

“U.S. PERSON” POSITION



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1 Introduction

The only tax position advocated on the Sovereignty Education and Defense Ministry (SEDM) is the Nonresident Alien Position described in the following:

1. Foreign Tax Status Information Group (FTSIG) Website
<https://ftsig.org>
2. Nonresident Alien Position Course, Form #12.045-simplified description to the only approach to taxation authorized for use by members of this site.
<https://sedm.org/LibertyU/NRA.pdf>
3. Proof That American Nationals are Nonresident Aliens, Form #09.081-this is the only authorized approach to taxation that members can take.
<https://sedm.org/Forms/09-Procs/ProofAnNRA.pdf>
4. Rebutted False Arguments About the Nonresident Alien Position When Used by American Nationals, Form #08.031
<https://sedm.org/Forms/08-PolicyDocs/RebArgNRA.pdf>

However, some people for the purposes of withholding and reporting prefer to use the U.S. Person Position described in this document in order to avoid arguments with the people they do commercial business with, and especially in the payroll and tax compliance departments of those associates. This short memorandum documents the evidence needed to carry out the U.S. Person Position in your interactions with the payroll and tax compliance departments of those you do business within the context mainly of withholding and reporting. Further information on withholding and reporting is found in the following:

Federal and State Tax Withholding Options for Private Employers, Form #09.001
<https://sedm.org/Forms/FormIndex.htm>

The U.S. Person Position has been implemented in the Internal Revenue Code since 1972. There was no such position before that time. However, all the way back to Jesus' time, the position has existed:

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

Peter said to Him, "From strangers [statutory "aliens"/"residents" ONLY. See 26 C.F.R. §1.1-1(a)(2)(ii) and 26 C.F.R. §1.1441-1(c)(3)]."

Jesus said to him, "Then the sons [of the King, Constitutional but not statutory "citizens" of the Republic, who are all sovereign "nationals" and "non-resident non-persons"] are free [sovereign over their own person and labor. e.g. SOVEREIGN IMMUNITY]."
[Matt. 17:24-27, Bible, NKJV]

The U.S. Person Position is most attractive to those licensed to practice law and who therefore will have their livelihood threatened and lose their license if they don't stay inside a code that doesn't apply to most of their clients or most Americans. That is why attorneys such as Larry Becraft use it or at least prefer it. Those not licensed to practice law and who therefore don't have to worry about telling the WHOLE truth in the court record or the courtroom are more likely to adopt the Non-Resident Non-Person Position referenced above.

Like any position one might take towards taxation, this position must be studied carefully before implementing it or you will destroy otherwise good remedies with bad case law created by implementing it improperly.

We gratefully acknowledge the significant and generous contributions of Gary Thomason to the content of this document, who was a friend of constitutional attorney Larry Becraft and to us for many years. He studied the subject of this memorandum carefully for over two decades and shared much of his research with us on this subject. He died on 11/10/2018. May he rest in peace.

The term "citizen" describes the political association the officer/agent has with the "United States" in its principal/political sense. The "United States" in its geographical sense describes the geographical extent of the officer/agent's federal jurisdiction. And the status--"U.S. person" is the agency/status of the officer/agent and thus, the property the Secretary of the Treasury can directly govern by statute and through supplementing regulations.

This is wildly important and is the final piece of the puzzle.

2 Nonresident Alien v. U.S. Person

This ministry takes the position that the only acceptable method of filing is Form 1040NR or Form 1040NR-EZ. Most Americans, on the other hand, if they file, will file a Form 1040. The following subsections will show you the differences between how most Americans normally file, and how members of this ministry must file so you see the changes that are ahead if you want to be compliant.

We would argue that the main reason most Americans file the Form 1040 is legal ignorance and the fact that it is much simpler than the Form 1040NR. This is a VERY costly approach in terms of money and freedom.

2.1 Tabular Comparison of Nonresident Alien Position to U.S. Person Position

The following table compares the two major approaches to taxation:

Table 1: Nonresident Alien Position v. U.S. Person Position

| # | Characteristic | Nonresident Alien Position | U.S. Person Position |
|----|---|---|---|
| 1 | Described in what form #? | Form #09.081 Form #05.020 Form #12.045 | Form #05.053 |
| 2 | Parties tax imposed on but NEVER "made liable" (See Form #08.024 for proof it's voluntary) | "nonresident aliens" engaged in a "trade or business". "Foreign estate" if no "trade or business" earnings per 26 U.S.C. §7701(a)(31) | Citizens of the United States** (federal zone) Residents of the United States** (federal zone) |
| 3 | Geographical area where it applies | 1. Worldwide for 26 U.S.C. §871(b) "trade or business" earnings upon GROSS RECEIPTS. 2. Geographical "United States" upon PROFIT under 26 U.S.C. §871(a). | Worldwide but parties are domiciled on federal territory. "Taxpayer" office and "officer" have two different domiciles. |
| 4 | Status established by | Filing 1040NR (changes status of SSN to "foreign person" per 26 C.F.R. §301.6109-1(g)(1)(i)) | Filing 1040 (changes status of SSN to "U.S. person" per 26 C.F.R. §301.6109-1(g)(1)(i)) |
| 5 | Popular among | Private humans | Those practicing law who are worried about losing their license |
| 6 | Amount of education/confrontation with withholding agents | High | Low |
| 7 | Allows for substitute forms in the regulations? | Yes | Yes |
| 8 | Citizenship of those who use it | POLITICAL citizens* | CIVIL/DOMICILED citizens**+D |
| 9 | Complexity | Very complex | Very simple |
| 10 | Requires modification of forms or defining terms to properly use for state domiciled parties? | Yes | Yes |
| 11 | Requires accepting a civil privilege? | No | Yes (CIVIL/DOMICILED "citizen**+D of the United States" and SSN/TIN) |
| 12 | Withholding form to use | Form W-8 (modified because not a statutory "individual" or "alien") | Modified W-9 (modified to define "U.S." to exclude that in 26 U.S.C. §7701(a)(9) and (a)(10)). DO NOT use W-4! |
| 13 | Tax Return Form | 1. Form 1040NR modified or with attachment. 2. No tax return required if not engaged in a public office and no income from "sources within the United States**" (federal zone) | 1040 modified or custom form |
| 14 | Subject to information return reporting? (See Form #04.001) | No | No |
| 15 | A STATUTORY "citizen of the United States" under 8 U.S.C. §1401? | No | Yes |
| 16 | A "national of the United States****" | Yes, in the case of those born and domiciled in a Constitutional state of the Union. | No |

| # | Characteristic | Nonresident Alien Position | U.S. Person Position |
|----|--|--|--|
| 17 | A “a person who, though not a citizen of the United States, owes permanent allegiance to the United States” per 8 U.S.C. §1101(a)(22)(B) | Yes, in the case of those born and domiciled in a U.S. possession | No |
| 18 | A STATUTORY “nonresident alien”? | 1. No for those not engaged in a public office. 2. Yes for those lawfully engaged in a public office. | No |
| 19 | A STATUTORY “individual” or “person”? | Not always. 1. 26 U.S.C. §873(b)(4) in the case of “nationals” taking privileged deductions and 2. 26 C.F.R. §1.1441-1(c)(3) in the case of aliens | Yes, but only when abroad per 26 U.S.C. §911(d)(1) as a “qualified individual” |
| 20 | Domiciled on federal territory? | No | Yes |
| 21 | Required to Use SSN or TIN on withholding documents? | No. 31 C.F.R. §306.10, Note 2, 31 C.F.R. §1020.410(b)(3)(x), 26 C.F.R. §301.6109-1(b)(2) | Yes. 26 C.F.R. §1.1441-1, 26 C.F.R. §301.6109-1(b)(1) |
| 22 | “gross income” subject to tax | Only earnings from the statutory geographical “United States” in 26 U.S.C. §7701(a)(9) and (a)(10) and 4 U.S.C. §110(d). Collectively called “the federal zone” or connected to a “trade or business” worldwide. See 26 U.S.C. §871. | Worldwide earnings. See: 1. Cook v. Tait, 265 U.S. 47 (1924). 2. 26 C.F.R. §1.1-1(b). |
| 23 | Deductions and exemptions on “gross income” | Only in the case of “effectively connected income” pursuant to 26 U.S.C. §871(b), 26 U.S.C. §873, and 26 U.S.C. §162. | 1. All earnings subject to deductions (because EVERYTHING earned is “trade or business” pursuant to 26 C.F.R. §1.1-1(b)) 2. Foreign earned income exclusion if abroad under 26 U.S.C. §911(b)(2). |
| 24 | Examples of U.S. sourced payments subject to withholding and reporting | 1. Social Security (26 U.S.C. §873(a)(3)) 2. Earnings from federal corporations including “U.S. Inc” (see Brushaber v. Union Pacific Railroad, 240 U.S. 1 (1916) | None. See: 1. 26 U.S.C. §1441(d)(1). 2. Treasury Decision (T.D.) 8734: <u>“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.”</u> [Treasury Decision 8734, 62 F.R. 53391, (October 14, 1997); SEDM Exhibit #09.038] |
| 25 | Income from “employment” within the “United States” not subject to reporting or withholding | None if not connected with a “trade or business” or not “wages” (no W-4). 26 C.F.R. §31.3401(a)(6)-1. | Everything (see 26 U.S.C. §1441(d)(1) and T.D. 8734 in previous item) |
| 26 | Required to use a Social Security Number? | Only if engaged in a “trade or business”, or filing as a resident alien. See 26 C.F.R. §301.6109-1(b)(2). | Always. 26 C.F.R. §301.6109-1(b)(1). |
| 27 | Subject to Affordable Care Act? ¹ | No | Yes |
| 28 | Subject to FATCA reporting? ² | No | Yes |
| 29 | Can take deductions on tax return? | Only on earnings “effectively connected with a trade or business” under 26 U.S.C. §162 and entered on 1040-NR return. Schedule NEC can’t take deductions | Yes (for EVERYTHING on return) |
| 30 | Tax imposed by | 26 U.S.C. §871 Tax on Nonresident alien individuals 26 U.S.C. §872 Gross Income 26 U.S.C. §873 Deductions | 26 U.S.C. §1 Tax imposed 26 U.S.C. §61 Gross income defined 26 U.S.C. §861 Income from sources within the United States 26 U.S.C. §862 Income from sources without the United States |
| 31 | Status defined in | 26 U.S.C. §7701(b)(1)(B) | 26 U.S.C. §7701(a)(30) |
| 32 | Subject to backup withholding? | Only in the case of “reportable payments” under 26 U.S.C. §3406(b) connected to the “trade or business” franchise. | No |

¹ See: Patient Protection and Affordable Care Act, Wikipedia; https://en.wikipedia.org/wiki/Patient_Protection_and_Affordable_Care_Act

² See: Foreign Account Tax Compliance Act (FATCA), IRS; <https://www.irs.gov/businesses/corporations/foreign-account-tax-compliance-act-fatca>.

2.2 Review of INTERNAL and EXTERNAL, DOMESTIC and FOREIGN terms

The process of transitioning from an American national to a CIVIL “U.S. person” is a multistep process. Before we can document the process, we must lay some groundwork:

1. Constitutional terms:

- 1.1. The constitution is a POLITICAL document.
- 1.2. The constitution imposes no obligations against anyone OUTSIDE the government.
- 1.3. The terms “State” and “United States” as used in the constitution are political entities.
- 1.4. To be a “government”, according to Scotus, you must have a body politic and a body corporate.
- 1.5. The body politic is “the State”, which is sovereign.
- 1.6. The body corporate is the government corporation. The body corporate WORKS for the body politic.
- 1.7. All political entities consist of the following three mandatory components:
 - 1.7.1. People.
 - 1.7.2. Territory.
 - 1.7.3. Government (body corporate) implemented with laws.
- 1.8. The geographic sense of “State” and “United States” as used in the constitution is used mainly to filter out the territories and possessions from the operation of Constitutional taxation. Then, of those remaining (candidate) citizens, they all sign up for a government (D.C.-domestic) franchise with subject matter/property interests around the globe.
- 1.9. Franchises capture the body politic INSIDE the body corporate. Franchises include the ENTIRE civil code and all government benefits and entitlements. At that point, you end up with a de facto government.

De Facto Government Scam, Form #05.043

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

1.10. More on this subject at:

Corporatization and Privatization of the Government, Form #05.024

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

2. POLITICAL v. CIVIL status:

- 2.1. POLITICAL status:
 - 2.1.1. Relates to nationality and allegiance and NOT domicile.
 - 2.1.2. Is nongeographical.
- 2.2. CIVIL status:
 - 2.2.1. Relates to domicile and NOT nationality.
 - 2.2.2. Is always geographical.

3. Meaning of “INTERNAL”:

- 3.1. The tax code is called the “INTERNAL” Revenue Code:
- 3.2. Tax collection is handled by the “INTERNAL” (to the government corporation) Revenue Service: It collects taxes against civil franchise offices WITHIN the government corporation and not against PRIVATE people unless they volunteer to BECOME PUBLIC/DOMESTIC. See:

Origins and Authority of the Internal Revenue Service, Form #05.005

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

- 3.3. The INTERNAL Revenue Service is a BUREAU rather than an AGENCY within the Department of the Treasury: Bureaus serve ONLY other agencies and are not supposed to interact directly with the public.
- 3.4. There are no enforcement implementing regulations. Statutes may only be enforced against government officers by default and not the general public WITHOUT implementing regulations. See:

Challenging Jurisdiction Workbook, Form #09.082

<https://sedm.org/Forms/09-Procs/ChalJurWorkbook.pdf>

4. Meaning of “EXTERNAL”:

- 4.1. The term “external” is used in its CONSTITUTIONAL sense as being OUTSIDE the CONSTITUTIONAL “United States*****”.
- 4.2. A synonym for EXTERNAL in the case of foreign nationals is INTERNATIONAL.
- 4.3. An example of an EXTERNAL jurisdiction is Puerto Rico, which, like all territories and possessions, is identified as a “foreign country” in 26 C.F.R. §301.7701(b)-2(b) .

[26 CFR § 301.7701\(b\)-2 - Closer connection exception.](#)

(b) Foreign country.

For purposes of section 7701(b) and the regulations thereunder, the term "foreign country" when used in a geographical sense includes any territory under the sovereignty of the United Nations or a government other than that of the United States. It includes the territorial waters of the foreign country (determined in accordance with the laws of the United States), and the seabed and subsoil of those submarine areas which are adjacent to the territorial waters of the foreign country and over which the foreign country has exclusive rights, in accordance with international law, with respect to the exploration and exploitation of natural resources. It also includes the possessions and territories of the United States.

4.4. This context is NOT synonymous with "foreign" in the Internal Revenue Code, because that term encompasses BOTH foreign countries and Constitutional states of the Union. "Foreign" in a statutory context really means outside the CORPORATION, not outside any geography.

5. "Government":

5.1. All governments are corporations per [Ngiraingas v. Sanchez, 495 U.S. 182 \(1990\)](#) and [Proprietors of Charles River Bridge v. Proprietors of Warren Bridge, 36 U.S. 420 \(1837\)](#).

5.2. Government is just a collection of property and offices. Since offices are a creation of government and property, then government itself is just a collection of PUBLIC property. The Constitution is just a trust indenture designed to MANAGE that property as the CORPUS of the trust.

5.3. Because governments are corporations, they are ALSO a franchise, because all corporations are franchises:

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/Socialist 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 Am.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.**

[Black's Law Dictionary, 4th Edition, pp. 786-787]

5.4. If you work as an agent of the government by consent or contract, you are INSIDE the government, PUBLIC, and therefore DOMESTIC.

5.5. If you have no contracts or agreements or agency with the government and receive not privileges or public property from them, you are OUTSIDE the government, PRIVATE, and FOREIGN.

6. Meaning of "United States":

6.1. "United States***" in 26 U.S.C. §7701(a)(9) is the constitutional jurisdiction to impose INDIRECT EXCISE taxes upon PUBLIC property under Constitution Article 1, Section 8, Clause 1, where excise taxes can be CONSTITUTIONALLY levied.

6.2. This area is geographical and is the same as "United States***".

6.3. This area, however is NOT "domestic" from a STATUTORY perspective because 26 U.S.C. §7701(a)(4) is not geographical. It is rather LEGAL/CORPORATE.

