages for false filing of information returns for \$5,000 or more, including attorney's fees, against the submitter of the false information returns.

10.2. [31 U.S.C. §3729: False Claims Act](#). Use this statute and file in the name of the United States to recover false claims against the United States. Since the U.S. Attorney declined to prosecute, then this statute allows you to file suit individually as an agent of the United States.

11.2 Criminal Remedies Against Filers of False Reports

Those who file false information returns are subject to criminal prosecution under the following statutes:

1. 26 U.S.C. §7206(1): Fraud and False Statements. Forms W-2, 1042-S, 1098, and 1099 are not signed under penalty of perjury and therefore are not subject to this provision, but IRS Forms 1096 and W-3 filed by businesses along with these forms or IRS Form 4852 filed by individuals are subject to this penalty.

[TITLE 26 > Subtitle F > CHAPTER 75 > Subchapter A > PART I > § 7206](#)
[§ 7206. Fraud and false statements](#)

Any person who—

(1) Declaration under penalties of perjury

Willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter; or

2. 26 U.S.C. §7207: Fraudulent returns, statements, or other documents

[TITLE 26 > Subtitle F > CHAPTER 75 > Subchapter A > PART I > § 7207](#)
[§ 7207. Fraudulent returns, statements, or other documents](#)

Any person who willfully delivers or discloses to the Secretary any list, return, account, statement, or other document, known by him to be fraudulent or to be false as to any material matter, shall be fined not more than \$10,000 (\$50,000 in the case of a corporation), or imprisoned not more than 1 year, or both. Any person required pursuant to section 6047 (b), section 6104(d), or subsection (i) or (j) of section 527 to furnish any information to the Secretary or any other person who willfully furnishes to the Secretary or such other person any information known by him to be fraudulent or to be false as to any material matter shall be fined not more than \$10,000 (\$50,000 in the case of a corporation), or imprisoned not more than 1 year, or both.

3. 18 U.S.C. §912: Impersonating an officer or employee of the United States

TITLE 18 > PART 1 > CHAPTER 43 > § 912
§ 912. Officer or employee of the United States

Whoever falsely assumes or pretends to be an officer or employee acting under the authority of the United States or any department, agency or officer thereof, and acts as such, or in such pretended character demands or obtains any money, paper, document, or thing of value, shall be fined under this title or imprisoned not more than three years, or both.

4. 18 U.S.C. §654: Officer or employee of United States converting property of another. Associating PRIVATE property with a “public office” is an unlawful conversion of the property to a public use and public purpose without the consent of the owner and without compensation, in violation of the Fifth Amendment. Remember: “Withholding agents” as described in 26 U.S.C. §7701(a)(16) and those who file false information returns are “officers” of the government and therefore subject to the provisions below.

TITLE 18 > PART 1 > CHAPTER 31 > § 654
§ 654. Officer or employee of United States converting property of another

Whoever, being an officer or employee of the United States or of any department or agency thereof, embezzles or wrongfully converts to his own use the money or property of another which comes into his possession or under his control in the execution of such office or employment, or under color or claim of authority as such officer or employee, shall be fined under this title or not more than the value of the money and property thus embezzled or converted, whichever is greater, or imprisoned not more than ten years, or both; but if the sum embezzled is \$1,000 or less, he shall be fined under this title or imprisoned not more than one year, or both.

We must remember, however, that

1. Tax liability is a civil liability, meaning that it only pertains to those with a domicile on federal territory within the “United States” as defined in 26 U.S.C. §7701(a)(9) and (a)(10), wherever situated. Those with such a domicile are called “citizens”, “residents”, or “inhabitants” under federal statutory law. Those domiciled within a state of the Union, which is “foreign” and “alien” in relation to federal jurisdiction are NOT “citizens”, “residents”, or “inhabitants” under federal statutory law, but “nonresidents” and “transient foreigners”. See:

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

2. The Internal Revenue Code, Subtitle A, including the criminal provisions, are civil law, private law and a franchise agreement that only activates upon the consent of a “U.S. person” domiciled on federal territory. See:

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

3. If you don’t want to be subject to the “trade or business” franchise agreement, including the criminal provisions, but are compelled to file tax forms, you must:
- 3.1. Use “nonresident alien” forms.
 - 3.2. Not describe yourself as anything they have jurisdiction over, including a “person”, “individual”, “taxpayer”, etc.
 - 3.3. Redefine the words on all forms you are compelled to file to place you firmly outside their jurisdiction using the following form if you are compelled to file THEIR form without modification:

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

4. Standard IRS forms contain perjury statements that place you on federal territory pursuant to 28 U.S.C. §1746(2) and therefore make you subject to the jurisdiction of federal district and circuit “franchise courts”. Those who file federal forms who are NOT domiciled on federal territory should do all the following in order to PREVENT committing perjury on government forms:

- 4.1. Should use their own custom tax forms instead of IRS forms so that they can’t be penalized for changing anything.
- 4.2. Should correct the perjury statement to make it consistent with 28 U.S.C. §1746(1). Our Tax Form Attachment redefines the entire perjury statement paragraph so that you don’t have to make pen and ink changes to it. Therefore, you should attach this form to prevent being penalized for changing or modifying the jurat statement on a government form.
- 4.3. If they are penalized or prevented from changing the perjury statement on a standard tax form, should redefine it using the Tax Form Attachment above.

For more information about the above, see:

Non-Resident Non-Person Position, Form #05.020, Section 10.2.3
<http://sedm.org/Forms/FormIndex.htm>

You can use the above knowledge as a method to file criminal complaints against those who refuse to stop filing false information returns against you after being educated about the error of their ways. The typical sequence for doing this would be as follows:

1. Exhaust the civil arbitration procedure in the previous section first.
2. If the IRS refuses to accept their legal duty to civilly penalize the submitter of the false information returns pursuant to [26 U.S.C. §6702](#), next you can file a criminal complaint against them with the Department of Justice of the United States pursuant to [28 U.S.C. §2679](#). Charge as follows:
 - 2.1. Charge the submitter of the information return and the withholding agent with the following
 - 2.1.1. [26 U.S.C. §7207: Fraudulent Returns, Statements, or other documents](#)
 - 2.1.2. [18 U.S.C. §912: Falsely impersonating an officer \[PUBLIC OFFICER\] or employee of the United States](#)
 - 2.1.3. [18 U.S.C. §1589: Forced Labor](#). The private employer, by inducing you illegally into the tax system, is causing you to engage in forced labor for the portion of your compensation that he illegally diverts to the government. [18 U.S.C. §1593](#) mandates restitution for the slavery be paid to you by the submitter of the fraudulent information return.
 - 2.2. Charge the IRS with the following:
 - 2.2.1. [18 U.S.C. §3: Accessory after the fact](#). The IRS is cooperating with the crimes of the information return submitter and withholding agent.
 - 2.2.2. [18 U.S.C. §241: Deprivation of Rights](#). The IRS is causing you to involuntarily forfeit your rights to the fruits of your labor and the compensation from it, by refusing to take action on your petition for redress.
 - 2.2.3. [18 U.S.C. §1002: Possession of false papers to defraud the United States](#). The fraudulent information returns received from the submitter are used in crediting Social Security Earnings, which in turn become a basis for collecting Social Security benefits. If these reports are wrong, then the person who is the subject of the report is entitled to increased Social Security earnings, which in turn can be used to defraud the United States out of monies that they in fact are not legally entitled to. No one domiciled in a state of the Union on other than federal territory can lawfully participate in or collect benefits from Social Security. See:

[Resignation of Compelled Social Security Trustee](#), Form #06.002
<https://sedm.org/Forms/06-AvoidingFranch/SSTrustIndenture.pdf>
 - 2.2.4. [18 U.S.C. §1028A: Aggravated Identity Theft](#). The IRS, by using a Social Security Number as a Taxpayer Identification Number, and by falsely associating you with the status of a "public employee", is stealing your identity and transporting it unlawfully to the District of Columbia pursuant to [26 U.S.C. §7701\(a\)\(39\)](#) and [26 U.S.C. §7408\(d\)](#).
 - 2.2.5. [18 U.S.C. §1583: Enticement into Slavery](#). The IRS, through the omission of failing to correct the false information return reports or in LYING to you by telling you that they are required, is inducing you illegally into the tax system, is causing you to engage involuntarily in slavery for the portion of your compensation that he illegally diverts to the government.
 - 2.2.6. [18 U.S.C. §1589: Forced Labor](#). The IRS, by refusing to correct the fraud of the information return submitter, is inducing you illegally into the tax system, is causing you to engage in forced labor for the portion of your compensation that he illegally diverts to the government. [18 U.S.C. §1593](#) mandates restitution for the slavery be paid to you by the IRS.
 - 2.2.7. [18 U.S.C. §1951: Interference with commerce by threats or violence](#). If the IRS threatened to penalize, audit, or "selectively enforce" against you in retaliation for bringing the illegal activity of the submitter of the fraudulent information return and withholding agent to their attention, then they are engaging in criminal racketeering.
 - 2.2.8. [18 U.S.C. §1956: Laundering of monetary instruments](#). If the submitter of the false information return also involuntarily withheld monies from your pay, the IRS, in receiving the proceeds of said extortion, is engaging in laundering of monetary instruments.
 - 2.2.9. [18 U.S.C. §1030: Fraud and related activity in connection with computers](#). The fraudulent information returns received from the submitter by the IRS are processed entirely by computer. By allowing knowingly false information in their computer system, they are engaging in computer fraud.
 - 2.2.10. [42 U.S.C. §1994: Peonage abolished](#). The IRS, by its omission in correcting the fraudulent information returns, is recruiting you into peonage and making you into involuntary surety for debts of a foreign jurisdiction.
3. If the DOJ does not prosecute the IRS employees engaging in the fraud because of their omission, file a criminal complaint with the Attorney General of your State against the commissioner of the IRS and the specific employees at the IRS who refused to correct the fraudulent information returns. Use the following as a resource:
 - 3.1. [State Legal Resources, Family Guardian Fellowship](#)

3.2. [State Income Taxes, Family Guardian Fellowship](#)

3.3. [28 U.S.C. §2679\(c\)](#)): Authorizes you to sue a federal employee in a state court if he is operating outside of his delegated or lawful authority.

3.4. [28 U.S.C. §1652: State laws as rules of decision](#). States that state law prevails in cases where federal actors are operating outside their authority on land under exclusive state jurisdiction.

12 Correcting erroneous information returns AFTER they are willfully submitted false

It is important to take the time to correctly fill out your withholding paperwork prior to going to work or commencing a business arrangement. Doing so establishes:

1. Standing to sue later for damages, illegal assessments, or collections relating to nontaxpayer earnings.
2. What is called a “laches defense”, whereby your business associates are foreclosed from later challenging the fact that they violated the law if they submit any information returns or submit incorrect information returns.
3. “Mens rea”, which means evil intent, on their part, so that they become liable for prosecution of the crimes of submitting knowingly false information returns.
4. An opportunity to tell the IRS that they agreed that any and all information returns were false and unlawful in your efforts to stop the illegal collections that result.

The following subsections establish general techniques for correcting erroneous information returns submitted AFTER your business associates knowingly violated the withholding paperwork you submitted prior to commencing your relationship.

12.1 How the Information Return Correction process works

W-2's, 1042's, 1098's, and 1099's are called "Information Returns" by the IRS. Below is the overall process for correcting erroneous or false W-2's, 1042's, 1099's, or 1098's so you know exactly how it works and what to expect:

1. If you haven't archived or kept all the information returns filed against your name, obtain copies of the corrected information returns received by the IRS using one of the following:
 - 1.1. *Information Return FOIA: "Trade or Business"*, Form #03.023
<http://sedm.org/Forms/FormIndex.htm>
 - 1.2. *IMF Decoding Freedom of Information Act Request*, Form #03.015, FOIA #3
<http://sedm.org/Forms/FormIndex.htm>
 - 1.3. Write your own request using information contained in section 10.3 of this document.
2. Complete corrected Information Returns:
 - 2.1. Complete Amended IRS Form 1042's for all years false 1042's reports were made against you. See section 13.2 later or our article below for details:

Correcting Erroneous IRS Form 1042's, Form #04.003
<http://sedm.org/Forms/FormIndex.htm>
 - 2.2. Complete Amended IRS Form 1098's for all years false 1098 reports were made against you. See section 13.3 later or our article below for details:

Correcting Erroneous IRS Form 1098's, Form #04.004
<http://sedm.org/Forms/FormIndex.htm>
 - 2.3. Complete Amended/Corrected Form 1099's for all false 1099 forms filed against you. See section 13.4 later or our article below for information on how to do this:

Correcting Erroneous IRS Form 1099's, Form #04.004
<http://sedm.org/Forms/FormIndex.htm>
 - 2.4. Complete W-2C's or 4852's for all years false W-2 reports were made against you. See section 12.3 later or our article below for details:

Correcting Erroneous IRS Form W-2's, Form #04.006
<http://sedm.org/Forms/FormIndex.htm>
3. Mail the completed forms above with the following cover letter to the Service center where you would normally file. Those using this website are all nonresident aliens who must file their Information Returns ONLY at: Internal Revenue Service; P.O. Box 80102; Cincinnati, OH 45280-0002. It may also be a good idea to mail a second copy of the package to the IRS service center that covers your state.

4. When the Social Security Data Processing Center and IRS receive the corrected information returns, they will correct the entries in the Integrated Document Retrieval System (IDRS). They will also send out an [IRS Form 4598](#) to the employer or financial institution that originally sent in the erroneous W-2 or 1099 asking them to provide an updated form or to explain why their form was incorrect. If they are following the directions in our cover letter, they will use the AMENDED IRS Form 4598 to send to the employer, and not the standard form so as to remove presumptions and offer additional explanation options to the employer or financial institution. The employer or financial institution has 10 days to fill out and return the IRS Form 4598. They may also respond by sending the IRS Forms W-2c or W-3c, which corrects the erroneous reports they provided and which hopefully will agree with your submission.
5. The IRS may then further change the entries for the returns in question based on the [IRS Form 4598](#) the employer or financial institution completed and returned to the IRS.
6. If the IRS is unable to reconcile the employer or financial institution's response with what you said in your cover letter, then they may amend the IDRS based on their own determination.

If you would like more information about Information Returns processing, visit the IRS website at:

<http://www.irs.gov/taxpros/content/0..id=98185.00.html>

12.2 Summary of methods for correcting all false information returns¹⁴

Below is a summary of how to correct all information returns. It provides a quick reference to help you in rapidly identifying the method for correcting any one of the information returns that the IRS has which may be false in your case.

¹⁴ Extracted from *Federal and State Tax Withholding Options for Private Employers*, Form #09.001, Section 22:
<http://sedm.org/Forms/FormIndex.htm>

1 **Table 5: Summary of Information Returns**

#	IRS Form Number	Form name	Filed concurrently with IRS Form Number	If false, may be corrected by
1	W-2	Wage and Tax Statement	W-3	4852 attached to a tax return W-2c and W-3c filed concurrently by “public employer”
2	1042-S	Foreign Person’s U.S. Source Income Subject to Withholding	Nothing	Re-filing with “AMENDED” block checked at the top
3	1098	Mortgage Interest Statement	1096	Re-filing with “CORRECTED” block checked at the top
4	1099-A	Acquisition or Abandonment of Secured Property	1096	Re-filing with “CORRECTED” block checked at the top
5	1099-B	Proceeds from Broker and Barter Exchange Transactions	1096	Re-filing with “CORRECTED” block checked at the top
6	1099-C	Cancellation of Debt	1096	Re-filing with “CORRECTED” block checked at the top
7	1099-DIV	Dividend Income	1096	Re-filing with “CORRECTED” block checked at the top
8	1099-H	Health Insurance Advance Payments	1096	Re-filing with “CORRECTED” block checked at the top
9	1099-INT	Interest Income	1096	Re-filing with “CORRECTED” block checked at the top
10	1099-LTC	Long Term Care and Accelerated Death Benefits	1096	Re-filing with “CORRECTED” block checked at the top
11	1099-PATR	Taxable Distributions Received	1096	Re-filing with “CORRECTED” block checked at the top
12	1099-OID	Original Issue Discount	1096	Re-filing with “CORRECTED” block checked at the top
13	1099MISC	Miscellaneous Income	1096	Re-filing with “CORRECTED” block checked at the top
14	1099-Q	Payments from Qualified Education	1096	Re-filing with “CORRECTED” block checked at the top
15	1099-R	Distributions from Pensions, Annuities, Retirement or Profit Sharing Plans, IRAs, Insurance Contracts, Etc.	1096	4852 attached to a tax return Re-filing with “CORRECTED” block checked at the top
16	1099-S	Proceeds from Real Estate Transactions	1096	Re-filing with “CORRECTED” block checked at the top
17	Schedule K-1 (Form 1041)	Beneficiary’s Share of Income, Deduction, and Credits, etc.		Re-filing with “Amended K-1” block checked at top
18	Schedule K-1 (Form 1065)	Partner’s Share of Income, Deductions, and Credits, etc.		Re-filing with “Amended K-1” block checked at top
19	Schedule K-1 (Form 1065-B)	Partner’s Share of Income (Loss) From an Electing Large Partnership		Re-filing with “CORRECTED” block checked at the top

#	IRS Form Number	Form name	Filed concurrently with IRS Form Number	If false, may be corrected by
20	Schedule K-1 (Form 1120s)	Shareholder's Share of Income, Deduction, and Credits (For Shareholder's Use Only)		Re-filing with "Amended K-1" block checked at top
21	Schedule K-1 (Form 8865)	Partner's Share of Income, Deductions, and Credits, etc.		Re-filing with "Amended K-1" block checked at top

12.3 Internal Revenue Manual Section 4.2.2: "Bad payer data"

Internal Revenue Manual Section 4.2.2 deals with the subject of "bad payer data", which they define as:

Internal Revenue Manual
Part 4. Examining Process
Chapter 2. General Examining Procedures
Section 2. Miscellaneous Examination Procedures
4.2.2.4 (10-01-2003)
Identification of Bad Payer Data

1. During the examination of Information Returns Selection System (IRSS) cases, examiners may determine that information provided by the payer is incorrect.

2. Bad payer data is defined as any situation where the payer made an error on the information return of a type that could occur on other information returns.

3. Where errors have occurred on ten or more of these documents filed by one payer or transmitter, bad payer data exists.

4. Examples of bad payer data include but are not limited to:

4.1 Duplicate filing of Forms W-2 or 1099;

4.2 Corrected Forms W-2 or 1099 not identified as a corrected, thus appearing to duplicate the original filing;

4.3 Misplaced decimals;

4.4 Additional digits added to amounts;

4.5 Nontaxable income reported as taxable; and

4.6. Income reported on the wrong form.

5. When examiners determine that bad payer data exists, they will briefly explain the identified reason on a copy of the IRSS transcript and route this copy to the Territory Manager or designate. The Territory Manager or designate will ensure the reasons are clear and will forward all copies to the Campus on a weekly basis. The copies will be directed to the attention of the IRP Magnetic Media Coordinator

Bad payer data is the main reason why most Americans are wrongfully branded as statutory "taxpayers". The filing of bad payer data is a criminal offense, because information returns are classified as "returns" for the purpose of 26 U.S.C. §7207. To wit:

26 U.S. Code § 7207 - Fraudulent returns, statements, or other documents

Any person who willfully delivers or discloses to the Secretary any list, return, account, statement, or other document, known by him to be fraudulent or to be false as to any material matter, shall be fined not more than \$10,000 (\$50,000 in the case of a corporation), or imprisoned not more than 1 year, or both. Any person required pursuant to section 6047(b), section 6104(d), or subsection (i) or (j) of section 527 to furnish any information to the Secretary or any other person who willfully furnishes to the Secretary or such other person any information

known by him to be fraudulent or to be false as to any material matter shall be fined not more than \$10,000 (\$50,000 in the case of a corporation), or imprisoned not more than 1 year, or both.

12.4 Correcting IRS Forms W-3, W-3C, and 1096

We showed in column 4 of the table in the previous section that most corrected information returns are required to be submitted with either form W-3, W-3C, or 1096. These forms:

1. Are the only place where a signature under penalty of perjury appears. The information return to which they relate is not signed. The perjury statement is what makes the information returns admissible as evidence in a court of law. The perjury statement is consistent with 28 U.S.C. §1746(2), which means that it creates the presumption that the submitter is a “resident” of the “United States”/federal zone instead of a state of the Union. If you want to ensure that you do not make an election to become a “resident”, make sure to attach the Tax Form Attachment, Form #04.201 according to the instructions included with the form.
2. Are ordinarily submitted by the submitter of the original information return that is being corrected and not the party who is the subject of the report.
3. Have unique uses:
 - 3.1. The IRS Form 1096 contains a summary of all of the earnings connected to the “trade or business” of the submitter for the year to which it relates. The title of IRS Form 1096 is the “Annual Summary and Transmittal of U.S. Information Returns”.
 - 3.2. The IRS Form W-3 only covers the W-2’s transmitted with it and not necessarily the period of an entire year. The Title of IRS Form W-3 is “Transmittal of Wage and Tax Statements”.

Refer to the IRS instructions on how to use the above forms. Whether you file them with your corrected information returns is up to you. Since the IRS Form 1096 relates to the entire earnings of the Submitter for an entire year, it is probably not good to file this form with your corrected IRS Form 1099’s, because it would affect the submitter. The only value it adds is a perjury statement, and that is included in the following form submitted with the corrected information returns, so it probably isn’t necessary:

Corrected Information Return Attachment Letter, Form #04.002
<http://sedm.org/Forms/FormIndex.htm>

Since the IRS Form W-3 doesn’t cover an entire year, but only the W-2’s that are transmitted with it, then this form can safely be sent with the Forms W-2C, W-2CC, etc.

Members are cautioned that our Tax Form Attachment, Form #04.201, Section 6, Item 3, contains a franchise and power of attorney for all those who use information about the Submitter of the form allowing the target of false information returns to execute power of attorney on behalf of the submitter of the original false information return. This overcomes any objection which the IRS might have to you filing the corrected information return instead of the original submitter. The language of that franchise provision is as follows:

“3. Power of Attorney to Correct False Information Returns Filed Against Submitter by Recipient. Recipient consents to allow Submitter of this form to submit corrected information returns to the IRS or state revenue agencies which zero out any report of “trade or business” earnings and to sign said forms under power of attorney from the Recipient. This includes, but is not limited to IRS forms W-2C, W-3, 1042-S, 1096, 1098, 1099, and 8300.”
[Tax Form Attachment, Form #04.201; SOURCE: <http://sedm.org/Forms/FormIndex.htm>]

12.5 Risks Involved in Correcting False Information Returns and how to avoid them

There are risks associated with filing corrected information returns. For instance, later in section 11.2 you will learn that there are criminal statutes in place that can be used against those filing false information returns. If you don’t follow the procedure properly, use the wrong form, or don’t explain what you are doing in a mandatory attachment, then:

1. The recipient of the corrected information return in the Social Security Administration or IRS will have license to “presume” in their favor that you submitted a false return and that you come under the jurisdiction of 26 U.S.C. §7206 and 7207.

1 2. The IRS may file a criminal complaint with the Dept. of Justice to have you criminally prosecuted for false information
2 returns.

3 The main reason they will do the above is to protect the MAIN method for recruiting those who are “nontaxpayers” into their
4 system and maintain the flow of plunder and donations to your public dis-servants. The irony is that the purpose for filing
5 corrected information returns is to PREVENT you from committing the crime of impersonating a public officer, and yet they
6 may try to do the OPPOSITE in what we call “selective enforcement” in order to discourage people from correcting the false
7 information returns in order to protect their pay and retirement INSTEAD of you. This, in fact, is what happened to a famous
8 freedom fighter, Pete Hendrickson, who was convicted in Nov. 2009 on ten counts of filing false information returns under
9 26 U.S.C. §§7206 and 7207 in the process of correcting false information returns that were filed against him.

10 The reasons people like Hendrickson get prosecuted for filing false information returns is because:

- 11 1. They don’t understand their legal status in relation to the government, including every statute that describes that status,
12 how to look it up, and all the forms on our website that describes it. This just proves they are ignorant of the law and
13 ripe for exploitation by the government. Freedom BEGINS with reading the law, knowing your rights, and knowing
14 you are in relation to the government as described in their own statutes.
- 15 2. They declare or imply the wrong “status” in their correspondence and thereby unwittingly associate themselves with
16 government franchises that destroy their rights and waive their sovereign immunity under 28 U.S.C. §1605:
- 17 2.1. They use terms to describe themselves that do NOT appear in any statute. This just proves they are ignorant of
18 the law and ripe for exploitation by the government.
- 19 2.2. They describe themselves as a “taxpayer” who is therefore subject and liable under the I.R.C. “trade or business”
20 franchise agreement.
- 21 2.3. They invoke remedies available only to “taxpayers” by using the I.R.C. Subtitle A and C franchise agreement in
22 their defense, which doesn’t apply to “nontaxpayers”.

23 *"The revenue laws are a code or system in regulation of tax assessment and collection. They relate to taxpayers,*
24 *and not to nontaxpayers. The latter are without their scope. No procedure is prescribed for nontaxpayers, and no*
25 *attempt is made to annul any of their rights and remedies in due course of law. With them Congress does not*
26 *assume to deal, and they are neither of the subject nor of the object of the revenue laws..."*

27 *"The distinction between persons and things within the scope of the revenue laws and those without is vital."*
28 [\[Long v. Rasmussen, 281 F. 236, 238 \(1922\)\]](#)

- 29 2.4. They petition a franchise court, such as “Tax Court” in their dispute. Tax Court Rule 13(a) says you must be a
30 “taxpayer” to use “Tax Court”.
- 31 3. They use RESIDENT tax forms, such as the IRS Form 4852. The form doesn’t say it is a “resident” form and neither
32 does the IRS form 1040, but BOTH of them are. The top of the form 4852 says "Attach to Form 1040, 1040A, 1040-
33 EZ, and 1040X". These forms are all “resident” forms. All resident forms place you in the statutory but not
34 Constitutional “United States”, place you on federal territory outside of any state, destroy the protections of the
35 Constitution, and create a presumption that everything you earn is connected to government franchises. 26 U.S.C.
36 §863(c)(3) says that everything from “sources within the United States” constitutes “trade or business” earnings,
37 meaning franchise earnings connected to a public office in the U.S. government. If you connect yourself with
38 ANYTHING that places you inside the government and thereby makes you the instrumentality of the government who
39 is the only proper target of government restraint and enforcement as described in 26 U.S.C. §6331(a), then you can kiss
40 your rights good bye.

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

inhabitants should be entitled to enjoy the right of trial by jury, of bail, and of the privilege of the writ of habeas corpus, as well as other privileges of the bill of rights.”
[Downes v. Bidwell, 182 U.S. 244 (1901)]

4. They do not define the words on the forms they submit, thus inviting the recipient to misinterpret their intentions, make self-serving presumptions, or illegally enforce the tax laws against them. ALL forms you submit MUST define every major “word of art” on the forms you send to prevent this problem. Section 4 of the following mandatory attachment to all tax forms submitted by SEDM members prevents this problem very effectively:

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

5. They don’t clarify that the perjury statement on the government form they are using misrepresents their status as a “Resident”. 28 U.S.C. §1746(2) says the perjury statement found on all IRS forms is for those domiciled or resident on federal territory called the “United States”. IRS does not provide a version of each of their forms that instead invokes 28 U.S.C. §1746(1), and hence, the perjury statement causes nonresidents who submit the IRS form to commit perjury under penalty of perjury and leaves them no other option than to commit such perjury. The following form on our website prevents this problem and is a mandatory attachment to all government tax forms submitted by members:

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

6. They don’t understand citizenship or properly declare their citizenship status and domicile on government forms or in government records or correspondence. For instance, they describe themselves as a statutory “U.S. citizen” (8 U.S.C. §1401), “U.S. resident” (26 U.S.C. §7701(b)), or “U.S. person” (26 U.S.C. §7701(a)(30)) without identifying WHICH “U.S.” they mean or what statutory definition they mean. This is VERY dangerous, because it creates a presumption that you are domiciled on federal territory and have no constitutional rights. The following mandatory attachment to EVERY tax form or government form you submit prevents such presumptions and places you entirely beyond federal jurisdiction as a nonresident.

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

7. They use government identifying numbers such as TINs and SSNs on government forms, do not terminate participation in Social Security, and do not rebut the use of such numbers against them by others, including the IRS. We remind our readers that all Members are required by the Member Agreement:

- 7.1. To terminate Social Security participation. See:

Resignation of Compelled Social Security Trustee, Form #06.002
<http://sedm.org/Forms/FormIndex.htm>

- 7.2. To NOT put any statutory government identifying number such as SSNs and TINs on any government or tax form they submit.

- 7.3. To attach the following form proving why it is a CRIME to use such numbers:

Why It is Illegal for Me to Request or Use a “Taxpayer Identification Number”, Form #04.205
<http://sedm.org/Forms/FormIndex.htm>

- 7.4. To line out all numbers on any correspondence they send to the government by lining out the numbers the government used and write “WRONG” next to it.

- 7.5. If they are compelled to use or apply for such numbers, they report instigator of the duress criminally.

For details on the above, please see:

About SSNs and TINs on Government Forms and Correspondence, Form #05.012
<http://sedm.org/Forms/FormIndex.htm>

We remind our readers that Pete Hendrickson ignored all the above issues in the corrected information returns he submitted, and was hung because of his own ignorance.

“My people are destroyed for lack of knowledge..!”
[Hosea 4:6, Bible, NKJV]

We also remind our readers that Pete Hendrickson was warned about all of the above deficiencies both in his own Lost Horizons forums by our members and also in the following document posted on our website and his response was to ban those warning him from his forums and refuse to admit his wrongdoing.

Policy Document: Pete Hendrickson’s “Trade or Business” Approach, Form #08.003
<http://sedm.org/Forms/FormIndex.htm>

We wish ill of no one, but Pete's arrogance and obstinance invited the treatment that he got and has no one to blame but himself for the result. Ironically, it appears that the government used our information about the weaknesses in his approach to prosecute him, although that wasn't our intention. This just proves that when we speak people, YOU OUGHT TO LISTEN or you will end up like Pete.

For all the reasons indicated in this section, those wishing to minimize the risks associated with correcting false information returns should:

1. Learn and know your status in relation to the government and properly and consistently describe it in all correspondence by attaching the following form to all your correspondence:

Affidavit of Citizenship, Domicile, and Tax Status, Form #02.001
<http://sedm.org/Forms/FormIndex.htm>
2. Stick to the forms and processes found on this website and follow our Member Agreement. Don't try to outsmart or second guess what we are doing without at least subjecting it to peer review in our forums so that it can be incorporated in the forms and tools on our website after further careful study.
3. If you have to use a standard IRS tax form, ensure that you attach the following form and follow the directions on the form:

Tax Form Attachment, Form #04.201
<http://sedm.org/Forms/FormIndex.htm>
4. Follow our procedures for developing exculpatory legal evidence in your own defense, so that there is no room for imposing their false, self-serving presumptions upon you. For instance, everything you send them should be certified mail with a Proof of Service and CC the IRS commissioner himself so you can call him as a witness in your defense. See:

Techniques for Developing a Good Administrative Record, Form #07.003
<http://sedm.org/Forms/FormIndex.htm>
5. Do NOT use "resident" forms, such as the IRS Forms 1040 or 4852. If they don't make a "nonresident" form with a nonresident perjury statement, make your own. Below are examples of that approach for correcting IRS form W-2's and 1099's:
 - 5.1. *Form W-2CC: Custom W-2 Criminal Complaint*, Form #04.304
<http://sedm.org/Forms/FormIndex.htm>
 - 5.2. *IRS Form 1099-CC*, Form #04.309
<http://sedm.org/Forms/FormIndex.htm>
6. Do not use statutory "Social Security Numbers" or "Taxpayer Identification Numbers" on government forms. Instead:
 - 6.1. Attach the original correspondence the government sent, circle the number so it is still legible, and write "WRONG!" next to it.
 - 6.2. Attach the following form to your correspondence:

Why It is Illegal for Me to Request or Use a "Taxpayer Identification Number", Form #04.205
<http://sedm.org/Forms/FormIndex.htm>
 - 6.3. Define any use of "SSNs" or "TINs" on anything you submit and anything the government uses as NOT being that which is defined in any statutory government law, but instead being a license issued to THEM to make demands of you and which subjects THEM and not YOU to YOUR OWN franchise agreement. That franchise agreement is found on the *Tax Form Attachment*, Form #04.201, Section 6.
7. Ensure that you include a criminal complaint and an explanation of what you are doing and why to prevent yourself from being victimized by their self-serving presumptions or becoming the target of "selective enforcement". This is accomplished by using the following standard form to correct information returns:

Corrected Information Return Attachment Letter, Form #04.002
<http://sedm.org/Forms/FormIndex.htm>

12.6 Avoiding Penalties in Submitting Corrected Information Returns

On occasion, the IRS may attempt to illegally penalize nontaxpayers and nonresidents who attempt submit corrected information returns. Ironically, IRS penalties are only authorized against those who participate in the "trade or business" franchise as "public officers". These persons are described in 26 U.S.C. §6671 as follows:

[TITLE 26 > Subtitle F > CHAPTER 68 > Subchapter B > PART I > § 6671](#)
[§ 6671. Rules for application of assessable penalties](#)

(b) Person defined

The term “person”, as used in this subchapter, includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

The “corporation” they are talking about is defined below:

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

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

[. . .]