6.4. 26 U.S.C. §2209 identifies people in Puerto Rico as nonresident aliens by virtue of their location being outside the constitutional United States*** in 26 U.S.C. §7701(a)(9), even though they are otherwise listed in 26 C.F.R. §1.1-1(c) as POLITICAL/TERRITORIAL "citizens".

6.5. 26 U.S.C. §7701(a)(9) is not a CIVIL jurisdiction, because civil is based on domicile. But:

6.5.1. If it included Fourteenth Amendment POLITICAL/CONSTITUTIONAL "citizens of the United States***", they would have to be EXPRESSLY listed in 26 C.F.R. §1.1-1(c).

6.5.2. Fourteenth Amendment "citizens of the United States***" are NOT expressly listed in 26 C.F.R. §1.1-1(c) so they are PURPOSEFULLY excluded from the POLITICAL/TERRITORIAL "citizens*" in 26 C.F.R. §1.1-1(c).

- 1 6.5.3. The only people who satisfy the criteria of “subject to ITS jurisdiction” in 26 C.F.R. c1.1-1(c) are those in
2 either the District of Columbia or the federal enclaves. People born in federal enclaves are NOT Fourteenth
3 Amendment POLITICAL “citizens*”, by the way.
- 4 6.5.4. People in the exclusive jurisdiction of a constitutional state are NOT “subject to ITS jurisdiction”, but rather
5 “subject to THE [POLITICAL] jurisdiction” in United States v. Wong Kim Ark, 169 U.S. 649, 18 S.Ct. 456,
6 42 L.Ed. 890 (1898). Therefore, they are NOT included in the definition of “citizen” in 26 C.F.R. §1.1-1(c).
- 7 6.6. From an EXTERNAL or CONVENTIONAL perspective, the “United States***” in 26 U.S.C. §7701(a)(9) is
8 “domestic”, but:
- 9 6.6.1. It is NOT “domestic” in an INTERNAL sense, because INTERNAL means WITHIN the corporation. All
10 those acting as resident agents are INTERNAL to that corporation.
- 11 6.6.2. The term “domestic” in 26 U.S.C. §7701(a)(4) EXCLUDES the international or geographical sense under
12 the rules of statutory construction:

13 *"When a statute includes an explicit definition, we must follow that definition, even if it varies from that term's*
14 *ordinary meaning. Meese v. Keene, 481 U.S. 465, 484-485 (1987) ("It is axiomatic that the statutory definition*
15 *of the term excludes unstated meanings of that term"); Colautti v. Franklin, 439 U.S. at 392-393, n. 10 ("As a*
16 *rule, 'a definition which declares what a term "means" . . . excludes any meaning that is not stated"); Western*
17 *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*
18 *(1935) (Cardozo, J.); see also 2A N. Singer, Sutherland on Statutes and Statutory Construction § 47.07, p. 152,*
19 *and n. 10 (5th ed. 1992) (collecting cases). That is to say, the statute, read "as a whole," post at 998 [530 U.S.*
20 *943] (THOMAS, J., dissenting), leads the reader to a definition. That definition does not include the Attorney*
21 *General's restriction -- "the child up to the head." Its words, "substantial portion," indicate the contrary."*
22 *[Stenberg v. Carhart, 530 U.S. 914 (2000)]*

- 23 6.6.3. Thus, the term “domestic” refers ONLY to things INTERNAL to the LEGAL/CORPPORATE “United
24 States****” in a STATUTORY context.

25 **2.3 How does an American National become a CIVIL “U.S. person”?**

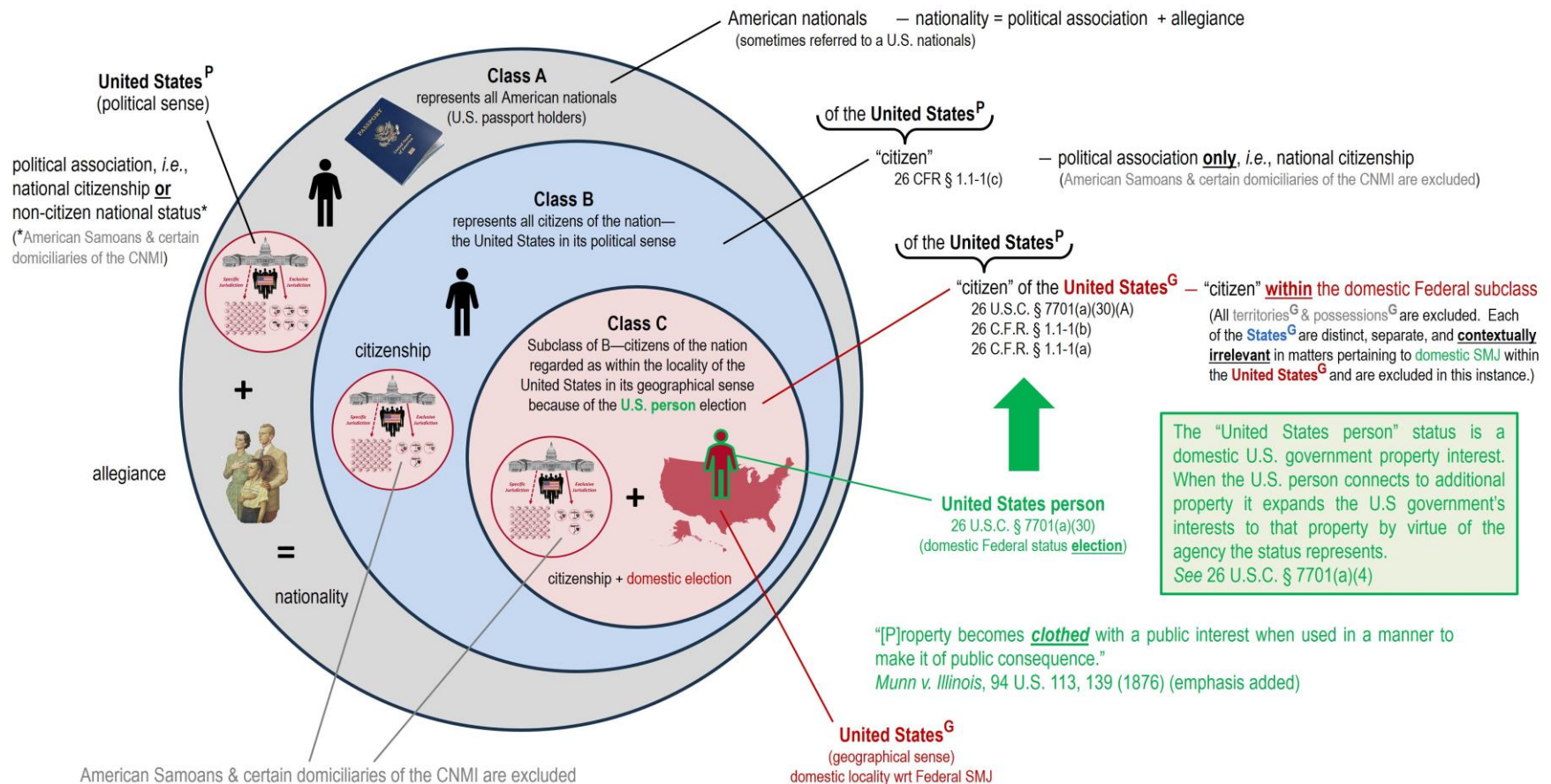
26 With the introduction to terms and contexts in the previous section, we can now document the PRECISE process by which
27 an American National transitions from a nonresident alien as their DEFAULT status to a CIVIL “U.S. person” privileged
28 status. We will do so with both a TABLE and a diagram to make all the steps of the process crystal clear.

1 **Table 2: Process for American National becoming a "U.S. person"**

| # | Description | Authority | POLITICAL citizen* | 8 U.S.C. §1401 POLITICAL/ TERRITORIAL citizen* | Fourteenth Amendment POLITICAL/ CONSTITUTIONAL "citizen of the United States***" | CIVIL "citizen of the United States****" | STATUTORY CIVIL CONTEXT | | CONSTITUTIONAL CONTEXT | |
|---|---|-----------------------------|---|--|---|---|----------------------------|---------------------------|--|---|
| | | | | | | | DOMESTIC? (26 U.S.C. only) | FOREIGN? (26 U.S.C. only) | DOMESTIC? | FOREIGN? |
| 1 | Person is born in the COUNTRY "United States**" | | Yes 8 U.S.C. §1101(a)(21) | Yes, if born in a territory or possession or federal enclave, or abroad. 8 U.S.C. §1101(a)(22) | Yes, if born in a constitutional state. | No. Not without an election/privilege. | No | Yes | Yes, if born in the exclusive jurisdiction of a constitution state | Yes, if born ABROAD under 8 U.S.C. §1401(a) |
| 2 | Apply for a passport | | Recognized as a "U.S. national" in 20 C.F.R. §51.2. | Recognized as a "U.S. national" in 20 C.F.R. §51.2. | Recognized as a "U.S. national" in 20 C.F.R. §51.2. | No. | No | Yes | Yes, if a residing in a constitutional state. No if residing on federal territory. | No, unless abroad. |
| 3 | Submit an SS-5 to join Social Security and check "U.S. citizen" | 20 C.F.R. §422.103 | Yes. 20 C.F.R. §422.103(d). | Yes. | No. Not eligible. See Form #06.001 | Yes, while using the SSN franchise mark. 26 C.F.R. §301.6109-1(b) | Yes | No | No | Yes |
| 4 | File a 1040 to ELECT "U.S. person" status | 26 C.F.R. §301.6109-1(g)(1) | Yes. 26 C.F.R. §1.1-1(c) | Yes. 26 C.F.R. §1.1-1(c) | No. Not listed in 26 C.F.R. §1.1-1(c) but can do so ABROAD per Cook v. Tait, 265 U.S. 47 (1924) | Yes. 26 C.F.R. §1.1-1(a) and (b) and 26 U.S.C. §7701(a)(30). | Yes | No | Yes if a Fourteenth Amendment political citizen. No if a territorial political citizen*. | No |
| 5 | File a 1040-NR to DE-ELECT "U.S. person" status to become a nonresident alien | 26 C.F.R. §301.6109-1(g)(1) | Yes. 26 C.F.R. §1.1-1(c) | Yes. Eligible to do so. | Yes. Eligible to do so | No | No | Yes | Yes | No |

2

1 **Figure 1: How an American national elects CIVIL "U.S. person" Status**



2

v2

2.4 How does a CIVIL STATUTORY “U.S. Person” revert to their default “nonresident alien” status?

A STATUTORY “U.S. Person” ceases to have that status when they terminate their CIVIL/DOMICILED “U.S. person” status by filing a 1040-NR return under the provisions of 26 C.F.R. §301.6109-1(g)(1). By doing this, they change the status of the SSN/TIN from DOMESTIC to FOREIGN. You are the ONLY ONE who can determine your CIVIL status because it is the exercise of your First Amendment right to associate and disassociate and your right to contract and not contract.

An example of how the government cannot assign the statutory status of “taxpayer” upon you per 26 U.S.C. §7701(a)(14) is found in 28 U.S.C. §2201(a), which reads:

United States Code
TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART VI - PARTICULAR PROCEEDINGS
CHAPTER 151 - DECLARATORY JUDGMENTS
Sec. 2201. Creation of remedy

*(a) In a case of actual controversy within its jurisdiction, **except** with respect to Federal taxes other than actions brought under section 7428 of the Internal Revenue Code of 1986, a proceeding under section 505 or 1146 of title 11, or in any civil action involving an antidumping or countervailing duty proceeding regarding a class or kind of merchandise of a free trade area country (as defined in section 516A(f)(10) of the Tariff Act of 1930), as determined by the administering authority, **any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration**, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such.*

Consistent with the federal Declaratory Judgments Act, 28 U.S.C. §2201, federal courts who have been petitioned to declare a litigant to be a “taxpayer” have declined to do so and have cited the above act as authority:

*Specifically, Rowen seeks a declaratory judgment against the United States of America with respect to “whether or not the plaintiff is a taxpayer pursuant to, and/or under 26 U.S.C. §7701(a)(14).” (See Compl. at 2.) **This Court lacks jurisdiction to issue a declaratory judgment “with respect to Federal taxes other than actions brought under section 7428 of the Internal Revenue Code of 1986,” a code section that is not at issue in the instant action. See 28 U.S.C. §2201; see also Hughes v. United States, 953 F.2d. 531, 536-537 (9th Cir. 1991) (affirming dismissal of claim for declaratory relief under § 2201 where claim concerned question of tax liability). Accordingly, defendant’s motion to dismiss is hereby GRANTED, and the instant action is hereby DISMISSED.***
[Rowen v. U.S., 05-3766MMC, (N.D.Cal. 11/02/2005)]

The implications of the above are that:

1. The federal courts have no lawful delegated authority to determine or declare whether you are a “taxpayer”.
2. If federal courts cannot directly declare you a “taxpayer”, then they also cannot do it indirectly by, for instance:
 - 2.1. Presuming that you are a “taxpayer”. This is a violation of due process of law that renders a void judgment. Presumptions are not evidence and may not serve as a SUBSTITUTE for evidence.
 - 2.2. Calling you a “taxpayer” before you have called yourself one.
 - 2.3. Arguing with or penalizing you if you rebut others from calling you a “taxpayer”.
 - 2.4. Quoting case law as authority relating to “taxpayers” against a “nontaxpayer”. That’s FRAUD and it also violates Federal Rule of Civil Procedure 17(b).
 - 2.5. Quoting case law from a franchise court in the Executive rather than Judicial branch such as the U.S. Tax Court against those who are not franchisees called “taxpayers”.
 - 2.6. Treating you as a “taxpayer” if you provide evidence to the contrary by enforcing any provision of the I.R.C. Subtitle A “taxpayer” franchise agreement against you as a “nontaxpayer”.

“Revenue Laws relate to taxpayers [instrumentalities, officers, employees, and elected officials of the national Government] and not to non-taxpayers [non-resident non-persons domiciled within the exclusive jurisdiction of a state of the Union and not subject to the exclusive jurisdiction of the national 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.”
[Economy Plumbing & Heating v. U.S., 470 F.2d. 585 (1972)]

1 Authorities supporting the above include the following:

2 *"It is almost unnecessary to say, that what the legislature cannot do directly, it cannot do indirectly. The*
3 *stream can mount no higher than its source. The legislature cannot create corporations with illegal powers, nor*
4 *grant unconstitutional powers to those already granted."*
5 *[Gelpcke v. City of Dubuque, 68 U.S. 175, 1863 W.L. 6638 (1863)]*
6

7 *"Congress cannot do indirectly what the Constitution prohibits directly."*
8 *[Dred Scott v. Sandford, 60 U.S. 393, 1856 W.L. 8721 (1856)]*
9

10 *"In essence, the district court used attorney's fees in this case as an alternative to, or substitute for, punitive*
11 *damages (which were not available). **The district court cannot do indirectly what it is prohibited from doing***
12 ***directly.**"*
13 *[Simpson v. Sheahan, 104 F.3d. 998, C.A.7 (Ill.) (1997)]*
14

15 *"It is axiomatic that the government cannot do indirectly (i.e. through funding decisions) what it cannot do*
16 *directly."*
17 *[Com. of Mass. v. Secretary of Health and Human Services, 899 F.2d. 53, C.A.1 (Mass.) (1990)]*
18

19 *"Almost half a century ago, this Court made clear that the government "may not enact a regulation providing*
20 *that no Republican ... shall be appointed to federal office." Public Workers v. Mitchell, 330 U.S. 75, 100, 67*
21 *S.Ct. 556, 569, 91 L.Ed. 754 (1947). What the *78 First Amendment precludes the government**2739 from*
22 ***commanding directly, it also precludes the government from accomplishing indirectly. See Perry, 408 U.S., at***
23 ***597, 92 S.Ct., at 2697 (citing Speiser v. Randall, 357 U.S. 513, 526, 78 S.Ct. 1332, 1342, 2 L.Ed.2d. 1460***
24 ***(1958)); see supra, at 2735."***
25 *[Rutan v. Republican Party of Illinois, 497 U.S. 62, 110 S.Ct. 2729, U.S.Ill. (1990)]*
26

27 *"Similarly, numerous cases have held that governmental entities cannot do indirectly that which they cannot*
28 *do directly. See *841 Board of County Comm'rs v. Umbehr, 518 U.S. 668, 674, 116 S.Ct. 2342, 135 L.Ed.2d.*
29 *843 (1996) (holding that the First Amendment protects an independent contractor from termination or*
30 *prevention of the automatic renewal of his at-will government contract in retaliation for exercising his*
31 *freedom of speech); El Dia, Inc. v. Rossello, 165 F.3d. 106, 109 (1st Cir.1999) (holding that a government*
32 *could not withdraw advertising from a newspaper which published articles critical of that administration*
33 *because it violated clearly established First Amendment law prohibiting retaliation for the exercising of*
34 *freedom of speech); North Mississippi Communications v. Jones, 792 F.2d. 1330, 1337 (5th Cir.1986)*
35 *(same). The defendants violated clearly established Due Process and First Amendment law by boycotting the*
36 *plaintiffs' business in an effort to get them removed from the college."*
37 *[Kinney v. Weaver, 111 F.Supp.2d. 831, E.D.Tex. (2000)]*

38 If you would like further evidence proving that it is a violation of your constitutional rights for the government to associate
39 any civil status against you without your consent, see:

Your Exclusive Right to Declare or Establish Your Civil Status, Form #13.008
<http://sedm.org/Forms/FormIndex.htm>

40 **3 Why Members should avoid the U.S. Person Position**

41 The main disadvantage of the U.S. Person Position is that courts associate the status with the "citizen and resident of the
42 United States" made "liable TO" but not "liable FOR" the income tax in 26 C.F.R. §1.1-1(a) upon their "worldwide
43 income":

44 26 C.F.R. §1.1-1 Income tax on individuals.