(3) Corporation

The term “corporation” includes associations, joint-stock companies, and insurance companies.

Remember, the Internal Revenue Code, Subtitle A describes a private law franchise agreement/contract and that franchise is called a “trade or business”. This is exhaustively proven below:

<p>Government Instituted Slavery Using Franchises, Form #05.030 http://sedm.org/Forms/FormIndex.htm</p>

The penalty provisions within that franchise agreement can only apply to statutory “persons” who are subject to it as “public officers”. Statutory “persons” excludes human beings unless the human being agreed to become surety for the actions of the office by entering into a contract to be responsible for the office. The only legal “persons” the government can lawfully penalize are its own instrumentalities, employees, officers, and agencies and not private persons.

“The power to “legislate generally upon” life, liberty, and property, as opposed to the “power to provide modes of redress” against offensive state action, was “repugnant” to the Constitution. Id., at 15. See also United States v. Reese, 92 U.S. 214, 218 (1876); United States v. Harris, 106 U.S. 629, 639 (1883); James v. Bowman, 190 U.S. 127, 139 (1903). Although the specific holdings of these early cases might have been superseded or modified, see, e.g., Heart of Atlanta Motel, Inc. v. United States, 379 U.S. 241 (1964); United States v. Guest, 383 U.S. 745 (1966), their treatment of Congress’ §5 power as corrective or preventive, not definitional, has not been questioned.”
[City of Boerne v. Flores, Archbishop of San Antonio, 521 U.S. 507 (1997)]

“The restrictions that the Constitution places upon the government in its capacity as lawmaker, i.e., as the regulator of private conduct, are not the same as the restrictions that it places upon the government in its capacity as employer. We have recognized this in many contexts, with respect to many different constitutional guarantees. Private citizens perhaps cannot be prevented from wearing long hair, but policemen can. Kelley v. Johnson, 425 U.S. 238, 247 (1976). Private citizens cannot have their property searched without probable cause, but in many circumstances government employees can. O’Connor v. Ortega, 480 U.S. 709, 723 (1987) (plurality opinion); id., at 732 (SCALIA, J., concurring in judgment). Private citizens cannot be punished for refusing to provide the government information that may incriminate them, but government employees can be dismissed when the incriminating information that they refuse to provide relates to the performance of their job. Gardner v. Broderick, [497 U.S. 62, 95] 392 U.S. 273, 277-278 (1968). With regard to freedom of speech in particular: Private citizens cannot be punished for speech of merely private concern, but government employees can be fired for that reason. Connick v. Myers, 461 U.S. 138, 147 (1983). Private citizens cannot be punished for partisan political activity, but federal and state employees can be dismissed and otherwise punished for that reason. Public Workers v. Mitchell, 330 U.S. 75, 101 (1947); Civil Service Comm’n v. Letter Carriers, 413 U.S. 548, 556 (1973); Broadrick v. Oklahoma, 413 U.S. 601, 616-617 (1973).”
[Rutan v. Republican Party of Illinois, 497 U.S. 62 (1990)]

It is otherwise illegal to penalize private human beings who are not instrumentalities, officers, or statutory “employees” (5 U.S.C. §2105(a)) of the government and this is forbidden by the Constitutional prohibition against “bills of attainder”.

United States Constitution
Article 1, Section 9, Clause 3:

1 "No Bill of Attainder or ex post facto Law shall be passed." (with respect to the U.S. Congress)

2 **Article 1, Section 10, Clause 1:**

3 "No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin
4 Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any
5 Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility."

6 Below is the definition of a Bill of Attainder for your reference:

7 Bill of attainder: Legislative acts, no matter what their form, that apply either to named individuals or to easily
8 ascertainable members of a group in such a way as to inflict punishment on them without a judicial trial.
9 United States v. Brown, 381 U.S. 437, 448-49, 85 S.Ct. 1707, 1715, 14 L.Ed. 484, 492; United States v. Lovett,
10 328 U.S. 303, 315, 66 S.Ct. 1073, 1079, 90 L.Ed. 1252. An act is a "bill of attainder" when the punishment is
11 death and a "bill of pains and penalties" when the punishment is less severe; both kinds of punishment fall within
12 the scope of the constitutional prohibition. U.S.Const. Art. I, Sect 9, Cl. 3 (as to Congress);' Art. I, Sec. 10 (as
13 to state legislatures). [Black's Law Dictionary, Sixth Edition, page 165, Emphasis added]

14 The following pamphlet proves that the government has no enforcement authority in states of the Union against anyone other
15 than its own statutory "employees", officers, and instrumentalities in the Constitutional exercise of their delegated powers:

Federal Enforcement Authority in States of the Union, Form #05.032** (Member Subscriptions)
<http://sedm.org/Forms/FormIndex.htm>

16 The more supporting information and explanation you include with your corrected information returns, the less likely they
17 are to penalize you. To avoid being penalized, the following techniques are helpful:

- 18 1. Attach the following form to your corrected information returns, which protects you from false presumptions:

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

- 19 2. Attach the following article and demand that they rebut the questions at the end within 30 days or waive their right to
20 argue later:

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

- 21 3. Use the forms provided herein instead of inventing your own approach, because chances are, you will forget something.
22 4. Warn the recipient that penalties are ILLEGAL for a person not engaged in the franchise and use the language in this
23 section.
24 5. You may also consider attaching our free pamphlet that proves that the IRS has no authority to penalize a person who is
25 not engaged in a "trade or business" and is a nonresident alien not subject to federal jurisdiction:

Why Penalties are Illegal for Anything But Federal Employees, Contractors, and Agents, Form #05.010
<http://sedm.org/Forms/FormIndex.htm>

26 **12.7 Differences between Online Forms and Paper Forms you Order from the Government**

27 You should be aware that the online forms available on the IRS Website below are NOT the same as the printed forms you
28 would order from the government:

IRS Forms and Publications
<http://www.irs.gov/formspubs/index.html>

29 We suspect that the differences exist for the following reasons:

- 30 1. They want you to electronically submit the fixed forms. Then they are going to ask for all kinds of crazy information
31 and get you to sign your life away when they "register" you to become one of their electronic data providers.
32 2. They want to prevent human beings from being able to submit corrected information returns about themselves because
33 the online forms may not work until they more closely mimic the printed forms.

34 The online forms hint at the above problems with the following warning at the end of the form:

Attention:

Do not download, print, and file Copy A with the IRS.

Copy A appears in red, similar to the official IRS form, but is for informational purposes only. A penalty of \$50 per information return may be imposed for filing copies of forms that cannot be scanned.

You may order these forms online at Forms and Publications By U.S. Mail or by calling 1-800-TAX-FORM (1-800-829-3676).

See IRS Publications 1141, 1167, 1179, and other IRS resources for information about printing these tax forms.

Below is a summary of the differences between the above online forms and the printed paper forms that we have identified so far:

1. Form size and number per sheet:

1.1. The following paper forms come on an 8.5"x11" sheet in which the leftmost 0.5" has small holes in it that you tear off, leaving an 8"x11" sheet that you send to the IRS or Social Security Data Processing Center.

1.1.1. 1096. One form appears on each sheet.

1.1.2. 1098. Three forms appear on each sheet.

1.1.3. 1099-B. Two forms appear on each sheet.

1.1.4. 1099-DIV. Two forms appear on each sheet.

1.1.5. 1099-INT. Three forms appear on each sheet.

1.1.6. 1099-MISC. Two forms appear on each sheet.

1.1.7. 1099-OID. Three forms appear on each sheet.

1.1.8. 1099-S. Three forms appear on each sheet.

1.2. The IRS Form W-2C paper form comes on a 9"x11" sheet with a 0.5" area on the left with holes that you tear off. The final sheet ends up the same size as an 8.5"x11" sheet of paper after you tear the holes off. The red box border line should start .5" from the left and top. One form appears on each sheet.

2. Ink color: The red color of the paper forms is different from the online forms. The printed form color is Pantone 192-U. This is dropout ink. As the documents are scanned, this red color appears invisible to the scanner and only the black ink is read into the computer. Using Adobe Photoshop Software, you can chose Pantone Colors, or adjust the form color to match Pantone 192-U.

3. Paper Weight: Standard printer paper is 20lb paper. These forms are on 10lb paper, which you can get at a Copy Center, it is usually their lightest paper stock. It works in color copiers, but not laser printers. So you will have to take your print outs and then transfer them onto the 10lb paper using a color copier machine.

4. Fields: The boxes are not in the right spots. All the forms are basically centered when you download them online, when in fact they need to be in a specific position for the scanner to read the information.

5. Fonts: Use OCR-A font. You can download this font off the internet. The OCR-A Extended font is built into windows and you can use that for free.

This was as close as we could get to a passable form. We do not know if they will scan successfully, but they meet all the requirements of a scannable document according to the IRS Publication 1141. There will be subtle lineup issues, but we find it hard to believe these small inconsistencies are not also found in the government printed forms as well. We would think the scanners are built to accommodate fraction of an inch differences.

There are three ways to avoid the above problems and avoid the \$50 penalty for forms that are not scannable:

1. Use the Scannable Templates we provide on our website and trim the forms down to 8"x11" by cutting off the left edge as indicated above. This is better because then it becomes easy to put the OCR-A fonts on the form using Adobe Acrobat and you can use standard paper size.
2. Order actual forms from the IRS and use those. This is the simplest, but creates other problems because now you are going to have a problem trying to figure out how to print OCR-A font on the forms. You will then need to make a word processing template with the OCRA fonts and run it through a printer and have all kinds of problems trying to align it.
3. Register to become an electronic provider, and be run through the ringer by the IRS to prevent you from contaminating their food source, which is all the FALSE information that people send them that allows them to collect. Over 80% of the revenues of the IRS comes from employment withholding and reporting, which in most cases is FALSE.
4. Submit non-scannable forms that are not compliant and pay the \$50 per form penalty.

1 Which of the above approaches you take is up to you, but we did want to let you know what the options are. We use option
2 1 above using the downloadable templates on our website.

3 **12.8 Saving and reusing completed forms**

4 The IRS Forms W-2, 1042-S, 1098, and 1099 are frequently used when corresponding with the IRS and state taxing
5 authorities as a way to remind the government that a person has no taxable income. Once you have completed the form for a
6 particular tax year, it is best to keep the original in a safe place and reuse it by photocopying it and attaching it to
7 correspondence. This will save you lots of work and time. We scan in ours and make it into an Adobe Acrobat PDF and just
8 reprint it whenever we need it.

9 **13 Administratively Correcting SPECIFIC types of erroneous information returns**

10 **13.1 Correcting Erroneous IRS Form W-2's**

11 **13.1.1 Why We Must Correct False IRS Form W-2's**

12 It is quite common for financial institutions and private companies to misapply the state and federal revenue "codes". Notice
13 we didn't say "laws", because the [Internal Revenue Code](#) Subtitle A, not being enacted into [positive law](#), can only be
14 "private law" that attaches to the individual through explicit consent. Instead, it is only "a decree under legislative forms"
15 [tyranny, in fact] as the Supreme Court describes it below. Neither does the [Internal Revenue Code, Subtitle A](#) describe a
16 lawful "tax" in most cases either, except where the individual has given express or tacit consent by voluntarily choosing to
17 involve themselves in excise taxable, "privileged" activity called a "[trade or business](#)". Instead, it is a "bible" that describes
18 a state-sponsored religion, not a public law:

19 *"To lay, with one hand, the power of the government on the property of the citizen, and with the other to bestow*
20 *it upon favored individuals to aid private enterprises and build up private fortunes, is none the less a robbery*
21 *because it is done under the forms of law and is called taxation. **This is not legislation [law]. It is a decree***
22 ***under legislative forms.***

23 ***Nor is it taxation. 'A tax,' says Webster's Dictionary, 'is a rate or sum of money assessed on the person or***
24 ***property of a citizen by government for the use of the nation or State.' 'Taxes are burdens or charges imposed***
25 ***by the Legislature upon persons or property to raise money for public purposes.' Cooley, Const. Lim., 479."***
26 ***[Loan Association v. Topeka, 20 Wall. 655 (1874)]***

27 If you would like to learn more about why the Internal Revenue Code is not "public law" but "private law", and why it is also
28 a state-sponsored federal religion, see sections 9 through 9.6 of our free memorandum of law below:

<p><i>Requirement for Consent</i>, Form #05.003 http://sedm.org/Forms/FormIndex.htm</p>

29 Violation of the revenue codes by financial institutions and private companies happens mainly because the IRS has illegally
30 harassed, terrorized, and threatened them usually verbally when they insist on following the revenue statutes exactly as written
31 or when they insist that such statutes have no jurisdiction over them. In effect, the IRS and state revenue agencies and [a](#)
32 [colluding and compromised federal judiciary](#) (see also Section 6.12 of the free [Great IRS Hoax, Form #11.302](#) book, which
33 proves they are compromised) have made it risky and very confrontational to follow the revenue statutes exactly as written
34 and have done so completely without any lawful or delegated authority to do so. This has been done mainly using what is
35 called "[judge-made law](#)", and Congress has looked the other way on this scandal because they want it to happen and it benefits
36 them hugely, to the tune of over a Trillion extorted dollars a year, to let it continue. As a consequence, these institutions
37 attempt to transfer the inherent risks to their workers so that they don't have to deal with them and can focus on the more
38 important aspects of maintaining their businesses and their profitability. The most important result of this abuse and illegal
39 extortion directed at these institutions by the IRS is the misreporting of earnings on financial accounts reported on 1099 forms
40 and earnings from labor reported on the [IRS Form W-2](#). These types of filings are called "Information Returns" by the IRS.
41 If you do not take the responsibility to promptly correct these erroneous information returns with the IRS and state taxing
42 authorities, then these agencies will automatically make the following usually false and completely illegal presumptions, and
43 in the process, violate your [due process rights](#) under the Constitution:

1. That you have a [Social Security Number](#), which means you are a federal worker or contractor engaged in a "[trade or business](#)" or "[public office](#)" and also are exercising agency of a federal entity that has a domicile in the District of Columbia. Therefore, in the context of anything in which the number is used, you are presumed to be representing a federal corporation called the "[United States](#)" which has a [domicile](#) in the District of Columbia, which becomes your domicile as well pursuant to [Federal Rule of Civil Procedure 17\(b\)](#). See [20 C.F.R. §422.104](#), which describes who may be issued a Social Security Number. This regulation is under [20 C.F.R.](#), which is entitled "Employee benefits", and the only type of "employee" they can legislate for are federal employees. See the following for details:

[Why Your Government is Either a Thief or You are a "Public Officer" for Income Tax Purposes](#), Form #05.008
<http://sedm.org/Forms/FormIndex.htm>

2. That because there is an identifying number on the W-2 report, that you consented for it to be treated as a "[Taxpayer Identification Number](#)". The only kind of number the IRS is authorized to use by law are Taxpayer Identification Numbers, and the Treasury Department readily admits in its regulations at [26 C.F.R. §301.6109-1\(d\)\(3\)](#) that a Social Security Number is NOT a "[Taxpayer Identification Number](#)".

3. That because you consented to have a "[Taxpayer Identification Number](#)", that you must be a "[Taxpayer](#)". See the following for details:

<http://famguardian.org/Subjects/Taxes/Remedies/TaxpayerVNontaxpayer.htm>

4. That because the earnings were reported on a federal form, then you must reside within federal territorial or subject matter jurisdiction, because you wouldn't fill out the form to begin with if you weren't subject to federal jurisdiction.

If you do not rebut the above false government presumptions, then your rights will be prejudiced and the government will mercilessly harass you, even if you never explicitly consented, to collect what they think are lawful "[taxes](#)" on these earnings, even though such earnings were earned entirely outside of their jurisdiction and do not satisfy the definition of "[gross income](#)" under the Internal Revenue Code, Subtitle A. See the following for details on why your silence equates with consent.

[Silence as a Weapon and a Defense in Legal Discovery](#), Form #05.021
<http://sedm.org/Forms/FormIndex.htm>

This article will show you how to prepare the forms necessary to lawfully and completely zero out these false and unauthorized reports of taxable "[gross income](#)", and negate all the above false government presumptions that you do not consent to. If you do not rebut them, then you will be presumed to agree with them by default. After they have been rebutted, the government will be left with no legally admissible or reliable evidence upon which to base any kind of assessment. Without the power of assessment, there is nothing to collect. Without the ability to collect, they are supposed to leave you alone.

The U.S. Government Accountability Office (GAO) has published some interesting reports that show that even federal agencies have been completing their Information Returns (IR) improperly and explaining why the returns are incorrect. Below is a sampling:

1. *Tax Administration: More can be done to ensure Federal Agencies file Accurate Information Returns*, Report # GAO-04-74, Government Accountability Office

<http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/FormW2/d0474.pdf>

2. *Data Quality: IRS' Actions to Improve the Accuracy of Non-Wage Income Data Are Vital*, Report # GAO/IMTEC-86-17, Government Accountability Office

<http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/FormW2/129831.pdf>

You can look at more samples at the link below:

<http://www.gao.gov/>

13.1.2 Instructions For Correcting Erroneous W-2's

Whenever we complete government forms, the first thing to remember is that even the Standard government forms usually contain false presumptions or statements that will prejudice one's rights and which typically would slip by unnoticed by the general public. This is especially true of the "[words of art](#)" used on the form and the perjury statement at the end of the government form. For examples of more frequently used "words of art", we refer you to the following two resources:

1. [Legal Deception, Propaganda, and Fraud](http://sedm.org/Forms/FormIndex.htm), Form #05.014, Section 12
<http://sedm.org/Forms/FormIndex.htm>
2. [Sovereignty Forms and Instructions Online](http://famguardian.org/TaxFreedom/FormsInstr-Cites.htm), Form #10.004, Cites by Topic Area
<http://famguardian.org/TaxFreedom/FormsInstr-Cites.htm>

Therefore, it is usually unwise to use the government's Standard forms, and to instead use a modified or what we call an "Amended" form. Amended forms are the only kinds of forms we recommend and the [Family Guardian Website](#) contains a catalog of both the original government forms and the Amended versions below:

[Federal Forms and Pubs, Family Guardian Fellowship](http://famguardian.org/TaxFreedom/Forms/IRS/IRSFormsPubs.htm)
<http://famguardian.org/TaxFreedom/Forms/IRS/IRSFormsPubs.htm>

Whenever possible, you must use the Amended forms or else you will suffer having your rights unjustly prejudiced by the government. All of the SEDM response letters which include government forms as exhibits or attachments include blank Amended, and not Standard, government forms, and you should not substitute the Standard government form unless compelled to do so. See the following for a list of the changes made to the Standard forms to make them into the Amended forms if you are curious.

<http://sedm.org/ItemInfo/RespLtrs/ChangesStdForms.htm>

To give you one glaring example of a TRAP that greedy state lawyers set which should be avoided at all costs, take a look at the Oregon "Employees Substitute Wage and Tax Statement" form. Notice it has "Taxpayer's Signature" at the end and "Employee" at the top. There is no way to fill out this form and send it in without creating TWO false presumptions:

1. That you are an "employee" under 26 U.S.C. §3401(c) and 26 C.F.R. §31.3401(c)-1;
2. That you are a franchisee called a "taxpayer".

The state of Oregon DOES NOT have a substitute form suitable to be submitted by those who claim to be neither "taxpayers" nor "employees" and who want to zero out false reports by their private employers, who coerced them into participating because they quite frankly do not want people exiting the fraudulent tax system. WATCH OUT!

Oregon "Employees Substitute Wage and Tax Statement", Form 206-005
<http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/FormW2/OREGON-206-005.pdf>

One last important note about correcting erroneous IRS Form W-2's:

WARNING!: If you do not have any earnings in connection with a "[trade or business](#)", you also cannot take any deductions ([26 U.S.C. §162](#)), earned income credit ([26 U.S.C. §32](#)), or apply a graduated rate of tax ([26 U.S.C. §1](#)) if you file a return. All such "privileges" will make you into a person engaged in a "trade or business". The rate on all "[gross income](#)" for those with no earnings connected with a "trade or business" is a flat 30% for Nonresident aliens, as indicated under [26 U.S.C. §871\(a\)](#). This is normally not a big deal, because the only type of "[gross income](#)" that is not specifically identified as connected with a "[trade or business](#)" is Social Security under [26 U.S.C. §861\(a\)\(8\)](#) and you cannot become a [Member](#) without quitting Social Security using the [Resignation of Compelled Social Security Trustee](#), Form #06.002. See the following for details:

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

All the above preliminaries now aside, we can get to work showing you how to fill correct erroneous IRS Form W-2's.

13.1.2.1 Form W-2CE: W-2C Replacement for use by workers who are NOT "employees" (CUSTOM FORM)

The Social Security Data Processing center may try to tell you that they accept IRS Form W-2C from workers and that the "employer" must send them. This is a customer form that says it is ONLY for use by the worker instead of the company. Since the submitter is not an "employee", "employer", "taxpayer", or "U.S. person", the data processing center cannot regulate or penalize their conduct or tell them they can't use this form.

13.1.2.2 Form W-2CC: Certificate of Fraudulent W-2 and Criminal Complaint (CUSTOM FORM)

This form looks like the 4852 but serves a totally different purpose not served by any other IRS form we could find:

1. Unlike the 4852, the form can be used with a 1040NR or equivalent nonresident form. The form specifically says it is ONLY for use by nonresident aliens who are NOT "individuals", who are "nontaxpayers", and "nonfilers".
2. Unlike the 4852, does not act as a substitute for the W-2 form, but rather INVALIDATES fraudulent forms. It proves that submitter of the original forms was notified of the false reports, which makes their continued submission of the forms not only actionable, but fraudulent beyond that point.
3. Briefly describes the status of the submitter to ensure that they are not victimized by common [false and injurious presumptions](#).
4. Reserves the rights of the submitter and ensures that they do not forfeit any of their Constitutional rights or waive sovereign immunity.
5. Demands correction of the fraudulent IRS Information Return Master File (IRMF) records.
6. Demands that the submitter of the false information return be first warned and eventually criminally prosecuted by the IRS.
7. Protects the submitter from penalties or criminal prosecution. The perjury statement on this form is also consistent with the nonresident status of the submitter, thus ensuring that they may not be penalized or criminally prosecuted.
8. Imposes penalties upon the IRS for misuse of the information about the submitter.
9. Identifies the submitter as a private person not subject to federal law and protected by the constitution and OTHER than a "public officer".

Below is a link to this very important form:

13.1.2.3 IRS Form W-2C: Submit Annually after private employer submits false returns

When employers make a mistake on the IRS Form W-2 that they submit, they use the IRS Form W-2C to correct their mistake. Like the IRS Form W-2 that it corrects, the IRS Form W-2C is:

1. Not signed under penalty of perjury.
2. Because it is not signed under penalty of perjury, it constitutes Hearsay Evidence excludible under the [Hearsay Rule, Federal Rule of Evidence 802](#).

The "C" in the IRS Form W-2C stands for "Corrected". The advantage of using the IRS Form W-2C instead of the IRS Form 4852 are the following:

1. You can file it without filing a tax return. The IRS Form 4852 says it is to be attached to a tax return, which "nontaxpayer" is not supposed to be filing.
2. Because you can file it without filing a tax return, then you can avoid the need to file BEFORE you start receiving collection notices based on the submission of the false IRS Form W-2s filed by your private employer.

Like any other form from the IRS, we recommend using the AMENDED version of the form to remove false presumptions about your status that might connect you to being either a "taxpayer" as defined in [26 U.S.C. §7701\(a\)\(14\)](#) or a "U.S. person" as defined in [26 U.S.C. §7701\(a\)\(30\)](#). Below are the ORIGINAL and AMENDED versions of the form for your reuse, as well as the IRS Instructions for filling out the form.

1. [ORIGINAL IRS Form W-2C](http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/FormW2/IRSFormW2C.pdf)
<http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/FormW2/IRSFormW2C.pdf>
2. [AMENDED IRS Form W-2C](http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/FormW2/IRSFormW2C-Amend.pdf)
<http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/FormW2/IRSFormW2C-Amend.pdf>
3. [Instructions for filling out IRS Forms W-2C and W-3C](#), Internal Revenue Service

The IRS likes to play games with correcting information returns in order to TRAP you into becoming a "taxpayer" and TRAP you into becoming an informant and SPY who is destroying your own privacy. Here are a few of the games we have witnessed:

1. If you submit the IRS Form 4852 WITHOUT an accompanying 1040 or [AMENDED 1040NR](#) return or [Tax Statement](#), then the IRS may tell you that you can't use the 4852 form.
2. If you send them an IRS Form W-2C by itself, they may tell you that only EMPLOYERS are allowed to submit this form.
3. If you send the IRS Form W-2C and you don't print it in COLOR and use OCR scannable fonts and send it to the Social Security Data processing center, they may reject the form and try to penalize you \$50 because the form is not scannable. Therefore please ensure that you print the top copy in color so it is red and ensure that you use the OCR fillable form we provide so that it can be scanned and therefore is not rejected or penalized.
4. If you ask them what you should submit to them to correct a false IRS Form W-2 WITHOUT filing a tax return, they may either ignore you or refuse to answer your question. This puts you into a condition of being WITHOUT REMEDY for false information returns filed against you. If this happens, ask them how you can prevent being a CRIMINAL pursuant to [26 U.S.C. §7207](#), which says that it is a CRIME to submit or allow to be submitted false information returns. Ask them how you can correct the return WITHOUT filing a tax return and thereby being compelled to be a witness against yourself in violation of the Fifth Amendment prohibition against being compelled to be a witness against yourself.

13.1.2.4 IRS Form 4852: Submit ONLY with 1040, 1040X, and 1040EZ Tax Return. Not for use with 1040NR.

The IRS Form 4852:

1. According to the top of the form itself:
 - 1.1. May only be used as an attachment to IRS Forms 1040, 1040A, 1040-EZ, and 1040X.
 - 1.2. May be used to correct only erroneous IRS forms W-2, 1099-R and may NOT be used to correct any other type of information return.
2. Is a SUBSTITUTE for a W-2 and still implicates that:
 - 2.1. The W-2 is STILL required.
 - 2.2. The submitter STILL earned reportable "wages".
3. The perjury statement on the form places the submitter WITHIN the "United States", which is perjury under penalty of perjury for a non-resident non-person. It would have to be modified to make it correct. See:
 - 3.1. 28 U.S.C. §1746.
 - 3.2. *Non-Resident Non-Person Position*, Form #05.020, Section 10.2.3
<http://sedm.org/Forms/FormIndex.htm>
4. Provides no way for the submitter to:
 - 4.1. Indicate that a W-2 should not have been filed to begin with because no W-4 was on file.
 - 4.2. Indicate that there was no W-4 on file and therefore the recipient did not earn reportable "wages" pursuant to 26 C.F.R. §31.3402(p)-1 and 26 C.F.R. §31.3401(a)-3(a).
 - 4.3. Request that the IRS prosecute the submitter of the original false W-2 pursuant to 26 U.S.C. §7206(1). Our Corrected Information Return Attachment Letter does this.

Therefore:

1. The IRS Form 4852 is a "resident" (alien) form, since the 1040 is a resident tax return filed only by "U.S. persons" as defined in 26 U.S.C. §7701(a)(30).
2. The IRS Form 4852 cannot be used as an attachment to a 1040NR form. There is no way to correct a W-2 report if you are filing with IRS Form 1040NR. Our members may only file IRS Form 1040NR or a substitute.
3. Our Members, who are all statutory "non-resident non-persons" may not use this form to correct false W-2 reports. The Custom W-2Ce referenced herein is preferred.
4. If you disregard the above warning, the submitter may be prosecuted for perjury on either this form or the 1040NR form if he/she attaches it to a 1040NR. This is because the 1040NR describes the submitter a "nonresident alien" while the 4852 form makes the submitter a "resident alien". You can't be both at the same time so the submitter is contradicting and perjuring himself on one of the two forms.

Readers who are "taxpayers" are cautioned NOT to use it for any other purpose and that they may be penalized for doing so. Beginning in Jan. 2007, the IRS placed the following notice on the [IRS Form 4852](#):

Penalties. The IRS will challenge the claims of individuals who attempt to avoid or evade their federal tax liability by using IRS Form 4852 in a manner other than as prescribed. Potential penalties for the improper use of IRS Form 4852 include:

- Accuracy-related penalties equal to 20 percent of the amount of taxes that should have been paid,
- Civil fraud penalties equal to 75 percent of the amount of taxes that should have been paid, and
- A \$5,000 civil penalty for filing a frivolous return or submitting a specified frivolous submission as described by section 6702 of the Internal Revenue Code.