45 (a) General rule.

46 (1) Section 1 of the Code imposes an income tax on the income of every individual who is a citizen or resident of
47 the United States and, to the extent provided by section 871(b) or 877(b), on the income of a nonresident alien
48 individual.

49 [. . .]

1 (b) Citizens or residents of the United States liable to tax.

2 In general, all citizens of the United States, wherever resident, and all resident alien individuals are liable to
3 the income taxes imposed by the Code whether the income is received from sources within or without the
4 United States. Pursuant to section 876, a nonresident alien individual who is a bona fide resident of a section
5 931 possession (as defined in § 1.931-1(c)(1) of this chapter) or Puerto Rico during the entire taxable year is,
6 except as provided in section 931 or 933 with respect to income from sources within such possessions, subject
7 to taxation in the same manner as a resident alien individual. As to tax on nonresident alien individuals, see
8 sections 871 and 877.
9 [26 C.F.R. §1.1-1(a)(1)]

10 Thus, all that needs to be proved in court to collect the tax is that:

- 11 1. You voluntarily invoked the status of “citizen”, “resident”, or “U.S. person” by filing a 1040 return.
12 2. You received ANY kind of money AT ALL anywhere in the world!

13 This is a very dangerous situation to be in because it is fraught with privilege and endless civil obligations. Below is an
14 example of this situation in action in U.S. Tax Court:

15 *Mr. Ulloa then engaged in this colloquy with the Court:*

16 *THE COURT: * [I]f you're granted a trial, will you be testifying that you did not receive that money?*

17 *MR. ULLOA: No, I'll be testifying that they are not an American company.*

18 *THE COURT: So you admit that you received the money?*

19 *MR. ULLOA: That's irrelevant, Your Honor.*

20 *THE COURT: Well, no, I —*

21 *MR. ULLOA: We're not saying we received money or didn't receive money. The only thing we're questioning is*
22 *the document itself. **

23 *THE COURT: What I'm questioning now is, did you receive that money from those payors?*

24 *MR. ULLOA: I can't say that.*

25 *THE COURT: Pardon me?*

26 *MR. ULLOA: I can't say that.*

27 *THE COURT: What do you mean you can't say that?*

28 *MR. ULLOA: That's a private matter. I mean whether I did or not doesn't matter at all. The document is what*
29 *matters, what the document says.*

30 *THE COURT: Well, what matters is the fact about how much income you received that year. That's what I have*
31 *to find. And unless you intend to show that you didn't receive the money, then I have no basis for finding in your*
32 *favor. What you want to prove instead is that you have a quibble with the paperwork. But since you're not going*
33 *to disprove that you received the money * I don't know how I could find in your favor even if we agreed that*
34 *we didn't like the paperwork.*

35 *[Ulloa v. Commissioner, Nos. 2053-09, 4514-09, at *13 (U.S.T.C. Apr. 6, 2010)]*

36 Earlier, in the above case, it states that Ulloa had filed a 1040. On that basis, all money received for his labor was "wages".
37 Though this is not explicitly stated, of course.

38 *".... unless you intend to show that you didn't receive the money, then I have no basis for finding in your favor.*
39 *What you want to prove instead is that you have a quibble with the paperwork. But since you're not going to*
40 *disprove that you received the money * I don't know how I could find in your favor even if we agreed that we*
41 *didn't like the paperwork."*

The inference is that for a "United States person" all money received for labor = "wages" = "gross income". It's all about the civil status of the "taxpayer". And Ulloa didn't dispute that and can't change it after filing the 1040. When he petitioned the tax court, he admitted he was a transferee in possession of government property. 26 U.S.C. §6903. And he declared his status as a privileged statutory "taxpayer". Only privileged statutory "taxpayers" can petition the Tax Court as an Article I court described in 26 U.S.C. §7441.

According to 26 C.F.R. §1.1-1, IRC Section 1 imposes only the graduated rates of tax on trade or business income. It makes no mention of the 30% tax imposed on nonresident aliens by IRC Section 871(a). Only the 26 U.S.C. §871(b) tax on which is effectively connected with the conduct of a trade or business within the United States and 877(b) re expatriation tax.

Although IRC Section 1 does not mention "trade or business" and neither does 26 C.F.R. §1.1-1, a STATUTORY "citizen or resident of the United States" is mentioned in the regulation as an individual for whom all income is taxable income. When you compare that to the 26 U.S.C. §871(b) tax imposed on "nonresident aliens" (also mentioned at 26 C.F.R. §1.1-1) you can see clearly that all income of an individual who is a "citizen or resident of the United States" status = income that is effectively connected with the CONDUCT of a trade or business in the United States

STATUTORY "citizen" and "resident" and "U.S. person" are therefore privileged franchise statuses to be AVOIDED at all costs. You're an official club member receiving privileges and "benefits" by virtue of the fact that ALL of your earnings are subject to deductions on the Form 1040.

Further, since 26 U.S.C. §1 does NOT impose the tax on "citizens" or "residents" and the Secretary created that liability ("liable TO") FIRST in the regs, then statutory "citizens" and "residents" are franchise offices within the Department of the Treasury. Pursuant to 5 U.S.C. §301, he can't write regulations that bind other departments or exceed the scope of the statute per U.S. v. Calamaro, 354 U.S. 351 (1957), unless of course the Secretary is only regulating his own employees or officers WITHIN his department.

However, in practice, the statutory privileged "individual" is the person who makes him or her self liable by voluntarily adopting a privileged status that carries obligations. The regulation only describes the consequence of VOLUNTARILY attaching the privileged civil status of statutory "citizen", "resident" or "U.S. person" to a specific human being. Upon voluntarily adopting these privileged civil statutory statuses, the human being becomes legal surety for the actions of a privileged public office.

The Internal Revenue Code thus functions like a franchise contract. If you adopt a status under the contract, then you impliedly ACCEPT the ENTIRE contract. A signature on a contract attaches the definitions to the signator. So the signator becomes surety for the fictions mentioned in the contract. Adopting a civil status under the franchise contract thus functions as a form of "implied consent" to the contract, because the civil status is legislatively created public property to which statutory privileges and corresponding civil obligations attach.

If you would like all the details explaining why and how you volunteered to pay income tax, see:

[How State Nationals Volunteer to Pay Income Tax](https://sedm.org/Forms/08-PolicyDocs/HowYouVolForIncomeTax.pdf), Form #08.024
<https://sedm.org/Forms/08-PolicyDocs/HowYouVolForIncomeTax.pdf>

The bible warns against being surety for such a privileged civil statutory "citizen", "resident", "U.S. person", or "person" as follows:

"My son, if you become surety for your friend, If you have shaken hands in pledge for [or made a promise or guarantee to] a stranger, You are snared by the words of your mouth; You are taken by the words of your mouth. So do this, my son, and deliver yourself; For you have come into the hand of your friend: Go and humble yourself; Plead with your friend. Give no sleep to your eyes, Nor slumber to your eyelids. Deliver yourself like a gazelle from the hand of the hunter, And like a bird from the hand of the fowler."
[Prov. 6:1-5, Bible, NKJV]

4 What is a STATUTORY “U.S.*** Person” fiction?

4.1 Definition and history of CIVIL “U.S.*** person”

“U.S. Person” was first added to the Internal Revenue Code in 1962 through Public Law 87-834, 76 Stat. 988, Section 7(h).

The main reason the IRS had to create the “U.S. Person” definition separate from “person” and thereby put “nontaxpayers” in the code is so that they could also take them OUT of the code by not imposing any duties on them. The statutory definition of “U.S. person” within the Internal Revenue Code is as follows:

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

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

(30) [United States](#) person

The term “[United States](#)*** person” means —

(A) [a citizen or resident of the United States](#)***],

(B) a domestic partnership,

(C) a domestic [corporation](#),

(D) any estate (other than a foreign estate, within the meaning of paragraph (31)), and

(E) any trust if -

(i) a court within the [United States](#)***] is able to exercise primary supervision over the administration of the trust, and

(ii) one or more [United States](#)***] persons have the authority to control all substantial decisions of the trust.

Have you ever noticed this about the above?

1. It does NOT say:

A citizen or resident of the United States means—

(A) *United States person*

2. Think about that....It totally demonstrates that it’s an election. If it wasn’t, it would say:

EVERY citizen or resident of the United States is a “United States person.”

Or, every citizen of the United States in its political sense and every resident of the United States in its geographical sense, except those residing in a territory or possession, is a United States person.

They say what they mean and they mean what they say.

The “United States” as used above is the LEGAL/CORPORATE sense and not the GEOGRAPHICAL sense. Why? Because in the above:

1. The term “[United States](#)***]” above we define as the CORPORATION/LEGAL United States. See:

[SEDm Disclaimer](#), Section 4.32: United States
<https://sedm.org/disclaimer.htm#4.32. United States>

2. The term “United States person”:

2.1. Is a fiction of law and an office or civil status and not a human being.

2.2. Includes the term “United States” and it is a status or office that is not physical or geographical.

3. Obligations attach to the “United States person” status. Since involuntary servitude violates the Thirteenth Amendment, then you as a human being have to VOLUNTEER for the status before the obligations can lawfully attach to you.

4. The term “domestic” as used above is defined in 26 U.S.C. §7701(a)(4) as follows, which is NON-GEOGRAPHICAL.

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

(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. The ONLY lawful target of tax enforcement are identified in 26 U.S.C. §6671(b) (civil) and 26 U.S.C. §7343 (criminal) is officers or employees of a corporation or a partnership as identified in the term “domestic” above. Thus, EVERYTHING in 26 U.S.C. §7701(a)(30) that has an obligation as a “U.S. person” MUST be an officer or employee of a corporation or a partnership and thus be “domestic”.

[26 U.S. Code § 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.

[26 U.S. Code § 7343 - Definition of term “person”](#)

The term “person” as used in this chapter 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.

6. The term “domestic” precedes the term “partnership” and “corporation”, both of which are LEGAL and not PHYSICAL or geographical. Therefore “domestic” is ALSO not GEOGRAPHICAL in that context.
7. Under the ejusdem generis rule, things in a list are to be interpreted as being in the “same general class”, meaning that they are all “domestic”.

“Ejusdem generis. Of the same kind, class, or nature. In the construction of laws, wills, and other instruments, the “ejusdem generis rule” is, that where general words follow an enumeration of persons or things, by words of a particular and specific meaning, such general words are not to be construed in their widest extent, but are to be held as applying only to persons or things of the same general kind or class as those specifically mentioned. U.S. v. LaBrecque, D.C. N.J., 419 F.Supp. 430, 432. The rule, however, does not necessarily require that the general provision be limited in its scope to the identical things specifically named. Nor does it apply when the context manifests a contrary intention.

Under “ejusdem generis” cannon of statutory construction, where general words follow the enumeration of particular classes of things, the general words will be construed as applying only to things of the same general class as those enumerated. Campbell v. Board of Dental Examiners, 53 Cal.App.3d. 283, 125 Cal.Rptr. 694, 696.”

[Black's Law Dictionary, Sixth Edition, p. 517]

4.2 A “U.S. person” is not expressly included in the definition of “person”

NOTICE the following important fact: The definition does NOT include “person” or “individual”, and therefore indicating this status on a withholding form does not make you a STATUTORY “person” within the Internal Revenue Code! The word “person” is in the TITLE, but not the body of the definition, and the title is not conclusive according to 26 U.S.C. §7806(b).

[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—

(1) Person

The term “person” shall be construed to mean and include an individual, a trust, estate, partnership, association, company or corporation.

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.

There is some overlap between “U.S. Persons” and “persons” in the I.R.C., but only in the case of estates and trusts, and partnerships. NOWHERE in the case of individuals is there overlap.

There is also no tax imposed directly on a “U.S. Person” anywhere in the Internal Revenue Code. All taxes relating to humans are imposed upon “persons” and “individuals” rather than “U.S. Persons”. Nowhere in the definition of “U.S. person” is included “individuals”, and you must be an “individual” to be a “person” as a human being.

The “U.S. Person” at 26 U.S.C. §7701(a)(30) is defined as “citizens or residents of the United States”. These same “citizens or residents of the United States” can become “qualified individuals” by establishing a tax home abroad for the purpose of 26 U.S.C. §911(d)(1). The correlating definition of “qualified individual” in 26 C.F.R. §1.911-2(a) defines “qualified individual” as:

Title 26: Internal Revenue
PART 1—INCOME TAXES
Earned Income of Citizens or Residents of United States
§1.911-2 Qualified individuals.

(a) In general.

An individual is a qualified individual if:

(1) The individual's tax home is in a foreign country or countries throughout--

(i) The period of bona fide residence described in paragraph (a)(2)(i) of this section, or

(ii) The 330 full days of presence described in paragraph (a)(2)(ii) of this section, and

(2) The individual is either--

(i) A citizen of the United States who establishes to the satisfaction of the Commissioner or his delegate that the individual has been a bona fide resident of a foreign country or countries for an uninterrupted period which includes an entire taxable year, or

(ii) A citizen or resident of the United States who has been physically present in a foreign country or countries for at least 330 full days during any period of twelve consecutive months.”

[26 C.F.R. §1.911-2(a)]

Therefore, an “individual” is an alien in relation to the foreign country or possession that he or she temporarily occupies, and in that capacity, the relationship is called a “tax home”. Below is a corroborating third party source on the subject:

Qualified Individual [Tax Law] Law and Legal Definition

The term qualified individual in the context of taxation means:

- any individual who has attained age 65 before the close of the taxable year; or*
- any individual who retired on disability before the close of the taxable year; and*
- any individual who, when s/he retired, was permanently and totally disabled.*

Pursuant to 26 CFR 1.911-2 (a), "An individual is a qualified individual if:

(1) The individual's tax home is in a foreign country or countries throughout--

(i) The period of bona fide residence described in paragraph (a)(2)(i) of this section, or

(ii) The 330 full days of presence described in paragraph (a)(2)(ii) of this section, and

(2) The individual is either--

(i) A citizen of the United States who establishes to the satisfaction of the Commissioner or his delegate that the individual has been a bona fide resident of a foreign country or countries for an uninterrupted period which includes an entire taxable year, or

(ii) A citizen or resident of the United States who has been physically present in a foreign country or countries for at least 330 full days during any period of twelve consecutive months."

[U.S. Legal: Qualified Individual [Tax Law] Law and Legal Definition; SOURCE:
<https://definitions.uslegal.com/q/qualified-individual-tax-law/>]

Therefore, in a broader sense the tax is imposed upon aliens at home, who are called "individuals" and citizens and residents abroad, who are called "qualified individuals".