The above notice is fraudulent, because The term "you" in the form is not defined and does not apply to "nontaxpayers" not subject to the I.R.C. The I.R.S. "conveniently" doesn't tell you this on the form, because they want to terrorize "nontaxpayers" into joining their fraudulent activities out of fear, rather than informed consent. See the following for details:

Who are "Taxpayers" and Who Needs a "Taxpayer Identification Number"?, Form #05.013
<http://sedm.org/Forms/FormIndex.htm>

"Revenue Laws relate to taxpayers [instrumentalities, officers, employees, and elected officials of the Federal Government] and not to non-taxpayers [American Citizens/American Nationals not subject to the exclusive jurisdiction of the Federal Government]. The latter are without their scope. No procedures are prescribed for non-taxpayers and no attempt is made to annul any of their Rights or Remedies in due course of law. With them [non-taxpayers] Congress does not assume to deal and they are neither of the subject nor of the object of federal revenue laws."
[\[Economy Plumbing & Heating v. U.S., 470 F.2d. 585 \(1972\)\]](#)

Readers are also cautioned that the penalty provisions of the I.R.C. found in [I.R.C. Section 6702](#) were recently updated in 2006 and that the online versions in many sources are out of date. I.R.C. Section 6702 originally imposed a civil penalty of \$500 instead of a \$5,000 penalty. However, this section was updated by [Pub.Law 109-432, Title IV, Section 407\(a\)](#) to increase the penalty amount to \$5,000. Below is an annotated version of this statute for your edification:

26 U.S.C.A. §6702
<http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/FormW2/26USCA6702.pdf>

Currently, the top of the form describes at the top the only approved uses for the form as follows:

"Attach to Form 1040, 1040A, 1040-EZ, and 1040X"

Conspicuously absent are IRS Forms 1040NR-EZ and 1040NR. Apparently, they don't want nonresident aliens to use this form for a remedy who have been the victim of false information returns. What do they expect STATUTORY "non-resident non-persons" not engaged in a "trade or business" who have false reports filed against them to use, which is MOST Americans? If they cared about this group, they would at least direct them to another form they could use, but their silence is telling. By this willful omission, they are depriving this group of equal protection of the law and a remedy, and non-resident non-persons domiciled in states of the Union are the main people, ironically, that the IRS and the federal government were created to serve and protect in the first place. It's pretty obvious that our income tax system is not a "public use" or a "government function", but a private business, because they would assure equal protection to all, including non-resident non-persons, if it were a "public use. This explains why [the IRS, according to the DOJ, is NOT an agency of the United States government](#). See the following for details on this scam:

Public v. Private Employment: You Really Work for Uncle Sam if you Receive Federal Benefits, Family Guardian Fellowship
<http://famguardian.org/Subjects/Taxes/Remedies/PublicVPrivateEmployment.htm>

Therefore, if you want to correct an erroneous IRS Form W-2 sent by the private employer and attach the correction to anything BUT a resident (alien) tax 1040 return, you should either use Form W-2CC, IRS Form W-2C, or provide an affidavit or substitute form of your own making instead. In order to avoid the above exorbitant penalty when using the IRS Form 4852 in its proper way, we suggest the following options:

1. Use IRS Form W-2C instead. Members may not use the 4852 form because they are not “residents” but “non-resident no-persons”.
2. If you are FORCED to use this form, use the [SUBSTITUTE IRS Form 4852](#) provided below. This form is not an IRS Form and therefore is not subject to penalty for misuse. IRS can only penalize for misuse of THEIR forms. It has a notice that penalties are not allowed because it is not a standard form.
3. Attach the following form to the filing:

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

4. Emphasize that you are a "[non-resident non-person](#)", not engaged in a "[trade or business](#)", with no earnings from the STATUTORY "[United States**](#)", whose estate is a "foreign estate" as per [26 U.S.C. §7701\(a\)\(31\)](#), and who is specifically exempted from receipt of "gross income", withholding, backup withholding, and reporting as per the following:
 - 4.1. [26 U.S.C. §861\(a\)\(3\)\(C\)\(i\)](#)
 - 4.2. [26 U.S.C. §1402\(b\)](#)
 - 4.3. [26 U.S.C. §3401\(a\)\(6\)](#).
 - 4.4. [26 U.S.C. §3406\(g\)](#).
 - 4.5. [26 C.F.R. §31.3406\(a\)\(6\)-1\(b\)](#)
 - 4.6. [26 C.F.R. §31.3406\(g\)-1\(e\)](#)
 - 4.7. [26 C.F.R. §1.872-2\(f\)](#)

For further details on the status of being a STATUTORY “non-resident non-person” or “nonresident alien”, see:

Non-Resident Non-Person Position, Form #05.020
<http://sedm.org/Forms/FormIndex.htm>

5. If the information return you are rebutting is an IRS Form W-2, emphasize that the only way you can earn "[wages](#)" as legally defined is to voluntarily submit an IRS Form W-4 and that the employers information return is FALSE because you did not consent, as required by the following. Emphasize that the correct amount should be ZERO because the regulations below only allow amounts to be reported that are the subject of a voluntary withholding agreement:
 - 5.1. [26 U.S.C. §3402\(p\)](#)

[TITLE 26 > Subtitle C > CHAPTER 24 > § 3402](#)
[§ 3402. Income tax collected at source](#)

(p) Voluntary withholding agreements

(1) Certain Federal payments

(A) In general

If, at the time a specified Federal payment is made to any person, a request by such person is in effect that such payment be subject to withholding under this chapter, then for purposes of this chapter and so much of subtitle F as relates to this chapter, such payment shall be treated as if it were a payment of wages by an employer to an employee.

(B) Amount withheld

The amount to be deducted and withheld under this chapter from any payment to which any request under subparagraph (A) applies shall be an amount equal to the percentage of such payment specified in such request. Such a request shall apply to any payment only if the percentage specified is 7 percent, any percentage applicable to any of the 3 lowest income brackets in the table under section 1 (c), or such other percentage as is permitted under regulations prescribed by the Secretary.

(C) Specified Federal payments

For purposes of this paragraph, the term “specified Federal payment” means—

(i) any payment of a social security benefit (as defined in section 86 (d)),

(ii) any payment referred to in the second sentence of section 451 (d) which is treated as insurance proceeds,

(iii) any amount which is includible in gross income under section 77 (a), and

(iv) any other payment made pursuant to Federal law which is specified by the Secretary for purposes of this paragraph.

(D) Requests for withholding

Rules similar to the rules that apply to annuities under subsection (o)(4) shall apply to requests under this paragraph and paragraph (2).

(2) Voluntary withholding on unemployment benefits

If, at the time a payment of unemployment compensation (as defined in section 85 (b)) is made to any person, a request by such person is in effect that such payment be subject to withholding under this chapter, then for purposes of this chapter and so much of subtitle F as relates to this chapter, such payment shall be treated as if it were a payment of wages by an employer to an employee. The amount to be deducted and withheld under this chapter from any payment to which any request under this paragraph applies shall be an amount equal to 10 percent of such payment.

(3) Authority for other voluntary withholding

The Secretary is authorized by regulations to provide for withholding—

(A) from remuneration for services performed by an employee for the employee's employer which (without regard to this paragraph) does not constitute wages, and

(B) from any other type of payment with respect to which the Secretary finds that withholding would be appropriate under the provisions of this chapter, if the employer and employee, or the person making and the person receiving such other type of payment, agree to such withholding. Such agreement shall be in such form and manner as the Secretary may by regulations prescribe. For purposes of this chapter (and so much of subtitle F as relates to this chapter), remuneration or other payments with respect to which such agreement is made shall be treated as if they were wages paid by an employer to an employee to the extent that such remuneration is paid or other payments are made during the period for which the agreement is in effect.

5.2. [26 C.F.R. §31.3402\(p\)-1](#)

Title 26: Internal Revenue

[PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE](#)

[Subpart E—Collection of Income Tax at Source](#)

[Sec. 31.3402\(p\)-1 Voluntary withholding agreements.](#)

(a) In general.

An employee and his employer may enter into an agreement under section 3402(b) to provide for the withholding of income tax upon payments of amounts described in paragraph (b)(1) of §31.3401(a)-3, made after December 31, 1970. **An agreement may be entered into under this section only with respect to amounts which are includible in the gross income of the employee under section 61, and must be applicable to all such amounts paid by the employer to the employee.** The amount to be withheld pursuant to an agreement under section 3402(p) shall be determined under the rules contained in section 3402 and the regulations thereunder. See §31.3405(c)-1, Q&A-3 concerning agreements to have more than 20-percent Federal income tax withheld from eligible rollover distributions within the meaning of section 402.

(b) Form and duration of agreement

(2) An agreement under section 3402 (p) shall be effective for such period as the employer and employee mutually agree upon. **However, either the employer or the employee may terminate the agreement prior to the end of such period by furnishing a signed written notice to the other.** Unless the employer and employee agree to an earlier termination date, the notice shall be effective with respect to the first payment of an amount in respect of which the agreement is in effect which is made on or after the first "status determination date" (January 1, May 1, July 1, and October 1 of each year) that occurs at least 30 days after the date on which the notice is furnished. If the employee executes a new Form W-4, the request upon which an agreement under section 3402 (p) is based shall be attached to, and constitute a part of, such new Form W-4.

5.3. [26 C.F.R. §31.3401\(a\)-3\(a\)](#)

[26 C.F.R. §31.3401\(a\)-3 Amounts deemed wages under voluntary withholding agreements](#)

(a) In general.

Notwithstanding the exceptions to the definition of wages specified in section 3401(a) and the regulations thereunder, the term "wages" includes the amounts described in paragraph (b)(1) of this section with respect to which there is a voluntary withholding agreement in effect under section 3402(p). References in this chapter to the definition of wages contained in section 3401(a) shall be deemed to refer also to this section (§31.3401(a)-3).

(b) Remuneration for services.

(1) Except as provided in subparagraph (2) of this paragraph, **the amounts referred to in paragraph (a) of this section include any remuneration for services performed by an employee for an employer which, without regard to this section, does not constitute wages under section 3401(a).** For example, remuneration for services performed by an agricultural worker or a domestic worker in a private home (amounts which are specifically excluded from the definition of wages by section 3401(a) (2) and (3), respectively) are amounts with respect to which a voluntary withholding agreement may be entered into under section 3402(p). See §§31.3401(c)-1 and 31.3401(d)-1 for the definitions of "employee" and "employer".

6. Ask the IRS to:

6.1. Use the above penalty against the person who submitted the wrong form to being with, so these erroneous reports are no longer filed.

6.2. Institute a criminal investigation against the submitter for providing false information returns, pursuant to [26 U.S.C. §7207](#).

7. Attach our free memorandums of law below explaining WHY you are not engaged in a "[trade or business](#)" and ask them to rebut it:

The "Trade or Business" Scam, Form #05.001

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

8. Attach an "Affidavit of Duress" indicating that the private employer or business associate threatened to either not hire you or fire you if you did either of the following:

8.1. Refused to submit an IRS Form W-4 or/and. . .

8.2. Submitted an IRS Form W-8BEN instead of an IRS Form W-4. See: [About IRS Form W-8BEN, Form #04.202](#) for details.

9. Attach a copy of the certified correspondence you sent to the submitter of the false information returns showing that you tried to get them to correct it and they refused.

10. Emphasize to the IRS that they may only institute penalties against employees and officers of corporation and partnership that are part of the federal government. See or attach the following to your correspondence as explanation if you have to:

10.1. *IRS Due Process Meeting Handout*, Form #03.005

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

10.2. *Why Penalties are Illegal for Anything But Federal Employees, Contractors, and Agents*, Form #05.010

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

WARNING: If you do not emulate our approach as a Member and continue using IRS Form 4852 instead of the W-2C, W-2CC, you risk being criminally prosecuted by the DOJ under 26 U.S.C. §7206(1). The most famous person who was the victim of this terrorist tactic by the government was Pete Hendrickson (<http://losthorizons.com>), who was indicted on Nov. 13, 2008 on ten counts of fraudulent filing of information returns under 26 U.S.C. §7206(1). If you want to avoid this kind of an indictment, its best to follow the procedures later in Section 11 to ensure that your administrative record is filled with exculpatory evidence and even a similar criminal complaint against the filer of these false reports and the IRS. For instance, using the Form W-2CC described in section 13.1.2.2 is a very effective method to immunize oneself from such persecution by a corrupted government by making THEM the target of the prosecution instead of you.

Below is a link to both the Standard and Amended IRS Form 4852, so you can compare and see the differences for yourself. The forms listed are electronically fillable with the free Acrobat Reader so that you can customize them to your own needs.

1. *STANDARD IRS Form 4852 in MS Word Format*- roll your own!

<http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/FormW2/IRSForm4852.rtf>

2. *STANDARD IRS Form 4852*- off IRS Website

<http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/FormW2/IRSForm4852.pdf>

3. *AMENDED IRS Form 4852*- modified to remove false presumptions.

<http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/FormW2/IRSForm4852-Amended.pdf>

4. *SUBSTITUTE IRS Form 4852*- removes IRS info, Catalog number, and OMB number. Clearly identifies itself as a SUBSTITUTE form so that it is not mistaken for the original form and thereby subject to penalty for misuse. Also has a modified penalty statement emphasizing that penalties are NOT allowed because it is NOT an IRS Form.

<http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/FormW2/IRSForm4852-Substitute.pdf>

Remember the following requirements for the IRS Form 4852:

1. One 4852 form must be filled out for EACH [Form W-2](#) or [IRS Form 1099](#) that was wrongfully filed on you, and must include all the information about the original organization that made the report.

2. If you don't have a "Taxpayer Identification Number" and only have a "Social Security Number", do NOT write the SSN on the 4852 form because it is not a "[Taxpayer Identification Number](#)" and if you don't consent to participate in the donation program called the Internal Revenue Code, then you shouldn't be volunteering any information that would allow them to conclude that you consented.

3. Do NOT attach or send in the original [Form W-2](#) or [IRS Form 1099](#) that your financial institution or employer gave you, because they are wrong and will just confuse the IRS or state revenue agency. Give them ONLY the substitute form and make it hard for them to even see the false information on the original reports.

4. The 4852 is filled out with all the same information as what was on the original W-2 or 1099, including "taxes" paid, but the "income", "wages", "taxable income", etc blocks will be "zero" in items 7(A)(a) through 7(A)(e) and 7(B)(1) through 7(B)(3). Only the SSN is removed from the 4852 because it is not authorized under 26 C.F.R. §301.6109-1(d)(3) because you are not an "alien".
5. If you don't have the original erroneous 1099 and W-2 reports, then you won't have anything you can start with to transfer numbers onto the 4852. In that case, fill out one form for each tax year and each institution or employer, and put as much information as you have about the institution on the form, and indicate under items 7(A)(a) through 7(A)(e) and 7(B)(1) through 7(B)(3) the amount "zero".
6. Under block 8, entitled "8. How did you determine the amounts in item 7 above?" put the following, or say "See signed attachment" and there put:

"Recipient does not have a voluntary withholding agreement in place, and therefore does not earn "wages" as legally defined under 26 C.F.R. §31.3401(a)-3(a). The amounts reported on the W-2 should not have been reported at all, and even if a form had been sent in, Block 1 of the W-2 (wages, tips, and other compensation) should have been zero. He is also a non-resident non-person not engaged in a "trade or business" as defined in 26 U.S.C. §7701(a)(26) who is domiciled and who works outside the United States and outside of federal jurisdiction and therefore not subject to Subtitle A of the Internal Revenue Code and not required to make any gross income reports. 26 U.S.C. §864(b)(1)(A) says his earnings are not reportable or taxable. Payer was illegally coerced to file fraudulent W-2/1099 against recipient. If you disagree, please completely rebut the evidence within ten days at:

Test for Federal Tax Professionals, Form #03.009
<http://sedm.org/Forms/Discovery/TestForStateTaxProfessionals.pdf>

...or you agree with us and are estopped from future disputes over these facts.

7. Under block 9, entitled "9. Explain your efforts to obtain Form W-2, 1099-R, or W-2c, Statement of Corrected Income and Tax Amounts." put the following or say "See signed attachment" and there put:

"Payer was irrational and unwilling to discuss the law and the evidence backing up my beliefs because under illegal duress by the IRS. I do not consent to his undefended or unjustified beliefs, which are nothing but religion until defended with evidence and law available at.
<http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Deposition.htm>.

If you disagree, please rebut the overwhelming evidence above within ten days. Any admissions you do not address shall be admitted.

You can use our Corrected Information Return Attachment Letter mentioned in section 10.3 earlier to correct erroneous form W-2's.

Some states have their own substitutes for the IRS Form 4852. These substitutes must be used when you are filing state income taxes, but accomplish the same effect as the IRS Form 4852. For instance, the California Franchise Tax Board (FTB) uses the form 3525 as a substitute for the IRS Form 4852. Your state may also have an equivalent substitute form. If your state does not have a 4852 substitute form and you are corresponding with a state revenue agency, then its best to provide either a corrected IRS Forms W-2 or 1099, or to use the IRS Form 4852 to correct erroneous reports of gross income. The decision is yours. If you would like more information about the tax laws of a specific state, see the link below:

1. State Income Taxes, Family Guardian Fellowship
<http://famguardian.org/Subjects/Taxes/Research/StateIncomeTaxes.htm>
2. State Tax Forms, Federation of Tax Administrators
<https://taxadmin.org/state-tax-forms/>

13.1.2.5 IRS Form 4598: Submit to Private Employer to get him to permanently correct reporting

IRS makes one other form that serves the same purpose as the IRS Form 4852, and this is the IRS Form 4598, which is called "Form W-2, 1099, 1098, or 1099 Not Received, Incorrect or Lost". The form is typically is sent out to private employers by the IRS when a person reports that the W-2 amounts are incorrect from their employer, but it can also be sent directly to either the IRS or the employer by the individual as well. Below is the description of this form from the IRS Published Products Catalog, Document 7130 (2003):

4598 23205B Set

Form 4598 is a two-part form. Part 1 is sent to the employer or payer requesting issuance of Form W-2 or 1099.
Part 2 is sent to the employee or payee to show action IRS is taking to help them obtain this information.
W:CAS:AM:PPG Tax Related Public Use

This form is NOT available on the IRS website and is VERY difficult to get a copy of. This is not a mistake, but a deliberate attempt by the IRS to deprive you of a remedy for illegal efforts by private employers to criminally compel you into economic servitude to the government. Below are the ORIGINAL and AMENDED IRS Forms for your reuse.

1. ORIGINAL Form 4598
<http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/FormW2/IRSForm4598.pdf>
2. AMENDED IRS Form 4598 that removes false presumptions and makes you a "nontaxpayer" instead of a "taxpayer"
<http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/FormW2/IRSForm4598-Amended.pdf>
3. See the following for information about this form from the Federal Register
<http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/FormW2/W2-4598FormReview-FR-010413.pdf>

The reason that IRS does not make this form available on their website is because it is VERY effective in zeroing out false reports of earned "wages" from IRS computer systems and thereby stopping collection actions related to the false reports. IRS estimates that over 850,000 copies of the form are received yearly by them, even though they don't make the form available on their website. You can request a copy of this form from:

IRS Area Distribution Center: 800-829-2437. Open 8am-4pm Central Standard Time

The above distribution center may give you a hard time about providing the form and hem and haw on the phone when you ask for it. I wonder why? (Hee..Hee..Heee!) However, they will eventually mail it to you if you ask for it based on several reports.

13.1.3 Examples

Below are some example documents to help show you how to fill out the 4852 to correct an erroneous IRS Form W-2. Note that you should not use this form to correct an erroneous 1099-MISC or any 1099 other than the 1099-R.

IRS Form sent in by institution	Example completed original form	Example Amended 4852 replacement
Form W-2	W-2 example	4852 Replacement for W-2

13.1.4 Further reading and research

1. W-2-Additional, Incorrect, Lost, Non-Receipt, Omitted-Internal Revenue Service-You can contest a false W-2 within 30 days the IRS receives it
<https://www.irs.gov/faqs/irs-procedures/w-2-additional-incorrect-lost-non-receipt-omitted/w-2-additional-incorrect-lost-non-receipt-omitted>
2. Income Tax Withholding and Reporting Course, Form #12.004
<http://sedm.org/Forms/FormIndex.htm>
3. Demand for Verified Evidence of "Trade or Business" Activity: Information Return, Form #04.006-SEDM
<http://sedm.org/Forms/FormIndex.htm>
4. Federal and State Tax Withholding Options for Private Employers, Form #04.101 -Family Guardian Website, pamphlet entitled
<http://sedm.org/Forms/FormIndex.htm>
5. Certification of Federal Privileged Status, Form #04.211-use this to establish evidence from your private employer that you are not engaged in a "trade or business" or any other federally privileged status.
<http://sedm.org/Forms/FormIndex.htm>
6. IRS Publication 15, Circular E: Employers Tax Guide, IRS website
<http://www.irs.gov/pub/irs-pdf/p15.pdf>
7. Instructions for Forms 1099, 1098, 5498, and W-2G, Internal Revenue Service -IRS Website

<http://www.irs.gov/pub/irs-pdf/i1099.pdf>

8. Information Returns Processing, Internal Revenue Service -IRS website
<https://www.irs.gov/tax-professionals/information-returns-processing-2>
9. Information Returns Filing Chart, Internal Revenue Service -IRS website
<https://www.irs.gov/government-entities/indian-tribal-governments/information-returns-filing-chart>
10. Internal Revenue Manual (I.R.M.), Section 20.1.7: Information Return Penalties -IRS Website
https://www.irs.gov/irm/part20/irm_20-001-007r
11. Federal Income Tax Withholding, IRS Website. Note that withholding only authorized on nonresident aliens for earnings connected to a "trade or business"
<https://www.irs.gov/individuals/international-taxpayers/federal-income-tax-withholding>
12. Taxation of Nonresident Aliens, Internal Revenue Service, Internal Revenue Service
<https://www.irs.gov/individuals/international-taxpayers/taxation-of-nonresident-aliens>
13. IRS Publication 3609: Information Returns Electronically, IRS website
<http://www.irs.gov/pub/irs-pdf/p3609.pdf>
14. Sovereignty Forms and Instructions Online, Form #10.004, Cites by Topic: IRS Form W-2 -Family Guardian Website
<http://famguardian.org/TaxFreedom/CitesByTopic/W2.htm>
15. Sovereignty Forms and Instructions Online, Form #10.004, Instruction 4.13: Stop employer withholding of Income Taxes - Family Guardian Website
<http://famguardian.org/TaxFreedom/FormsInstr.htm>
16. 26 U.S.C. §7434. Civil damages for fraudulent filing of information returns
<https://www.law.cornell.edu/uscode/text/26/7434>
17. Department of Justice Criminal Tax Manual (2001), Section 11.00, Fraudulent Withholding Exemption Certificate - U.S. Dept. of Justice
<https://www.justice.gov/sites/default/files/tax/legacy/2012/12/05/CTM%20Chapter%2011.pdf>

13.2 Correcting Erroneous IRS Form 1042's

13.2.1 Why We Must Correct Erroneous 1042s

The only parties who can use this website are STATUTORY "non-resident non-persons" not engaged in a "trade or business" who use a custom withholding form or Amended IRS Form W-8BEN to control their withholding. [IRS Publication 515, entitled "Withholding of Tax on Nonresident Aliens and Foreign Corporations", year 2000, says the following on page 3:](#)

*"Foreign persons who provide Form W-8BEN, Form W-8ECI, or Form W-8EXP (or applicable documentary evidence) **are exempt from backup withholding and Form 1099 reporting.**"*
[IRS Publication 515 (2000), p. 3]

The backup withholding they are talking about above includes that indicated in the IRS' website for "[nonresident aliens](#)"

TIN Requirement

Generally, if a Taxpayer Identification Number (TIN) is not provided on Form 1042-S, the withholding agent must apply tax at a rate of 30% (30.00). The TIN, name, and address of the recipient are required to be entered on the annual information forms for identification of the payee.

[...]

Completion of Withholding Certification

Unless there is an exception, any withholding agent who receives a Form 8233 or, generally, a W-8BEN without a payee TIN for the purpose of claiming a tax treaty benefit is not allowed to grant that benefit until a proper Form 8233 or W-8 BEN that does report the payee's TIN is received. In short, this means that, in the case of payments to nonresident aliens, if an NRA does not report his/her TIN to the withholding agent or does not meet an exception, the withholding agent is required to withhold 30% federal income tax on the payment(s) and the NRA is not entitled to any tax treaty benefit until a TIN is provided.
[SOURCE: <http://www.irs.gov/businesses/small/international/article/0,,id=132273,00.html>]

Note the careful wording of the last paragraph above. A nonresident alien wanting to claim an "exemption" of "gross income" under a treaty MUST provide a TIN, whether they submit IRS Form 8233 or Form W-8BEN. This situation could only apply

to a statutory "[U.S. citizen](#)" pursuant to [8 U.S.C. §1401](#) or "resident alien" pursuant to [26 U.S.C. §7701\(b\)\(1\)\(A\)](#) when abroad pursuant to [26 U.S.C. §911](#). It would NOT apply to:

1. A person who was not abroad pursuant to [26 U.S.C. §911](#), such as a non-resident non-person domiciled in a state of the Union or any place not within the federal zone.
2. A person who, even though abroad pursuant to [26 U.S.C. §911](#), is not claiming an "exemption" of "gross income" by virtue of a tax treaty with a foreign nation.
3. A person who does not have a "Taxpayer Identification Number".
 - 3.1. A "[Social Security Number](#)" is NOWHERE defined in [26 U.S.C. §6109](#) as a "[Taxpayer Identification Number](#)". Yes, [26 U.S.C. §6109\(d\)](#) *does* authorize the use of SSN's as an "identifying number", but nowhere are they authorized or required to be used as a "[Taxpayer Identification Number](#)". The top of [IRS Form W-7](#), in fact, says "For use by individuals who are not U.S. citizens or nationals", which is exactly what an "alien" is. Pursuant to [26 C.F.R. §301.6109-1\(d\)\(3\)](#) and [IRS Form W-7](#), only "aliens" may lawfully be issued "Taxpayer Identification Numbers". [26 U.S.C. §7701\(a\)\(41\)](#) makes an SSN equivalent to a "TIN", but nowhere is a TIN made equivalent to a "Taxpayer Identification Number". The reason they didn't do this is that they cannot make you into a "Taxpayer" under I.R.C. Subtitle A without your consent. See the following for details:

<http://famguardian.org/Subjects/Taxes/Articles/TaxpayerVNontaxpayer.htm>

- 3.2. SSNs are issued pursuant to [20 C.F.R. §422.104](#) to statutory "[U.S. citizens](#)" as defined in [8 U.S.C. §1401](#) and statutory "[resident aliens](#)" as defined in [26 U.S.C. §7701\(b\)\(1\)\(A\)](#). Statutory "[U.S. citizens](#)" and "aliens" are not interchangeable groups unless the "U.S. citizen" is abroad and coming under a tax treaty with a foreign country and the IRS has no statutory or regulatory authority to convert an SSN into a "Taxpayer Identification Number". In fact, their Individual Master File (IMF) has a "VAL" field used by the computer to indicate that the number being used is NOT A VALID TIN issued pursuant to an IRS Form W-9, and when this happens, the IRS isn't even allowed to lawfully use any of the information in the master file because it is INVALID. See the following for details:

Master File (MF) Decoder

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

We remind our readers that:

1. Only [Members](#) may use this website, and that all [Members](#) are "[non-resident non-persons](#)" not engaged in a "[trade or business](#)" and who have no earnings from the "[United States](#)" (U.S. government) and who therefore do not need and should not claim the benefit of any tax treaty, because they do not earn "gross income" within the meaning of [26 U.S.C. §871](#).
2. **BOTH** the [IRS Form 8233](#) (Part II, blocks 11-18) **AND** [IRS Form W-8BEN](#) (Part II, blocks 9-10) have a place to claim an "exemption" of "gross income" based on a tax treaty, and those who check these blocks and thereby avail themselves of the "privileges" (financial subsidies) associated with said treaty to reduce their ACTUAL tax liability are the ONLY ones required to provide a TIN. For all others, a TIN is optional AND the person filling out the IRS Form 1042-S CANNOT and SHOULD NOT do backup withholding.
3. You can investigate the requirement for backup withholding further by reading our free training course below, which is item #3.10 in our [Liberty University: Income Tax Withholding and Reporting Course](#), Form #12.004
<http://sedm.org/Forms/FormIndex.htm>

The fact that "[nonresident aliens](#)" not engaged in a "[trade or business](#)" are not subject to withholding, including that mentioned above, is further reiterated both in the statutes, regulations, and even in the IRS Form 1042-S Instructions themselves below:

1. IRS Form 1042-S Instructions:

Who Must File

*Every withholding agent (defined on page 2) must file an information return on Form 1042-S to report amounts paid during the preceding calendar year that are described under Amounts Subject to Reporting on Form 1042-S on page 4. **However, withholding agents who are individuals are not required to report a payment on Form 1042-S if they are not making the payment as part of their [trade or business](#) and no withholding is required to be made on the payment.***

[IRS Form 1042-S Instructions, Year 2006, p. 2]

2. IRS Form 1042-S itself:

U.S. Income Tax Filing Requirements

Every nonresident alien individual, nonresident alien fiduciary, and foreign corporation with United States income, including income that is effectively connected with the conduct of a trade or business in the United States, must file a United States income tax return. However, no return is required to be filed by a nonresident alien individual, nonresident alien fiduciary, or a foreign corporation if such person was not engaged in a trade or business in the United States at any time during the tax year and if the tax liability of such person was fully satisfied by the withholding of United States tax at the source. (Corporations file Form 1120-F; all others file Form 1040NR(or Form 1040NR-EZ if eligible).) You may get the return forms and instructions at any United States Embassy or consulate or by writing to: National Distribution Center, P.O. Box 8903, Bloomington, IL 61702-8903, U.S.A.

[[IRS Form 1042-S, Year 2006](#), p. 3]

3. IRS Publication 519 says that earnings of a nonresident alien from without the "United States" [federal government/territory] that is not connected with a "trade or business" is not taxable.

Income Subject to Tax

Income from sources outside the United States that is not effectively connected with a trade or business in the United States is not taxable if you receive it while you are a nonresident alien. The income is not taxable even if you earned it while you were a resident alien or if you became a resident alien or a U.S. citizen after receiving it and before the end of the year.

[[IRS Publication 519, Year 2000](#), p. 26]

4. 26 U.S.C. §871(b)(2) says that only earnings connected with a "trade or business" are taxable on a 1040 form, ALL OF WHICH refers to sections 1 and 55 of Title 26:

TITLE 26--INTERNAL REVENUE CODE

Subtitle A--Income Taxes

CHAPTER 1--NORMAL TAXES AND SURTAXES

Subchapter N--Tax Based on Income From Sources Within or Without the United States

PART II--NONRESIDENT ALIENS AND FOREIGN CORPORATIONS

Subpart A--Nonresident Alien Individuals

Sec. 871. Tax on nonresident alien individuals

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

(1) Imposition of tax

A nonresident alien individual engaged in trade or business within the United States during the taxable year shall be taxable as provided in section 1 or 55 on his taxable income which is effectively connected with the conduct of a trade or business within the United States.

(2) Determination of taxable income

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

5. 26 C.F.R. §31.3401(a)(6)-1 says that nonresident aliens whose earnings originate from outside the statutory "United States**" (federal territory) or which are not connected with a "trade or business" are not subject to withholding:

Title 26

PART 31--EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

Subpart E--Collection of Income Tax at Source

§ 31.3401(a)(6)-1 Remuneration for services of nonresident alien individuals.

(a) In general.

All remuneration paid after December 31, 1966, for services performed by a nonresident alien individual, **if such remuneration otherwise constitutes wages within the meaning of §31.3401(a)-1 and if such remuneration is effectively connected with the conduct of a trade or business within the United States, is subject to withholding under section 3402 unless excepted from wages under this section.** In regard to wages paid under this section after February 28, 1979, the term "nonresident alien individual" does not include a nonresident alien individual treated as a resident under section 6013 (g) or (h).

(b) Remuneration for services performed outside the United States.

Remuneration paid to a nonresident alien individual (other than a resident of Puerto Rico) for services performed outside the United States is excepted from wages and hence is not subject to withholding.

6. 26 U.S.C. §3406(g) and 26 C.F.R. §31.3406(g)-1(e) both say that foreign persons (which includes "nonresident aliens") are not subject to backup withholding or information reporting

TITLE 26 > Subtitle C > CHAPTER 24 > § 3406
§ 3406. Backup withholding

(g) Exceptions

(1) Payments to certain payees Subsection (a) shall not apply to any payment made to— (A) any organization or governmental unit described in subparagraph (B), (C), (D), (E), or (F) of section 6049 (b)(4), or (B) any other person specified in regulations.

(2) Amounts for which withholding otherwise required Subsection (a) shall not apply to any amount for which withholding is otherwise required by this title.

7. 26 C.F.R. §31.3121(b)-3 says that persons working outside the statutory "United States**" (federal territory) are not involved in "employment" under Subtitle C of the Internal Revenue Code

Title 26: Internal Revenue
PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE
Subpart B—Federal Insurance Contributions Act (Chapter 21, Internal Revenue Code of 1954)
General Provisions
§31.3121(b)-3 Employment; services performed after 1954.

"(c) Services performed outside the United States—

(1) In general.

Except as provided in paragraphs (c)(2) and (3) of this section, services performed outside the United States [federal territory as defined in 26 U.S.C. §7701(a)(9) and (10) and 4 U.S.C. §110(d)] (see §31.3121(e)-1) do not constitute employment."