Nowhere in the Internal Revenue Code is the term "U.S. Person" referenced OTHER than as a "qualified U.S. Person" in the following regulations:

1. 26 C.F.R. §1.883-0.
2. 26 C.F.R. §1.883-1.
3. 26 C.F.R. §1.883-3.
4. 26 C.F.R. §1.367(e)-1.
5. 26 C.F.R. §1.367(e)-0.
6. 26 C.F.R. §1.6038B-1.

The above person is mentioned in 26 U.S.C. §911(d)(1)(a) and (d)(1)(b).

A "qualified U.S. person" is defined as follows:

A "qualified U.S. person" is a U.S. person (as defined in section 7701(a)(30)) that is a U.S. citizen, resident alien, or a domestic corporation. For purposes of applying the "qualified U.S. person ownership test," the value of the stock in the CFC that is owned (directly or indirectly) through bearer shares shall not be considered in the numerator or denominator of the ownership fraction. In addition, for purposes of applying this test, stock owned by a domestic partnership, domestic trust or domestic estate, shall be treated as owned by its partners, beneficiaries or owners, respectively, applying the rules of section 958(a) as if such domestic entity were a foreign partnership, foreign trust, or foreign estate, respectively.

[IRS Notice 2006-43: Interim Guidance With Respect to the Application of Treas. Reg. §1.883-3]

4.3 CIVIL STATUTORY "U.S.** person" fiction is DOMICILED in the statutory geographical "United States" and excludes state nationals**

The phrase "citizen or resident of the United States" is included within the definition of "United States person" found in 26 U.S.C. §7701(a)(30). We must ask ourselves whether the "citizen" or "resident" mentioned in this context is associated with DOMICILE or NATIONALITY because it cannot be both. Domicile is always geographical while nationality is nongeographical. Domicile requires physical presence in a specific geographical place while nationality is connected only with allegiance and can exist ANYWHERE geographically. This subject is important because it helps us determine which "United States" is implied within the phrase: GEOGRAPHICAL or POLITICAL respectively. Further, if it is GEOGRAPHICAL, it has to be geographical in the case of BOTH citizen AND resident within this context because the terms must be of the same general class.

We believe that the term "citizen of the United States" is used in its GEOGRAPHICAL and not POLITICAL sense in this context. Although the POLITICAL sense is the principal sense according to the U.S. Supreme Court in Texas v. White, 74

U.S. 700 (1869), this statutory context instead is the GEOGRAPHICAL sense tied to domicile rather than nationality or political status because:

1. All income taxes are based on domicile according to the U.S. Supreme Court in Lawrence v. State Tax Commission, 286 U.S. 276 (1932) . See:
https://scholar.google.com/scholar_case?case=10241277000101996613
2. Puerto Ricans are citizens of the United States in its political sense (Cf. 26 C.F.R. §1.1-1(c)) but they are not statutory "United States persons". Instead, they are called "nonresident not a citizen of the United States" for the purposes of the entire Title 26. See 26 U.S.C. §2209.
3. A foreign national cannot be a resident of a body politic. They can only be resident within a geographical jurisdiction.
4. Territories and possessions are defined as foreign countries within 26 C.F.R. §301.7701(b)-2 for the purposes of the presence test.

[26 CFR § 301.7701\(b\)-2 - Closer connection exception.](#)

(b) Foreign country.

For purposes of section 7701(b) and the regulations thereunder, the term "foreign country" when used in a geographical sense includes any territory under the sovereignty of the United Nations or a government other than that of the United States. It includes the territorial waters of the foreign country (determined in accordance with the laws of the United States), and the seabed and subsoil of those submarine areas which are adjacent to the territorial waters of the foreign country and over which the foreign country has exclusive rights, in accordance with international law, with respect to the exploration and exploitation of natural resources. It also includes the possessions and territories of the United States.

Therefore, the income tax is NOT a tax on your NATIONALITY, it is a tax upon your DOMICILE. Domicile, in turn is voluntary and cannot be compelled. Therefore the income tax is voluntary. This is exhaustively proven in:

Why Domicile and Becoming a "Taxpayer" Require Your Consent, Form #05.002
<https://sedm.org/Forms/05-MemLaw/Domicile.pdf>

The IRS, however, wants to deceive you into believing that the tax is a tax on nationality, and that it applies everywhere in the world. They want you too think that as long as you are born in America, you owe tax everywhere you go in the WORLD! This is clearly false, because if you move abroad, your domicile changes to a foreign jurisdiction and you become a nonresident alien for tax purposes. The way they deceive you into believing that it is a tax on NATIONALITY rather than DOMICILE is to equivocate over the context of the terms "citizen" and "resident" to make you think that they are ALL about your nationality and have NOTHING to do with your domicile. If you take their bait, you become a government pet on a legal leash called a franchise EVERYWHERE IN THE WORLD! Welcome to Amerika, Comrade serf.

If you would like an animated presentation on the distinctions between DOMICILE and NATIONALITY, see:

Tax Status Presentation, Form #12.043
https://sedm.org/LibertyU/Tax_Status_Presentation.pptx

4.4 Definition of "citizen" and "citizen of the United States" in 26 C.F.R. §1.1-1³

The legal term/phrase "citizen" is not defined directly (distinctly expressed) in the Internal Revenue Code. However, it is described in the regulation under 26 U.S.C. §1 as in 26 C.F.R. §1.1-1(c) as follows:

[26 C.F.R. §1.1-1\(c\): Income Tax on individuals](#)

(c) Who is a citizen.

Every person born or naturalized in the [federal] [United States](#) and subject to its [exclusive federal jurisdiction under [Article I, Section 8](#), Clause 17 of the [Constitution](#)] jurisdiction is a citizen. For other rules governing the acquisition of citizenship, see chapters 1 and 2 of title III of the [Immigration and Nationality Act](#) (8 U.S.C.

³ Adapted from: *Legal Deception, Propaganda, and Fraud*, Form #05.014, Section 15.5.1.

*§1401-1459). For rules governing loss of citizenship, see sections 349 to 357, inclusive, of such Act (8 U.S.C. §1481-1489), *Schneider v. Rusk*, (1964) 377 U.S. 163, and Rev. Rul. 70-506, C.B. 1970-2, 1. For rules pertaining to persons who are nationals but not citizens at birth, e.g., a person born in American Samoa, see section 308 of such Act (8 U.S.C. §1408). For special rules applicable to certain expatriates who have lost citizenship with a principal purpose of avoiding certain taxes, see section 877. A foreigner who has filed his declaration of intention of becoming a citizen but who has not yet been admitted to citizenship by a final order of a naturalization court is an alien.*

The “citizen” described above as the proper subject of the income tax is a POLITICAL citizen* but not CIVIL/DOMICILED citizen**+D. It uses the phrase “subject to ITS jurisdiction” to emphasize the EXCLUSIVE jurisdiction of the national government. You can see this is the case by comparing it with the phrase “subject to THE jurisdiction” found in the Fourteenth Amendment. Notice also that Fourteenth Amendment POLITICAL/CONSTITUTIONAL citizens* are NOWHERE mentioned above or anywhere in Title 8 of the U.S. code either. We also know this is a POLITICAL citizen* and not CIVIL/DOMICILED citizen**+D because it uses the phrase “born or naturalized”. Subsequently in the same regulation above, that “citizen” is then connected separately with the geographical “United States” in 26 C.F.R. §1.1-1(a):

26 C.F.R. § 1.1-1 - Income tax on individuals.

§ 1.1-1 Income tax on individuals.

(a) General rule.

(1) Section 1 of the Code imposes an income tax on the income of every individual who is a citizen or resident of the United States and, to the extent provided by section 871(b) or 877(b), on the income of a nonresident alien individual.

The above “citizen**+D of the United States**” is a natural person domiciled in the federal United States (federal zone), which includes territories and possessions of the United States and the District of Columbia. This is confirmed by reading 26 C.F.R. §31.3121(e)-1 as follows:

26 C.F.R. §31.3121(e)-1 State, United States, and citizen

(b)...The term 'citizen of the United States' includes a citizen of the Commonwealth of Puerto Rico or the Virgin Islands, and, effective January 1, 1961, a citizen of Guam or American Samoa.

Do you see anyone domiciled in a state of the Union described above? The legal encyclopedia, *Corpus Juris Secundum* (C.J.S.), also confirms that corporations are “citizens”:

“A corporation is a citizen, resident, or inhabitant of the state or country by or under the laws of which it was created, and of that state or country only.”
[19 Corpus Juris Secundum (C.J.S.), Corporations, §886 (2003); Legal encyclopedia]

Because corporations are “citizens”, this fits in with the notion discussed in Great IRS Hoax, Form #11.302, Section 5.6.5 that “income” within the meaning of Subtitle A of the Internal Revenue Code can only mean “corporate profit”. The Supreme Court also confirmed, in fact, that when governments enter into private business, such as the private law that is the Internal Revenue Code, they devolve to the level of ordinary corporations:

*See also *Clearfield Trust Co. v. United States*, 318 U.S. 363, 369 (1943) (“The United States does business on business terms”) (quoting *United States v. National Exchange Bank of Baltimore*, 270 U.S. 527, 534 (1926)); *Perry v. United States*, *supra* at 352 (1935) (“When the United States, with constitutional authority, makes contracts, it has rights and incurs responsibilities similar to those of individuals who are parties to such instruments. There is no difference . . . except that the United States cannot be sued without its consent”) (citation omitted); *United States v. Bostwick*, 94 U.S. 53, 66 (1877) (“The United States, when they contract with their citizens, are controlled by the same laws that govern the citizen in that behalf”); *Cooke v. United States*, 91 U.S. 389, 398 (1875) (explaining that when the United States “comes down from its position of sovereignty, and enters the domain of commerce, it submits itself to the same laws that govern individuals there”).*

*See *Jones*, 1 Cl.Ct. at 85 (“Wherever the public and private acts of the government seem to commingle, a citizen or corporate body must by supposition be substituted in its place, and then the question be determined whether the action will lie against the supposed defendant”); *O'Neill v. United States*, 231 Ct.Cl. 823, 826 (1982) (sovereign acts doctrine applies where, “[w]here [the] contracts exclusively between private parties, the party hurt by such governing action could not claim compensation from the other party for the governing*

action"). The dissent ignores these statements (including the statement from Jones, from which case Horowitz drew its reasoning literally verbatim), when it says, post at 931, that the sovereign acts cases do not emphasize the need to treat the government-as-contractor the same as a private party. [United States v. Winstar Corp., 518 U.S. 839 (1996)]

The only natural persons who are “citizens” and “individuals” within the Internal Revenue Code are instrumentalities or privileged public officers of the United States government, as is discussed in Form #05.008. The government has always had the authority to tax and regulate its own employees and agents.

People who are domiciled in states of the Union, outside of federal legislative jurisdiction are not CIVIL/DOMICILED “citizens**+D” or “U.S.** citizens**+D” or “citizens**+D of the United States**” under the Internal Revenue Code. They are also not POLITICAL/TERRITORIAL citizens* born or naturalized in the exclusive jurisdiction of Congress under 8 U.S.C. §1401 either, but instead are “nationals” under 8 U.S.C. §1101(a)(21). We call these people “state nationals”. “State nationals” are “nonresident aliens” under the Internal Revenue Code if engaged in a public office and “non-resident non-persons” if not engaged in a public office. This is confirmed by examining the IRS Form 1040NR form itself for years 2012 through 2017, which actually mentions “U.S. nationals” as being “nonresident aliens”. By this, they can only mean STATUTORY “nationals but not citizens” born and living within U.S. possessions and not states of the Union. If those who are nationals per 8 U.S.C. §1101(a)(21) but not statutory citizens (territorial citizens) per 8 U.S.C. §1401 are not engaged in a public office they are non-resident non-persons.

See Great IRS Hoax, Form #11.302, Sections 4.9 through 4.12.14 for further details. Great IRS Hoax, Form #11.302, Section 5.1.4 also relates your citizenship status to your tax status.

4.5 Definition of “resident”⁴

| Element | Definition |
|--------------------------------|--|
| Word: | Resident |
| Context: | 26 U.S.C. §7701(a)(30) definition of “U.S. person” |
| Internal Rev. Code: | 26 U.S.C. §7701(b)(1)(A) |
| Black’s Law Dictionary: | <p>Resident. “Any <u>person</u> who occupies a dwelling within <u>the State</u>, has a present intent to remain within <u>the State</u> for a period of time, and manifests the genuineness of that intent by establishing an ongoing physical presence within <u>the State</u> together with indicia that his presence within <u>the State</u> is something other than <u>merely transitory in nature</u>. The word “resident” when used as a noun means a dweller, habitant or occupant; one who resides or dwells in a place for a period of more, or less, duration; it signifies one having a residence, or one who resides or abides. [Hanson v. P.A. Peterson Home Ass’n, 35 Ill.App2d. 134, 182 N.E.2d. 237, 240] [Underlines added]</p> <p>Word “resident” has many meanings in law, largely determined by <u>statutory context</u> in which it is used. [Kelm v. Carlson, C.A.Ohio, 473, F.2d. 1267, 1271] [Black’s Law Dictionary, Sixth Edition, p. 1309]</p> |
| Webster’s: | <p>resident: One who has a residence in a particular place but does not necessarily have the status of a citizen. Note that even when a person is not a resident, he or she may <i>elect</i> to be treated as a resident with his or her consent. The rules for electing to be treated as a resident are found in IRS Publication 54: <u>Tax Guide for U.S. Citizens and Resident Aliens Abroad</u>. [Merriam Webster’s Dictionary of Law]</p> |

In all tax laws throughout the world that we have seen, “resident” universally means an alien. This is consistent with the definition of “resident” found in The Law of Nations, Vattel which was used by the Founding Fathers to write the Constitution.

“Residents, as distinguished from citizens, are aliens who are permitted to take up a permanent abode in the country. Being bound to the society by reason of their dwelling in it, they are subject to its laws so long as they remain there, and being protected by it, they must defend it, although they do not enjoy all the rights of citizens. They have only certain privileges which the law, or custom, gives them. Permanent residents are those who have been given the right of perpetual residence. They are a sort of citizens of a less privileged character, and

⁴ Source: Legal Deception, Propaganda, and Fraud, Form #05.014, Section 15.5.18.

are subject to the society without enjoying all its advantages. Their children succeed to their status; for the right of perpetual residence given them by the State passes to their children.”
[The Law of Nations, Vattel, p. 87;
SOURCE: <http://famguardian.org/TaxFreedom/CitesByTopic/Resident-LawOfNations.pdf>]

The above definition is also consistent with that found in 26 U.S.C. §7701(b)(1)(A) , which is the only definition of “resident” in the Internal Revenue Code:

26 U.S.C. §7701(b)(1)(A) Resident alien

(b) Definition of *resident alien* and nonresident alien

(1) In general

For purposes of this title (other than subtitle B) -

(A) *Resident alien*

An alien individual shall be treated as a resident of the United States with respect to any calendar year if (and only if) such individual meets the requirements of clause (i), (ii), or (iii):

(i) Lawfully admitted for permanent residence

Such individual is a lawful permanent resident of the United States at any time during such calendar year.

(ii) Substantial presence test

Such individual meets the substantial presence test of paragraph (3).

(iii) First year election

Such individual makes the election provided in paragraph (4).

To put it even more succinctly, a resident is an alien with a domicile or “residence” in the “United States”, which is defined in 26 U.S.C. §7701(a)(9) and (a)(10) as the District of Columbia ONLY. If you don’t maintain a domicile there, then you aren’t a “resident” even if you are an alien and live there. This is more carefully thoroughly explained in Great IRS Hoax, Form #11.302, Section 5.4.7 through 5.4.7.14. An alien who is present somewhere but does not have a domicile there is called a “transient foreigner”.

“Transient foreigner. One who visits the country, without the intention of remaining.”
[Black’s Law Dictionary, Sixth Edition, p. 1498]

A “transient foreigner” is someone who chooses not to obtain his protection from the government in the place where he lives. If he has no domicile in any country on earth, such as in heaven, then he is a nontaxpayer everywhere on earth. Taxes pay for protection and those who provide their own protection and choose no earthly domicile essentially have fired all governments on earth and taken responsibility to provide their own protection. It is their natural right to do so pursuant to the First Amendment, which guarantees us a right of freedom from compelled association.