There are LOTS more citations like those above, which you can read below:

About IRS Form W-8BEN, Form #04.202
<http://sedm.org/Forms/FormIndex.htm>

What the IRS "conveniently" overlooks and omits and refuses to mention in their article, to their own unlawful financial benefit we might add, are the following provisions within the I.R.C.:

1. That a nonresident aliens who submit IRS Form W-8BEN to the withholding agent can exempt themselves from backup withholding. See IRS Pub 515 above.
2. That the only way you can be subject to involuntary backup withholding is if you claim financial benefits called "exemptions" from a tax treaty. See the following article on the IRS website pointed out at the beginning of this page: <http://www.irs.gov/businesses/small/international/article/0,,id=132273,00.html>
3. The term "U.S. sources" is legally defined as ONLY "income" originating from within federal territory or the U.S. Government. 26 U.S.C. §7701(a)(9) and (a)(10), 26 U.S.C. §7701(a)(39), and 26 U.S.C. §7408(d) all confirm that I.R.C. Subtitle A is really a tax upon instrumentalities of the U.S. government in the District of Columbia.
4. That there is no reason to withhold on a person who has no tax liability. 26 C.F.R. §1.871-2(f) says that "nonresident aliens" with no "trade or business" earnings have no tax liability.
5. Involuntary backup withholding pursuant to 26 U.S.C. §3401 is only authorized on "nonresident aliens" engaged in a "trade or business" and may NOT be lawfully instituted against those NOT engaged in a "trade or business".
6. The IRS Form 1042 is an "information return". 26 U.S.C. §6041 says that information returns may ONLY be completed in the case of transactions connected with a "trade or business", which is defined in 26 U.S.C. §7701(a)(26) as "the functions of a public office".
7. Few non-resident non-persons domiciled in states of the Union are actually engaged in a "public office"/"trade or business", and therefore few qualify for the filing of information returns. Those "non-resident non-persons", in fact, who are not engaged in a "trade or business" are identified as a "foreign estate" in 26 U.S.C. §7701(a)(31), none of whose earnings are subject to tax OR withholding of any kind.

8. Private companies are not lawfully allowed to act as "withholding agents" as defined in [26 U.S.C. §7701](#)(a)(16) and pursuant to [26 U.S.C. §1461](#). A party can ONLY act as a withholding agent when explicitly authorized by the Secretary of the Treasury pursuant to IRS Form 2678 and [26 U.S.C. §3504](#). Chances are, those private companies who "think" they are "[withholding agents](#)" in fact DO NOT and CANNOT lawfully qualify as "[withholding agents](#)". A private company that is engaged in a "[trade or business](#)" is NOT a "private company", but a "public company" that essentially is a business partner and instrumentality of the U.S. government. See the following for details:

Public v. Private Employment: You Really Work for Uncle Sam if you Receive Federal Benefits, Family Guardian Fellowship
<http://famguardian.org/Subjects/Taxes/Remedies/PublicVPrivateEmployment.htm>

9. You cannot hold a "public office" without authority from Congress, pursuant to [4 U.S.C. §72](#). The [Internal Revenue Code](#) doesn't authorize any "[public offices](#)" outside the District of Columbia in connection with the [Internal Revenue Code](#), so no one in a state of the Union can lawfully be engaged in a "[public office](#)", even if they think or act like they are.

"Congress cannot authorize a [trade or business](#) within a State in order to tax it."
[License Tax Cases, [72 U.S. 462](#), 18 L.Ed. 497, 5 Wall. 462, 2 A.F.T.R. 2224 (1866)]

Therefore, it is obvious that the IRS, by its vague article on IRS Form 1042's above, is deliberately trying to deceive and mislead private employers and companies into committing perjury under penalty of perjury on the IRS Forms 1042-S and 1042-T information returns they submit in order to ILLEGALLY manufacture more "[taxpayers](#)" out of those who are not liable. This injury to those not engaged in a "[trade or business](#)", as usual, is occurring primarily because of a willful omission of ALL of the pertinent facts that would allow withholding to be properly and lawfully executed. Does this surprise you?

It is quite common for financial institutions and private companies to misapply the state and federal revenue "codes", and especially the provision above. Notice we didn't say "[laws](#)", because the [Internal Revenue Code, Subtitle A](#), not being enacted into [positive law](#), can only be "private law" that attaches to the individual through explicit consent. Instead, it is only "a decree under legislative forms" [tyranny, in fact] as the Supreme Court describes it below. Neither does the [Internal Revenue Code, Subtitle A](#) describe a lawful "[tax](#)" in most cases either, except where the individual has given consent by choosing to involve in excise taxable activity called a "[trade or business](#)". Instead, it is a "bible" that describes a state-sponsored religion, not a public law:

"To lay, with one hand, the power of the government on the property of the citizen, and with the other to bestow it upon favored individuals to aid private enterprises and build up private fortunes, is none the less a robbery because it is done under the forms of law and is called taxation. This is not legislation [law]. It is a decree under legislative forms.

Nor is it taxation. 'A tax,' says Webster's Dictionary, 'is a rate or sum of money assessed on the person or property of a citizen by government for the use of the nation or State.' 'Taxes are burdens or charges imposed by the Legislature upon persons or property to raise money for public purposes.' Cooley, Const. Lim., 479."
[Loan Association v. Topeka, 20 Wall. 655 (1874)]

If you would like to learn more about why the [Internal Revenue Code](#) is not "public law" but "private law", and why it is also a state-sponsored federal religion based on explicit consent of each person in becoming a "taxpayer", and why the tax is NOT voluntary AFTER they become "[taxpayers](#)", see:

1. [Requirement for Consent](#), Form #05.003-memorandum of law by SEDM
<http://sedm.org/Forms/FormIndex.htm>
2. [Great IRS Hoax](#), Form #11.302, Section 5.4.6 entitled "The [Internal Revenue Code](#) is not Positive Law, it is a private voluntary contract".
<http://sedm.org/Forms/FormIndex.htm>
3. [Socialism: The New American Civil Religion](#), Form #05.016 -memorandum of law by SEDM
<http://sedm.org/Forms/FormIndex.htm>

Violation of the revenue codes by financial institutions and private companies happens mainly because the IRS has illegally harassed, terrorized, and threatened them usually verbally when they insist on following the revenue statutes exactly as written or when they insist that such statutes have no jurisdiction over them. In effect, the IRS and state revenue agencies and [a colluding and compromised federal judiciary](#) (see also Chapter 6, Sections 6.12 of the free [Great IRS Hoax, Form #11.302](#) book, which proves they are compromised) have made it risky and very confrontational to follow the revenue statutes exactly as written and have done so completely without any lawful or delegated authority to do so. This has been done mainly using

1 what is called "[judge-made law](#)" , and Congress has looked the other way on this scandal because they want it to happen and
2 it benefits them hugely, to the tune of over a Trillion extorted dollars a year, to let it continue. As a consequence, these
3 institutions attempt to transfer the inherent risks to their workers so that they don't have to deal with them and can focus on
4 the more important aspects of maintaining their businesses and their profitability. The most important result of this abuse
5 and illegal extortion directed at these institutions by the IRS is the misreporting of earnings and payments reported on IRS
6 Forms 1042, 1099, and [W-2](#). These types of filings are called "Information Returns" by the IRS. If you do not take the
7 responsibility to promptly correct these erroneous Information Returns with the IRS and state taxing authorities, then these
8 agencies will automatically make the following usually false and completely illegal and prejudicial presumptions, and in the
9 process, violate your [due process rights](#) under the Constitution:

- 10 1. That you have a [Social Security Number](#), which means you are a federal "[employee](#)" and also are exercising agency of
11 a federal entity that has a domicile in the District of Columbia. Therefore, in the context of anything in which the number
12 is used, you are presumed to be representing a federal corporation called the "United States" which has a [domicile](#) in the
13 District of Columbia, which becomes your domicile as well under Federal Rule of Civil Procedure 17(b). See [20 C.F.R.](#)
14 [§422.104](#), which describes who may be issued a Social Security Number. This regulation is under [20 C.F.R.](#), which is
15 entitled "Employee benefits", and the only type of "employee" they can legislate for are federal employees.
- 16 2. That because there is an identifying number on the 1042, that you consented for it to be treated as a "[Taxpayer](#)
17 [Identification Number](#)". The only kind of number the IRS is authorized to use by law are Taxpayer Identification
18 Numbers, and the Treasury Department readily admits in its regulations at [26 C.F.R. §301.6109-1\(d\)\(3\)](#) that a Social
19 Security Number is NOT a "[Taxpayer Identification Number](#)" .
- 20 3. That because you consented to have a "[Taxpayer Identification Number](#)" , that you must be a "[Taxpayer](#)"
- 21 4. That because you supplied any kind of identifying number, you must be a "[U.S. person](#)". 26 C.F.R. §301.6109-1 says
22 that only "U.S. persons" can be required to provide identifying numbers. A "U.S. person" is defined in [26 U.S.C.](#)
23 [§7701\(a\)\(30\)](#) as either a "citizen" (a person born anywhere in the country and domiciled on federal territory) or a
24 "resident" (an "alien" domiciled on federal territory).
- 25 5. That because the earnings were reported on a federal form, then you must reside within federal jurisdiction, because you
26 wouldn't fill out the form to begin with if you weren't subject to federal jurisdiction
- 27 6. That because you have a "[Taxpayer Identification Number](#)" , and because [TINs](#) can ONLY be issued to "[aliens](#)" ,
28 then you are an "[alien](#)" and a "[resident](#)" under federal law domiciled in the [federal zone](#) . See our [Liberty University](#)
29 pamphlet "[Who are 'Taxpayers' and who needs a 'Taxpayer Identification Number'?](#)"

30 If you do not rebut the above false government presumptions which you encouraged on government forms you signed under
31 penalty of perjury, then your rights will be prejudiced and the government will mercilessly harass you, even if you never
32 explicitly consented, to collect what they think are lawful "taxes" on these earnings, even though such earnings were earned
33 entirely outside of their jurisdiction and do not satisfy the definition of "[gross income](#)" under the Internal Revenue Code.
34 This article will show you how to prepare a corrected IRS Form 1099 so that you can effectively zero out these false and
35 unauthorized reports of taxable "[gross income](#)", and negate all the above false government presumptions that you do not
36 consent to. If you do not rebut them, then you will be presumed to agree with them by default. After they have been rebutted,
37 the government will be left with no legally admissible or reliable evidence upon which to base any kind of assessment.
38 Without the power of assessment, there is nothing to collect. Without the ability to collect, they are supposed to leave you
39 alone.

40 The Corrected IRS Form 1099 is for use primarily in undoing the damage done by private employers and companies, who
41 usually because of their ignorance of the law, either complete Information Returns such as the IRS Form 1099 when they
42 don't need to, or who put false information on these returns. If you would like to prevent this problem from happening in the
43 future, then we suggest using our free form below:

[Demand for Verified Evidence of "Trade or Business" Activity: Information Return, Form #04.006](http://sedm.org/Forms/Tax/DmdVerEvOfTradeOrBusiness-IR.pdf)
<http://sedm.org/Forms/Tax/DmdVerEvOfTradeOrBusiness-IR.pdf>

44 The U.S. Government Accountability Office (GAO) has published some interesting reports that show that even federal
45 agencies have been completing their Information Returns (IR) improperly and explaining why the returns are incorrect.
46 Below is a sampling:

- 47 1. [Tax Administration: More can be done to ensure Federal Agencies file Accurate Information Returns, Report # GAO-](#)
48 [04-74, Government Accountability Office](#)
49 <http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/FormW2/d0474.pdf>

2. Data Quality: IRS' Actions to Improve the Accuracy of Non-Wage Income Data Are Vital, Report # GAO/IMTEC-86-17, Government Accountability Office
<http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/FormW2/129831.pdf>

You can find more samples at the link below:

<http://www.gao.gov/>

13.2.2 Background on the IRS Form 1042

IRS Form 1042 is yet another type of information return used to report payment of "gross income" and "trade or business" income to "foreign persons", such as nonresident aliens. The IRS Form 1042-S has only one block for reporting earnings, which is Block 2 entitled "Gross income". This is the same "gross income" identified in 26 U.S.C. §61, which makes you into a "taxpayer" subject to the I.R.C.! WATCH OUT! You can't earn "gross income" as defined in the I.R.C. without being a "taxpayer", and the reason the IRS will encourage financial institutions and private employers to fill out this form even in cases when it is not required, is to manufacture more "taxpayers" using false presumption to prejudice your constitutional rights. We cover this in our free pamphlet below:

Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction, Form #05.017
<http://sedm.org/Forms/FormIndex.htm>

Like all other information returns, the IRS Form 1042-S is a type of Information Return, and the only authority for demanding information returns is 26 U.S.C. §6041. This section says that the only occasion where information returns are required is in the case of those in receipt of "trade or business" income, which means income from a "public office" in the United States government. If you aren't engaged in a "public office" in the United States government and don't have earnings from the U.S. government, then there is nothing to report and no report need be filed, and if a report IS mistakenly filed, then the "Gross income" block must be zero and the tax rate must be zero. This is consistent with the content of 26 U.S.C. §871 and 26 C.F.R. §1.872-2(f), which says:

Title 26: Internal Revenue
PART 1—INCOME TAXES
nonresident alien individuals
§ 1.872-2 Exclusions from gross income of nonresident alien individuals.

(f) Other exclusions.

Income which is from sources without [outside] the United States [federal territory, see 26 U.S.C. §7701(a)(9) and (a)(10) and 4 U.S.C. §110(d)], as determined under the provisions of sections 861 through 863, and the regulations thereunder, is not included in the gross income of a nonresident alien individual unless such income is effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual. To determine specific exclusions in the case of other items which are from sources within the United States, see the applicable sections of the Code. For special rules under a tax convention for determining the sources of income and for excluding, from gross income, income from sources without the United States which is effectively connected with the conduct of a trade or business in the United States, see the applicable tax convention. For determining which income from sources without the United States is effectively connected with the conduct of a trade or business in the United States, see section 864(c)(4) and §1.864-5.

Don't take our word for it. Read the instructions for the form yourself. It should also be pointed out that instructions for the form say that if you aren't engaged in a "trade or business", which is everyone except federal employees, and federal business entities and contractors participating in "social insurance" (e.g. SOCIALIST INSECURITY), then you don't have to provide a Social Security Number either:

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

You must obtain and enter 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.
[IRS Form 1042-S Instructions, p. 14]

Only the "nonresident alien" who is engaged in a "[trade or business](#)" and who REFUSED to provide an SSN or TIN can have backup withholding involuntarily attempted against them. Therefore, the IRS CANNOT lawfully order or command a private company in a state of the Union to initiate 30-% backup withholding in the case of a "nonresident alien" who is not engaged in a "[trade or business](#)", even if he in fact has an SSN or TIN. There is no statute or regulation that creates a presumption or inference that simply by the existence of an SSN or TIN, a person is engaged in a "[trade or business](#)". All public offices are VOLUNTARY employments and you can quit a job whenever you want. Therefore, I.R.C. Subtitle A and C taxes are voluntary for those who choose not to be or act as voluntary federal instrumentalities.

If you are not in fact engaged in a "[public office](#)", then you should object vociferously against anyone filing this form against you by any third party. If you do object to this form being filed on you by a financial institution or employer, and if the payer fills this form out against you despite your hopefully vociferous objections, then you should make sure that the Exemption Code in Block 6 reads "03, which means "Not from 'U.S. sources'" and the tax rate in block 5 is "00.00". Then, when you get a copy of this form from them at the end of the year, you can file a corrected version by checking the "AMENDED" block and reporting "0" for "Gross income" in block 2.

IMPORTANT: If you aren't filing or paying and you get a 1099 filed against you that you don't rebut, you are virtually guaranteed at some point to be hounded by the IRS to pay up. Don't forget to correct every such report incorrectly filed against you if you are not in fact and in deed engaged in a "trade or business" so that you don't suffer the adverse consequences of this omission as an innocent "nontaxpayer".

13.2.3 Instructions

Whenever we complete government forms, the first thing to remember is that even the Standard government forms usually contain false presumptions or statements that will prejudice one's rights and which typically would slip by unnoticed by the general public. This is especially true of the "[words of art](#)" used on the form and the perjury statement at the end of the government form. Therefore, it is usually unwise to use the government's Standard forms, and to instead use a modified or what we call an "Amended" form. Amended forms are the only kinds of forms we recommend and the [Family Guardian Website](#) contains a catalog of both the original government forms and the Amended versions below:

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

Whenever possible, you must use the Amended forms or else you will suffer having your rights unjustly prejudiced by the government. All of the SEDM response letters which include government forms as exhibits or attachments include blank Amended, and not Standard, government forms, and you should not substitute the Standard government form unless compelled to do so. See the following for a list of the changes made to the Standard forms to make them into the Amended forms if you are curious.

<http://sedm.org/ItemInfo/RespLtrs/ChangesStdForms.htm>

To give you one glaring example of a TRAP that greedy state lawyers set which should be avoided at all costs, take a look at the Oregon "Employees Substitute Wage and Tax Statement" form. Notice it has "Taxpayer's Signature" at the end and "Employee" at the top. There is no way to fill out this form and send it in without creating TWO false presumptions:

1. That you are an "employee" under 26 U.S.C. §3401(c) and 26 C.F.R. §31.3401(c)-1.
2. That you are a franchisee called a "[taxpayer](#)".

The state of Oregon DOES NOT have a substitute form suitable to be submitted by those who claim to be neither "taxpayers" nor "employees" and who want to zero out false reports by their private employers, who coerced them into participating because they quite frankly do not want people exiting the fraudulent tax system. WATCH OUT!

Oregon "Employees Substitute Wage and Tax Statement", Form 206-005
<http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/FormW2/OREGON-206-005.pdf>

Below is a link to both the Standard and Amended IRS Form 1042, so you can compare and see the differences for yourself. The Amended forms are "fillable" with the free Adobe Acrobat Reader. They have been pre-initialized with the most common values to save you time. You can edit the year as well as fill in any of the blocks. The term "NTIN" means "Nontaxpayer

1 Identification Number", not to be confused with an "SSN" or "ITIN". The NTIN is issued under the authority of 26 C.F.R.
2 §301.6109-1(1)(i).

3

<i>Form</i>	<i>Standard IRS form</i>	<i>Amended version</i>
1042-S	http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/Form1042/IRSForm1042s.pdf http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/Form1042/IRSForm1042s.rtf	http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/Form1042/IRSForm1042s-Amended.pdf http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/Form1042/IRSForm1042s-Amended.rtf
1042-T	http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/Form1042/IRSForm1042t.pdf http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/Form1042/IRSForm1042t.rtf	
1042 Instructions	http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/Form1042/IRSForm1042s-Inst.pdf	NA
IRS Pub 1187: Specification for completing IRS Form 1042-S	http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/Form1042/p1187.pdf	NA

Remember the following requirements for the IRS Form 1042:

- One corrected 1042 form must be filled out for EACH [IRS Form 1042](#) that was wrongfully filed on you, and must include all the information about the original organization that made the report. If you don't have the original forms that hopefully were mailed to you by your business associate, then you can request replacement copies from the associate or from the IRS.
- Enter the identification numbers for the PAYER and RECIPIENT and after "RECIPIENT identification number" write "NONTAXPAYER".
- Do NOT attach or send in the original [IRS Form 1042](#) that your financial institution or employer gave you, because they are wrong and will just confuse the IRS or state revenue agency. Give them ONLY the substitute form and make it hard for them to even see the false information on the original reports.
- The 1042 is filled out with all the same information as what was on the original 1042, including "taxes" paid, but with Income earned set to zero. Therefore blocks 7 and 22, the tax withheld, should reflect whatever was wrongfully reported by your business associate, while blocks 2, 4, and 8 will be zero. The reason that income blocks should be zero is because the only nonzero amounts in these blocks are those connected with a "trade or business", meaning a public office in connection with the United States government as defined under [26 U.S.C. §7701\(a\)\(26\)](#). Since you probably don't hold public office, then you shouldn't be reporting earnings in connection with it.

WARNING!: If you do not have any earnings in connection with a "[trade or business](#)", you also cannot take any deductions ([26 U.S.C. §162](#)), earned income credit ([26 U.S.C. §32](#)), or apply a graduated rate of tax ([26 U.S.C. §1](#)) if you file a return. All such "privileges" will make you into a person engaged in a "trade or business". The rate on all "[gross income](#)" for those with no earnings connected with a "trade or business" is a flat 30% for Nonresident aliens, as indicated under [26 U.S.C. §871\(a\)](#). This is normally not a big deal, because the only type of "[gross income](#)" that is not specifically identified as connected with a "[trade or business](#)" is Social Security under [26 U.S.C. §861\(a\)\(8\)](#) and you cannot become a [Member](#) without quitting Social Security using the [Resignation of Compelled Social Security Trustee](#), Form #06.002. See the following for details:

[The "Trade or Business" Scam](#), Form #05.001

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

- If you provided a TIN for the original 1042-S form, then you should attach a note indicating that you are not a statutory "[taxpayer](#)", "[resident](#)", "[alien](#)", or "[U.S. person](#)", but instead are a "[nonresident alien](#) NON-individual" not engaged in a "[trade or business](#)" as defined in 26 U.S.C. §7701(b)(1)(B) who has no "SSN", "TIN", or "ITIN". Our [Corrected Information Return Attachment Letter, Form #04.002](#), does this with Enclosure (8), Tax Form Attachment, Section 3. That form also makes any original information return reports FALSE and FRAUDULENT.
- If you don't have the original erroneous 1042 reports, then you won't have anything you can start with to transfer numbers onto the 1042. In that case, fill out one form for each tax year and each institution or employer, and put as much information as you have about the institution on the form, and indicate under blocks 2, 4, and 8 the amount "zero".

You can use the [Corrected Information Return Attachment Letter](#), Form #04.002, earlier in section 10.3 to correct false IRS Form W-2's.

Some states have their own substitutes for the IRS Form 1042. These substitutes must be used when you are filing state income taxes, but accomplish the same effect as the IRS Form 1042. If your state does not have a 1042 substitute form and

you are corresponding with a state revenue agency, then its best to provide either a corrected form W-2 or 1042, or to use the IRS Form 1042 to correct erroneous reports of gross income. The decision is yours. If you would like more information about the tax laws of a specific state, see the link below:

- *State Income Taxes, Family Guardian Fellowship*
<http://famguardian.org/Subjects/Taxes/Research/StateIncomeTaxes.htm>
- *State Tax Forms*, Federation of Tax Administrators
<https://taxadmin.org/state-tax-forms/>

13.2.4 Examples

Below are some example documents to help show you how to fill out the corrected IRS Form 1042. Note that Block 12 does not list an option for "transient foreigner", and so the only thing you can put in the box is "20".

<i>IRS Form sent in by institution</i>	<i>Example completed original form</i>	<i>Example Amended 1042 replacement</i>
Form 1042-S	1042-S example	1042-S Replacement
IRS Form 1042-T		1042-T Replacement

13.2.5 Further reading and research

1. *The "Trade or Business" Scam*, Family Guardian Fellowship
<http://famguardian.org/Subjects/Taxes/Articles/TradeOrBusinessScam.htm>
2. *Demand for Verified Evidence of "Trade or Business" Activity: Information Return*, Form #04.006- SEDM
<http://sedm.org/Forms/FormIndex.htm>
3. *Certification of Federal Privileged Status*, Form #04.211-use this to establish evidence from your private employer that you are not engaged in a "trade or business" or any other federally privileged status.
<http://sedm.org/Forms/FormIndex.htm>
4. *Sovereignty Forms and Instructions Online*, Form #10.004, Instruction 4.13: Stop employer withholding of Income Taxes -Family Guardian Website
<http://sedm.org/Forms/FormIndex.htm>
5. *Sovereignty Forms and Instructions Online*, Form #10.004, Cites by Topic: IRS Form W-2 - Family Guardian Website
<http://famguardian.org/TaxFreedom/CitesByTopic/W2.htm>
6. *Information Returns Processing* -IRS website
<https://www.irs.gov/tax-professionals/information-returns-processing-2>
7. *Information Returns Filing Chart*, Internal Revenue Service -IRS website
8. *Federal Income Tax Withholding* -IRS Website. Note that withholding only authorized on nonresident aliens for earnings connected to a "trade or business"
<https://www.irs.gov/individuals/international-taxpayers/federal-income-tax-withholding>
9. *Taxation of Nonresident Aliens* -IRS Website
<https://www.irs.gov/individuals/international-taxpayers/taxation-of-nonresident-aliens>
10. *IRS Pub 519 U.S. Tax Guide for Aliens*, IRS Website
<https://www.irs.gov/publications/p519>
11. *Internal Revenue Manual (I.R.M.), Section 20.1.7: Information Return Penalties*, IRS Website
https://www.irs.gov/irm/part20/irm_20-001-007r
12. *IRS Publication 3609: Information Returns Electronically*, IRS website
<http://www.irs.gov/pub/irs-pdf/p3609.pdf>
13. *Federal and State Tax Withholding Options for Private Employers*, Form #04.101
<http://sedm.org/Forms/FormIndex.htm>
14. 26 U.S.C. §7434. Civil damages for fraudulent filing of information returns
<https://www.law.cornell.edu/uscode/text/26/7434>
15. *Amounts that are not subject to reporting on Form 1042-S*, Internal Revenue Service -IRS Website
<https://www.irs.gov/individuals/international-taxpayers/amounts-that-are-not-subject-to-reporting-on-form-1042-s>
16. *About Form 1042 Annual Withholding Tax Return for U.S. Source Income of Foreign Persons*, IRS Website
<https://www.irs.gov/forms-pubs/about-form-1042>

17. Amounts Subject to Reporting on Form 1042-S, Internal Revenue Service -IRS Website
<https://www.irs.gov/individuals/international-taxpayers/amounts-that-are-not-subject-to-reporting-on-form-1042-s>
18. IRS Form 1042-S Instructions, IRS Website
<https://www.irs.gov/instructions/i1042s>
19. Ten most common errors for completing Form 1042-S, Foreign Persons' U.S. Source Income Subject to Withholding - IRS Website
<https://www.irs.gov/individuals/international-taxpayers/ten-most-common-errors-for-completing-the-form-1042s-foreign-persons-us-source-income-subject-to-withholding>
20. Who Must File Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding, IRS Website
<https://www.irs.gov/individuals/international-taxpayers/who-must-file>
21. Federal Income Tax Withholding, IRS
<https://www.irs.gov/individuals/international-taxpayers/federal-income-tax-withholding>
22. Withholding Agent -IRS Website
<https://www.irs.gov/individuals/international-taxpayers/withholding-agent>
23. Internal Revenue Manual (I.R.M.), 21.3.11: Information Returns Reporting Procedures, IRS Website
https://www.irs.gov/irm/part21/irm_21-003-011
24. Internal Revenue Manual (I.R.M.), Section 3.10.8: Information Return Processing, IRS Website
https://www.irs.gov/irm/part3/irm_03-010-008r
25. Getting Started-IRS
<https://www.irs.gov/government-entities/federal-state-local-governments/getting-started-with-federal-state-and-local-governments>
26. Information Returns, Internal Revenue Service
<https://www.irs.gov/government-entities/federal-state-local-governments/information-returns>
27. IRS Publication 1179: General Rules and Specifications for Substitute Forms 1096, 1098, 1099, 5498, W-2G, and 1042-S - IRS
<http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/Form1042/p1179.pdf>

13.3 Correcting Erroneous IRS Form 1098's

13.3.1 Why We Must Correct Erroneous 1098 Reports

The IRS Form 1098 is commonly sent out at the end of each calendar year by mortgage companies and banks as proof of interest that was paid on outstanding loans in their inventory. One form is prepared annually for each person who has a loan with the bank or mortgage company. The IRS Form 1098:

1. Can only be filed in the case of mortgage payment recipients who are engaged in a "[trade or business](#)". Companies that are not engaged in a "[trade or business](#)" may NOT file this form, which includes most companies. Here is what the instructions for this form say:

Who Must File

File this form if you are engaged in a [trade or business](#) and, in the course of such [trade or business](#), you receive from an individual \$600 or more of mortgage interest on any one mortgage during the calendar year. [You are not required to file this form if the interest is not received in the course of your trade or business](#). For example, you hold the mortgage on your former personal residence. The buyer makes mortgage payments to you. You are not required to file Form 1098.
[[IRS Form 1098 Instructions](#), p. 1]

2. Can NOT be filed against "[nonresident aliens](#)" who have no real property located in the "[United States](#)", as defined in [26 U.S.C. §7701](#)(a)(9) and (a)(10). Below is the IRS Form 1098 instructions which confirm this:

Nonresident Alien Interest Payer Governmental unit.

You must file Form 1098 to report interest paid by a nonresident alien only if all or part of the security for the mortgage is real property located in the United States. Report the interest based on the following:

- *If the interest is paid within the United States, you must request from the payer the applicable Form W-8 (withholding certificate) as described in Regulations section 1.1441-1(e)(1)*

- If the interest is paid outside the United States, you must satisfy the documentary evidence standard described in Regulations section 1.6049-5(c).
[IRS Form 1098 Instructions, p. 2]

3. Can only be filed in connection with real property that is located in the "[United States](#)", as defined in [26 U.S.C. §7701\(a\)\(9\)](#) and [\(a\)\(10\)](#). That is because only earnings "effectively connected with a trade or business within the United States" are taxable under I.R.C. Subtitle A, as confirmed by I.R.C. [26 U.S.C. §861](#) and [26 U.S.C. §864\(c\)\(3\)](#). Below is the definition of "United States" from the Internal Revenue Code which shows what a "U.S. source" is:

[TITLE 26 > Subtitle F > CHAPTER 79 > Sec. 7701. \[Internal Revenue Code\]](#)
[Sec. 7701. - Definitions](#)

[\(a\)\(9\) United States](#)

The term "[United States](#)" when used in a geographical sense includes only the [States](#) and the District of Columbia.

[\(a\)\(10\): State](#)

The term "State" shall be construed to include the District of Columbia, where such construction is necessary to carry out provisions of this title.

If you would like to learn more about what "[trade or business](#)" means or how "[domicile](#)" affects one's status as a "nontaxpayer", please refer to our free exhaustive memorandums of law on the subject available below:

1. [The "Trade or Business" Scam](#), Form #05.001
<http://sedm.org/Forms/FormIndex.htm>
2. [Why Domicile and Becoming a "Taxpayer" Require Your Consent](#), Form #05.002
<http://sedm.org/Forms/FormIndex.htm>

Based on the above, the average American [domiciled](#) within a state of the Union on other than federal [territory](#) does not maintain real property in the "[United States](#)" as legally defined, and the mortgage company he is dealing with also is not a "[U.S. person](#)" nor is it usually REALLY engaged in a "[trade or business](#)" either. Therefore, the 1098 reports sent out by financial institutions relating to mortgage loans in their portfolio in most cases:

1. Are false.
2. Create a prima facie false presumption that the payor of the mortgage is connected with excise taxable "[trade or business](#)" activity, which also makes it "gross income" under [26 U.S.C. §61](#).
3. If a Social Security Number also appears on the IRS Form 1098 for the payor, it also creates a prima facie presumption that the payor is a "U.S. person" with a [domicile](#) in the statutory "United States*" (federal territory) who is a "[taxpayer](#)". The only number that can lawfully be put on any IRS Form is a Taxpayer Identification Number and the regulations say a Social Security Number is NOT a "[Taxpayer Identification Number](#)":

[26 C.F.R. §301.6109-1\(g\)](#)

[\(g\) Special rules for taxpayer identifying numbers issued to foreign persons—](#)

[\(1\) General rule—](#)

[\(i\) Social security number.](#)

A social security number is generally identified in the records and database of the Internal Revenue Service as a number belonging to a U.S. citizen or resident alien individual. A person may establish a different status for the number by providing proof of foreign status with the Internal Revenue Service under such procedures as the Internal Revenue Service shall prescribe, including the use of a form as the Internal Revenue Service may specify. Upon accepting an individual as a nonresident alien individual, the Internal Revenue Service will assign this status to the individual's social security number.

The IRS Form 1098 is sent to both the IRS and the State Revenue Agencies. This information is also shared by the IRS with the State Revenue Agencies under what is called the "FedState" program. This program was created to enforce the [Buck Act, 4 U.S.C. §103-105](#) and [5 U.S.C. §5517](#). Both the IRS and State revenue agencies commonly send out "Request for Return"

1 notices to unsuspecting homeowners who have these false IRS Form 1098's filed against them. Those persons who are
2 "nontaxpayers" and "nonresident aliens" must ensure that these false IRS Form 1098's are not filed by their mortgage company
3 in order to avoid receipt of these wrongful collection notices. This article will show you how to correct these reports and will
4 provide forms and tools for making the correction.

5 The Corrected IRS Form 1098 is for use primarily in undoing the damage done by private financial institutions, who usually
6 because of their ignorance of the law, either complete Information Returns such as the IRS Form 1098 when they don't need
7 to, or who put false information on these returns. If you would like to prevent this problem from happening in the future,
8 then we suggest using our free form below:

Demand for Verified Evidence of "Trade or Business" Activity: Information Return, Form #04.006
<http://sedm.org/Forms/FormIndex.htm>

9 **13.3.2 Instructions**

10 Whenever we complete government forms, the first thing to remember is that even the Standard government forms usually
11 contain false presumptions or statements that will prejudice one's rights and which typically would slip by unnoticed by the
12 general public. This is especially true of the "[words of art](#)" used on the form and the perjury statement at the end of the
13 government form. Therefore, it is usually unwise to use the government's Standard forms, and to instead use a modified or
14 what we call an "Amended" form. Amended forms are the only kinds of forms we recommend and the [Family Guardian](#)
15 [Website](#) contains a catalog of both the original government forms and the Amended versions below:

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

16 Whenever possible, you must use the Amended forms or else you will suffer having your rights unjustly prejudiced by the
17 government. All of the SEDM response letters which include government forms as exhibits or attachments include blank
18 Amended, and not Standard, government forms, and you should *not* substitute the Standard government form unless
19 compelled to do so. See the following link to see a list of the changes made to the Standard forms to make them into the
20 Amended forms if you are curious.

<http://sedm.org/ItemInfo/RespLtrs/ChangesStdForms.htm>

21 To give you one glaring example of a TRAP that greedy state lawyers set which should be avoided at all costs, take a look at
22 the Oregon "Employees Substitute Wage and Tax Statement" form. Notice it has "Taxpayer's Signature" at the end and
23 "Employee" at the top. There is no way to fill out this form and send it in without creating TWO false presumptions:

- 24 1. That you are an "employee" under 26 U.S.C. §3401(c) and 26 C.F.R. §31.3401(c)-1;
- 25 2. That you are a franchisee called a "taxpayer".

26 The state of Oregon DOES NOT have a substitute form suitable to be submitted by those who claim to be neither "taxpayers"
27 nor "employees" and who want to zero out false reports by their private employers, who coerced them into participating
28 because they quite frankly do not want people exiting the fraudulent tax system. WATCH OUT!

Oregon "Employees Substitute Wage and Tax Statement", Form 206-005
<http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/FormW2/OREGON-206-005.pdf>

29 All the above preliminaries now aside, we can get to work showing you how to fill out the IRS 1098 to attach to your IRS or
30 state response letter. First, let's review what the instructions for IRS Form 1098 say themselves about correcting an erroneous
31 1098 report, from page GEN-12 of the 2004 "[General Instructions for Forms 1098, 1099, 5498, and W-2G](#)":

- 32 1. Prepare a new information return.
- 33 2. Enter an "X" in the "CORRECTED" box (and date (optional)) at the top of the form.
- 34 3. Correct any recipient information such as money amounts and address. Report other information per original
- 35 return.

1 Below is a link to both the Standard and Amended IRS Form 1098, so you can compare and see the differences for yourself.
2 The Amended forms are "fillable" with the free Adobe Acrobat Reader. They have been pre-initialized with the most common
3 values to save you time.

Form	Standard IRS Form	Amended version
1098	http://sedm.org/Forms/CorrErrInfoRtns/Tax/Form1098/IRSForm1098.pdf	http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/Form1098/IRSForm1098-Amended.pdf
1098 Instructions	http://sedm.org/Forms/CorrErrInfoRtns/Tax/Form1098/IRSForm1098-Inst.pdf	NA

4 Remember the following requirements for the IRS Form 1098:

- 5 1. One corrected 1098 form must be filled out for EACH [Form 1098](#) that was wrongfully filed on you, and must include
6 all the information about the original organization that made the report. If you don't have the original forms that hopefully
7 were mailed to you by your business associate, then you can request replacement copies from the associate or from the
8 IRS.
9 2. Enter the identification numbers for the PAYER and RECIPIENT and after "RECIPIENT identification number" write
10 "NONTAXPAYER".
11 3. Do NOT attach or send in the original [IRS Form 1098](#) that your financial institution or employer gave you, because
12 they are wrong and will just confuse the IRS or state revenue agency. Give them ONLY the substitute form and make it
13 hard for them to even see the false information on the original reports.
14 4. The 1098 is filled out with all the same information as what was on the original 1098, except that "Mortgage Interest"
15 (Block 1), "Points" (Block 2), and "Refund of Overpaid Interest" (Block 3) will be zero. The reason that these blocks
16 should be zero is because the only nonzero amounts in these blocks are those connected with a "[trade or business](#)",
17 meaning a "[public office](#)" in connection with the United States government as defined under [26 U.S.C. §7701\(a\)\(26\)](#).
18 Since you probably don't hold public office, then you shouldn't be reporting earnings in connection with it.

WARNING!: If you do not have any earnings in connection with a "[trade or business](#)", you also cannot take any deductions ([26 U.S.C. §162](#)), earned income credit ([26 U.S.C. §32](#)), or apply a graduated rate of tax ([26 U.S.C. §1](#)) if you file a return. All such "privileges" will make you into a person engaged in a "trade or business". The rate on all "[gross income](#)" for those with no earnings connected with a "trade or business" is a flat 30% for Nonresident aliens, as indicated under [26 U.S.C. §871\(a\)](#). This is normally not a big deal, because the only type of "[gross income](#)" that is not specifically identified as connected with a "[trade or business](#)" is Social Security under [26 U.S.C. §861\(a\)\(8\)](#) and you cannot become a [Member](#) without quitting Social Security using the [Resignation of Compelled Social Security Trustee](#), Form #06.002. See the following for details:

The "Trade or Business" Scam, Form #05.001

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

- 19 5. If you provided a TIN for the original 1098 form, then you should attach a note indicating that you are not a statutory
20 "taxpayer", "[resident](#)", "alien", or "[U.S. person](#)", but instead are a "[non-resident non-person](#)" not engaged in a "[trade or](#)
21 [business](#)" as defined in 26 U.S.C. §7701(b)(1)(B) who has no "SSN", "TIN", or "ITIN". Our [Corrected Information](#)
22 [Return Attachment Letter, Form #04.002](#), does this with Enclosure (8), Tax Form Attachment, Section 3. That form also
23 makes any original information return reports FALSE and FRAUDULENT.
24 6. If you don't have the original erroneous 1098 reports, then you won't have anything you can start with to transfer numbers
25 onto the 1098. In that case, fill out one form for each tax year and each institution or employer, and put as much
26 information as you have about the institution on the form, and indicate under blocks 1, 2, and 3 the amount "zero".
27 7. You should attach a cover letter of explanation to the corrected IRS Form 1098 if you send it to the IRS or State Revenue
28 Agency alone and not as part of a response letter.

29 You can use the [Corrected Information Return Attachment Letter](#), Form #04.002, earlier in section 10.3 to correct false IRS
30 Form 1098.

31 At least annually at the beginning of the year, it is a good idea to:

- 32 1. Contact your mortgage company and ensure that they are not filing IRS Form 1098's against you. You may wish to use
33 the materials in this article to convince them WHY they should not.
34 2. If they disregarded your wishes and filed it anyway, you will need to proactively send in corrected IRS Form 1098's to
35 the IRS to remedy their malicious refusal to obey the law. This will keep the IRS computer records of receipt of "gross

income" zeroed out so that you do not receive any wrongful collection notices or become the victim of an [illegal Substitute For Return \(SFR\)/Assessment](#) against you.

If you did not follow the above guidance, you may receive a collection notice from the IRS or a state Revenue Agency, asking you to file a return. Below is an example, the California FTB 4600K notice, which illustrates what we mean:

[California FTB 4600K Request for Return](#)

They will do this because of the false presumptions the form creates that connect the mortgage payment to "[trade or business](#)" activity and connect you to federal "employment", because the report has an SSN or TIN on it. We have prepared a sample Memorandum of Law that you can use to attach to your response to such a "Request for Return" letter that you can use to explain to the IRS or State Revenue Agency:

1. Exactly why the IRS Form 1098 report is wrong.
2. Correct the erroneous report with a corrected IRS Form 1098.
3. Remove the erroneous federal ID number (SSN) from their records.
4. Penalize them for violating your privacy, bothering you, and violating the copyright on personal information they maintain about you. This will discourage further collection actions.

Below are some forms you can use to do this. Feel free to modify the form, but please don't do so unless you have REALLY done your homework, because you are likely to create more problems for yourself than you solve in the process, mostly because of ignorance. Click on the links below:

1. *Response letter template, SEDM*-use as a cover letter to your response. Requires Microsoft Word 2000 or later.
<http://sedm.org/Forms/Subscriptions/Forms/04-Tax/0-CorrErrInfoRtns/Form1098/CA-FTB4600K.doc>
2. *Response letter template*-use as a cover letter to your response. PDF format
<http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/Form1098/CA-FTB4600K.pdf>
3. Exhibit (2): Example Original California FTB4600K Request for Return Notice Filled In-use this as an example to fill yours in
<http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/Form1098/CA-FTB4600K-Example.pdf>
4. *Exhibit (3): Affidavit of Citizenship, Domicile, and Tax Status*, Form #02.001-attach to your response letter clarifying your citizenship, domicile, and tax status is outside their jurisdiction
<http://sedm.org/Forms/Affidavits/AffCitDomTax.pdf>
5. Exhibit (4): *Wrong Party Notice*, Form #07.105-specifies that identifying number on the collection notice is wrong because you quit Social Security
<http://sedm.org/Forms/FormIndex.htm>
6. Exhibit (5): *1098 Interest: Request for Filing Response*, Form #07.108-describes why the notice is wrong
<http://sedm.org/Forms/FormIndex.htm>
7. Exhibit (6): *Why I am Not Legally Liable to File Affidavit*, Form #07.103-exhaustive proof why you aren't required to file in affidavit form
<http://sedm.org/Forms/FormIndex.htm>

13.3.3 Further reading and research

1. *The "Trade or Business" Scam*, Form #05.001 -very important article
<http://sedm.org/Forms/FormIndex.htm>
2. *Demand for Verified Evidence of "Trade or Business" Activity: Information Return*, Form #04.006-SEDM
<http://sedm.org/Forms/FormIndex.htm>
3. *Certification of Federal Privileged Status*, Form W-0, Form #04.021-use this to establish evidence from your private employer that you are not engaged in a "trade or business" or any other federally privileged status.
<http://sedm.org/Forms/FormIndex.htm>
4. *Sovereignty Forms and Instructions Online*, Form #10.004, Cites by Topic: IRS Form W-2 -Family Guardian Website
<http://famguardian.org/TaxFreedom/CitesByTopic/W2.htm>
5. *Federal and State Tax Withholding Options for Private Employers*, Form #09.001 -Family Guardian Website
<http://famguardian.org/Publications/FedStateWHOptions/FedStateWHOptions.pdf>
6. *Sovereignty Forms and Instructions*, Instruction 4.13: Stop employer withholding of Income Taxes -Family Guardian Website

<http://famguardian.org/TaxFreedom/Instructions/4.13StopEmployerWH.htm>

7. *IRS Form 1098 Instructions*, IRS Website

<http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/Form1098/IRSForm1098-Inst.pdf>

8. *Instructions for Forms 1099, 1098, 5498, and W-2G*, Internal Revenue Service -IRS Website

<http://www.irs.gov/pub/irs-pdf/i1099.pdf>

9. *Information Returns Processing* -IRS website

<https://www.irs.gov/tax-professionals/information-returns-processing-2>

10. *Information Returns Filing Chart*, Internal Revenue Service -IRS website

<https://www.irs.gov/government-entities/indian-tribal-governments/information-returns-filing-chart>

11. *Federal Income Tax Withholding*, IRS Website. Note that withholding only authorized on nonresident aliens for earnings connected to a "trade or business"

<https://www.irs.gov/individuals/international-taxpayers/federal-income-tax-withholding>

12. *Taxation of Nonresident Aliens* -IRS Website

<https://www.irs.gov/individuals/international-taxpayers/taxation-of-nonresident-aliens>

13. *IRS Pub 519: Paying Tax Through Withholding or Estimated Tax*, IRS Website

<http://www.irs.gov/publications/p519/ch08.html>

14. *Internal Revenue Manual (I.R.M.), Section 20.1.7: Information Return Penalties*, IRS Website

https://www.irs.gov/irm/part20/irm_20-001-007r

15. *IRS Publication 3609: Information Returns Electronically*, IRS website

<http://www.irs.gov/pub/irs-pdf/p3609.pdf>

16. 26 U.S.C. §7434. Civil damages for fraudulent filing of information returns

<https://www.law.cornell.edu/uscode/text/26/7434>

13.4 Correcting Erroneous IRS Form 1099's

13.4.1 Why We Must Correct Erroneous 1099s

The only parties who can use this website are "[non-resident non-persons](#)" not engaged in the "[trade or business](#)" franchise and who use the following forms to control their withholding in the priority presented, where the highest priority is the lowest number:

1. *Affidavit of Citizenship, Domicile, and Tax Status*, Form #02.001

<http://sedm.org/Forms/Affidavits/AffCitDomTax.pdf>

2. *AMENDED IRS form W-8BEN*, Form #04.202

<http://sedm.org/Forms/04-Tax/2-Withholding/W-8BEN/AboutIRSFormW-8BEN.htm>

3. STANDARD IRS form W-8BEN with the following attached:

Tax Form Attachment, Form #04.201

<http://sedm.org/Forms/04-Tax/2-Withholding/TaxFormAtt.pdf>

[IRS Publication 515](#), entitled "[Withholding of Tax on Nonresident Aliens and Foreign Corporations](#)", year 2000, says the following on page 3:

"Foreign persons who provide Form W-8BEN, Form W-8ECI, or Form W-8EXP (or applicable documentary evidence) are exempt from backup withholding and Form 1099 reporting."
[[IRS Publication 515 \(2000\), p. 3](#)]

Here is another example off the IRS website, that shows that nonresident aliens not engaged in a "[trade or business](#)" (which is defined in [26 U.S.C. §7701\(a\)\(26\)](#) as "the functions of a [public office](#)" in the United States government) are exempt from 1099 reporting:

[What is the difference between a Form W-2 and a Form 1099-MISC?](#)

A Form 1099-MISC is used to report payments made in the course of a [trade or business](#) to another person or business who is not an employee.
[SOURCE: IRS Website, <http://www.irs.gov/faqs/faq12.html>]

As we proved in the Introduction in Section 1, few Americans are lawfully engaged in a public office in the U.S. government and it is illegal for them to do so as described above. It is nevertheless quite common for financial institutions and private

companies to misapply the state and federal revenue "codes", and especially the provision above. Notice we didn't say "laws", because the [Internal Revenue Code](#) Subtitle A, not being enacted into [positive law](#), can only be "private law" that attaches to the individual through [explicit consent](#). Instead, it is only "a decree under legislative forms" [tyranny, in fact] as the Supreme Court describes it below. Neither does the Internal Revenue Code, Subtitle A describe a lawful "tax" in most cases either, except where the individual has given consent by choosing to involve in excise taxable activity called a "trade or business". Instead, it is a "bible" that describes a state-sponsored religion, not a public law:

"To lay, with one hand, the power of the government on the property of the citizen, and with the other to bestow it upon favored individuals to aid private enterprises and build up private fortunes, is none the less a robbery because it is done under the forms of law and is called taxation. This is not legislation [law]. It is a decree under legislative forms.

Nor is it taxation. 'A tax,' says Webster's Dictionary, 'is a rate or sum of money assessed on the person or property of a citizen by government for the use of the nation or State.' 'Taxes are burdens or charges imposed by the Legislature upon persons or property to raise money for public purposes.' Cooley, Const. Lim., 479."
[Loan Association v. Topeka, 20 Wall. 655 (1874)]

If you would like to learn more about why the Internal Revenue Code is not "public law" but "private law", and why it is also a state-sponsored federal religion, see:

1. [Requirement for Consent, Form #05.003](#)-memorandum of law by SEDM
<http://sedm.org/Forms/05-MemLaw/Consent.pdf>
2. [Great IRS Hoax](#), Form #11.302, Sections 5.4.6 entitled "The Internal Revenue Code is not Public or Positive Law, but private law".
3. [Socialism: The New American Civil Religion](#), Form #05.016 -memorandum of law by SEDM
<http://sedm.org/Forms/05-MemLaw/SocialismCivilReligion.pdf>

Violation of the revenue codes by financial institutions and private companies happens mainly because the IRS has illegally harassed, terrorized, and threatened them usually verbally when they insist on following the revenue statutes exactly as written or when they insist that such statutes have no jurisdiction over them. In effect, the IRS and state revenue agencies and [a colluding and compromised federal judiciary](#) (see also Chapter 6, Section 6.12 of the free [Great IRS Hoax, Form #11.302](#) book, which proves they are compromised) have made it risky and very confrontational to follow the revenue statutes exactly as written and have done so completely without any lawful or delegated authority to do so. This has been done mainly using what is called "[judge-made law](#)", and Congress has looked the other way on this scandal because they want it to happen and it benefits them hugely, to the tune of over a Trillion extorted dollars a year, to let it continue. As a consequence, these institutions attempt to transfer the inherent risks to their workers so that they don't have to deal with them and can focus on the more important aspects of maintaining their businesses and their profitability. The most important result of this abuse and illegal extortion directed at these institutions by the IRS is the misreporting of earnings on financial accounts reported on 1099 forms and earnings from labor reported on the [IRS Form W-2](#). These types of filings are called "Information Returns" by the IRS. If you do not take the responsibility to promptly correct these erroneous Information Returns with the IRS and state taxing authorities, then these agencies will automatically make the following [usually false and completely illegal presumptions](#), and in the process, violate your [due process rights](#) under the Constitution:

1. That you have income "effectively connected with a [trade or business](#)", which is defined in [26 U.S.C. §7701\(a\)\(26\)](#) as "the functions of a public office" in the United States government. The 1099 form instructions, in fact, say that the form is ONLY for use in connection with a "trade or business". Here is what they say:

IRS Form 1099-MISC Instructions, 2005, p. 1

"Trade or business reporting only. Report on Form 1099-MISC only when payments are made in the course of your trade or business. Personal payments are not reportable. You are engaged in a trade or business if you operate for gain or profit. However, nonprofit organizations are considered to be engaged in a trade or business and are subject to these reporting requirements. Nonprofit organizations subject to these reporting requirements include trusts of qualified pension or profit-sharing plans of employers, certain organizations exempt from tax under section 501(c) or (d), and farmers' cooperatives that are exempt from tax under section 521. Payments by federal, state, or local government agencies are also reportable."
[SOURCE: <http://famguardian.org/TaxFreedom/Forms/IRS/IRSForm1099Inst.pdf>]

IRS Publication 583 entitled Starting a Business and Keeping Records, Rev. May 2002, p. 8

"Form 1099-MISC. Use Form 1099-MISC, Miscellaneous Income, to report certain payments you make in your trade or business. These payments include the following..."

[SOURCE: <http://famguardian.org/TaxFreedom/Forms/IRS/IRSPub583.pdf>]

2. That you have a [Social Security Number](#), which means you are a federal "employee" and also are exercising agency of a federal entity that has a domicile in the District of Columbia. Therefore, in the context of anything in which the number is used, you are presumed to be representing a federal corporation called the "United States" which has a [domicile](#) in the District of Columbia, which becomes your domicile as well pursuant to [Federal Rule of Civil Procedure 17\(b\)](#). See [20 C.F.R. §422.104](#), which describes who may be issued a Social Security Number. This regulation is under [20 C.F.R.](#), which is entitled "Employee benefits", and the only type of "employee" they can legislate for are federal employees. See the following for more details:

Why Your Government is Either a Thief or You are a "Public Officer" for Income Tax Purposes, Form #05.008
<http://sedm.org/Forms/FormIndex.htm>

3. That because there is an identifying number on the 1099, that you consented for it to be treated as a "[Taxpayer Identification Number](#)" . The only kind of number the IRS is authorized to use by law are Taxpayer Identification Numbers, and the Treasury Department readily admits in its regulations at [26 C.F.R. §301.6109-1\(d\)\(3\)](#) that a Social Security Number is NOT a "[Taxpayer Identification Number](#)".

4. That because you consented to have a "[Taxpayer Identification Number](#)" , that you must be a "[Taxpayer](#)"

5. That because you supplied any kind of identifying number, you must be a "[U.S. person](#)" . [26 C.F.R. §301.6109-1](#) says that only "[U.S. persons](#)" can be required to provide identifying numbers. A "U.S. person" is defined in [26 U.S.C. §7701\(a\)\(30\)](#) as either a "[citizen](#)" (a person born in and [domiciled in](#) the District of Columbia or a federal [territory](#)) or a "[resident](#)" (an "alien" [domiciled in](#) the District of Columbia or a federal [territory](#)).

6. That because the earnings were reported on a federal form, then you must reside on [federal territory](#) and within federal jurisdiction, because you wouldn't fill out the form to begin with if you weren't subject to federal jurisdiction. The fact that you didn't rebut false information returns filed against you is evidence that you agree they are TRUE.

If you do not rebut the above false government presumptions which you encouraged on government forms you signed under penalty of perjury, then your rights will be prejudiced and the government will mercilessly harass you, even if you never explicitly consented, to collect what they think are lawful "taxes" on these earnings, even though such earnings were earned entirely outside of their jurisdiction and do not satisfy the definition of "[gross income](#)" under the Internal Revenue Code. See the following for details on why your silence equates with consent.

Silence as a Weapon and a Defense in Legal Discovery, Form #05.021
<http://sedm.org/Forms/FormIndex.htm>

This article will show you how to prepare a corrected IRS Form 1099 so that you can effectively zero out these false and unauthorized reports of taxable "[gross income](#)", and negate all the above false government presumptions that you do not consent to. If you do not rebut them, then you will be presumed to agree with them by default. After they have been rebutted, the government will be left with no legally admissible or reliable evidence upon which to base any kind of assessment. Without the [power of assessment](#), there is nothing to collect. Without the ability to collect, the law requires that they must LEAVE YOU ALONE.

The U.S. Government Accountability Office (GAO) has published some interesting reports that show that even federal agencies have been completing their Information Returns (IR) improperly and explaining why the returns are incorrect. Below is a sampling:

1. *Tax Administration: More can be done to ensure Federal Agencies file Accurate Information Returns*, Report # GAO-04-74, Government Accountability Office
<http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/FormW2/d0474.pdf>
2. *Data Quality: IRS' Actions to Improve the Accuracy of Non-Wage Income Data Are Vital*, Report # GAO/IMTEC-86-17, Government Accountability Office
<http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/FormW2/129831.pdf>

You can look at more by samples by visiting the link below:

<http://www.gao.gov/>

13.4.2 Instructions

The procedures documented herein are useful for any variant or version of the 1099, such as 1099-INT, 1099-R, 1099-MISC, etc. Whenever we complete government forms, the first thing to remember is that even the Standard government forms usually contain false presumptions or statements that will prejudice one's rights and which typically would slip by unnoticed by the general public. This is especially true of the "[words of art](#)" used on the form and the perjury statement at the end of the government form. Therefore, it is usually unwise to use the government's Standard forms, and to instead use a modified or what we call an "Amended" form. Amended forms are the only kinds of forms we recommend and the [Family Guardian Website](#) contains a catalog of both the original government forms and the Amended versions below:

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

Whenever possible, you must use the Amended forms or else you will suffer having your rights unjustly prejudiced by the government. All of the SEDM response letters which include government forms as exhibits or attachments include blank Amended, and not Standard, government forms, and you should *not* substitute the Standard government form unless compelled to do so. See the following for a list of the changes made to the Standard forms to make them into the Amended forms if you are curious.

<http://sedm.org/ItemInfo/RespLtrs/ChangesStdForms.htm>

To give you one glaring example of a TRAP that greedy state lawyers set which should be avoided at all costs, take a look at the Oregon "Employees Substitute Wage and Tax Statement" form. Notice it has "Taxpayer's Signature" at the end and "Employee" at the top. There is no way to fill out this form and send it in without creating TWO false presumptions: 1. That you are an "employee" under the I.R.C.; 2. That you are a "taxpayer". The state of Oregon DOES NOT have a substitute form suitable to be submitted by those who claim to be neither "taxpayers" nor "employees" and who want to zero out false reports by their private employers, who coerced them into participating because they quite frankly do not want people exiting the fraudulent tax system. WATCH OUT!

Oregon "Employees Substitute Wage and Tax Statement", Form 206-005
<http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/FormW2/OREGON-206-005.pdf>

All the above preliminaries now aside, we can get to work showing you how to fill out the IRS 1099 to attach to your IRS or state response letter. First, let's review what the instructions for IRS Form 1099 say themselves about correcting an erroneous 1099 report, from page GEN-12 of the 2004 "[General Instructions for Forms 1098, 1099, 5498, and W-2G](#)":

1. Prepare a new information return.
2. Enter an "X" in the "CORRECTED" box (and date (optional)) at the top of the form.
3. Correct any recipient information such as money amounts and address. Report other information per original return.

Below is a link to both the Standard and Amended IRS Form 1099, so you can compare and see the differences for yourself. The Amended forms are "fillable" with the free Adobe Acrobat Reader. They have been pre-initialized with the most common values to save you time.

Form	Standard IRS Form	Amended version
1099-MISC	http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/Form1099/IRSForm1099misc.pdf	http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/Form1099/IRSForm1099misc-Amended.pdf
1099-DIV	http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/Form1099/IRSForm1099div.pdf	http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/Form1099/IRSForm1099div-Amended.pdf
1099 Instructions	http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/Form1099/IRSForm1099Inst.pdf	NA

Remember the following requirements for the IRS Form 1099:

1. If you wish to avoid all the pitfalls with using standard IRS forms, then we highly recommend the [1099-CC Form, Form #04.309](#) indicated in the Amended column above. This custom form is the ONLY information correction method we know of that can be filed by a nonresident no-individual non-taxpayer, and which also doubles as a criminal complaint

against the original filer. This is useful in filling your record with exculpatory evidence to prevent any kind of criminal prosecution by recipients of the correction form who don't read the law.

2. One corrected 1099 form must be filled out for EACH [IRS Form 1099](#) that was wrongfully filed on you, and must include all the information about the original organization that made the report. If you don't have the original forms that hopefully were mailed to you by your business associate, then you can request replacement copies from the associate or from the IRS.
3. Enter the identification numbers for the PAYER and RECIPIENT and after "RECIPIENT identification number" write "NONTAXPAYER".
4. Do NOT attach or send in the original [IRS Form 1099](#) that your financial institution or employer gave you, because they are wrong and will just confuse the IRS or state revenue agency. Give them ONLY the substitute form and make it hard for them to even see the false information on the original reports.
5. The 1099-MISC is filled out with all the same information as what was on the original 1099-MISC, including "taxes" paid, but with Income earned set to zero. Therefore blocks 4, 6, and 16, the tax withheld, should reflect whatever was wrongfully reported by your business associate, while blocks 1 through 3, 5 through 14, 15a, and 15b will be zero. The reason that income blocks should be zero is because the only nonzero amounts in these blocks are those connected with a "trade or business", meaning a public office in connection with the United States government as defined under 26 U.S.C. §7701(a)(26). Since you probably don't hold public office, then you shouldn't be reporting earnings in connection with it.

WARNING!: If you do not have any earnings in connection with a "[trade or business](#)", you also cannot take any deductions ([26 U.S.C. §162](#)), earned income credit ([26 U.S.C. §32](#)), or apply a graduated rate of tax ([26 U.S.C. §1](#)) if you file a return. All such "privileges" will make you into a person engaged in a "trade or business". The rate on all "[gross income](#)" for those with no earnings connected with a "trade or business" is a flat 30% for Nonresident aliens, as indicated under [26 U.S.C. §871\(a\)](#). This is normally not a big deal, because the only type of "[gross income](#)" that is not specifically identified as connected with a "[trade or business](#)" is Social Security under [26 U.S.C. §861\(a\)\(8\)](#) and you cannot become a [Member](#) without quitting Social Security using the [Resignation of Compelled Social Security Trustee, Form #06.002](#). See the following for details:

[The "Trade or Business" Scam, Form #05.001](#)

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

6. The 1099-DIV is filled out with all the same information as what was on the original 1099-DIV, except that the earnings in blocks 1a through 9 are set to ZERO. The reason that earnings blocks should be zero is because the only nonzero amounts in these blocks are those connected with a "trade or business", meaning a public office in connection with the United States government as defined under 26 U.S.C. §7701(a)(26). Since you probably don't hold public office, then you shouldn't be reporting earnings in connection with it.
7. If you provided a TIN for the original 1099 form, then you should attach a note indicating that you are not a statutory "[taxpayer](#)", "[resident](#)", "alien", or "[U.S. person](#)", but instead are a "[non-resident non-persons](#)" not engaged in a "[trade or business](#)" as defined in 26 U.S.C. §7701(b)(1)(B) who has no "SSN", "TIN", or "ITIN". Our [Corrected Information Return Attachment Letter, Form #04.002](#), does this with Enclosure (8), Tax Form Attachment, Section 3. That form also makes any original information return reports FALSE and FRAUDULENT.
8. If you don't have the original erroneous 1099 reports, then you won't have anything you can start with to transfer numbers onto the 1099. In that case, fill out one form for each tax year and each institution or employer, and put as much information as you have about the institution on the form, and indicate under items 7(A)(a) through 7(A)(e) and 7(B)(1) through 7(B)(3) the amount "zero".
9. You may wish to attach a note of explanation to the corrected IRS Form 1099. This explanation should state something like the following.

The reason this corrected form is being provided is because:

1. The person about whom the original false 1099 was filed is a "nonresident alien", domiciled outside of the "United States" and who has no earnings connected with a "trade or business" in the United States.

2. Only earnings connected with a "trade or business" are reportable on a 1099. The IRS 1099-MISC instructions say this:

***"Trade or business reporting only.** Report on Form 1099-MISC only when payments are made in the course of your trade or business. Personal payments are not reportable. You are engaged in a trade or business if you operate for gain or profit. However, nonprofit organizations are considered to be engaged in a trade or business and are subject to these reporting requirements. Nonprofit organizations subject to these reporting requirements include trusts of qualified pension or profit-sharing plans of employers, certain organizations exempt from tax*

under section 501(c) or (d), and farmers' cooperatives that are exempt from tax under section 521. Payments by federal, state, or local government agencies are also reportable." [SOURCE: <http://famguardian.org/TaxFreedom/Forms/IRS/IRSForm1099Inst.pdf>]

3. The organization issuing the original 1099 is also a "nonresident alien" domiciled outside of the "United States", but through either fraud or mistake or through duress or false statement on the part of the IRS, refuses to acknowledge that fact or rebut the overwhelming evidence that they are simply WRONG. The organization has also refused to honor my wishes by not submitting the form 1099 after being explicitly told that I am not engaged in a "trade or business". This has prejudiced my rights and created false presumptions on the part of the recipients of this form which I insist on correcting so as to protect my Constitutional rights.

If you disagree, please rebut the overwhelming evidence below and answer the admissions at the end within ten days. Any admissions you do not address shall be admitted and a failure to timely respond within that time period shall constitute a "nihil dicit" judgment and a default on the part of the recipient of this submission per Federal Rule of Civil Procedure 8(b)(6).

The "Trade or Business" Scam, Form #05.001; <http://sedm.org/Forms/05-MemLaw/TradeOrBusScam.pdf> . (OFFSITE LINK)

See the following for a sample attachment of that listed above:

<http://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/Form1099/Form1099Attachment.pdf>

You can use the Corrected Information Return Attachment Letter, Form #04.002, earlier in section 10.3 to correct false IRS Form 1099's.