4.6 Definition of “citizen of the United States” in 26 U.S.C. §7701(a)(30)

The only one of the territories or possessions where people are currently identified as POLITICAL/TERRITORIAL “citizens* of the United States**” under 8 U.S.C. §1401 is Puerto Rico. It is instructive to further investigate WHICH “United States” they mean in this case and whether it fits within the geographical definition of “United States” found in 26 U.S.C. §7701(a)(9) and (a)(10). This article will prove that Puerto Rico is NOT within the geographical “United States” within EITHER the Internal Revenue Code OR the USA Constitution and that the people born there are nonresident in respect to BOTH places.

26 U.S.C. §2209 says Puerto Ricans are “citizens of the United States” under 8 U.S.C. §1401 but at the same time are “nonresidents” for the purposes of the Internal Revenue Code:

1 [26 U.S. Code § 2209. Certain residents of possessions considered nonresidents not citizens of the United States](#)

2 A decedent who was a citizen of the [United States](#) and a resident of a possession thereof at the time of his death
3 shall, for purposes of the [tax](#) imposed by this chapter, be considered a “nonresident not a citizen of the [United](#)
4 [States](#)” within the meaning of that term wherever used in this title, but only if such [person](#) acquired his [United](#)
5 [States](#) citizenship solely by reason of (1) his being a citizen of such possession of the [United States](#), or (2) his
6 birth or residence within such possession of the [United States](#).

7 [SOURCE: <https://www.law.cornell.edu/uscode/text/26/2209>]

8 The term “nonresident not a citizen of the United States” must therefore mean “NONRESIDENT ALIEN” identified in 26
9 U.S.C. §7701(b)(1)(B) for the purposes of Title 26. This implies that “citizen of the United States”, for the purpose of
10 being a STATUTORY “U.S. person” in 26 U.S.C. §7701(a)(30) means a STATE national, NOT a statutory “citizen”. This
11 is because Puerto Ricans are ALSO “nationals and citizens of the United States” under 8 U.S.C. §1401.

12 The following article is helpful on this subject:

[Puerto Rican Citizenship](#), Wikipedia
https://en.wikipedia.org/wiki/Puerto_Rican_citizenship

13 The above article says:

14 *“United States citizenship*

15 On March 2, 1917, the [Jones-Shafroth Act](#) was signed, collectively making Puerto Ricans [United States citizens](#)
16 without rescinding their Puerto Rican citizenship. In 1922, the U.S. Supreme court in the case of [Balzac v.](#)
17 [Porto Rico](#) ruled that the full protection and rights of the U.S constitution do not apply to residents of Puerto
18 Rico until they come to reside in the United States proper. [Luis Muñoz Rivera](#), who participated in the creation
19 of the Jones-Shafroth Act, gave a speech in the U.S. House floor that argued in favor of Puerto Rican
20 citizenship. He declared that “if the earth were to swallow the island, Puerto Ricans would prefer American
21 citizenship to any citizenship in the world. But as long as the island existed, the residents preferred Puerto
22 Rican citizenship.”^[21] The Jones Act allowed locals to renounce the United States citizenship and remain
23 exclusively Puerto Rican citizens, at the cost of being stripped of the right to vote.^[22] At some point in time,
24 287 residents had formally done that.^[22]

25 In 1952, upon the U.S. Congress approving the Constitution of the Commonwealth of Puerto Rico, it also said
26 that Puerto Rican citizenship continued in full force. This was further reiterated in 2006 while the U.S. Senate
27 probed into the President’s Task Force on Puerto Rico’s status.^[5] In 1953, U.S Ambassador [Henry Cabot](#)
28 [Lodge Jr.](#), in a memorandum sent to the [United Nations](#), said that “the people of Puerto Rico continue to be
29 citizens of the United States as well as of Puerto Rico.”^[6]
30 [Wikipedia: Puerto Rican Citizenship, Downloaded 11/24/2019; SOURCE:
31 https://en.wikipedia.org/wiki/Puerto_Rican_citizenship]

32
33 FOOTNOTES:

34 [5] [Puerto Rico: Hearing before the Committee on Energy and Natural Resources](#). US Senate. 109th
35 Congress, 2nd Session on The Report by the President’s Task Force on Puerto Rico’s Status. Nov 15, 2006.
36 page 114.

37 [6] [“Opinion de Secretario de Justicia 2006-7”](#) (PDF) (in Spanish). Gobierno de Puerto Rico. Retrieved January
38 10, 2010.

39 [21] [Maldonado, A. W. Luis Muñoz Marín: Puerto Rico’s Democratic Revolution. Editorial UPR, 2006. P.35.](#)
40 ISBN 0-8477-0158-1

41 [22] [Jump up to:](#)^a ^b Roberto Colón Ocasio (2009). Antonio Fernós Insern, Soberanista – Luis Muñoz Marín,
42 Autonomista: Divergencias ideológicas y su efecto en el desarrollo del Estado Libre Asociado de Puerto Rico (in
43 Spanish) (1st ed.). Fundación Antonio Fernós Insern, Inc. p. 37. ISBN 9781934461662.

44 The following article also says that Puerto Ricans are NOT “constitutional citizens” under the Fourteenth Amendment:

[Are Puerto Ricans American Citizens?](#), US News and World Report, March 3, 2017

“U.S. Person” Position

Copyright Sovereignty Education and Defense Ministry, <http://sedm.org>
Form 05.053, Rev. 2-18-2025

The above article says that if they want to become CONSTITUTIONAL citizens they have to be naturalized in court:

"In 1906, Congress added a section in the Bureau of Immigration and Naturalization Act that waived the requirement to renounce an allegiance to a sovereign state. As my research shows, in 1906 Puerto Ricans began to naturalize in U.S. district courts throughout the mainland."

In addition, Puerto Ricans have been recognized by the Courts as "foreigners" in respect to Constitutional states and the Constitutional "United States***":

"Constitutionally, only those born or naturalized in the United States and subject to the jurisdiction thereof, are citizens. Const.Amdt. XIV. The power to fix and determine the rules of naturalization is vested in the Congress. Const.Art. I, sec. 8, cl. 4. Since all persons born outside of the [CONSTITUTIONAL] United States, are "foreigners,"[1] and not subject to the jurisdiction of the United States, the statutes, such as § 1993 and 8 U.S.C.A. §601 [currently 8 U.S.C. §1401], derive their validity from the naturalization power of the Congress. Elk v. Wilkins, 1884, 112 U.S. 94, 101, 5 S.Ct. 41, 28 L.Ed. 643; Wong Kim Ark v. U. S., 1898, 169 U.S. 649, 702, 18 S.Ct. 456, 42 L.Ed. 890. Persons in whom citizenship is vested by such statutes are naturalized citizens and not native-born citizens. Zimmer v. Acheson, 10 Cir. 1951, 191 F.2d. 209, 211; Wong Kim Ark v. U. S., supra."
[Ly Shew v. Acheson, 110 F.Supp. 50 (N.D. Cal., 1953)]

FOOTNOTES:

[1] See Boyd v. State of Nebraska ex rel. Thayer, 1892, 143 U.S. 135, 12 S.Ct. 375, 36 L.Ed. 103; U.S. v. Harbanuk, 2 Cir. 1933, 62 F.2d. 759, 761.

The converse of the above must also true: That CONSTITUTIONAL citizens or state nationals are "foreign" in respect to everything that happens on federal territory under Article 1, Section 8, Clause 17. This, however, is a Third Rail issue that no one in government is ever going to admit because it threatens their protection racket and tax revenues.

We have therefore proven that:

1. Puerto Ricans are the ONLY remaining STATUTORY "nationals and citizens of the United States at birth" under 8 U.S.C. §1401.
2. Puerto Ricans are excluded from being TREATED as "citizens of the United States*" by 26 U.S.C. §2209 throughout the entire Internal Revenue Code.
3. The "citizen of the United States" within the definition of "U.S. Person" at 26 U.S.C. §7701(a)(30) does not include Puerto Ricans.
4. There are NO other remaining "citizens of the United States*" other than those within the "United States" defined in 26 U.S.C. §7701(a)(9) and (a)(10) as the District of Columbia and not elsewhere.
5. District of Columbia "citizens of the United States*" are NOT CONSTITUTIONAL citizens of a state of the Union:

*"The 1st section of the 14th article [Fourteenth Amendment], to which our attention is more specifically invited, opens with a definition of citizenship—not only citizenship of the United States[***], but citizenship of the states. No such definition was previously found in the Constitution, nor had any attempt been made to define it by act of Congress. It had been the occasion of much discussion in the courts, by the executive departments and in the public journals. It had been said by eminent judges that no man was a citizen of the United States[***] except as he was a citizen of one of the states composing the Union. Those therefore, who had been born and resided always in the District of Columbia or in the territories, though within the United States[*], were not citizens. Whether this proposition was sound or not had never been judicially decided."*
[Slaughter-House Cases, 83 U.S. (16 Wall.) 36, 21 L.Ed. 394 (1873)]

Therefore, the only type of "citizen of the United States*" that falls within the definition of "U.S. person" at 26 U.S.C. §7701(a)(30) is a District of Columbia citizen OR an American national who "elects" to be treated as such by filing a 1040 form instead of the more proper 1040NR form. The U.S. Supreme Court has also held below that it is perfectly legitimate to tax such a "citizen", and that the tax is upon the GOVERNMENT and not private humans.

1 “Loughborough v. Blake, 5 Wheat. 317, 5 L.Ed. 98, was an action of trespass or, as appears by the original
2 record, replevin, brought in the circuit court for the District of Columbia to try the right of Congress to impose
3 a direct tax for general purposes on that District. 3 Stat. at L. 216, chap. 60. It was insisted that Congress
4 could act in a double capacity: in one as legislating [182 U.S. 244, 260] for the states; in the other as a local
5 legislature for the District of Columbia. In the latter character, it was admitted that the power of levying
6 direct taxes might be exercised, but for District purposes only, as a state legislature might tax for state
7 purposes; but that it could not legislate for the District under art. 1, 8, giving to Congress the power 'to lay
8 and collect taxes, imposts, and excises,' which 'shall be uniform throughout the United States,' inasmuch as
9 the District was no part of the United States [described in the Constitution]. It was held that the grant of this
10 power was a general one without limitation as to place, and consequently extended to all places over which the
11 government extends; and that it extended to the District of Columbia as a constituent part of the United States.
12 The fact that art. 1, 2, declares that 'representatives and direct taxes shall be apportioned among the several
13 states . . . according to their respective numbers' furnished a standard by which taxes were apportioned, but not
14 to exempt any part of the country from their operation. 'The words used do not mean that direct taxes shall be
15 imposed on states only which are represented, or shall be apportioned to representatives; but that direct
16 taxation, in its application to states, shall be apportioned to numbers.' That art. 1, 9, 4, declaring that direct
17 taxes shall be laid in proportion to the census, was applicable to the District of Columbia, 'and will enable
18 Congress to apportion on it its just and equal share of the burden, with the same accuracy as on the respective
19 states. If the tax be laid in this proportion, it is within the very words of the restriction. It is a tax in proportion
20 to the census or enumeration referred to.' It was further held that the words of the 9th section did not 'in terms
21 require that the system of direct taxation, when resorted to, shall be extended to the territories, as the words of
22 the 2d section require that it shall be extended to all the states. They therefore may, without violence, be
23 understood to give a rule when the territories shall be taxed, without imposing the necessity of taxing them.'"
24 [Downes v. Bidwell, [182 U.S. 244](#) (1901)]

25 Notice the language:

26 “It was held that the grant of this power was a general one without limitation as to place, and consequently
27 extended to all places over which the government extends; and that it extended to the District of Columbia as
28 a constituent part of the United States. The fact that art. 1, 2”

29 The reason the taxing power was without limitation as to place is that it is a tax upon the government as a federal
30 corporation, and all those who work for it. The government is not a geographical entity but a fiction of law that is not
31 physical. It can be enforced anywhere U.S. Inc. federal corporation extends, which is why the tax can exist anywhere that
32 “government extends”. That government, incidentally, is a STATUTORY citizen because all federally chartered
33 corporations are federal statutory citizens and franchises.

34 “A corporation is a citizen, resident, or inhabitant of the state or country by or under the laws of which it was
35 created, and of that state or country only.”
36 [19 Corpus Juris Secundum (C.J.S.), Corporations, §886 (2003)]

37 Those participating in the “U.S. Inc” corporation franchise are engaged in a statutory “trade or business”, which is defined
38 in 26 U.S.C. §7701(a)(26) as “the functions of a public office”. They are “within” the “United States” in the sense that they
39 represent it as an officer and a legal fiction. That is the OTHER context in which the term “United States” is used within
40 the I.R.C., in addition to the geographical context found in 26 U.S.C. §7701(a)(9) and (a)(10).

41 We also know that CIVIL/DOMICILED citizens such as corporations are NOT CONSTITUTIONAL citizens:

42 “Citizens of the United States within the meaning of this Amendment must be natural and not artificial
43 persons; a corporate body is not a citizen of the United States.”¹⁴

44
45 ¹⁴ Insurance Co. v. New Orleans, 13 Fed.Cas. 67 (C.C.D.La. 1870). Not being citizens of the United States,
46 corporations accordingly have been declared unable “to claim the protection of that clause of the Fourteenth
47 Amendment which secures the privileges and immunities of citizens of the United States against abridgment or
48 impairment by the law of a State.” Orient Ins. Co. v. Daggs, [172 U.S. 557](#), 561 (1869). This conclusion was in
49 harmony with the earlier holding in Paul v. Virginia, 75 U.S. (8 Wall.) 168 (1869), to the effect that
50 corporations were not within the scope of the privileges and immunities clause of state citizenship set out in
51 Article IV, Sect. 2. See also Selover, Bates & Co. v. Walsh, [226 U.S. 112](#), 126 (1912); Berea College v.
52 Kentucky, [211 U.S. 45](#) (1908); Liberty Warehouse Co. v. Tobacco Growers, [276 U.S. 71](#), 89 (1928); Grosjean
53 v. American Press Co., [297 U.S. 233](#), 244 (1936).

54 [Annotated Fourteenth Amendment, Congressional Research Service.

55 SOURCE: http://www.law.cornell.edu/anncon/html/amdt14a_user.html#amdt14a_hd1]

Furthermore, the “citizen” referenced in 26 C.F.R. §1.1-1(c) is NOT called a “citizen of the United States” but merely a “citizen”, because it is NOT the same thing. THAT citizen is a statutory “national and citizen of the United States at birth” defined in 8 U.S.C. §1401:

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

(c) Who is a citizen.

Every person born or naturalized in the United States and subject to its jurisdiction is a citizen. For other rules governing the acquisition of citizenship, see chapters 1 and 2 of title III of the Immigration and Nationality Act (8 U.S.C. 1401-1459). For rules governing loss of citizenship, see sections 349 to 357, inclusive, of such Act (8 U.S.C. 1481-1489), Schneider v. Rusk, (1964) 377 U.S. 163, and Rev. Rul. 70-506, C.B. 1970-2, 1. For rules pertaining to persons who are nationals but not citizens at birth, e.g., a person born in American Samoa, see section 308 of such Act (8 U.S.C. §1408). For special rules applicable to certain expatriates who have lost citizenship with a principal purpose of avoiding certain taxes, see section 877. A foreigner who has filed his declaration of intention of becoming a citizen but who has not yet been admitted to citizenship by a final order of a naturalization court is an alien.