Some states have their own substitutes for the IRS Form 1099. These substitutes must be used when you are filing state income taxes, but accomplish the same effect as the IRS Form 1099. If your state does not have a 1099 substitute form and you are corresponding with a state revenue agency, then its best to provide either a corrected form W-2 or 1099, or to use the IRS Form 1099 to correct erroneous reports of gross income. The decision is yours. If you would like more information about the tax laws of a specific state, see the link below:

- State Income Taxes, Family Guardian Fellowship
<http://famguardian.org/Subjects/Taxes/Research/StateIncomeTaxes.htm>
- State Tax Forms, Federation of Tax Administrators
<https://taxadmin.org/state-tax-forms/>

13.4.3 Examples

Below are some example documents to help show you how to fill out the 1099 and 1099:

<i>IRS Form sent in by institution</i>	<i>Example completed original form</i>	<i>Example Amended 1099 replacement</i>
IRS Form 1099-MISC	1099-MISC example	1099 Replacement for 1099-MISC
IRS Form 1099-DIV	1099-DIV example	1099 Replacement for 1099-DIV

13.4.4 Other alternatives to the corrected IRS Form 1099: The IRS Form 4852

IRS makes one other form that serves the same purpose as the IRS Form 1099 but is more versatile, and this is the IRS Form 4852, which is called

"Substitute for Form W-2 and Tax Statement, or Form 1099-R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, Etc.".

Note the SERIOUS limitations upon the IRS Form 4852:

1. Note that this form can ONLY be used to rebut false Form W-2 and IRS Form 1099-R.
2. The form is ONLY for use in connection with forms 1040 and 1040X. That means it is ONLY for resident aliens and cannot be used by nonresident aliens. If you want a nonresident form, you have to make your own, such as the [1099-CC Form, Form #04.309](#) that we use.

If you need to rebut false 1099-MISC or any other type of 1099 OR if you are a nonresident alien, then you can't use this form. We wrote a similar article about this form which you can view by clicking on the link below:

1099-CC Form, Form #04.309
<http://sedm.org/Forms/FormIndex.htm>

13.4.5 Further reading and research

1. The "trade or business scam" -very important article
<http://famguardian.org/Subjects/Taxes/Articles/TradeOrBusinessScam.htm>
2. Federal and State Tax Withholding Options for Private Employers, Form #09.001 -Family Guardian Website
<http://famguardian.org/Publications/FedStateWHOptions/FedStateWHOptions.pdf>
3. Demand for Verified Evidence of "Trade or Business" Activity: Information Return, Form #04.006, SEDM
<http://sedm.org/Forms/Tax/DmdVerEvOfTradeOrBusiness-IR.pdf>
4. Sovereignty Forms and Instructions Online, Form #10.004, Cites by Topic: IRS Form W-2 -Family Guardian Website
<http://famguardian.org/TaxFreedom/CitesByTopic/W2.htm>
5. Sovereignty Forms and Instructions Online, Form #10.004, Instruction 4.13: Stop employer withholding of Income Taxes -Family Guardian Website
<http://famguardian.org/TaxFreedom/FormsInstr.htm>
6. Certification of Federal Privileged Status, Form W-0-use this to establish evidence from your private employer that you are not engaged in a "trade or business" or any other federally privileged status.
<http://sedm.org/Forms/Tax/w0.pdf>
7. IRS Form 1099-MISC Instructions -IRS Website
http://www.irs.gov/pub/irs-pdf/i1099misc_05.pdf
8. Instructions for Forms 1099, 1098, 5498, and W-2G, Internal Revenue Service -IRS Website
<http://www.irs.gov/pub/irs-pdf/i1099.pdf>
9. Information Returns Processing -IRS website
<https://www.irs.gov/tax-professionals/information-returns-processing-2>
10. Information Returns Filing Chart, Internal Revenue Service -IRS website
<https://www.irs.gov/government-entities/indian-tribal-governments/information-returns-filing-chart>
11. Federal Income Tax Withholding -IRS Website. Note that withholding only authorized on nonresident aliens for earnings connected to a "trade or business"
<https://www.irs.gov/individuals/international-taxpayers/federal-income-tax-withholding>
12. Taxation of Nonresident Aliens -IRS Website
<https://www.irs.gov/individuals/international-taxpayers/taxation-of-nonresident-aliens>
28. IRS Pub 519 U.S. Tax Guide for Aliens, IRS Website
<https://www.irs.gov/publications/p519>
13. Internal Revenue Manual (I.R.M.), Section 20.1.7: Information Return Penalties -IRS Website
https://www.irs.gov/irm/part20/irm_20-001-007r
14. IRS Publication 3609: Information Returns Electronically, IRS Website
<http://www.irs.gov/pub/irs-pdf/p3609.pdf>
15. 26 U.S.C. §7434. Civil damages for fraudulent filing of information returns
<https://www.law.cornell.edu/uscode/text/26/7434>

13.5 Correcting Erroneous IRS Schedule K-1's

13.5.1 Why We Must Correct Erroneous K-1's

Schedule K-1 is an attachment to any one of the following tax returns:

1. IRS Form 1041: U.S. Income Tax Return for Estates and Trusts. Documents Beneficiary's Share of Income, Deduction, and Credits, etc.
2. IRS Form 1065: U.S. Return of Partnership Income. Documents Partner's Share of Income, Deductions, and Credits, etc.
3. IRS Form 1065-B: U.S. Return of Partnership Income. Documents Partner's Share of Income (Loss) From an Electing Large Partnership

4. IRS Form 1120s: U.S. income tax return for S Corporation. Documents shareholder's share of income, deduction, and credits

K-1's are usually issued by the entity within which the person is serving, usually as an officer or partner. The amounts Schedule K-1 are also entered in Schedules E and SE attached to form 1040, but the Schedule K-1 is usually not included with the return. IRS warns filers on Schedules E and SE that the K-1 amounts filed by third parties are compared with the amounts entered on these schedules.

The purpose of filing Schedule K-1 is to apportion income, deductions, and credits of partnerships, estates, trusts, and S-corporations engaged in the "trade or business" franchise. Only persons engaged in a "trade or business" can earn "income", take deductions, or take credits in connection with the "trade or business" franchise. Like all other information returns, Schedule K-1's are filed pursuant to 26 U.S.C. §6041(a), which requires all amounts received in excess of \$600 in the course of the "trade or business" franchise to be reported.

If you have not elected to connect your activities to the "trade or business" franchise and a public office in the U.S. government, you cannot allow non-zero amounts to be reported against you by any third party and must correct these false forms.

13.5.2 How to Correct Erroneous Schedule K-1 reports

Schedule K-1's are corrected by the following means:

Table 6: Correcting Erroneous IRS Schedule K-1's

#	IRS Form Number	Form name	If false, may be corrected by
1	Schedule K-1 (Form 1041)	Beneficiary's Share of Income, Deduction, and Credits, etc.	Re-filing with "Amended K-1" block checked at top
2	Schedule K-1 (Form 1065)	Partner's Share of Income, Deductions, and Credits, etc.	Re-filing with "Amended K-1" block checked at top
3	Schedule K-1 (Form 1065-B)	Partner's Share of Income (Loss) From an Electing Large Partnership	Re-filing with "CORRECTED" block checked at the top
4	Schedule K-1 (Form 1120s)	Shareholder's Share of Income, Deduction, and Credits (For Shareholder's Use Only)	Re-filing with "Amended K-1" block checked at top
5	Schedule K-1 (Form 8865)	Partner's Share of Income, Deductions, and Credits, etc.	Re-filing with "Amended K-1" block checked at top

13.5.3 Further reading and research

The following additional resources are available for those who wish to investigate further:

1. IRS Online Instructions for Forms
<http://www.irs.gov/instructions/index.html>
2. Schedule K-1 (Form 8865): Partner's Share of Income, Deductions, and Credits, etc, Internal Revenue Service
<http://www.irs.gov/pub/irs-pdf/f8865sk1.pdf>
3. Schedule K-1 (Form 1041): Beneficiary's Share of Income, Deduction, and Credits, etc, Internal Revenue Service.
<http://www.irs.gov/pub/irs-pdf/f1041sk1.pdf>
4. Schedule K-1 (Form 1065-B): Partner's Share of Income (Loss) From an Electing Large Partnership, Internal Revenue Service
<http://www.irs.gov/pub/irs-pdf/f1065bsk.pdf>
5. Schedule K-1 (Form 1120s): Shareholder's Share of Income, Deductions, Credits, etc, Internal Revenue Service.
<http://www.irs.gov/pub/irs-pdf/f1120ssk.pdf>
6. Partner's Instructions for Schedule K-1 (Form 1065), Internal Revenue Service
https://www.irs.gov/pub/irs-pdf/i1065sk1.pdf?os=io_&ref=app
7. Shareholder's Instructions for Schedule K-1 (Form 1120s), Internal Revenue Service
<https://www.irs.gov/pub/irs-pdf/i1120ssk.pdf>

14 Rebutting false information returns during IRS collection

If you didn't follow our Member Agreement, Form #01.001, and regularly rebut erroneous information returns filed against you, then you may be forced to rebut them in response to an IRS collection notice in order to stop further collection or notices.

The rules for rebutting erroneous information returns are found in 26 C.F.R. §1441-1(b)(3), which says in pertinent part:

26 C.F.R. §1.1441-1 - Requirement for the deduction and withholding of tax on payments to foreign persons.

(b) General rules of withholding –

(3) Presumptions regarding payee's status in the absence of documentation –

(i) [Reserved] For further guidance, see [§ 1.1441-1T\(b\)\(3\)\(i\)](#).

(ii) Presumptions of classification as individual, corporation, partnership, etc.

(A) through (C) [Reserved] For further guidance, see [§ 1.1441-1T\(b\)\(3\)\(ii\)\(A\)](#) through (b)(3)(ii)(C).

(iii) [Reserved] For further guidance, see [§ 1.1441-1T\(b\)\(3\)\(iii\)](#).

(A) [Reserved] For further guidance, see [§ 1.1441-1T\(b\)\(3\)\(iii\)\(A\)](#).

(1) [Reserved] For further guidance, see [§ 1.1441-1T\(b\)\(3\)\(iii\)\(A\)\(1\)](#).

(B) Scholarships and grants. A payment representing taxable scholarship or fellowship grant income that does not represent compensation for services (but is not excluded from tax under section 117) and that a withholding agent cannot reliably associate with documentation is presumed to be made to a foreign person if the withholding agent has a record that the payee has a U.S. visa that is not an immigrant visa. See section 871(c) and [§ 1.1441-4\(c\)](#) for applicable tax rate and withholding rules.

(C) Pensions, annuities, etc. A payment from a trust described in section 401(a), an annuity plan described in section 403(a), a payment with respect to any annuity, custodial account, or retirement income account described in section 403(b), or a payment from an individual retirement account or individual retirement annuity described in section 408 that a withholding agent cannot reliably associate with documentation is presumed to be made to a U.S. person only if the withholding agent has a record of a Social Security number for the payee and relies on a mailing address described in the following sentence. A mailing address is an address used for purposes of information reporting or otherwise communicating with the payee that is an address in the United States or in a foreign country with which the United States has an income tax treaty in effect and the treaty provides that the payee, if an individual resident in that country, would be entitled to an exemption from U.S. tax on amounts described in this paragraph (b)(3)(iii)(C). Any payment described in this paragraph (b)(3)(iii)(C) that is not presumed to be made to a U.S. person is presumed to be made to a foreign person. A withholding agent making a payment to a person presumed to be a foreign person may not reduce the 30-percent amount of withholding required on such payment unless it receives a withholding certificate described in [paragraph \(e\)\(2\)\(i\)](#) of this section furnished by the beneficial owner. For reduction in the 30-percent rate, see [§§ 1.1441-4\(e\)](#) or [1.1441-6\(b\)](#).

(D) [Reserved] For further guidance, see [§ 1.1441-1T\(b\)\(3\)\(iii\)\(D\)](#).

(E) Certain payments for services. A payment for services is presumed to be made to a foreign person if -

(1) The payee is an individual;

(2) The withholding agent does not know, or have reason to know, that the payee is a U.S. citizen or resident;

(3) The withholding agent does not know, or have reason to know, that the income is (or may be) effectively connected with the conduct of a trade or business within the United States; and

(4) All of the services for which the payment is made were performed by the payee outside of the United States.

(iv) [Reserved] For further guidance, see [§ 1.1441-1T\(b\)\(3\)\(iv\)](#).

(A) [Reserved] For further guidance, see [§ 1.1441-1T\(b\)\(3\)\(iv\)\(A\)](#).

(B) If, at the end of the grace period, the [documentation](#) is not furnished in the manner required under this section, or if [documentation](#) is furnished that does not [support](#) the claimed rate [reduction](#), and the [account holder](#) is presumed to be a [foreign person](#) then [adjustments](#) must be made to correct any under withholding on [amounts](#) credited to the [account](#) during the grace period, based on the adjustment procedures described in [§ 1.1461-2](#).

(v) Special rules applicable to payments to foreign intermediaries -

(A) Reliance on claim of status as foreign intermediary. The [presumption rules](#) of [paragraph \(b\)\(3\)\(v\)\(B\)](#) of this section apply to a [payment](#) made to an [intermediary](#) (whether the [intermediary](#) is a qualified or nonqualified intermediary) that has provided a valid [withholding certificate](#) under [paragraph \(e\)\(3\)\(ii\)](#) or [\(iii\)](#) of this section (or has provided [documentary evidence](#) described in [paragraph \(b\)\(3\)\(ii\)\(C\)](#) of this section that indicates it is a [bank](#), [broker](#), custodian, [intermediary](#), or other agent) to the extent the [withholding agent](#) cannot treat the [payment](#) as being reliably associated with valid [documentation](#) under the [rules](#) of [paragraph \(b\)\(2\)\(vii\)](#) of this section. For this purpose, a U.S. person's foreign branch that is a qualified [intermediary](#) defined in [paragraph \(e\)\(5\)\(ii\)](#) of this section shall be treated as a foreign [intermediary](#). A [payee](#) that the [withholding agent](#) may not reliably treat as a foreign [intermediary](#) under this [paragraph \(b\)\(3\)\(v\)\(A\)](#) is presumed to be a [payee](#) other than an [intermediary](#) whose classification as an individual, [corporation](#), [partnership](#), etc., must be determined in accordance with [paragraph \(b\)\(3\)\(ii\)](#) of this section to the extent relevant. In addition, such [payee](#) is presumed to be a U.S. or a [foreign payee](#) based upon the [presumptions](#) described in [paragraph \(b\)\(3\)\(iii\)](#) of this section. The provisions of [paragraph \(b\)\(3\)\(v\)\(B\)](#) of this section are not relevant to a [withholding agent](#) that can reliably associate a [payment](#) with a [withholding certificate](#) from a [person](#) representing to be a qualified [intermediary](#) to the extent the qualified [intermediary](#) has assumed primary [withholding](#) responsibility in accordance with [paragraph \(e\)\(5\)\(iv\)](#) of this section.

(B) [Reserved] For further guidance, see [§ 1.1441-1T\(b\)\(3\)\(v\)\(B\)](#).

(vi) [Reserved] For further guidance, see [§ 1.1441-1T\(b\)\(3\)\(vi\)](#).

(vii) [Reserved] For further guidance, see [§ 1.1441-1T\(b\)\(3\)\(vii\)](#).

(viii) Rebuttal of presumptions. A [payee](#) or [beneficial owner](#) may rebut the [presumptions](#) described in this [paragraph \(b\)\(3\)](#) by providing reliable [documentation](#) to the [withholding agent](#) or, if applicable, to the IRS.

(ix) Effect of reliance on presumptions and of actual knowledge or reason to know otherwise - (A) [Reserved] For further guidance, see [§ 1.1441-1T\(b\)\(3\)\(ix\)\(A\)](#).

(B) Actual knowledge or reason to know that amount of withholding is greater than is required under the [presumptions](#) or that reporting of the payment is required. Notwithstanding the provisions of [paragraph \(b\)\(3\)\(ix\)\(A\)](#) of this section, a [withholding agent](#) may not rely on the [presumptions](#) described in this [paragraph \(b\)\(3\)](#) to the extent it has actual knowledge or reason to know that the status or characteristics of the [payee](#) or of the [beneficial owner](#) are other than what is presumed under this [paragraph \(b\)\(3\)](#) and, if based on such knowledge or reason to know, it should withhold (under this section or another [withholding](#) provision of the Code) an [amount](#) greater than would be the case if it relied on the [presumptions](#) described in this [paragraph \(b\)\(3\)](#) or it should report (under this section or under another provision of the Code) an [amount](#) that would not otherwise be reportable if it relied on the [presumptions](#) described in this [paragraph \(b\)\(3\)](#). In such a case, the [withholding agent](#) must rely on its actual knowledge or reason to know rather than on the [presumptions](#) set forth in this [paragraph \(b\)\(3\)](#). Failure to do so and, as a result, failure to withhold the higher [amount](#) or to report the [payment](#), shall result in [liability for tax, interest, and penalties](#) to the extent provided under sections 1461 and 1463 and the regulations under those sections.

(x) [Reserved] For further guidance, see [§ 1.1441-1T\(b\)\(3\)\(x\)](#).

Notice from the above that:

1. All those claiming to be STATUTORY “individuals” are regarded as “foreign persons”. 26 C.F.R. §1.1441-1(b)(3)(iii)(E). This INCLUDES the “U.S. individual” appearing in the upper left corner of the IRS Form 1040 that most Americans file every year. Consequently, what they are filing is KNOWINGLY false.
2. The term “citizen” is nowhere included within the definition of the STATUTORY term “INDIVIDUAL”, either in the 26 U.S.C. Internal Revenue Code or the 26 C.F.R. Treasury Regulations.

26 C.F.R. §1.1441-1 Requirement for the deduction and withholding of tax on payments to foreign persons.

(c) Definitions

(3) Individual.

(i) Alien individual.

The term alien individual means an individual who is not a citizen or a national of the United States. See Sec. 1.1-1(c).

3. If the average American is not a STATUTORY “INDIVIDUAL”, then they have no duty to deduct, withhold, report, or file a tax return on ANYTHING.
4. The ONLY human beings covered by IRC Subtitles A and C are “aliens”. 26 U.S.C. §911 mentions STATUTORY “U.S. citizens”, meaning territorial privileged citizens born on federal territory, but these people:
 - 4.1. Are “resident” abroad in the place of their foreign domiciled.
 - 4.2. Are ALSO treated as “aliens” for the purpose of the tax code when domiciled abroad AND claiming the benefit of a tax treaty. Otherwise, they are STATUTORY “non-resident non-persons” not even mentioned in the Internal Revenue Code.
 - 4.3. Satisfy the criteria of “wherever resident” in 26 U.S.C. §1 ONLY when domiciled abroad AND accepting tax treaty benefits. Otherwise, they have not status or obligation under the Internal Revenue Code for their foreign earnings.

For further details on this, see:

<p><i>Non-Resident Non-Person Position</i>, Form #05.020, Section 7.4.6 http://sedm.org/Forms/FormIndex.htm</p>

5. There is a presumption that all aliens are “nonresident aliens” unless proven otherwise:

Title 26: Internal Revenue
[PART 1—INCOME TAXES](#)
[nonresident alien individuals](#)
[§ 1.871-4 Proof of residence of aliens.](#)

(a) Rules of evidence.

The following rules of evidence shall govern in determining whether or not an alien within the United States has acquired residence therein for purposes of the income tax.

(b) Nonresidence presumed. An alien by reason of his alienage, is presumed to be a nonresident alien.

(c) Presumption rebutted--

(1) Departing alien.

In the case of an alien who presents himself for determination of tax liability before departure from the United States, the presumption as to the alien's nonresidence may be overcome by proof--

The above presumption rules and authorities provide a very effective tool for rebutting collection notices. All you have to do is tell the IRS that:

1. You are not a STATUTORY “alien”.
2. You are not a STATUTORY “individual” as that term is defined in 26 C.F.R. §1.1441-1(c)(3).
3. You are not abroad, and therefore are not a STATUTORY “resident” DESCRIBED IN 26 U.S.C. §1 or 26 C.F.R. §1.1-1(a).
4. All “residents” in the Internal Revenue Code are “aliens” per 26 U.S.C. §7701(b)(1)(A).
5. Because you are not an “individual”, then the presumption rules found in 26 C.F.R. §1.1441.1(b)(3) do not require deduction or withholding of tax.
6. There is NO requirement to deduct or withhold tax, or file a return or pay for those who are:
 - 6.1. NOT “aliens” that are “resident” abroad or
 - 6.2. Who are present in a Constitutional state outside of the territorial jurisdiction of Congress and OUTSIDE the STATUTORY “United States” defined in 26 U.S.C. §7701(a)(9) and (a)(10) and 5 U.S.C. §110(d).
7. You are not engaged in a STATUTORY “trade or business” per 26 U.S.C. §7701(a)(26) or public office in the U.S. Government and therefore earn no reportable income per 26 U.S.C. §6041(a).

8. In the absence of reportable “income” connected to the “trade or business” and public office excise taxable franchise, you have no tax owing and no duty to file a tax return.
9. Any and all information returns filed against you are FALSE, because you are not engaged in a public office.
10. The presumption rules invoked above are valid for EVERYONE, not just those who are STATUTORY “nonresident aliens” for the reasons indicated later in section 17.1.
11. That if you (the IRS) doesn’t promptly rebut the above information with FACTS admissible in court as evidence and signed under penalty of perjury (per 26 U.S.C. §6065) within 10 days, then you are entitled to presume that this is an ILLEGAL collection action and that all collection activity MUST be stopped immediately.

15 Litigating against filers of false information returns

There is presently no evidence of a problem on a large scale with 3rd party information reporting because the overwhelming majority of taxpayers (very close to 100%) assent or acquiesce with what is filed every year, either expressly or by default. If you can’t convince the people hurt most by that to do things differently, then how will you convince the third party filer, who has less skin in the game?

The main reason why more filers of false information returns are not prosecuted by the target of the returns is that:

1. They are rendered apathetic and immobilized by their legal ignorance and the helplessness that it produces.
2. They don’t want to jeopardize their business relations or their revenue. Their business partners might “cancel” them for doing so.
3. They don’t want to get fired for confronting their employer for false reporting.

These are the main reasons why the filing of false information returns continue on the massive scale it exists today. You could therefore truthfully say that Third Rail issues, legal ignorance, and public apathy are the main things that protect the filers of false information returns from prosecution.

The fact that some people don't think it should be a priority to prosecute the payers and false reporters AFTER dutifully educating them doesn't mean no one should do it. It would be disastrous if everyone decided not to prosecute the filers of false information returns because the problem could never be fixed in the long term.

We are an educational ministry. It is not up to us to decide for people what they should hear or not hear about what the law requires. All we are allowed to do is accurately describe what it requires and leave it up to the reader about how to respond to what it requires by offering a range of options based on convenience and expedience. It is our duty as educators to let people know about all the laws that protect them and let them choose how or even whether to enforce them at their option. If we didn't, it would make us look like we are taking sides and acting as government moles to protect the government. This is what those who advocate NOT prosecuting the filers of false information returns look like. We should not be censoring any aspect of the weapons people can use to defend themselves and doing so is not bullying.

Further, it is not bullying to suggest to third party filers of false information returns that there can be criminal consequences. If it is, then the entire DOJ is a bully for enforcing the criminal laws, for overcharging people to get a plea that avoids trial, or for expecting people to obey ALL the laws.

Those who file false information returns can be prosecuted either criminally or civilly. Should you decide NOT to prosecute either civilly or criminally and pursue a less labor intensive or less costly administrative approach instead, be aware that the main method of dealing with this will be the filing of a nonresident alien 1040NR return if you are a member. That approach is documented in:

1. 1040NR Attachment, Form #09.077
<https://sedm.org/Forms/09-Procs/1040NR-Attachment.pdf>
2. How to File Returns, Form #09.074
<https://sedm.org/product/filing-returns-form-09-074/>
3. Procedure to File Returns, Form #09.075
<https://sedm.org/product/procedure-to-file-tax-returns-form-09-075/>

The sections below will separately address both CRIMINAL prosecution and CIVIL prosecution of the filers of false information returns.

15.1 Criminal prosecution

The Department of Justice in Washington, DC conducts nearly all criminal prosecutions of filers of fraudulent information returns. This is typically done under:

1. Federal court:
 - 1.1. 26 U.S.C. §7206: Fraud and false statements.
 - 1.2. 26 U.S.C. §7207: Fraudulent returns, statements, or other documents.
 - 1.3. 26 U.S.C. §912: False Personation.
2. State court
 - 2.1. Identity theft statutes within your state in state court.

Criminal investigation and prosecution is conducted secretly by the DOJ and the IRS. The targets are usually unaware of the prosecution until they are indicted. Witnesses are told they can't talk about the case to the target. Witnesses or those reporting the crime often aren't even allowed to know and are not notified if the case is prosecuted. The purpose of this type of secrecy is to protect the process of gathering evidence. If the perpetrator knows they are being prosecuted, typically they will stop doing the crime and destroy or hide the evidence of the crime to protect themselves. Criminal court records and filing are also secret until the case is decided. The only type of caselaw you can search is typically civil, so its difficult to find out statistics on these prosecutions.

If you want to prosecute filers of false information returns criminally, then you will need to file a criminal complaint with the local DOJ office in your area about the above crimes. The DOJ has a practical monopoly on such prosecutions since private prosecutions are rare. Since Uncle Sam's entire business model is based on the filing of FALSE information returns, you can expect that they will find every possible excuse NOT to prosecute, no matter how good your case is.

All tax crimes have willfulness as a prerequisite. Willfulness is typically difficult to prove. An information return can be FALSE without involving fraud if the filer doesn't know they are breaking the law. Oftentimes, these information returns are prepared by computers without human intervention, which makes the willfulness component even harder to prove.

Willfulness, in turn, is based on reasonable BELIEF, and not FACT. As long as the filer of the false information return believes or has reason to believe that what they are doing does not violate the law, then they can defend against a charge of willfulness. In that scenario, the question is not the objective correctness of what is filed but what the filer BELIEVES is true. No one can be assumed to have changed his belief just because you told him he is wrong, even if you think he SHOULD have. These people typically have their own legal counsel for these matters and they are covered as long as they relied on competent legal counsel, especially if what they are doing meets IRS approval.

A good place to start in preventing the filing of false information returns is to educate the filers and to do so both:

1. Through correspondence sent using our Certificate/Proof/Affidavit of Service, Form #01.002.
2. In-person meetings, hopefully with a witness so there is third party corroboration.

Both of the above should be used to compile legally admissible evidence you can use in later litigation if they disregard your attempts to educate or admonish. Although the above can also be done by phone or video conference that is recorded, be aware that many states have laws regulating recording of audio and video without the knowledge or consent of the other party. Some states require them to be notified of the recording and consent to it, and make it a crime to do otherwise. These are called "two party states".

Most companies also have legal counsel whose main job is "risk reduction". By "risk reduction", we mean they are hired to reduce the risk of litigation or legal conflict with their clients or with the government. These corporate attorneys are well aware of the willfulness component of tax crimes and are often used as gatekeepers for all correspondence in and out of the company relating to harmful or illegal behavior. If you write the company to notify them about the damaging affects or illegal nature of false information returns they are filing, then the correspondence will likely end up on the desk of the corporate attorneys first, even if you didn't write them directly or know who they are initially. One way to avoid this is to send correspondence via certified mail directly to the person you are contacting rather than addressing it to the company generally.

1 The fact that payers have legal counsel simply means that both the payers and the legal counsel should be noticed about what
2 the law requires and to use that as legal evidence to prove their actions were willful beyond that point and leave it up to the
3 jury to decide. Let them squirm in front of the jury when criminally prosecuted for willfully filing false information returns.
4 Use recordings of your conversations with them to prove they knew (or "should have known" as Uncle often says about those
5 it prosecutes for tax crimes).

6 It can, however, be difficult to locate the right person to correspond or communicate with in a large company about the filing
7 of false information returns. Things are even worse in the case of companies that outsource their payroll or accounting to
8 third party companies such as Paychex or Linsco Private Ledger.

9 If you decide to both educate the payers and use that process of education to gather evidence, be aware that if they consistently
10 avoid being educated, won't talk to you, or won't even identify who they are, this becomes evidence of what the courts call
11 "willful blindness". Those who insist on continuing to execute harmful or illegal things and who practice willful blindness
12 are often treated by the courts as being just as culpable as those who do the thing willfully with full knowledge demonstrated
13 with evidence.

14 Cases where the DOJ prosecuted people criminally for the fraudulent filing of false information returns are rare. Most of
15 them involve freedom lovers documenting receipt of valuable consideration in the form of involuntary "services" rendered
16 to the government in obeying tax laws that don't apply to them. In other words, the DOJ usually only criminally prosecutes
17 when:

- 18 1. They are defending the government and NOT the public.
- 19 2. The prosecution can pay for itself from the assets of the target so that the prosecution is "revenue neutral".
- 20 3. The prosecution will not reduce the flow of plunder to the government.

21 This is quite corrupt, not doubt, but this is what happens when your government becomes the RICO mafia that it presently is.

22 Either the I.R.C. is law or it is not. If it is, then obeying it is not optional and cannot be avoided by mere false "belief". If it
23 is not law, then the entire thing can be avoided based on belief. Which one is it? It can't be both!

24 **15.2 Civil/common law prosecution**

25 Civil prosecution of false information returns is done by you or legal counsel you hire under the following authorities:

- 26 1. Common law trespass.
- 27 2. 26 U.S.C. §7434: Civil damages for fraudulent filing of information returns

28 If you do decide to civilly prosecute the filer of the false information return, the lowest risk approach is to prosecute the
29 INDIVIDUAL payroll clerk or third party payroll company rather than the company you work for directly. This will
30 minimize the possibility that you will be fired for looking a gift horse in the mouth. Remember that job 1 at every company
31 is self-preservation and risk reduction, not following the law or actually helping and protecting their workers. This is a very
32 sad reality.

33 Our research reveals that there aren't a lot of cases involving the above. Less than one page. We suspect that a very likely
34 explanation for this is that the cases are "unpublished". In other words, judges censor the court record to prevent the public
35 from learning about the outcome or from imitating it. This is how they protect the flow of plunder into their checking account
36 as sham trustees of the public trust called "government".

37 The case of *Clemens v. USV Pharmaceuticals*, 838 F.2d. 1389 (5th Cir. 1988) is the best example we have found for use in
38 successfully prosecuting the filing of false information returns. You can read the case below:

39 https://scholar.google.com/scholar_case?case=10238134621184913380

40 At this time, we don't have a standard pleading to sue civilly for false information returns. If you want personal help preparing
41 one, ask for a Member Consultation:

16 Discrediting erroneous information returns used in a criminal prosecution to prove liability to pay a tax

Those who do not file tax returns are sometimes ILLEGALLY criminally prosecuted for failure to do so under 26 U.S.C. §7203: Willful failure to file. In order to successfully prosecute such a crime, the Department of Justice (DOJ) attorney must satisfy the burden of proving that:

1. There was a legal liability and tax owing.
2. The party owing it knew or should have known that they were liable for the tax and file a tax return documenting the liability and paying the tax owing.
3. The “taxpayer” willfully refused to file the return documenting what was owed. This is called “willfulness” and it is a prerequisite of every tax crime. In general, criminal law, this is called “mens rea”. A crime is impossible without “mens rea”.

The above process STARTS with the duty of the prosecuting DOJ attorney to prove a tax was due and that the “taxpayer” owed the tax. This is done using either an IRS assessment or an un rebutted and usually false information return filed against you. If you didn’t follow our *Member Agreement*, Form #01.001, and regularly rebut erroneous information returns filed against you, then you may be forced to do it during a criminal or civil litigation against you relating to the usually UNLAWFUL liability for tax that will result and which is sought to be collected.

An example of one famous person who had to rebut false information returns during a criminal prosecution and who used some of our materials in his defense was actor Wesley Snipes. He was acquitted of some of the criminal charges by using our materials. Some of those materials, in fact, were published in the New York Times during the trial.