Note based on the above that:

1. They use Title 8 of the U.S. code to define who is a “citizen” rather than the Fourteenth Amendment.
2. They say to refer specifically to 8 U.S.C. §§1401-1459 for a definition of what type of “citizen” this is. None of the statutes in this range refer to Fourteenth Amendment or CONSTITUTIONAL citizenship.
3. The Fourteenth Amendment is NOWHERE listed in Title 8 as the source of “national and citizen of the United States at birth” in 8 U.S.C. §1401.
4. 8 U.S.C. §1401 “national and citizen of the United States at birth” is defined as a PRIVILEGE rather than a RIGHT. CONSTITUTIONAL citizenship, on the other hand is a RIGHT and not a PRIVILEGE that cannot be taken away without consent. See Afroyim v. Rusk, 387 U.S. 253 (1967). STATUTORY citizenship in 8 U.S.C. §1401 is a privilege because it can be REVOKED at any time by Congress. In fact, they have taken it away before through collective DENATURALIZATION in the case of the Philippines, with the Philippine Independence Act (Pub.L. 73–127, 48 Stat. 456, enacted March 24, 1934). The only thing they can take away without the consent of the owner is what they both own and what they created, both of which are PUBLIC property rather than that of the person with the status:

“Finally, this Court is mindful of the years of past practice in which territorial citizenship has been treated as a statutory [PRIVILEGE!], and not a constitutional, right. In the unincorporated territories of Puerto Rico, Guam, the U.S. Virgin Islands, and the Northern Mariana Islands, birthright citizenship was conferred upon their inhabitants by various statutes many years after the United States acquired them. See Amicus Br. at 10-11.”

[Tuaua v. U.S.A., 951 F.Supp.2d. 88 (2013)]

“The Court today holds that Congress can indeed rob a citizen of his citizenship just so long as five members of this Court can satisfy themselves that the congressional action was not ‘unreasonable, arbitrary,’ ante, at 831; ‘misplaced or arbitrary,’ ante, at 832; or ‘irrational or arbitrary or unfair,’ ante, at 833. My first comment is that not one of these ‘tests’ appears in the Constitution. Moreover, it seems a little strange to find such ‘tests’ as these announced in an opinion which condemns the earlier decisions it overrules for their resort to clichés, which it describes as ‘too handy and too easy, and, like most clichés, can be misleading’. Ante, at 835. That description precisely fits those words and clauses which the majority uses, but which the Constitution does not.

The Constitution, written for the ages, cannot rise and fall with this Court’s passing notions of what is ‘fair,’ or ‘reasonable,’ or ‘arbitrary.’[. . .]

The Court today holds that the Citizenship Clause of the Fourteenth Amendment has no application to Bellei. The Court first notes that Afroyim was essentially a case construing the Citizenship Clause of the Fourteenth Amendment. Since the Citizenship Clause declares that: ‘All persons born or naturalized in the United States * * * are citizens of the United States * * *’ the Court reasons that the protections against involuntary expatriation declared in Afroyim do not protect all American citizens, but only those ‘born or naturalized in the United States.’ Afroyim, the argument runs, was naturalized in this country so he was protected by the Citizenship Clause, but Bellei, since he acquired his American citizenship at birth in Italy as a foreignborn child of an American citizen, was neither born nor naturalized in the United States and, hence, falls outside the scope of the Fourteenth Amendment guarantees declared in Afroyim. One could hardly call this a generous reading of the great purposes the Fourteenth Amendment was adopted to bring about. While

conceding that Bellei is an American citizen, the majority states: 'He simply is not a Fourteenth-Amendment-first-sentence citizen.' Therefore, the majority reasons, the congressional revocation of his citizenship is not barred by the Constitution. I cannot accept the Court's conclusion that the Fourteenth Amendment protects the citizenship of some Americans and not others. [...]

The Court today puts aside the Fourteenth Amendment as a standard by which to measure congressional action with respect to citizenship, and substitutes in its place the majority's own vague notions of 'fairness.' The majority takes a new step with the recurring theme that the test of constitutionality is the Court's own view of what is 'fair, reasonable, and right.' Despite the concession that Bellei was admittedly an American citizen, and despite the holding in Afroyim that the Fourteenth Amendment has put citizenship, once conferred, beyond the power of Congress to revoke, the majority today upholds the revocation of Bellei's citizenship on the ground that the congressional action was not 'irrational or arbitrary or unfair.' The majority applies the 'shock-the-conscience' test to uphold, rather than strike, a federal statute. It is a dangerous concept of constitutional law that allows the majority to conclude that, because it cannot say the statute is 'irrational or arbitrary or unfair,' the statute must be constitutional.

[...]

Since the Court this Term has already downgraded citizens receiving public welfare, Wyman v. James, 400 U.S. 309, 91 S.Ct. 381, 27 L.Ed.2d. 408 (1971), and citizens having the misfortune to be illegitimate, Labine v. Vincent, 401 U.S. 532, 91 S.Ct. 1917, 28 L.Ed.2d. 288, I suppose today's decision downgrading citizens born outside the United States should have been expected. Once again, as in James and Labine, the Court's opinion makes evident that its holding is contrary to earlier decisions. Concededly, petitioner was a citizen at birth, not by constitutional right, but only through operation of a federal statute. [Rogers v. Bellei, 401 U.S. 815 (1971)]

5. The District of Columbia district court declared that no statutes are needed for Constitutional citizenship, implying that the statutes are a REPLACEMENT for the Constitution, because the Constitution doesn't apply on federal territory or places outside the CONSTITUTIONAL "United States***".

"Finally, this Court is mindful of the years of past practice in which territorial citizenship has been treated as a statutory [PRIVILEGE!], and not a constitutional, right. In the unincorporated territories of Puerto Rico, Guam, the U.S. Virgin Islands, and the Northern Mariana Islands, birthright citizenship was conferred upon their inhabitants by various statutes many years after the United States acquired them. See Amicus Br. at 10-11. If the Citizenship Clause [Fourteenth Amendment] guaranteed birthright citizenship in unincorporated territories, these statutes would have been unnecessary." [Tuaua v. U.S.A, 951 F.Supp.2d. 88 (2013)]

Hence, the tax is imposed in 26 C.F.R. §1.1-1 on CIVIL/DOMICILED "citizens**+D" domiciled within the exclusive jurisdiction of Congress rather than POLITICAL/CONSTITUTIONAL "citizens* of the United States***" in states of the Union. Furthermore, even the regulation at 26 C.F.R. §1.1-1 does not make those participating "liable for". Instead, it uses to "liable TO" in 26 C.F.R. §1.1-1(b):

[26 CFR § 1.1-1 - Income tax on individuals.](#)

(b) Citizens or residents of the United States liable to tax.

In general, all citizens of the [United States](#), wherever resident, and all [resident alien individuals](#) are [liable to the income taxes imposed by the Code](#) whether the [income](#) is received from sources within or without the [United States](#). Pursuant to section 876, a [nonresident alien](#) individual who is a bona fide resident of a section 931 possession (as [defined](#) in [§ 1.931-1\(c\)\(1\)](#) of this chapter) or Puerto Rico during the entire [taxable year](#) is, except as provided in section 931 or 933 with respect to [income](#) from sources within such possessions, subject to taxation in the same manner as a [resident alien](#) individual. As to tax on [nonresident alien individuals](#), see sections 871 and 877.

Any liability FOR tax would have to appear in statute or it is NOT a liability. It's not in 26 U.S.C. §1 that the above regulation implements, and therefore the liability cannot lawfully be included in the regulation that implements the statute.

"Tax' is legal imposition, exclusively of statutory origin, and liability to taxation must be read in statute, or it does not exist."
[Bente v. Bugbee, 137 A. 552, 103 N.J. Law. 608 (1927)]

"The taxpayer must be liable for the tax. Tax liability is a condition precedent to the demand. Merely demanding payment, even repeatedly, does not cause liability."
[Bothke v. Terry, 713 F.2d. 1405, at 1414 (1983)]

"Liability for taxation must clearly appear from statute imposing tax."
[Higley v. Commissioner of Internal Revenue, 69 F.2d. 160 (1934)]

If an express liability appears in the regulation but not the statute, the regulation exceeds the scope of the statute and is unconstitutional. See also [U.S. v. Calamaro, 354 U.S. 351 \(1957\)](#), where the U.S. Supreme Court affirmed that a regulation CANNOT add to or expand the statute. This means they cannot add a liability that does not appear in the statute, and if they add a liability that is not in the statute, then it can only apply to people WITHIN the agency the regulation was written for. The Secretary can therefore ONLY impose duties not in the statutes upon his own workers! Do you work for the IRS?

The ONLY parties expressly made liable are those found in 26 U.S.C. §1461, who are withholding agents on "nonresident aliens". All these people are government entities paying third parties. These people are NOT private companies, because they are never lawfully appointed as statutory "Withholding agents" by the Secretary of the Treasury.

Therefore, the "citizen" mentioned in 26 C.F.R. §1.1-1(a) is a CIVIL/DOMICILED "citizen**+D of the "United States**" defined in 26 U.S.C. §7701(a)(9) and (a)(10) as the District of Columbia and the Territories or possessions of the United States.

[TITLE 26 > Subtitle F > CHAPTER 79 > Sec. 7701. \[Internal Revenue Code\]](#)
[Sec. 7701. - Definitions](#)

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

(9) United States

The term "United States" [**] when used in a geographical sense includes only the [States](#) and the District of Columbia.

[TITLE 26 > Subtitle F > CHAPTER 79 > Sec. 7701. \[Internal Revenue Code\]](#)
[Sec. 7701. - Definitions](#)

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

(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.

4 U.S. Code CHAPTER 4—THE STATES
[4 U.S. Code § 110. Same; definitions](#)

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

The above "United States" apparently, based on 26 U.S.C. §2209, does NOT include Puerto Rico or anything outside of the District of Columbia. It also does NOT include CONSTITUTIONAL "citizens of the United States" under the Fourteenth Amendment or the definition of "United States person" in 26 U.S.C. §7701(a)(30). Lastly, per the rules of statutory construction, neither the IRS nor the judicial branch has any authority to use presumption to add to the above definitions:

"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)]

5 Tax liability of "U.S. Persons"

Tax liability is associated with citizens and residents, not directly with statutory "U.S. Persons".

Title 26: Internal Revenue

PART 1—INCOME TAXES

Normal Taxes and Surtaxes

§ 1.1-1 Income tax on individuals.

(a) General rule.

(1) Section 1 of the Code imposes an income tax on the income of every individual who is a citizen or resident of the United States and, to the extent provided by section 871(b) or 877(b), on the income of a nonresident alien individual. For optional tax in the case of taxpayers with adjusted gross income of less than \$10,000 (less than \$5,000 for taxable years beginning before January 1, 1970) see section 3. The tax imposed is upon taxable income (determined by subtracting the allowable deductions from gross income). The tax is determined in accordance with the table contained in section 1. See subparagraph (2) of this paragraph for reference guides to the appropriate table for taxable years beginning on or after January 1, 1964, and before January 1, 1965, taxable years beginning after December 31, 1964, and before January 1, 1971, and taxable years beginning after December 31, 1970. In certain cases credits are allowed against the amount of the tax. See part IV (section 31 and following), subchapter A, chapter 1 of the Code. In general, the tax is payable upon the basis of returns rendered by persons liable therefor (subchapter A (sections 6001 and following), chapter 61 of the Code) or at the source of the income by withholding. For the computation of tax in the case of a joint return of a husband and wife, or a return of a surviving spouse, for taxable years beginning before January 1, 1971, see section 2. The computation of tax in such a case for taxable years beginning after December 31, 1970, is determined in accordance with the table contained in section 1(a) as amended by the Tax Reform Act of 1969. For other rates of tax on individuals, see section 5(a). For the imposition of an additional tax for the calendar years 1968, 1969, and 1970, see section 51(a).

The above "imposition" is indicated in the regulations but NOT the statutes. Further, it is identified as an "imposition" and NOT an EXPRESS "liability". The alleged liability is found in 26 C.F.R. §1.1-1(b), but it uses "liable TO" rather than "liable FOR", which means it is not a real liability:

Title 26: Internal Revenue

PART 1—INCOME TAXES

Normal Taxes and Surtaxes

§ 1.1-1 Income tax on individuals.

(a) General rule.

(b) Citizens or residents of the United States liable to tax.

In general, all citizens of the United States, wherever resident, and all resident alien individuals are liable to the income taxes imposed by the Code whether the income is received from sources within or without the United States. Pursuant to section 876, a nonresident alien individual who is a bona fide resident of Puerto Rico during the entire taxable year is, except as provided in section 933 with respect to Puerto Rican source income, subject to taxation in the same manner as a resident alien individual. As to tax on nonresident alien individuals, see sections 871 and 877.

Liability FOR the tax, not TO the tax MUST appear in the statutes or it DOES NOT exist per the rules of statutory construction. It cannot be ADDED to the underlying regulations if it is not FIRST found in the statute because then the regulation would exceed the scope of the statute and be null and void per *United States v. Calamaro*, 354 U.S. 351 (1957).

"'Tax' is legal imposition, exclusively of statutory origin, and liability to taxation must be read in statute, or it does not exist."

[*Bente v. Bugbee*, 137 A. 552, 103 N.J. Law. 608 (1927)]

"The taxpayer must be liable for the tax. Tax liability is a condition precedent to the demand. Merely demanding payment, even repeatedly, does not cause liability."
[Bothe v. Terry, 713 F.2d. 1405, at 1414 (1983)]

"Liability for taxation must clearly appear from statute imposing tax."
[Higley v. Commissioner of Internal Revenue, 69 F.2d. 160 (1934)]

The only parties EXPRESSLY made liable BY STATUTE in the entire Internal Revenue Code, Subtitle A, are Withholding Agents.

[TITLE 26](#) > *Subtitle A* > *CHAPTER 3* > [§1461](#)
[§ 1461. Definitions](#)

Every [person](#) required to deduct and withhold any [tax](#) under this chapter is hereby made liable for such [tax](#) and is hereby indemnified against the claims and demands of any [person](#) for the amount of any [payments](#) made in accordance with the provisions of this chapter.
(Aug. 16, 1954, ch. 736, [68A Stat. 360](#); [Pub. L. 89-809, title I](#), § 103(i), Nov. 13, 1966, [80 Stat. 1554](#).)

Further, because the tax is imposed **ONLY** upon statutory “individuals”, then you must be a statutory “individual” to owe the tax.

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).

26 C.F.R. 1.1441-1T Requirement for the deduction and withholding of tax on payments to foreign persons.

(c) *Definitions*

(3) *Individual.*

(ii) Nonresident alien individual.

The term nonresident alien individual means [persons](#) described in section 7701(b)(1)(B), alien [individuals](#) who are treated as [nonresident aliens](#) pursuant to [§ 301.7701\(b\)-7 of this chapter for purposes](#) of computing their U.S. [tax liability](#), or an alien individual who is a resident of Puerto Rico, Guam, the Commonwealth of Northern Mariana Islands, the U.S. Virgin Islands, or American Samoa as determined under [§ 301.7701\(b\)-1\(d\) of this chapter](#). An alien individual who has made an [election](#) under section 6013(g) or [\(h\)](#) to be treated as a resident of the [United States](#) is nevertheless treated as a [nonresident alien](#) individual for [purposes](#) of [withholding](#) under chapter 3 of the Code and the regulations thereunder.

All statutory “individuals” are ALIENS either physically present in or doing business in the statutory “United States” or abroad. Those aliens, when abroad, are called “U.S. citizen” or “U.S. resident” under 26 U.S.C. §911 and they are aliens in relation to the country they are in, not in relation to the government imposing the tax. When abroad, statutory “U.S. citizens” or “U.S. residents” are called “qualified individuals” under 26 U.S.C. §911(d)(1) .

1 **6 The phrase “wherever resident” in 26 C.F.R. §1.1-1 means wherever they have**
2 **the CIVIL STATUS of a “bona fide resident” in respect to the foreign country**
3 **they are in under 26 U.S.C. §911(d)(1)(A)⁵**

False Argument: The phrase “wherever resident” in 26 C.F.R. §1.1-1 means WHEREVER LOCATED, not WHEREVER DOMICILED OR LOCATED ABROAD.

Corrected Alternative Argument: The phrase “wherever resident” in 26 C.F.R. §1.1-1 means wherever they have the CIVIL STATUS of a “bona fide resident” in respect to the foreign country they are in under 26 U.S.C. §911(d)(1)(A). It has nothing to do with a state of the Union, because:

1. You can’t simultaneously be a CITIZEN and a RESIDENT at the same time within a constitutional state.
2. State citizens protected by the Constitution aren’t allowed to ALIENATE rights that the Declaration of Independence says are UNALIENABLE, and thus, they cannot become a privileged “RESIDENT” in relation to the government of any Constitutional State or the national government.

Further information:

1. Non-Resident Non-Person Position, Form #05.020, Section 5.1-memorandum of law upon which this section is based.
<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>
3. Unalienable Rights Course, Form #12.038
<http://sedm.org/Forms/FormIndex.htm>
4. Enumeration of Inalienable Rights, Form #10.002
<http://sedm.org/Forms/FormIndex.htm>

4 In order to illegally enforce the national income tax extraterritorially within the borders of Constitutional State, the national
5 government must use legal trickery and words of art to make it FALSELY APPEAR as if the income tax applies to a
6 STATUTORY “U.S. citizen” (per 8 U.S.C. §1401) ANYWHERE IN THE WORLD, including a CONSTITUTIONAL
7 state of the Union. This section explains how the deception is accomplished and why any and all claims that it applies
8 EVERYWHERE are simply FALSE.

9 The I.R.C. Subtitle A income tax is imposed upon “citizens” only when they ALSO “RESIDENT” (alien) in the place they
10 earn the statutory “income”.

11 26 C.F.R. §1.1-1 Income tax on individuals.

12 **(a) General rule.**

13 (I) Section 1 of the Code imposes an income tax on the income of every individual who is a citizen or resident of
14 the United States and, to the extent provided by section 871(b) or 877(b), on the income of a nonresident alien
15 individual.

16 [. . .]

17 **(b) Citizens or residents of the United States liable to tax.**

18 In general, all citizens of the United States, wherever resident, and all resident alien individuals are liable to
19 the income taxes imposed by the Code whether the income is received from sources within or without the
20 United States. Pursuant to section 876, a nonresident alien individual who is a bona fide resident of a section
21 931 possession (as defined in § 1.931-1(c)(1) of this chapter) or Puerto Rico during the entire taxable year is,
22 except as provided in section 931 or 933 with respect to income from sources within such possessions, subject
23 to taxation in the same manner as a resident alien individual. As to tax on nonresident alien individuals, see
24 sections 871 and 877.

25 [26 C.F.R. §1.1-1(a)(1)]

⁵ Adapted from Non-Resident Non-Person Position, Form #05.020, Section 5.1; <http://sedm.org/Forms/FormIndex.htm>.

The statutory term “individual” includes ONLY “aliens” but not statutory “citizens”. Therefore, a statutory “citizen” only becomes an “individual” when they are ALSO an “alien” in relation to a foreign country they are visiting:

[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).

We must then ask ourselves WHEN can a statutory “citizen” (under 8 U.S.C. §1401 and identified in 26 C.F.R. §1.1-1(c)) ALSO be statutory “resident” in the same place at the same time, keeping in mind that a “resident” is an ALIEN domiciled in a place under the law of nations:

“Residents, as distinguished from citizens, are aliens who are permitted to take up a permanent abode in the country. Being bound to the society by reason of their [intention of] dwelling in it, they are subject to its laws so long as they remain there, and, being protected by it, they must defend it, although they do not enjoy all the rights of citizenship. They have only certain privileges which the law, or custom, gives them. Permanent residents are those who have been given the right of perpetual residence. They are a sort of citizen of a less privileged character, and are subject to the society without enjoying all its advantages. Their children succeed to their status; for the right of perpetual residence given them by the State passes to their children.”
[The Law of Nations, p. 87, E. De Vattel, Volume Three, 1758, Carnegie Institution of Washington; emphasis added.]

26 C.F.R. §1.1-1(b) disproves the assertion that everything a person domiciled in any of the 50 states makes is statutory “income” subject to tax, when it states that “All citizens of the United States, wherever resident,” are liable to tax. This is because:

1. One cannot be a statutory “resident” without ALSO being a statutory “alien”. See 26 U.S.C. §7701(b)(1)(A).
2. “residence” is ONLY defined in the I.R.C. to include statutory “aliens” and NOT “citizens”. Nowhere is it defined to include “citizens”. Therefore, a “citizen” cannot have a “residence” or be “resident” in a place without being a statutory alien in relation to that place.

Title 26: Internal Revenue
[PART 1—INCOME TAXES](#)
[nonresident alien individuals](#)
[§ 1.871-2 Determining residence of alien individuals.](#)

(b) Residence defined.

An alien actually present in the United States who is not a mere transient or sojourner is a resident of the United States for purposes of the income tax. Whether he is a transient is determined by his intentions with regard to the length and nature of his stay. A mere floating intention, indefinite as to time, to return to another country is not sufficient to constitute him a transient. If he lives in the United States and has no definite intention as to his stay, he is a resident. One who comes to the United States for a definite purpose which in its nature may be promptly accomplished is a transient; but, if his purpose is of such a nature that an extended stay may be necessary for its accomplishment, and to that end the alien makes his home temporarily in the United States, he becomes a resident. though it may be his intention at all times to return to his domicile abroad when the purpose for which he came has been consummated or abandoned. An alien whose stay in the United States is limited to a definite period by the immigration laws is not a resident of the United States within the meaning of this section, in the absence of exceptional circumstances.

3. One cannot simultaneously be a statutory “citizen” and a statutory “alien” in relation to the same political entity at the same time. Therefore:
 - 3.1. More than one political entity must be involved AND
 - 3.2. Those who are simultaneously “citizens” and “aliens” must be outside the country and in a legislatively foreign country.
4. One cannot have a civil status under the civil statutes of a place such as “citizen” or “resident” WITHOUT a DOMICILE in that place.

- 4.1. This includes statutory “citizen” or statutory “resident”.
- 4.2. This is a requirement of Federal Rule of Civil Procedure 17 and the law of domicile itself.

§ 29. Status

It may be laid down that the, status- or, as it is sometimes called, civil status, in contradistinction to political status - of a person depends largely, although not universally, upon domicil. The older jurists, whose opinions are fully collected by Story I and Burge, maintained, with few exceptions, the principle of the ubiquity of status, conferred by the lex domicilii with little qualification. Lord Westbury, in Udny v. Udny, thus states the doctrine broadly: "The civil status is governed by one single principle, namely, that of domicil, which is the criterion established by law for the purpose of determining civil status. For it is on this basis that the personal rights of the party - that is to say, the law which determines his majority and minority, his marriage, succession, testacy, or intestacy-must depend." Gray, C. J., in the late Massachusetts case of Ross v. Ross, speaking with special reference to capacity to inherit, says: "It is a general principle that the status or condition of a person, the relation in which he stands to another person, and by which he is qualified or made capable to take certain rights in that other's property, is fixed by the law of the domicil; and that this status and capacity are to be recognized and upheld in every other State, so far as they are not inconsistent with its own laws and policy." [A Treatise on the Law of Domicil, National, Quasi-National, and Municipal, M.W. Jacobs, Little, Brown, and Company, 1887, p. 89]

5. Even JESUS said that the only “taxpayers” are citizens abroad and aliens at home! Are you going to disagree with GOD Himself?:

When they [Jesus and Apostle Peter] had come to Capernaum, those [collectors] who received the temple tax [the government has become the modern day socialist pagan god and Washington, D.C. is our civic "temple"] came to Peter and said, "Does your Teacher [Jesus] not pay the temple tax?"

He [Apostle Peter] said, "Yes." [Jesus, our fearless leader as Christians, was a nontaxpayer]

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

Peter said to Him, "From strangers ["aliens"/"residents" ONLY. See 26 C.F.R. §§1.1-1(a)(2)(ii) and 26 C.F.R. §1.1441-1(c)(3)]."

Jesus said to him, "Then the sons ["citizens" of the Republic, who are all sovereign "non-resident non-persons", Form #05.020, or "nationals", Form #05.006] are free [sovereign over their own person and labor. e.g. SOVEREIGN IMMUNITY]. " [Matt. 17:24-27, Bible, NKJV]

6. 26 C.F.R. §1.1-1(a) refers to “every individual who is a citizen”, meaning every ALIEN in a foreign country who is ALSO a STATUTORY “national and citizen of the United States” under 8 U.S.C. §1401.
7. 26 U.S.C. §911(d)(1)(A) describes such an individual as a “qualified individual” AND a “bona fide resident”. That person is a STATUTORY “national and citizen of the United States**” temporarily abroad but domiciled in the federal zone.

*U.S. Code › Title 26 › Subtitle A › Chapter 1 › Subchapter N › Part III › Subpart B › § 911
26 U.S. Code § 911 - Citizens or residents of the United States living abroad*

(d) DEFINITIONS AND SPECIAL RULES

For purposes of this section—

(I) QUALIFIED INDIVIDUAL

The term “qualified individual” means an individual whose tax home is in a foreign country and who is—

(A) a citizen of the United States and establishes to the satisfaction of the Secretary that he has been a bona fide resident of a foreign country or countries for an uninterrupted period which includes an entire taxable year, or

8. Rev.Rul. 75-489, p. 511 agrees that citizens abroad are “aliens” coming under a tax treaty to which the foreign country

they are in is a party. Thus, they are receiving a “benefit” or “privilege”. These “citizens” are those born on and domiciled within the federal zone and not any constitutional state. Those born within and domiciled within a constitutional state are “nationals” under 8 U.S.C. §1101(a)(21) per Form #05.006.

Rev.Rul. 75-489, p. 511.

Sections 1.1-1 and 1.871-1 of the Income Tax Regulations provide that all citizens of the United States, wherever resident, and all resident alien individuals are liable to the income taxes imposed by the Internal Revenue Code whether the income is received from sources within or without the United States. See, however, section 911 of the Code. (Emphasis added.)

Note the phrase “wherever resident” meaning wherever they ARE STATUTORY “residents”. All “residents” are defined as ALIENS AND are all “individuals”. All “individuals” are STATUTORY aliens per 26 C.F.R. §1.1441-1(c)(3)(i) as we showed earlier. The only exception is STATUTORY citizens of the United States** under 8 U.S.C. §1401 domiciled on federal territory and temporarily abroad per 26 U.S.C. §911(d).

26 U.S. Code § 7701 - Definitions

(b) Definition of resident alien and nonresident alien

(1) In general

For purposes of this title (other than subtitle B)—

(A) Resident alien

An alien individual shall be treated as a resident of the United States with respect to any calendar year if (and only if) such individual meets the requirements of clause (i), (ii), or (iii):

(i) Lawfully admitted for permanent residence

Such individual is a lawful permanent resident of the United States at any time during such calendar year.

(ii) Substantial presence test

Such individual meets the substantial presence test of paragraph (3).

(iii) First year election

Such individual makes the election provided in paragraph (4).

9. Of Revenue Rulings, the courts have held:

We need not decide whether the Revenue Rulings themselves are entitled to deference. In this case, the Rulings simply reflect the agency's longstanding interpretation of its own regulations. Because that interpretation is reasonable, it attracts substantial judicial deference. Thomas Jefferson Univ. v. Shalala, 512 U.S. 504, 512 (1994). We do not resist according such deference in reviewing an agency's steady interpretation of its own 61-year-old regulation implementing a 62-year-old statute. "Treasury regulations and interpretations long continued without substantial change, applying to unamended or substantially reenacted statutes, are deemed to have received congressional approval and have the effect of law." Cottage Savings Assn. v. Commissioner, 499 U.S. 554, 561 (1991) (citing Correll, 389 U.S., at 305-306). [United States v. Cleveland Indians Baseball Co., 532 U.S. 200, 220 (2001) (internal citations and quotation marks omitted)]

“The IRS's long-standing interpretation of Treasury Regulation § 1.104-1 through Revenue Rulings is reasonable, and thus entitled to substantial deference.”
[Sewards v. Commissioner of Internal Revenue, 12-72985, *9 (9th Cir. 5-12-2015).]”

Therefore, the only practical way that a statutory “citizen” can ALSO be statutory “resident” under the civil laws of a place is when they are abroad as identified in 26 U.S.C. §911: Citizens or residents of the United States living abroad. That section of code, in fact, groups STATUTORY “citizens” and “residents” together because they are both “resident” when in a foreign country outside the United States* the country:

1. They are a statutory “citizen” under 8 U.S.C. §1401 if they were born on federal territory or abroad and NOT a constitutional state. See *Rogers v. Bellei*, 401 U.S. 815 (1971).
2. If they avail themselves of a “benefit” under a tax treaty with a foreign country, then they are also “resident” in the foreign country they are within under the tax treaty. At that point, they ALSO interface to the United States government as a “resident” under that tax treaty.

Moreover, there are two fairly instructive Revenue Rules that clarify the phrase “wherever resident” found in 26 C.F.R. §1.1-1(b) above. See Rev.Rul. 489 and Rev.Rul. 357 as follows:

“No provision of the Internal Revenue Code or the regulations thereunder holds that a citizen of the United States is a resident of the United States for purposes of its tax. Several sections of the Code provide Federal income tax relief or benefits to citizens of the United States who are residents without the United States for some specified period. See sections 911, 934, and 981. These sections give recognition to the fact that not all the citizens of the United States are residents of the United States.”
[Rev.Rul. 75-489, p. 511]

As regards additional support, see Rev.Rul. 75-357 at p. 5, as follows:

“Sections 1.1-1(b) and 1.871-1 of the Income Tax Regulations provide that all citizens of the United States, wherever resident, and all resident alien individuals are liable to the income taxes imposed by the Internal Revenue Code whether the income is received from sources within or without the United States. See, however, section 911 of the Code. (Emphasis added.)”
[Rev.Rul. 75-357, p. 5]

Being that Rev.Rul. 75-357 quotes 26 C.F.R. § 1.1-1(b) directly, and duly informs every reader to see 26 U.S.C. §911, we believe an examination of 26 U.S.C. §911 and its regulations is in order to locate the appropriate application of the “**wherever resident**” phrase in 26 C.F.R. §1.1-1(b). See 26 U.S.C. §911(d)(1)(A) as follows:

(d) Definitions and special rules — For purposes of this section —

(1) Qualified individual — The term “qualified individual” means an individual whose tax home is in a foreign country and who is —

(A) a citizen of the United States and establishes to the satisfaction of the Secretary that he has been a bona fide resident of a foreign country or countries for an uninterrupted period which includes an entire taxable year.
[26 U.S.C. §911(d)(1)(A)]

There you have it. The “citizen of the United states” must be a bona-fide “resident of a foreign country” to be a qualified individual subject to tax.

Additionally, as we know, 26 C.F.R. §1.1-1(b) states:

“All citizens of the United States, wherever resident, are liable to the income taxes imposed by the Internal Revenue Code whether the income is received from sources within or without the United States.”

The regulations for section 911 make the distinction between where income is received as opposed to where services are performed. See the following:

26 C.F.R. §1.911-3 Determination of amount of foreign earned income to be excluded.

(a) Definition of foreign earned income.

For purposes of section 911 and the regulations thereunder, the term “foreign earned income” means earned income (as defined in paragraph (b) of this section) from sources within a foreign country (as defined in §1.911-2(h)) that is earned during a period for which the individual qualifies under §1.911-2(a) to make an election. Earned income is from sources within a foreign country if it is attributable to services performed by an individual in a foreign country or countries. The place of receipt of earned income is immaterial in determining whether earned income is attributable to services performed in a foreign country or countries.