Below are some general techniques for discrediting the erroneous information returns used to establish a tax liability at trial:

1. It is a requirement of being a member that if you want to use our “tax information and services” in your own defense, you must follow our *Path to Freedom*, Form #09.015, Section 2 process.
 - 1.1. That process requires you to send in the *Legal Notice of Change in Domicile/Citizenship Records and Divorce from the United States*, Form #10.001.
 - 1.2. This notice is very useful as a defense if you are later criminally prosecuted, because it serves as a correction of and criminal complaint against all past, present, and future information returns filed against you.
 - 1.3. If the government never responded to the notice, then the notice says they are estopped from later challenging it. You can use their failure to rebut the notice with evidence in your criminal trial to establish a laches and equitable estoppel defense that forecloses them from later changing their mind about the erroneous and criminal nature of the information returns they are using as legal evidence in your case.
2. It is important to realize that anything that is the fruit of a crime cannot be used as evidence for anything but prosecuting that specific crime. Therefore, false information returns that result in a crime being committed by the filer cannot later be used as evidence in a legal proceeding against you. This is called “The Fruit of a Poisonous Tree Doctrine”.
3. It is never too late to file a correction to the information returns, even after an indictment is issued. Such corrections should be filed with the IRS, the DOJ attorney prosecuting the case, and filed in the court record as soon as you are indicted.
4. It is also a good idea to file an advanced criminal complaint against the judge, the DOJ attorney, and the IRS in the court record with the corrections you send out. This ensures that:
 - 4.1. The recipients and officers of the court are put on notice that they have a legal duty to speak about the crime. 18 U.S.C. §3 and 4 say that if they are notified of a crime and refuse to do anything about it or refuse to stop using the fruit of it as legal evidence, then they become an ACCESSORY to the crime guilty of misprision of felony and can be prosecuted and disbarred. We cover this in:

Silence as a Weapon and a Defense in Legal Discovery, Form #05.021
<http://sedm.org/Forms/FormIndex.htm>

- 4.2. All of them become party to crime for FAILURE to make the corrections or for continuing to use the fruit of a crime as evidence in the proceeding.

- 4.3. They surrender their plausible deniability.
- 4.4. You establish mens rea on their part. They cannot claim ignorance that they were violating the law.
- 4.5. You can claim an equitable estoppel or laches defense later, if they don't dispute the error of the false returns. That way, they can't challenge it later if they don't do it then.
- 4.6. That you would become a co-conspirator with them in committing the crime if you allowed them to continue to use the fruit of a crime as evidence in a proceeding against you.

17 Rebutted false arguments against the content of this pamphlet

17.1 The sections you cite relating to presumption rules only pertain to "Nonresident Aliens", not "U.S. persons" or the average American

Earlier in section 14, we identified the statutory requirements for rebutting presumptions about the requirement to deduct or withhold. The specific section referenced was 26 C.F.R. §1.1441-1 entitled "Requirement for the deduction and withholding of tax on payments to foreign persons.". The TITLE of this and some of the other sections we reference deal with withholding of tax on STATUTORY "nonresident aliens".

It is common for government defense counsel during litigation to use the fact that the title of the section only relates to "nonresident aliens" as a reason to say that they don't pertain to YOU, or that they don't pertain to MOST AMERICANS, who they will inevitably claim are NOT STATUTORY "nonresident aliens". This section will address how to rebut that deceptive and false argument.

Below are some facts you can use to establish that this is a false argument:

1. 26 U.S.C. §7806(b) says the following:

26 U.S. Code § 7806 - Construction of title

(b) Arrangement and classification

No inference, implication, or presumption of legislative construction shall be drawn or made by reason of the location or grouping of any particular section or provision or portion of this title, nor shall any table of contents, table of cross references, or similar outline, analysis, or descriptive matter relating to the contents of this title be given any legal effect. *The preceding sentence also applies to the sidenotes and ancillary tables contained in the various prints of this Act before its enactment into law.*

In other words, the titles of specific sections within a statute mean NOTHING, including the title of the code section itself or the subtitles within the section.

2. None of the code sections referenced, in the body of the statute, specifically references "nonresident aliens" or limits their applicability to ONLY STATUTORY "nonresident aliens".
3. There IS no other code section documenting the requirement to deduct or withhold for those OTHER than "nonresident aliens".
4. The U.S. Supreme Court admitted that the title of a section means NOTHING and does not confine the applicability of a section of code:

Second. The right of intervention granted to such a representative by § 17 (11) applies to a court proceeding under § 16 (12) of the Act, the plain language of § 17 (11) extending its reach to "any proceeding arising under this Act."

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On this point, however, the appellee railroads contend that § 17 (11) must be confined to proceedings before the Interstate Commerce Commission, to the exclusion of court proceedings. In support of this contention, they point to the fact that § 17 as a whole is primarily concerned with Commission procedure and organization. That fact is emphasized by the heading of § 17 as it appears in the Statutes at Large, 54 Stat. 913, and the United States Code, 49 U.S.C. §17, a heading that reads: "Commission procedure; delegation of duties; rehearings." *The inference is then made that paragraph (11), with which we are concerned, must be limited by that heading and by the general context of § 17 as a whole. The result of the contention is that the phrase "any proceeding arising under this Act," as found in paragraph (11), is rewritten by construction to refer only to "any proceeding before the Commission arising under this section."*

We cannot sanction such a construction of these words. It is true, of course, that § 17 is concerned primarily with the organization of the Commission and its subdivisions and with the administrative disposition of matters coming within that agency's jurisdiction. At least ten of the twelve paragraphs of § 17 deal with those matters. And before § 17 was cast into its present form in 1940, all five of its paragraphs related exclusively to those matters. Congress rewrote the section when it enacted the Transportation Act of 1940, 54 Stat. 898, continuing and modifying previous provisions and consolidating and including matters which had formerly been scattered throughout the Act.^[fn7] At the same time, however, it was expressly recognized that certain paragraphs were being added which were entirely new, paragraphs which went beyond purely administrative matters. Thus the pertinent committee

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reports stated^[fn8] that "A new paragraph (9) is included providing that orders of a division, an individual Commissioner, or a board shall be subject to judicial review as in the case of full Commission orders, after an application for rehearing has been made and acted upon." And as to paragraph (11), it was said^[fn9] that "A new paragraph is added at the end of section 17 providing that representatives of employees of a carrier may intervene and be heard in any proceedings arising under part I affecting such employees." By such language in their reports, the framers of § 17 recognized the obvious fact that certain provisions of that section deal with something more than might be indicated by the heading.

That the heading of § 17 fails to refer to all the matters which the framers of that section wrote into the text is not an unusual fact. That heading is but a short-hand reference to the general subject matter involved. While accurately referring to the subjects of Commission procedure and organization, it neglects to reveal that § 17 also deals with judicial review of administrative orders and with intervention by employee representatives. But headings and titles are not meant to take the place of the detailed provisions of the text. Nor are they necessarily designed to be a reference guide or a synopsis. Where the text is complicated and prolific, headings and titles can do no more than indicate the provisions in a most general manner; to attempt to refer to each specific provision would often be ungainly as well as useless. As a result, matters in the text which deviate from those falling within the general pattern are frequently unreflected in the headings and titles. Factors of this type have led to the wise rule that the title of a statute and

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the heading of a section cannot limit the plain meaning of the text. United States v. Fisher, 2 Cranch 358, 386; Cornell v. Coyne, 192 U.S. 418, 430; Strathearn S.S. Co. v. Dillon, 252 U.S. 348, 354. For interpretative purposes, they are of use only when they shed light on some ambiguous word or phrase. They are but tools available for the resolution of a doubt. But they cannot undo or limit that which the text makes plain.

[Railroad Trainmen v. B. & O.R. Co., 331 U.S. 519 (1947)]

17.2 Word "includes" in a statutory definition allows the government to presume whatever they want is "included"¹⁵

False Argument: The use of the word "includes" within a statutory definition allows the government to presume whatever they want is included in the meaning, or to presume that the common understanding of the term is also implied within the definition.

Corrected Alternative Argument: The purpose of law is to delegate and limit authority to the government. Everything that is included within the definition of a term must be expressly specified SOMEWHERE within the statutes or it is presumed to be purposefully excluded. This applies to all the definitions in the Internal Revenue Code, and especially those in 26 U.S.C. §7701.

Further information:

1. **Legal Deception, Propaganda, and Fraud**, Form #05.014
<http://sedm.org/Forms/FormIndex.htm>
2. **Sovereignty Forms and Instructions Online**, Form #10.004, Cites by Topic: Cites on the word "includes":
<http://famguardian.org/TaxFreedom/CitesByTopic/includes.htm>

A frequent flawed argument used by the state or federal tax agencies in order to unlawfully expand their power and violate due process of law is to expand the meaning of a statutory definition to include whatever they want to include in order to win

¹⁵ Source: *Flawed Tax Arguments to Avoid*, Form #08.004, Section 8.14; <http://sedm.org/Forms/FormIndex.htm>.

an argument about their jurisdiction to collect a tax. In other words, they use “verbicide” to entrap, enslave, and injure you to their own benefit.

*“Judicial verbicide is calculated to convert the Constitution into a worthless scrap of paper and to replace our government of laws with a judicial oligarchy.”
[Senator Sam Ervin, during Watergate hearing]*

*“When words lose their meaning, people will lose their liberty.”
[Confucius, 500 B.C.]*

This method to abuse and destroy the rights of Americans who the government was created instead to protect is implemented using the following technique. The audience of people who it is most effective against are those who either are ignorant of the law in general or who don’t know enough about their rights to even recognize when those rights have been violated:

1. You cite a definition from the Internal Revenue Code as proof that you are not the entity or activity described and therefore are not subject to tax.
2. They respond by citing the definition of “includes” found in 26 U.S.C. §7701(c) as authority.

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

(c) Includes and including

The terms “includes” and “including” when used in a definition contained in this title shall not be deemed to exclude other things otherwise within the meaning of the term defined.

3. The government then abuses the above definition to imply that it allows them to add any of the following to the definition:

- 3.1. The ordinary or common meaning of the term in addition to the statutory definition. .OR
- 3.2. Whatever they want to “presume” is included.

For instance, if you cite the definition of “trade or business” in 26 U.S.C. §7701(a)(26) and state that it is limited to a public office in the government and that you are not engaged in a “public office”:

[26 U.S.C. §7701\(a\)\(26\)](#)

“The term ‘trade or business’ includes the performance of the functions of a public office.”

. . .then the government and maybe even a corrupt “taxpayer” judge with a conflict of interest (in violation of 28 U.S.C. §§144 and 455, as well as 18 U.S.C. §208) might then rebut with the following deception and abuse:

The term “trade or business” uses the word “includes”. 26 U.S.C. §7701(c) implies that the definition includes the common or ordinary meaning of the term, meaning that it includes anything a person might do. It is not limited to public offices in the government. For instance, someone who works for a private company is not an “employee” of the government but can still be engaged in a trade or business.

Essentially what the speaker above is doing is the equivalent of eminent domain based on presumption. By presuming that a person is engaged in a “trade or business”, they are converting private property to a public use, public purpose, and a public office without compensation in violation of the Fifth Amendment takings clause. In effect, the speaker is using presumption to STEAL private property from the owner and convert it to a public use in criminal violation of 18 U.S.C. §912 (impersonating a public officer) and 18 U.S.C. §654 (conversion).

Below is an example of such unlawful abuse by a federal court as well:

*“Similarly, Latham’s instruction which indicated that under 26 U.S.C. §3401(c) the category of ‘employee’ does not include privately employed wage earners is a preposterous reading of the statute. It is obvious that within the context of both statutes the word ‘includes’ is a term of enlargement not of limitation, and the reference to certain entities or categories is not intended to exclude all others.”
[United States v. Latham, 754 F.2d. 747, 750 (7th Cir. 1985)]*

You can read a rebuttal to the above in section 12.2.1 of the following:

[Why Your Government is Either a Thief or You are a "Public Officer" for Income Tax Purposes](http://sedm.org/Forms/FormIndex.htm), Form #05.008
<http://sedm.org/Forms/FormIndex.htm>

Definitions of words within the I.R.C. which employ the words “includes” or “including” and which are therefore susceptible to this type of abuse, conspiracy against rights, and violation of due process include:

1. “employee”: 26 U.S.C. §3401(c)
2. “gross income”: 26 U.S.C. §872
3. “person”: 26 U.S.C. §7701(a)(1), 26 U.S.C. §7343, 26 U.S.C. §6671(b)
4. “State”: 26 U.S.C. §7701(a)(10)
5. “trade or business”: 26 U.S.C. §7701(a)(26)
6. “United States”: 26 U.S.C. §7701(a)(9)

This malicious and self-serving approach by the government is based upon a violation of the rules of statutory construction on the subject, which consist of the following. You can use the rules in your own defense when confronted by the FALSE government argument about the meaning of words:

1. The word “includes” can imply one of only two legal meanings:
 - 1.1. “Is limited to” . . .OR
 - 1.2. “In addition to”. In this sense, it is used as a method of enlargement.

*“Include. (Lat. Inclaudere, to shut in. keep within.) To confine within, hold as an inclosure. Take in, attain, shut up, contain, inclose, comprise, comprehend, embrace, involve. **Term may, according to context, express an enlargement and have the meaning of and or in addition to, or merely specify a particular thing already included within general words theretofore used. “Including” within statute is interpreted as a word of enlargement or of illustrative application as well as a word of limitation.** Premier Products Co. v. Cameron, 240 Or. 123, 400 P.2d. 227, 228.”*
[Black’s Law Dictionary, Sixth Edition, p. 763]

2. When the term “includes” is used as implying enlargement or “in addition to”, it only fulfills that sense when the definitions to which it pertains are scattered across multiple definitions or statutes within an overall body of law. In each instance, such “scattered definitions” must be considered AS A WHOLE to describe all things which are included. The U.S. Supreme Court confirmed this when it said:

“That is to say, the statute, read 'as a whole,' post at 998 [530 U.S. 943] (THOMAS, J., dissenting), leads the reader to a definition. That definition does not include the Attorney General's restriction -- "the child up to the head." Its words, "substantial portion," indicate the contrary.”
[Stenberg v. Carhart, 530 U.S. 914 (2000)]

An example of the “enlargement” or “in addition to” context of the use of the word “includes” might be as follows, where the numbers on the left are a fictitious statute number :

- 2.1. “110 The term “state” includes a territory or possession of the United States.”
- 2.2. “121 In addition to the definition found in section 110 earlier, the term “state” includes a state of the Union.”
3. What is not expressed in a definition somewhere shall conclusively be presumed to be purposefully excluded.

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

4. The definition of a word excludes unstated meanings of the term.

“It is axiomatic that the statutory definition of the term excludes unstated meanings of that term. Colautti v. Franklin, 439 U.S. 379, 392, and n. 10 (1979). Congress’ use of the term “propaganda” in this statute, as indeed in other legislation, has no pejorative connotation.[19] As judges, it is our duty to [481 U.S. 485] construe

legislation as it is written, not as it might be read by a layman, or as it might be understood by someone who has not even read it."
[Meese v. Keene, 481 U.S. 465, 484 (1987)]

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

5. All doubts about the meaning of a term must be resolved in favor of the citizen and against the government.

"In the interpretation of statutes levying taxes, it is the established rule not to extend their provisions by implication beyond the clear import of the language used, or to enlarge their operations so as to embrace matters not specifically pointed out. In case of doubt they are construed most strongly against the government and in favor of the citizen."
[Gould v. Gould, 245 U.S. 151, at 153 (1917)]

6. All presumptions about the meaning of a word are a violation of Constitutional rights and or due process of law.

"Statutes creating permanent irrebuttable presumptions have long been disfavored under the Due Process Clauses of the Fifth and Fourteenth Amendments. In Heiner v. Dorman, 285 U.S. 312, 52 S.Ct. 358, 76 L.Ed. 772 (1932), the Court was faced with a constitutional challenge to a federal statute that created a conclusive presumption that gifts made within two years prior to the donor's death were made in contemplation of death, thus requiring payment by his estate of a higher tax. In holding that this irrefutable assumption was so arbitrary and unreasonable as to deprive the taxpayer of his property without due process of law, the Court stated that it had 'held more than once that a statute creating a presumption which operates to deny a fair opportunity to rebut it violates the due process clause of the Fourteenth Amendment.' Id., at 329, 52 S.Ct., at 362. See, e.g., Schlesinger v. Wisconsin, 270 U.S. 230, 46 S.Ct. 260, 70 L.Ed. 557 (1926); Hoeper v. Tax Comm'n, 284 U.S. 206, 52 S.Ct. 120, 76 L.Ed. 248 (1931). See also Tot v. United States, 319 U.S. 463, 468-469, 63 S.Ct. 1241, 1245-1246, 87 L.Ed. 1519 (1943); Leary v. United States, 395 U.S. 6, 29-53, 89 S.Ct. 1532, 1544-1557, 23 L.Ed.2d. 57 (1969). Cf. Turner v. United States, 396 U.S. 398, 418-419, 90 S.Ct. 642, 653-654, 24 L.Ed.2d. 610 (1970)."
[Vlandis v. Kline, 412 U.S. 441 (1973)]

"The Schlesinger Case has since been applied many times by the lower federal courts, by the Board of Tax Appeals, and by state courts; ^{FN2} and none of them seem to have been **361 at any loss to understand the basis of the decision, namely, that a statute which imposes a tax upon an assumption of fact which the taxpayer is forbidden to controvert is so arbitrary and unreasonable that it cannot stand under the Fourteenth Amendment."

[...]

'It is apparent,' this court said in the Bailey Case (219 U.S. 239, 31 S.Ct. 145, 151) 'that a constitutional prohibition cannot be transgressed indirectly by the creation of a statutory presumption any more than it can be violated by direct enactment. The power to create presumptions is not a means of escape from constitutional restrictions.'
[Heiner v. Dorman, 285 U.S. 312 (1932)]

Presumption may not be used in determining the meaning of a statute. Doing otherwise is a violation of due process, a violation of rights, and a religious sin under Numbers 15:30 (Bible). A person reading a statute cannot be required by statute or by "judge made law" to read anything into a Title of the U.S. Code that is not expressly spelled out. See:

<p><u>Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction</u>, Form #05.017 http://sedm.org/Forms/FormIndex.htm</p>

The above rules of statutory construction were created in order to fulfill the intent of the founding fathers to avoid placing arbitrary discretion in the hands of anyone in the government, and especially the courts:

1 "It has been frequently remarked, with great propriety, that a voluminous code of laws is one of the
2 inconveniences necessarily connected with the advantages of a free government. To avoid an arbitrary discretion
3 in the courts, it is indispensable that they should be bound down by strict rules [of statutory construction and
4 interpretation] and precedents, which serve to define and point out their duty in every particular case that
5 comes before them; and it will readily be conceived from the variety of controversies which grow out of the folly
6 and wickedness of mankind, that the records of those precedents must unavoidably swell to a very considerable
7 bulk, and must demand long and laborious study to acquire a competent knowledge of them."
8 [Federalist Paper No. 78, Alexander Hamilton]

9 If you would like to learn more about how to argue against this unscrupulous, injurious, presumptuous, and illegal tactic by
10 the government, see the following resources, a detailed analysis of the rules of statutory construction is contained in the
11 following publication on our website:

Legal Deception, Propaganda, and Fraud, Form #05.014
<http://sedm.org/Forms/FormIndex.htm>

12 If you want tools and techniques for combating the abuse of verbiage described in this section, then see:

- 13 1. The following form, which you can attach to any tax form and which defines all the terms on the form unambiguously
14 so that you don't become the victim of the injurious presumptions of others about your status:

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

- 15 2. The following form, which you can attach to your court pleadings which provides rules of presumption and definitions
16 used during litigation in order to prevent presumption and abuse by the judge or other parties to the litigation:

Rules of Presumption and Statutory Interpretation, Litigation Tool #01.006
<http://sedm.org/Litigation/LitIndex.htm>

17 **17.3 "individual" in the Internal Revenue Code means a HUMAN, not a corporation¹⁶**

False Argument: "Individual" in the Internal Revenue Code means a human being, not a corporation or public office.
It's ridiculous to assert otherwise.

Corrected Alternative Argument: "Individual" means ONLY either corporation franchises, who are the only CIVIL
STATUTORY "persons" or officers of such franchises. It doesn't mean a PRIVATE human not acting as a franchisee
and public officer.

Further information:

1. Why Your Government is Either a Thief or You are a "Public Officer" for Income Tax Purposes, Form #05.008
<http://sedm.org/Forms/FormIndex.htm>
2. Why Statutory Civil Law is Law for Government and Not Private Persons, Form #05.037
<http://sedm.org/Forms/FormIndex.htm>
3. The "Trade or Business" Scam, Form #05.001
<http://sedm.org/Forms/FormIndex.htm>

18 Legally ignorant government employees love to quote statutes and regulations out of context, and to write these statutes and
19 regulations to falsely appear overly broad to the neophyte. This is an abuse of the following maxim of the common law to
20 deceive people:

21 "Dolus versatur generalibus. A deceiver deals in generals. 2 Co. 34."

22 "Fraus latet in generalibus. Fraud lies hid in general expressions."

23 Generale nihil certum implicat. A general expression implies nothing certain. 2 Co. 34.

24 Ubi quid generaliter conceditur, in est haec exceptio, si non aliquid sit contra jus fasque. Where a thing is
25 concealed generally, this exception arises, that there shall be nothing contrary to law and right. 10 Co. 78.

¹⁶ Source: Flawed Tax Arguments to Avoid, Form #08.004, Section 8.17; <http://sedm.org/Forms/FormIndex.htm>.

All “general expressions” are presumed to be fraudulent. By “general expression” above, we mean:

1. The speaker is either not accountable or **REFUSES to be accountable** for the accuracy or truthfulness or definition of the word or expression.
2. Fails to recognize that there are multiple contexts in which the word could be used.
 - 2.1. CONSTITUTIONAL
 - 2.2. STATUTORY
3. **PRESUMES** that all contexts are equivalent, meaning that CONSTITUTIONAL and STATUTORY are equivalent.
4. Fails to identify the specific context implied on the form.
5. Fails to provide an actionable definition for the term that is useful as evidence in court.
6. Interferes with or even penalizes efforts by the applicant to define the terms on the forms to protect their right to change the context AFTER accepting the form.

For instance, some presumptuous government employees will use 26 C.F.R. §1.1411-1(d)(5) to conclude that “individual” is not limited to public offices or agents. They will wrongfully assert that this regulation defines “individual” as a “natural person” and unconstitutionally PRESUME that “natural person” and “human beings” are equivalent. Here’s the regulation:

Title 26: Internal Revenue
PART 1—INCOME TAXES (CONTINUED)

§1.1411-1 General rules.

(d) Definitions.

The following definitions apply for purposes of calculating net investment income under section 1411 and the regulations thereunder—

(5) The term individual means any natural person.

They will also try to misapply the above definition to tax WITHHOLDING, in violation of the following SUPERCEDING definition of “individual” that we frequently reference:

26 C.F.R. 1.1441-1 Requirement for the deduction and withholding of tax on payments to foreign persons.

(c) Definitions

(3) Individual.

(i) Alien individual.

The term alien individual means an individual who is not a citizen or a national of the United States. See Sec. 1.1-1(c).

Below is our response to such presumptuous and legally ignorant behavior:

1. The U.S. Supreme Court has held that the ability to regulate PRIVATE rights and PRIVATE conduct is repugnant to the constitution. Therefore, the ONLY regulating and taxing that Congress can do is PUBLIC entities. HUMAN BEINGS, by definition, are “PRIVATE” and only become PUBLIC when they CONSENT to a civil status created by Congress rather than the Constitution. Any government civil enforcement authority NOT originating from the CONSENT of the PRIVATE HUMAN is “unjust” as defined by the Declaration of Independence:

“The power to “legislate generally upon” life, liberty, and property, as opposed to the “power to provide modes of redress” against offensive state action, was “repugnant” to the Constitution. Id., at 15. See also United States v. Reese, 92 U.S. 214, 218 (1876) ; United States v. Harris, 106 U.S. 629, 639 (1883) ; James v. Bowman, 190 U.S. 127, 139 (1903). Although the specific holdings of these early cases might have been superseded or modified, see, e.g., Heart of Atlanta Motel, Inc. v. United States, 379 U.S. 241 (1964) ; United States v. Guest, 383 U.S. 745 (1966) , their treatment of Congress’ §5 power as corrective or preventive, not definitional, has not been questioned.”
[City of Boerne v. Flores, Archbishop of San Antonio, 521 U.S. 507 (1997)]

2. The following memorandum of law proves that all civil statutory “persons” are public offices in the government, and not private humans. Certainly, the CIVIL STATUTORY “individual” you reference must be included, because “individuals” are a subset of “persons” per 26 U.S.C. §7701(c).

Why Statutory Civil Law is Law for Government and Not Private Persons, Form #05.037
<http://sedm.org/Forms/FormIndex.htm>

3. You refer to 26 C.F.R. §1.1411-1 as your authority. The purpose of that section is ONLY to determine an "individuals" net income.

(d) Definitions.

The following definitions apply for purposes of calculating net investment income under section 1411 and the regulations thereunder—

4. The term "individual" is defined in your reference as a "natural person". "natural persons" are a SUBSET of "persons". The definition of "person" found in 26 U.S.C. §6671(b) and 7343 is consistent with the above, because it defines the "person" as an officer or employee of a corporation or partnership, which corporation is a federal and not state corporation, and which partnership is a partnership BETWEEN the "individual" they are talking about and that federal corporation. Everything else is PRIVATE and beyond their jurisdiction.

TITLE 26 > Subtitle F > CHAPTER 68 > Subchapter B > PART I > § 6671
§ 6671. Rules for application of assessable penalties

(b) Person defined

The term “person”, as used in this subchapter, includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

TITLE 26 > Subtitle F > CHAPTER 75 > Subchapter D > Sec. 7343.
Sec. 7343. - Definition of term "person"

The term “person” as used in this chapter [Chapter 75] includes an officer or employee of a corporation [U.S. Inc.], or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs

5. 26 U.S.C. §6041(a) limits reportable earnings to earnings connected to a "trade or business". You can't have income until it is "REPORTABLE". "trade or business" is earnings from a public office as defined in 26 U.S.C. §7701(a)(26). Anything that is not reportable is PRIVATE rather than PUBLIC. And NO, you can't interpret "trade or business" in its ordinary meaning because that violates the rules of statutory construction.

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

6. The U.S. Supreme Court held that Congress cannot establish a franchise tax upon a "trade or businesses" in states of the Union.

"Congress cannot authorize a trade or business within a State in order to tax it."
[License Tax Cases, 72 U.S. 462, 18 L.Ed. 497, 5 Wall. 462, 2 A.F.T.R. 2224 (1866)]

7. 26 U.S.C. §7701(a)(31) says earnings NOT connected to a "trade or business" are not "gross income" and are "foreign", meaning anything that is NOT public is not taxable.

26 U.S.C. §7701 - Definitions

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

(31) Foreign estate or trust

(A) Foreign estate

The term “foreign estate” means an estate the income of which, from sources without the United States [U.S. Inc. the government] which is not effectively connected with the conduct of a trade or business [public office, per 26 U.S.C. §7701(a)(26)] within the United States [U.S. Inc. the government corporation, not the geographical “United States”], is not includible in gross income under subtitle A.

8. The definition of “foreign” and “domestic” in the Internal Revenue Code hinges on whether the “person” is in fact a corporation. Hence, anything NOT a corporation and STATUTORY creation of Congress is legislatively “foreign” and therefore beyond the jurisdiction of Congress:

26 U.S. Code § 7701 – Definitions

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

(4) Domestic

The term “domestic” when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

(5) Foreign

The term “foreign” when applied to a corporation or partnership means a corporation or partnership which is not domestic.
[26 U.S.C. §7701(a)(4)-(5)]

Note that based on the above definitions, those who are NOT corporate statutory “persons” would be “foreign” rather than “domestic”, and a STATUTORY “[non-resident non-person](#)”. This STATUTORY “[non-resident non-person](#)” is described in 26 U.S.C. §7701(a)(31) as not engaged in a public office and whose property is a “foreign estate”. The “partnership” they are talking about in the above definition is the same partnership invoked in the definition of “person” at 26 U.S.C. §§6671(b) and 7343, which is a partnership between the United States Federal Corporation and an otherwise PRIVATE human or entity. That partnership gives rise to agency on behalf of said corporation, and the agency itself is the only proper subject of tax. Remember: Contracts create agency:

“All the powers of the government [including ALL of its civil enforcement powers against the public] must be carried into operation by individual agency, either through the medium of public officers, or contracts made with [private] individuals.”
[Osborn v. Bank of U.S., [22 U.S. 738](#) (1824)]

9. The U.S. Supreme Court, even to this day, has held that “income” means profit of corporations and not private humans.

“... ‘income’ as used in the statute should be given a meaning so as not to include everything that comes in, the true function of the words ‘gains’ and ‘profits’ is to limit the meaning of the word ‘income’”
[So. Pacific v. Lowe, 238 F. 847, 247 U.S. 30 (1918)(U.S. Dist. Ct. S.D. N.Y. 1917)]

“The Sixteenth Amendment declares that Congress shall have power to levy and collect taxes on income, “from [271 U.S. 174] whatever source derived,” without apportionment among the several states and without regard to any census or enumeration. It was not the purpose or effect of that amendment to bring any new subject within the taxing power. Congress already had power to tax all incomes. But taxes on incomes from some sources had been held to be “direct taxes” within the meaning of the constitutional requirement as to apportionment. Art. 1, § 2, cl. 3, § 9, cl. 4; Pollock v. Farmers’ Loan & Trust Co., 158 U.S. 601. The Amendment relieved from that requirement, and obliterated the distinction in that respect between taxes on income that are direct taxes and those that are not, and so put on the same basis all incomes “from whatever source derived.” Brushaber v. Union P. R. Co., 240 U.S. 1, 17. “Income” has been taken to mean the same thing as used in the Corporation Excise Tax Act of 1909, in the Sixteenth Amendment, and in the various revenue acts subsequently passed. Southern

Pacific Co. v. Lowe, 247 U.S. 330, 335; *Merchants' L. & T. Co. v. Smietanka*, 255 U.S. 509, 219. After full consideration, this Court declared that income may be defined as gain derived from capital, from labor, or from both combined, including profit gained through sale or conversion of capital. *Stratton's Independence v. Howbert*, 231 U.S. 399, 415; *Doyle v. Mitchell Brothers Co.*, 247 U.S. 179, 185; *Eisner v. Macomber*, 252 U.S. 189, 207. And that definition has been adhered to and applied repeatedly. See, e.g., *Merchants' L. & T. Co. v. Smietanka*, supra; 518; *Goodrich v. Edwards*, 255 U.S. 527, 535; *United States v. Phellis*, 257 U.S. 156, 169; *Miles v. Safe Deposit Co.*, 259 U.S. 247, 252-253; *United States v. Supplee-Biddle Co.*, 265 U.S. 189, 194; *Irwin v. Gavitt*, 268 U.S. 161, 167; *Edwards v. Cuba Railroad*, 268 U.S. 628, 633. In determining what constitutes income, substance rather than form is to be given controlling weight. *Eisner v. Macomber*, supra, 206. [271 U.S. 175]" [*Bowers v. Kerbaugh-Empire Co.*, 271 U.S. 170, 174 (1926)]

The above rulings have NEVER been contradicted and SILENCE and evasion are the only result when this glaring fact is asserted. Watch the interview below with a former IRS commissioner presented with the above definitions of "income". He can't explain why the above rulings DON'T apply even though they have never been overruled. He quickly dismissed it as "irrelevant", which betrays him as a lawless, anarchistic, CRIMINAL FINANCIAL TERRORIST.

Interview of Former IRS Commissioner Shelton Cohen by Aaron Russo, SEDM Exhibit #11.401
<http://sedm.org/Exhibits/ExhibitIndex.htm>

Therefore:

1. The "individual" they are talking about is ACTING as an officer of a NATIONAL/FEDERAL and not STATE corporation. That corporation, in turn, is an instrumentality of U.S. Inc. the grantor of the franchise.

At common law, a "corporation" was an "artificial perso[n] endowed with the legal capacity of perpetual succession" consisting either of a single individual (termed a "corporation sole") or of a collection of several individuals (a "corporation aggregate"). 3 H. Stephen, *Commentaries on the Laws of England* 166, 168 (1st Am. ed. 1845). The sovereign was considered a corporation. See *id.*, at 170; see also 1 W. Blackstone, *Commentaries* *467. Under the definitions supplied by contemporary law dictionaries, Territories would have been classified as "corporations" (and hence as "persons") at the time that 1983 was enacted and the Dictionary Act recodified. See W. Anderson, *A Dictionary of Law* 261 (1893) ("All corporations were originally modeled upon a state or nation"); 1 J. Bouvier, *A Law Dictionary Adapted to the Constitution and Laws of the United States of America* 318-319 (11th ed. 1866) ("In this extensive sense the United States may be termed a corporation"); *Van Brocklin v. Tennessee*, 117 U.S. 151, 154 (1886) ("The United States is a . . . great corporation . . . ordained and established by the American people") (quoting *United* [495 U.S. 182, 202] *States v. Maurice*, 26 F. Cas. 1211, 1216 (No. 15,747) (CC Va. 1823) (*Marshall, C. J.*)); *Cotton v. United States*, 11 How. 229, 231 (1851) (*United States* is "a corporation"). See generally *Trustees of Dartmouth College v. Woodward*, 4 Wheat. 518, 561-562 (1819) (explaining history of term "corporation"). [*Ngiraingas v. Sanchez*, 495 U.S. 182 (1990)]

2. The definition of "Individual" you provide is a ruse that is limited to a very specific context ONLY. It is presented as overly broad to make you think that all human beings ("natural persons") are included, when it has to limit itself to PUBLIC OFFICER humans acting as agents of the government.

"*Loughborough v. Blake*, 5 Wheat. 317, 5 L.Ed. 98, was an action of trespass or, as appears by the original record, replevin, brought in the circuit court for the District of Columbia to try the right of Congress to impose a direct tax for general purposes on that District. 3 Stat. at L. 216, chap. 60. It was insisted that Congress could act in a double capacity: in one as legislating [182 U.S. 244, 260] for the states; in the other as a local legislature for the District of Columbia. In the latter character, it was admitted that the power of levying direct taxes might be exercised, but for District purposes only, as a state legislature might tax for state purposes; but that it could not legislate for the District under art. 1, 8, giving to Congress the power 'to lay and collect taxes, imposts, and excises,' which 'shall be uniform throughout the United States,' inasmuch as the District was no part of the United States [described in the Constitution]. It was held that the grant of this power was a general one without limitation as to place, and consequently extended to all places over which the government extends; and that it extended to the District of Columbia as a constituent part of the United States. The fact that art. 1, 2, declares that 'representatives and direct taxes shall be apportioned among the several states . . . according to their respective numbers' furnished a standard by which taxes were apportioned, but not to exempt any part of the country from their operation. The words used do not mean that direct taxes shall be imposed on states only which are represented, or shall be apportioned to representatives; but that direct taxation, in its application to states, shall be apportioned to numbers.' That art. 1, 9, 4, declaring that direct taxes shall be laid in proportion to the census, was applicable to the District of Columbia, 'and will enable Congress to apportion on it its just and equal share of the burden, with the same accuracy as on the respective states. If the tax be laid in this proportion, it is within the very words of the restriction. It is a tax in proportion to the census or enumeration referred to.' It was further held that the words of the 9th section did not 'in terms require that the system of direct taxation, when resorted to, shall be extended to the territories, as the words of the 2d section require that it shall be extended to

all the states. They therefore may, without violence, be understood to give a rule when the territories shall be taxed, without imposing the necessity of taxing them.”
[Downes v. Bidwell, 182 U.S. 244 (1901)]

3. The tax is on AGENCY on behalf of the government, and not upon the PRIVATE human contractually exercising such agency, per the above.
4. One should always consider the CONTEXT in which ambiguous definitions are provided. Lack of knowledge of the above contextual information can lead to false conclusions.

We prove all the above facts and conclusions with evidence at:

Why Your Government is Either a Thief or You are a “Public Officer” for Income Tax Purposes, Form #05.008
FORMS PAGE: <http://sedm.org/Forms/FormIndex.htm>
DIRECT LINK: <http://sedm.org/Forms/05-MemLaw/WhyThiefOrPubOfficer.pdf>

18 ChatGPT-4 AI Chatbot Answers to Questions About Information Returns

The Openai Chatbot is a useful source of legal discovery to get answers to legal questions surrounding information returns. It took the bar exam and outscored 90% of the participants. This section contains answers to our questions about information returns. You can open your own free account and ask your own questions at:

<http://chat.openai.com>

If you would like to know more about how to conduct legal discovery, including how to use AI to do so, or if you would like to see the hundreds of other legal questions we asked of AI and their answers, see:

Hot Topics: Discovery, FOIA, Privacy Act, and Records Correction, SEDM
<https://sedm.org/foia-and-records-correction/>

Below the following line is a list of our questions and corresponding answers.

QUESTION: Is there more than one type of public officer? Can one be a public official without being a public officer?

ANSWER: Yes, there are different types of public officers, and it is possible to be a public official without being a public officer.

Generally speaking, a public officer is someone who holds a government position and has certain official duties and responsibilities, such as a police officer, a judge, or a member of a legislative body. Public officers are typically appointed or elected to their positions and are subject to certain legal requirements and ethical standards.

However, there are other types of public officials who may not necessarily be considered public officers. For example, a government employee who does not hold an official position, but who has the authority to make decisions or take actions on behalf of the government, may be considered a public official. Similarly, a person who serves on a government commission or board in an advisory capacity may also be considered a public official, even if they do not hold an official position or have official duties.

The distinction between a public officer and a public official is not always clear-cut and can vary depending on the context and the specific legal framework involved. However, in general, a public officer is a government official who holds an official position and has official duties and responsibilities, while a public official is a person who is involved in the affairs of government in some capacity, whether or not they hold an official position or have official duties.

QUESTION: Is a statutory "employee" under 5 U.S.C. §2105 both a public official and a public officer?

Under 5 U.S.C. §2105, an "employee" is defined as an individual employed in or under an agency, including a person employed under a contract or other agreement. However, the statute does not specifically address whether such an employee would be considered a public official or a public officer.

In general, the distinction between public officials and public officers can be a nuanced one, and may depend on the specific legal framework and context involved. As noted in my previous response, a public officer is typically someone who holds a government position and has official duties and responsibilities, while a public official is a broader term that can encompass a wide range of individuals involved in government affairs, whether or not they hold an official position or have official duties.

Based on this understanding, it is possible that a statutory "employee" under 5 U.S.C. §2105 could be considered a public official, but may not necessarily be considered a public officer. This would depend on the specific facts and circumstances of the case, as well as the legal framework and context involved.

QUESTION: Doesn't 5 U.S.C. §2105(a) describe "employees" as "officers"? Doesn't that make them a public officer?

ANSWER: You are correct that 5 U.S.C. §2105(a) describes "employee" as including "officer[s]". The statute defines an employee as "an officer and an individual who is employed in a position in the executive branch or legislative branch, other than a position excluded from coverage."

Based on this definition, it is possible that a statutory "employee" under 5 U.S.C. §2105 could be considered a public officer, as the definition of "employee" explicitly includes the term "officer." However, the term "officer" may have a different legal meaning in the context of 5 U.S.C. §2105 than it does in other contexts, and the specific legal framework and context involved would need to be considered to determine whether a statutory "employee" would be considered a public officer.

QUESTION: Does the definition of "trade or business" found in 26 U.S.C. §7701(a)(26) include "employees" found in 5 U.S.C. §2105?

ANSWER: No, the definition of "trade or business" found in 26 U.S.C. §7701(a)(26) does not specifically include "employees" found in 5 U.S.C. §2105.

The definition of "trade or business" in 26 U.S.C. §7701(a)(26) is a term used for tax purposes, and is defined as any activity carried on for the production of income from selling goods or performing services. This definition does not specifically mention "employees" or any other type of individual or entity.

On the other hand, 5 U.S.C. §2105 defines an "employee" as an individual employed in or under an agency, which includes individuals employed under a contract or other agreement. This definition is used in the context of federal employment, and is not directly related to tax law or the definition of "trade or business."

While there may be some overlap between the two definitions in certain circumstances (e.g. if an individual is both an employee under 5 U.S.C. §2105 and engaged in a trade or business for tax purposes), the two definitions serve different purposes and should not be conflated.

QUESTION: Is it possible to exercise "the functions of a public office" under 26 U.S.C. §7701(a)(26) and NOT work as an agent or officer of the national government?

It is possible to exercise "the functions of a public office" under 26 U.S.C. §7701(a)(26) and not work as an agent or officer of the national government, as the definition of "trade or business" in that provision does not require that the activity be performed on behalf of the government.

The term "the functions of a public office" is not defined in the Internal Revenue Code, but generally refers to activities that are typically performed by government officials or employees in the course of their official duties. However, this does not necessarily mean that the activity is performed on behalf of the government or that the individual performing the activity is acting as an agent or officer of the government.

For example, a private attorney who provides legal services to the public may be said to be exercising "the functions of a public office" in the sense that they are performing a service that is typically associated with government officials or

1 employees. However, the attorney is not necessarily acting as an agent or officer of the government in the performance of
2 those services.

3 Similarly, a private individual who provides education or healthcare services to the public may be said to be exercising "the
4 functions of a public office" in a broad sense, but may not be acting as an agent or officer of the government in the performance
5 of those services.

6 In short, the term "the functions of a public office" can be broadly construed to include activities that are typically associated
7 with government officials or employees, but this does not necessarily mean that the activity is being performed on behalf of
8 the government or that the individual performing the activity is acting as an agent or officer of the government.

9 **QUESTION:** If the earnings produced during the "trade or business" activity are owned partially or wholly by the
10 government as public property, wouldn't that ultimately make them responsible for the consequences of the activity? Don't
11 ownership and responsibility always go together?

12 **ANSWER:** The answer to this question depends on the specific legal framework and context involved.

13 In general, ownership and responsibility do often go together, and if the government owns a portion or all of the earnings
14 produced during a "trade or business" activity, it could be said that the government bears some responsibility for the
15 consequences of the activity.

16 However, the precise nature and extent of the government's responsibility would depend on a variety of factors, including the
17 legal relationship between the government and the entity or individual carrying out the activity, the specific laws and
18 regulations governing the activity, and the specific facts and circumstances of the situation.

19 For example, if a private individual or entity is carrying out a "trade or business" activity on government-owned property, the
20 government may bear some responsibility for ensuring that the activity is conducted in a safe and lawful manner, and may be
21 subject to liability if it fails to do so. Similarly, if the government is a partner or joint owner in a business venture, it may bear
22 some responsibility for the consequences of the activity, but the extent of that responsibility would depend on the terms of
23 the partnership agreement and applicable laws.

24 In short, ownership and responsibility are often closely linked, but the specific legal framework and context involved would
25 need to be considered to determine the extent of the government's responsibility for the consequences of a "trade or business"
26 activity.

27 **QUESTION:** By what legal authority can the government own or control the office associated with "trade or business" if
28 the person filling the office does so involuntarily? They can't control property that doesn't belong to them and that property
29 did not perform the service but the human filling it did, isn't that stealing and slavery?

30 **ANSWER:** Under normal circumstances, the government does not have the authority to own or control the office associated
31 with a "trade or business" if the person filling the office does so involuntarily. In general, the government does not have the
32 power to force individuals to work against their will or to compel them to perform a particular job or service.

33 However, there are certain circumstances in which the government may have the authority to regulate or control certain types
34 of employment or business activities, such as through licensing and permitting requirements, workplace safety regulations,
35 or labor laws. In these cases, the government is not necessarily owning or controlling the office associated with the "trade or
36 business," but is rather exercising its authority to regulate and oversee certain aspects of the activity.

37 It is important to note that the concept of "public property" generally refers to property that is owned by the government and
38 used for public purposes, such as public parks, government buildings, or public infrastructure. It does not typically refer to
39 the office or position associated with a "trade or business" activity, unless that position is directly tied to a specific
40 government-owned property or facility.

41 Regarding the issue of involuntary servitude or slavery, the Thirteenth Amendment to the U.S. Constitution prohibits
42 involuntary servitude and slavery, except as a punishment for a crime. Any attempt by the government to force individuals
43 to work against their will or to compel them to perform a particular job or service would be unconstitutional and illegal.

1 **QUESTION:** Is the "public office" described in 26 U.S.C. §7701(a)(26) public or government property, or private property?

2 **ANSWER:** The term "public office" as used in 26 U.S.C. §7701(a)(26) generally refers to a position of authority or trust
3 held by an individual in the public sector. It does not typically refer to public or government property, but rather to a public
4 servant's official duties and responsibilities.

5 Therefore, the "public office" described in 26 U.S.C. §7701(a)(26) is not considered public or government property, but rather
6 a public or governmental function or service performed by an individual in their capacity as a public servant. The property
7 or assets used by the public servant in carrying out their official duties would typically be considered public or government
8 property, but the "public office" itself is not a form of property.

9 **QUESTION:** Is it lawful to force a human to fill the public office described in 26 U.S.C. §7701(a)(26)?

10 **ANSWER:** Under normal circumstances, it is not lawful to force a human to fill the public office described in 26 U.S.C.
11 §7701(a)(26). The US Constitution prohibits involuntary servitude and slavery, except as a punishment for a crime. Therefore,
12 individuals must be free to choose whether or not to accept a public office.

13 However, there are certain situations where the government may require individuals to perform certain duties as part of their
14 public office, such as serving on a jury or performing military service. In these situations, individuals are required to fulfill
15 their obligations as part of their civic duty or national defense.

16 It is important to note that the requirements for holding a particular public office may vary depending on the specific position
17 and jurisdiction. Generally, individuals must meet certain qualifications and requirements in order to hold a public office,
18 such as being a citizen of the United States, meeting certain age and residency requirements, and passing background checks
19 or other evaluations.

20 **QUESTION:** If the office described in 26 U.S.C. §7701(a)(26) is not public or government property, by what authority does
21 the government claim a property interest in its performance or exercise? Wouldn't that be stealing?

22 **ANSWER:** The government's claim of a property interest in the performance or exercise of the public office described in 26
23 U.S.C. §7701(a)(26) is based on the fact that the office is a position of public trust and carries with it certain responsibilities
24 and duties that are necessary for the functioning of government and the provision of public services.

25 While the office itself may not be considered public or government property, the government has a legitimate interest in
26 ensuring that the individual holding the office fulfills their responsibilities and duties in a manner that is consistent with the
27 public interest. This may include establishing certain qualifications and requirements for holding the office, as well as
28 monitoring and regulating the performance of those who hold the office.

29 Furthermore, the government's authority to regulate and oversee the performance of public officials is generally derived from
30 the power and authority granted to it by the US Constitution and other laws. This includes the power to establish and enforce
31 laws and regulations related to public service and the performance of public duties.

32 It is important to note that the government's authority to regulate and oversee public officials is not absolute, and is subject
33 to constitutional limitations and protections. Public officials are generally entitled to certain rights and protections under the
34 US Constitution, including the right to due process and the right to freedom of speech and expression.

35 **QUESTION:** Doesn't Black's Law Dictionary define "rights" as property? Doesn't the public office described in 26 U.S.C.
36 §7701(a)(26) exercise "public rights" granted and therefore owned by its grantor, the U.S. Congress?

37 **ANSWER:** Black's Law Dictionary does define "rights" as a type of property, but it is important to note that not all rights
38 are necessarily considered property in the traditional sense of the term.

39 In the context of the public office described in 26 U.S.C. §7701(a)(26), it can be argued that the individual holding the office
40 exercises certain public rights that are granted by the US Congress. These public rights may include the power and authority
41 to carry out certain governmental functions or to perform certain public services on behalf of the government.

1 However, it is important to note that the public office itself is not considered property, and the individual holding the office
2 does not own the rights or powers associated with the office. Rather, these rights and powers are granted by the government
3 and are subject to regulation and oversight by the government.

4 Furthermore, the government's authority to regulate and oversee public officials is generally based on its duty to protect the
5 public interest and ensure that public officials carry out their duties in a manner that is consistent with the public trust. This
6 duty is derived from the power and authority granted to the government by the US Constitution and other laws, and is not
7 based on ownership of property or rights.

8 **QUESTION:** Isn't the creator and grantor of the public right such as the "public office" described in 26 U.S.C. §7701(a)(26)
9 always the owner?

10 **ANSWER:** It can be argued that the creator and grantor of a public right, such as the US Congress in the case of the public
11 office described in 26 U.S.C. §7701(a)(26), is the owner of that right. This is because the grantor has the power to create and
12 regulate the right, and to define the scope of the right and the duties and responsibilities associated with exercising that right.

13 However, it is important to note that the concept of ownership can be complex and multifaceted, and may not always be
14 straightforward in the case of public rights. The government's role in regulating and overseeing public officials and public
15 services is based on a complex web of legal principles, including the public trust doctrine, the separation of powers, and the
16 duty to protect the public interest.

17 Furthermore, the government's authority over public officials is generally not based on ownership of the public rights
18 associated with the office, but rather on its duty to ensure that public officials carry out their duties in a manner that is
19 consistent with the public trust and serves the public interest. This duty is derived from the power and authority granted to
20 the government by the US Constitution and other laws, and is not based solely on ownership of property or rights.

21 **QUESTION:** Are those exercising the "public office" described in 26 U.S.C. §7701(a)(26) public officials, public officers,
22 or both?

23 **ANSWER:** The "public office" described in 26 U.S.C. §7701(a)(26) is typically associated with a position in government or
24 a public agency, and is therefore commonly considered to be a type of public office. Those who fill these positions are
25 generally referred to as public officials or public servants.

26 The terms "public official" and "public officer" are often used interchangeably, but they can have different meanings in
27 different contexts. In general, a public official is someone who holds a position of public trust or authority, and is responsible
28 for carrying out the duties of that position in a manner that serves the public interest. A public officer, on the other hand, is
29 someone who has been appointed or elected to a particular public office or position, and has specific duties and responsibilities
30 associated with that position.

31 In the case of the "public office" described in 26 U.S.C. §7701(a)(26), those who fill these positions are typically considered
32 to be public officials, as they are responsible for carrying out their duties in a manner that serves the public interest. However,
33 in some cases, they may also be considered public officers, particularly if they have been appointed or elected to a particular
34 position within the government or public agency.

35 **QUESTION:** Can those who are operating on behalf of and representing another under a delegation order lawfully exercise
36 the "public office" described in 26 U.S.C. §7701(a)(26) if their delegation order forbids doing so?

37 **ANSWER:** If an individual is operating on behalf of and representing another under a delegation order, they must abide by
38 the terms and conditions of that order. If the delegation order specifically prohibits the individual from exercising the "public
39 office" described in 26 U.S.C. §7701(a)(26), then it would not be lawful for them to do so.

40 Delegation orders are typically issued by the entity or individual with the authority to delegate the power or responsibility
41 associated with a particular public office. These orders may impose conditions or limitations on the exercise of that power or
42 responsibility, and may also impose penalties for failure to comply with those conditions or limitations.

1 If an individual is found to have violated the terms of their delegation order by exercising the "public office" described in 26
2 U.S.C. §7701(a)(26) in a manner that is prohibited by that order, they could be subject to legal consequences, such as the
3 revocation of their delegation order or other disciplinary action.

4 **QUESTION:** Specifically what must those who are compelled against their consent to occupy the "public office" described
5 in 26 U.S.C. §7701(a)(26) do to ensure that the property they earn from their private labor while filling the compelled office
6 remains their exclusive and private property that is not shared with the government?

7 **ANSWER:** It is important to note that the term "compelled" in this context is subject to interpretation and may vary
8 depending on the specific circumstances. However, assuming that an individual is lawfully occupying the "public office"
9 described in 26 U.S.C. §7701(a)(26) and wishes to ensure that their private property remains exclusive and not shared with
10 the government, there are a few key steps they may consider:

11 1. Review the terms and conditions of any delegation order or appointment that authorized them to occupy the public office.
12 This may include any statutes, regulations, or other legal documents that define the scope and limits of their authority.

13 2. Clarify the nature of any compensation or earnings that are associated with the public office. This may include reviewing
14 the terms of any employment contract or other agreements that govern their compensation.

15 3. Seek the advice of legal counsel to ensure that they fully understand their legal rights and obligations. This may involve
16 consulting with an attorney who specializes in tax law or government affairs.

17 4. Keep detailed records of any income or property that is earned while occupying the public office. This may include
18 maintaining records of all earnings, expenses, and other financial transactions associated with their work.

19 5. Comply with all applicable tax laws and regulations. This may involve filing accurate and timely tax returns and paying
20 any taxes that are owed.

21 By taking these steps, individuals who occupy the "public office" described in 26 U.S.C. §7701(a)(26) may be able to ensure
22 that their private property remains exclusive and not shared with the government, to the extent allowed by law. However, it
23 is important to note that the specific legal and factual circumstances of each case can vary widely, and individuals may need
24 to seek personalized legal advice to fully understand their rights and obligations.

25 **QUESTION:** You misunderstood me. I said the office is filled under duress. As such, they couldn't possibly be exercising
26 it lawfully. What must those who are compelled under duress to occupy the "public office" described in 26 U.S.C.
27 §7701(a)(26) and who therefore could not possibly be exercising it lawfully do to ensure that the property they earn from
28 their labor while filling the compelled office remains their exclusive and private property that is not shared with the
29 government?

30 **ANSWER:** I apologize for the misunderstanding. If someone is being compelled to occupy a public office under duress and
31 is therefore not lawfully exercising it, they may need to seek legal assistance to challenge the duress and the legality of their
32 compelled occupation of the office. Depending on the specific circumstances, they may need to file a lawsuit, seek an
33 injunction, or take other legal action to protect their property rights. It would be best for them to consult with an attorney
34 familiar with the relevant laws and regulations to determine their best course of action.

35 **QUESTION:** Is it lawful for a third party to in effect "appoint" or "elect" someone into a public office who does not consent?
36 By this I mean they identify the target of the false information return as engaged in the "public office" described in 26 U.S.C.
37 §7701(a)(26). Information returns are filed under the authority of 26 U.S.C. §6041, which requires that they may only be
38 filed in the case of PAYERS engaged in a "trade or business" and therefore a public office.

39 **ANSWER:** No, it is not lawful for a third party to appoint or elect someone into a public office who does not consent. In
40 fact, the Constitution of the United States prohibits the involuntary servitude or forced labor of any person except as a
41 punishment for a crime whereof the party shall have been duly convicted. This means that a person cannot be forced into a
42 public office or any other position of labor against their will, even if a third party identifies them as engaged in such a position.
43 If a person is falsely identified as engaged in the "public office" described in 26 U.S.C. §7701(a)(26) and subjected to false
44 information returns, they may have legal recourse to challenge the false identification and seek remedies for any harm or
45 damages caused by such actions.

QUESTION: Who would that legal recourse be directed at? The government that fooled third parties into filing these false reports, or only the IDIOT who filed them?

ANSWER: The legal recourse would depend on the specific circumstances of the case. If the government intentionally misled or coerced third parties into filing false reports, then legal action could potentially be taken against the government. However, if the third party who filed the false report did so without coercion or deception from the government, they may be held liable for their actions. Ultimately, the appropriate legal recourse would depend on the specific facts and circumstances of the case.

QUESTION: If the party who was the target of the false information return was a nonresident alien and the person filing the false information return compelled the use of a social security number, and 26 C.F.R. §301.6109-1 says the SSN can only be compelled if the nonresident alien is engaged in the "public office" described in 26 U.S.C. §7701(a)(26), doesn't that mean that the party filing the false information return is FORCING the nonresident alien to occupy and satisfy the duties of a public office?

ANSWER: No, that is not an accurate interpretation of the regulations. 26 C.F.R. §301.6109-1 provides that a social security number (SSN) may be required to be provided in connection with a tax return, information return, or other tax-related document. It does not address whether or not a person is engaged in a public office under 26 U.S.C. §7701(a)(26).

In addition, the use of an SSN by a nonresident alien for tax purposes is governed by a separate set of regulations found in 26 C.F.R. §301.6109-1(d)(3)(i). These regulations provide that a nonresident alien individual who is required to furnish a taxpayer identification number (TIN) may apply for an individual taxpayer identification number (ITIN) if the individual is not eligible to obtain an SSN.

Therefore, the filing of a false information return against a nonresident alien individual would be a separate issue from whether or not that individual is engaged in a public office under 26 U.S.C. §7701(a)(26), and the use of an SSN or ITIN for tax purposes is governed by separate regulations.

QUESTION: I'm not talking about a nonresident alien who is in fact an alien. I'm talking about a nonresident alien who is a NATIONAL and NOT an alien. What about THEM?

ANSWER: I apologize for the confusion earlier. If the nonresident alien is a U.S. national, then they may still be subject to U.S. tax laws, depending on their specific circumstances.

However, regardless of their status, if someone is being falsely reported as occupying a public office under 26 U.S.C. §7701(a)(26) and is being compelled to use a social security number, and they did not voluntarily accept or occupy the office, then they may have legal recourse against the party or parties who are responsible for filing the false information return and/or compelling them to use the social security number. They may also have legal recourse against any party who is knowingly or recklessly participating in the filing of these false reports.

This could include filing a lawsuit for defamation, invasion of privacy, or other legal claims, depending on the specific facts and circumstances of the case. It is recommended that they consult with an experienced attorney who can advise them on their legal rights and options.

QUESTION: What is the recommended method legal recourse to correct knowingly false information returns such as IRS Form W-2 by those who are the target of them and which the filer refuses to correct, even after being notified?

ANSWER: If you have notified the filer of a false Form W-2 and they refuse to correct it, there are several options you can consider:

1. Contact the IRS: You can contact the IRS and report the false Form W-2. The IRS may investigate the matter and take enforcement action against the filer if appropriate.

2. File a complaint with the Social Security Administration (SSA): The SSA administers the Social Security program, including the issuance of Social Security numbers (SSNs) and the processing of Form W-2s. You can file a complaint with the SSA if you believe that your SSN has been misused or if you suspect that someone has filed a false Form W-2 using your SSN.

3. File a lawsuit: If the false Form W-2 has caused you damages, such as lost wages or other harm, you may be able to file a lawsuit against the filer for fraud or other legal claims.

It is recommended that you consult with a qualified attorney or tax professional to determine the best course of action based on your individual circumstances.

QUESTION: Has there ever been a case in federal court where the private employers have been successfully prosecuted in 26 U.S.C. §7207 for filing a false information return, such as a W-2, against someone who didn't want to be an "employee" as described in 26 U.S.C. §3401(c) and instead who was a nonresident alien not engaged in a trade or business?

ANSWER: I'm not aware of any specific cases where a private employer has been successfully prosecuted under 26 U.S.C. §7207 for filing a false information return against someone who did not want to be classified as an "employee" under 26 U.S.C. §3401(c) and was a nonresident alien not engaged in a trade or business. However, that does not necessarily mean that such cases have never occurred. The legal system is complex, and there have been many cases involving the tax code over the years. It is possible that there have been cases that are similar to the situation you describe, but without more specific information, I cannot say for sure.

19 Frequently Asked Questions

Q1: What is the difference between the approach of this website and that of Pete Hendrickson's Lost Horizon's Website, which focuses on the same "trade or business" subject?

A1: An exhaustive list of differences between our approach and that of Pete Hendrickson's approach is contained in the following document:

Policy Document: Pete Hendrickson's "Trade or Business" Approach, Form #08.003
<http://sedm.org/Forms/FormIndex.htm>

For additional information about Pete Hendrickson, see:

1. *Liberty University*, Section #9.6
<http://sedm.org/LibertyU/LibertyU.htm>
2. *Policy Document: Pete Hendrickson's "Trade or Business" Approach*, Form #08.003

Q2: What if I don't have the original information returns that I want to zero out that I can take the original information from to put on the corrected forms?

A2: You can call the provider and ask them to fax you the original information returns again. Alternatively, you can file a corrected information return that simply says "All sources" under item 5 on the 4852 form.

Q3: Is it ever too late to submit these forms for past years?

A3: No. There is never a wrong time to do the right thing. As long as the government has records of receipt of "gross income", then it is our duty to rebut the wrong evidence, no matter how old it is, because sooner or later, they will use it to come back to us and demand that we either file or pay.

Q4: Should I fill out the corrected information returns for past years, or only for the years they are going after me for?

A4: It's always safest to file corrected information returns for all years that a person didn't file a return. This is a preventive measure if they decide later on to go after a person later for those years.

20 Resources for further study and rebuttal

A number of additional resources are available for those who wish to further investigate the contents of the pamphlet:

1. Government Instituted Slavery Using Franchises, Form #05.030-explains how franchises such as a "trade or business" are abused by the government to enslave people against their will
<http://sedm.org/Forms/FormIndex.htm>
2. Federal and State Tax Withholding Options for Private Employers, Form #09.001: Free book that exhaustively covers tax withholding.
<http://sedm.org/Forms/FormIndex.htm>
3. Federal Tax Withholding, Form #04.102: Brief summary of content of the above book. For busy managers and payroll people.
<http://sedm.org/Forms/FormIndex.htm>
4. Income Tax Withholding and Reporting Course, Form #12.004: Short and succinct training course on federal income tax withholding and reporting.
<http://sedm.org/Forms/FormIndex.htm>
5. Tax Withholding and Reporting: What the Law Says, Form #04.103: Short tabular summary of tax withholding and reporting laws you can use to educate payroll managers, executives, and company counsel.
<http://sedm.org/Forms/FormIndex.htm>
6. The "Trade or Business" Scam, Form #05.001. Describes the federal franchise or "public right" that the federal income tax is built upon, and how it results in a surrender of both rights and or equal protection..
<http://sedm.org/Forms/FormIndex.htm>
7. Resignation of Compelled Social Security Trustee, Form #06.002. Describes the federal franchise or "public right" which is the chief means for manufacturing federal "taxpayers" under the Internal Revenue Code, how it results in a surrender of Constitutional rights and equal protection, and how to quit the system.
<http://sedm.org/Forms/FormIndex.htm>
8. Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction, Form #05.017
<http://sedm.org/Forms/FormIndex.htm>
9. IRS Links:
 - 9.1. Am I required to file a Form 1099 or other information return?, Internal Revenue Service
<https://www.irs.gov/businesses/small-businesses-self-employed/am-i-required-to-file-a-form-1099-or-other-information-return>
 - 9.2. A Guide To Information Returns, Internal Revenue Service
<https://www.irs.gov/businesses/small-businesses-self-employed/a-guide-to-information-returns>
10. IRS Customer Service:
 - 10.1. Toll Free: 1-866-455-7438
 - 10.2. Direct: 1-304-263-8700 (not toll free) 8:30 a.m. – 4:30 p.m. EST.
 - 10.3. TTY/TDD: 1-304-267-3367 (not toll free) 8:30 a.m. – 4:30 p.m. EST.
 - 10.4. E-mail: mccirp@irs.gov
11. IRS Publication 1220: Specifications for Filing Forms 1098, 1099, 5498, and W-2G Electronically or Magnetically using IBN 3480, 3490, 3590, AS400 compatible tape cartridges
<http://www.irs.gov/pub/irs-pdf/p1220.pdf>
12. Internal Revenue Manual (I.R.M.), Section 21.3.11: Information Returns Reporting Procedures
https://www.irs.gov/irm/part21/irm_21-003-011
13. IRS Publication 1582: Information Returns Vendor List
<http://www.irs.gov/pub/irs-pdf/p1582.pdf>
14. Internal Revenue Manual (I.R.M.), Section 20.1.7: Information Return Penalties
https://www.irs.gov/irm/part20/irm_20-001-007r
15. Challenging an Information Return, Internal Revenue Service, Form #04.010
<https://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/Challenging-information-returns-2023ntf-09.pdf>