Note the phrase “foreign country” above. That phrase obviously does not include states of the Union. We are therefore inescapably led to the following conclusions based on the above analysis:

1. One cannot earn “income” as a statutory “citizen” under 26 C.F.R. §1.1-1(c), 26 U.S.C. §911, and 8 U.S.C. §1401 unless they are abroad in a foreign country.
2. No statute EXPRESSLY imposes a tax upon statutory “citizens” when they are NOT “abroad”, meaning in a foreign country. Therefore, under the rules of statutory construction, tax is not owed under ANY other circumstance:

“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]

3. Those statutory citizens and residents who are in the statutory geographical “United States” under 26 U.S.C. §7701(a)(9) and (a)(10) and 4 U.S.C. §110(d), also called the federal zone, are called statutory “U.S. persons” and they are exempt from withholding and reporting.
4. A state citizen under the Fourteenth Amendment is NOT a statutory “citizen” under the Internal Revenue Code at 26 C.F.R. §1.1-1(c), even when they are abroad. Rather, they are statutory “non-resident non-persons” when abroad. See and rebut Non-Resident Non-Person Position, Form #05.020, Section 8 and the following and answer the questions at the end of the following if you disagree:

| |
|--|
| <p><u>Why You are a “national”, “state national”, and Constitutional but not Statutory Citizen</u>, Form #05.006 http://sedm.org/Forms/FormIndex.htm</p> |
|--|

5. Even when one is “abroad” as a statutory “citizen”, they can cease to be a statutory “citizen” at any time by:
 - 5.1. Changing their domicile to the foreign country. This is because the civil status of “citizen” is a product of domicile on federal territory, not their birth...AND
 - 5.2. Surrendering any and all tax “benefits” of the income tax treaty. The receipt of the “benefit” makes them subject to Internal Revenue Code Subtitle A “trade or business” franchise and a public officer in receipt, custody, and control of government property, which itself IS the “benefit”.
6. It is a CRIME for a state citizen to claim the civil status of STATUTORY “citizen” under 8 U.S.C. §1401. That crime is documented in 18 U.S.C. §911.
7. The claim that all state citizens domiciled in states of the Union are “citizens of the United States” under the Internal Revenue Code and that they owe a tax on ANY of their earnings is categorically false and fraudulent.

Below is a table that succinctly summarizes everything we have learned in this section in tabular form. The left column shows what you are now and the two right columns show what you can “elect” or “volunteer” to become under the authority of the Internal Revenue Code based on that status:

Table 3: Convertibility of citizenship or residency status under the Internal Revenue Code

| What you are starting as | What you would like to convert to | |
|---|--|---|
| | “Individuals” (see 26 C.F.R. § 1.1441-1(c)(3)) | |
| | “Alien” (see 26 C.F.R. § 1.1441-1(c)(3)(i)) | “Nonresident alien” (see 26 U.S.C. § 7701(b)(1)(B)) |
| “citizen of the United States” (see 8 U.S.C. § 1401) | “citizen” may unknowingly elect to be treated as an “alien” by filing 1040, 1040A, or 1040EZ form. This election, however, is <i>not</i> authorized by any statute or regulation, and consequently, the IRS is <i>not</i> authorized to process such a return! It amounts to constructive fraud for a “citizen” to file as an “alien”, which is what submitting a 1040 or 1040A form does. | No “citizen of the United States” can be a “nonresident alien”, nor is he authorized under the I.R.C. to “elect” to become one. Likewise, no “nonresident alien” is authorized by the I.R.C. to elect to become a “citizen of the United States” under 8 U.S.C. § 1401. |
| “resident” (not defined anywhere in the Internal Revenue Code) | All “residents” are “aliens”. “Resident”, “resident alien”, and “alien” are equivalent terms. | A “nonresident alien” may elect to be treated as an “alien” and a “resident” under the provisions of 26 U.S.C. § 6013(g) or (h). |

7 Relationship to “person” and “individual” in the Internal Revenue Code

There is a natural tendency to PRESUME that a statutory “U.S. person” is a “person”, but in fact it is not. That tendency begins with the use of “person” in the NAME “U.S. person”. However, the rules for interpreting the Internal Revenue Code forbid such a presumption:

[U.S. Code](#) › [Title 26](#) › [Subtitle F](#) › [Chapter 80](#) › [Subchapter A](#) › § 7806
[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.

Portions of a specific section, such as 26 U.S.C. § 7701(a)(30) is a “grouping” as referred to above. The following case also affirms this concept:

“Factors of this type have led to the wise rule that the title of a statute and 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)]

Therefore, we must discern the meaning of “U.S. person” from what is included UNDER the heading, and not within the heading “U.S. Person”. The following subsections will attempt to do this.

7.1 How alien nonresidents visiting the geographical United States** become statutory “individuals” whether or not they consent

The U.S. Supreme Court defined how alien nonresidents visiting the United States** become statutory “individuals” below:

The reasons for not allowing to other aliens exemption 'from the jurisdiction of the country in which they are found' were stated as follows: **When private individuals of one nation [states of the Unions are "nations" under the law of nations] spread themselves through another as business or caprice may direct, mingling indiscriminately with the inhabitants of that other, or when merchant vessels enter for the purposes of trade, it would be obviously inconvenient and dangerous to society, and would subject the laws to continual infraction, and the government to degradation, if such individuals or merchants did not owe temporary and local allegiance, and were not amenable to the jurisdiction of the country.** Nor can the foreign sovereign have any motive for wishing such exemption. His subjects thus passing into foreign countries are not employed by him, nor are they engaged in national pursuits. Consequently, there are powerful motives for not exempting persons of this description from the jurisdiction of the country in which they are found, and no one motive for requiring it. **The implied license, therefore, under which they enter, can never be construed to grant such exemption.'** 7 Cranch, 144.

In short, the judgment in the case of *The Exchange* declared, as incontrovertible principles, that the jurisdiction of every nation within its own territory is exclusive and absolute, and is susceptible of no limitation not imposed by the nation itself; that all exceptions to its full and absolute territorial jurisdiction must be traced up to its own consent, express or implied; that upon its consent to cede, or to waive the exercise of, a part of its territorial jurisdiction, rest the exemptions from that jurisdiction of foreign sovereigns or their armies entering its territory with its permission, and of their foreign ministers and public ships of war; and that **the implied license, under which private individuals of another nation enter the territory and mingle indiscriminately with its inhabitants, for purposes of business or pleasure, can never be construed to grant to them an exemption from the jurisdiction of the country in which they are found.** See, also, *Carlisle v. U.S.* (1872) 16 Wall. 147, 155; *Radich v. Hutchins* (1877) 95 U.S. 210; *Wildenhuis' Case* (1887) 120 U.S. 1, 7 Sup.Ct. 385; *Chae Chan Ping v. U.S.* (1889) 130 U.S. 581, 603, 604, 9 Sup.Ct. 623. [*United States v. Wong Kim Ark*, 169 U.S. 649, 18 S.Ct. 456, 42 L.Ed. 890 (1898)]

Therefore, alien nonresidents visiting or doing business within a country are presumed to be party to an "implied license" while there. All licenses are franchises, and all give rise to a public civil franchise status. In the case of nonresident aliens, that status is "individual" and it is a public office in the government, just like every other franchise status. We prove this in:

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

All "aliens" are presumed to be "nonresident aliens" but this may be overcome upon presentation of proof:

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--

Aliens, while physically in the United States**, are presumed to be "resident" here, REGARDLESS OF THEIR CONSENT or INTENT. "residence" is the word used to characterize an alien as being subject to the CIVIL and/or TAXING franchise codes of the place he or she is in:

Title 26: Internal Revenue
[PART 1—INCOME TAXES](#)
[nonresident alien individuals](#)
[§1.871-2 Determining residence of alien individuals.](#)

(a) General.

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

(b) Residence defined.

An alien actually present in the United States who is not a mere transient or sojourner is a resident of the United States for purposes of the income tax. Whether he is a transient is determined by his intentions with regard to the length and nature of his stay. A mere floating intention, indefinite as to time, to return to another country is not sufficient to constitute him a transient. If he lives in the United States and has no definite intention as to his stay, he is a resident. One who comes to the United States for a definite purpose which in its nature may be promptly accomplished is a transient; but, if his purpose is of such a nature that an extended stay may be necessary for its accomplishment, and to that end the alien makes his home temporarily in the United States, he becomes a resident, though it may be his intention at all times to return to his domicile abroad when the purpose for which he came has been consummated or abandoned. An alien whose stay in the United States is limited to a definite period by the immigration laws is not a resident of the United States within the meaning of this section, in the absence of exceptional circumstances.

Once aliens seek the privilege of permanent resident status, then they cease to be nonresident aliens and become “resident aliens” under 26 U.S.C. §7701(b)(1)(A):

26 U.S.C. §7701(b)(1)(A) Resident alien

(b) Definition of **resident alien** and nonresident alien

(1) In general

For purposes of this title (other than subtitle B) -

(A) **Resident alien**

An alien individual shall be treated as a resident of the United States with respect to any calendar year if (and only if) such individual meets the requirements of clause (i), (ii), or (iii):

(i) Lawfully admitted for permanent residence

Such individual is a lawful permanent resident of the United States at any time during such calendar year.

(ii) Substantial presence test

Such individual meets the substantial presence test of paragraph (3).

(iii) First year election

Such individual makes the election provided in paragraph (4).

“Residents, as distinguished from citizens, are aliens who are permitted to take up a permanent abode in the country. Being bound to the society by reason of their dwelling in it, they are subject to its laws so long as they remain there, and, being protected by it, they must defend it, although they do not enjoy all the rights of citizens. They have only certain privileges which the law, or custom, gives them. Permanent residents are those who have been given the right of **perpetual residence**. They are a sort of citizen of a less privileged character, and are subject to the society without enjoying all its advantages. Their children succeed to their status; for the right of perpetual residence given them by the State passes to their children.”

[The Law of Nations, Vattel, Book 1, Chapter 19, Section 213, p. 87]

Therefore, once aliens apply for and receive “permanent resident” status, they get the same exemption from income taxation as citizens and thereby CEASE to be civil “persons” under the Internal Revenue Code as described in the following sections. In that sense, their “implied license” is revoked and they thereby cease to be civil “persons”. The license returns if they abandon their “permanent resident” civil status:

Title 26: Internal Revenue

PART I—INCOME TAXES

nonresident alien individuals

§1.871-5 Loss of residence by an alien.

An alien who has acquired residence in the United States retains his status as a resident until he abandons the same and actually departs from the United States. An intention to change his residence does not change his status as a resident alien to that of a nonresident alien. Thus, an alien who has acquired a residence in the United States is taxable as a **resident** for the remainder of his stay in the United States.

We should also point out that:

1. There are literally BILLIONS of aliens throughout the world.
- Unless and until these aliens either physically set foot within our country or conduct commerce or business with us, they would NOT be classified as “persons” or “individuals”, but rather “transient foreigners” or “stateless persons”.
- When they are here or doing business here, they are treated as AGENTS and OFFICERS of the country they are from, hence they are “state actors”.

The Law of Nations, Book II: Of a Nation Considered in Her Relation to Other States

§ 81. The property of the citizens is the property of the nation, with respect to foreign nations.

Even the property of the individuals is, in the aggregate, to be considered as the property of the nation, with respect to other states. It, in some sort, really belongs to her, from the right she has over the property of her citizens, because it constitutes a part of the sum total of her riches, and augments her power. She is interested in that property by her obligation to protect all her members. In short, it cannot be otherwise, since nations act and treat together as bodies in their quality of political societies, and are considered as so many moral persons. All those who form a society, a nation being considered by foreign nations as constituting only one whole, one single person, — all their wealth together can only be considered as the wealth of that same person. And this is to true, that each political society may, if it pleases, establish within itself a community of goods, as Campanella did in his republic of the sun. Others will not inquire what it does in this respect: its domestic regulations make no change in its rights with respect to foreigners nor in the manner in which they ought to consider the aggregate of its property, in what way soever it is possessed.

[The Law of Nations, Book II, Section 81, Vattel;

SOURCE: http://amguardian.org/Publications/LawOfNations/vattel_02.htm#§ 81. The property of the citizens is the property of the nation, with respect to foreign nations.]

4. As agents of the state they were born within and are domiciled within while they are here, they are part of a “foreign state”.

These principles are a product of the Foreign Sovereign Immunities Act, 28 U.S.C. Chapter 97:

[Title 28](#) › [Part IV](#) › [Chapter 97](#) › § 1605

[28 U.S. Code § 1605 - General exceptions to the jurisdictional immunity of a foreign state](#)

(a) A foreign [state](#) shall not be immune from the jurisdiction of courts of the [United States](#) or of the States in any case—

(1) in which the foreign [state](#) has waived its immunity either explicitly or by implication, notwithstanding any withdrawal of the waiver which the foreign [state](#) may purport to effect except in accordance with the terms of the waiver;

(2) in which the action is based upon a [commercial activity](#) carried on in the United States by the foreign state; or upon an act performed in the United States in connection with a [commercial activity](#) of the foreign state elsewhere; or upon an act outside the territory of the United States in connection with a [commercial activity](#) of the foreign state elsewhere and that act causes a direct effect in the United States;

(3) in which rights in property taken in violation of international law are in issue and that property or any property exchanged for such property is present in the United States in connection with a [commercial activity](#) carried on in the United States by the foreign state; or that property or any property exchanged for such property is owned or operated by an agency or instrumentality of the foreign state and that agency or instrumentality is engaged in a [commercial activity](#) in the United States;

(4) in which rights in property in the [United States](#) acquired by succession or gift or rights in immovable property situated in the [United States](#) are in issue;

(5) not otherwise encompassed in paragraph (2) above, in which money damages are sought against a foreign [state](#) for personal injury or death, or damage to or loss of property, occurring in the [United States](#) and caused by the tortious act or omission of that foreign state or of any official or employee of that foreign state while acting within the scope of his office or employment; except this paragraph shall not apply to—

(A) any claim based upon the exercise or performance or the failure to exercise or perform a discretionary function regardless of whether the discretion be abused, or

(B) any claim arising out of malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights; or

(6) in which the action is brought, either to enforce an agreement made by the foreign [state](#) with or for the benefit of a private party to submit to arbitration all or any differences which have arisen or which may arise between the parties with respect to a defined legal relationship, whether contractual or not, concerning a subject matter capable of settlement by arbitration under the laws of the [United States](#), or to confirm an award made pursuant to such an agreement to arbitrate, if (A) the arbitration takes place or is intended to take place in the [United States](#), (B) the agreement or award is or may be governed by a treaty or other international agreement in force for the [United States](#) calling for the recognition and enforcement of arbitral awards, (C) the underlying claim, save for the agreement to arbitrate, could have been brought in a [United States](#) court under this section or section 1607, or (D) paragraph (1) of this subsection is otherwise applicable.

Lastly, we also wish to emphasize that those who are physically in the country they were born in are NOT under any such “implied license” and therefore, unlike aliens, are not AUTOMATICALLY “individuals” or “persons” and cannot consent to become “individuals” or “persons” under any revenue statute. These people would be called “nationals of the United States” in 8 U.S.C. §1101(a)(22). Their rights are UNALIENABLE and therefore they cannot lawfully consent to give them away by agreeing to ANY civil status, including “person” or “individual”.

7.2 The Three Types of “Persons”

The meaning of “person” depends entirely upon the context in which it is used. There are three main contexts, defined by the system of law in which they may be invoked:

1. CONSTITUTIONAL “person”: Means a human being and excludes artificial entities or corporations or even governments.

“Citizens of the United States within the meaning of this Amendment must be natural and not artificial persons; a corporate body is not a citizen of the United States.”¹⁴

¹⁴ *Insurance Co. v. New Orleans*, 13 Fed.Cas. 67 (C.C.D.La. 1870). Not being citizens of the United States, corporations accordingly have been declared unable “to claim the protection of that clause of the Fourteenth Amendment which secures the privileges and immunities of citizens of the United States against abridgment or impairment by the law of a State.” *Orient Ins. Co. v. Daggs*, [172 U.S. 557](#), 561 (1869). This conclusion was in harmony with the earlier holding in *Paul v. Virginia*, 75 U.S. (8 Wall.) 168 (1869), to the effect that corporations were not within the scope of the privileges and immunities clause of state citizenship set out in Article IV, Sect. 2. See also *Selover, Bates & Co. v. Walsh*, [226 U.S. 112](#), 126 (1912); *Berea College v. Kentucky*, [211 U.S. 45](#) (1908); *Liberty Warehouse Co. v. Tobacco Growers*, [276 U.S. 71](#), 89 (1928); *Grosjean v. American Press Co.*, [297 U.S. 233](#), 244 (1936).

[Annotated Fourteenth Amendment, Congressional Research Service.

SOURCE: http://www.law.cornell.edu/anncon/html/amdt14a_user.html#amdt14a_hd1]

2. STATUTORY “person”: Depends entirely upon the definition within the statutes and EXCLUDES CONSTITUTIONAL “persons”. This would INCLUDE STATUTORY “U.S. Persons”.
3. COMMON LAW “person”: A private human who is litigating in equity under the common law in defense of his absolutely owned private property.

The above systems of law are described in:

[Four Law Systems](#), Form #12.039
<https://sedm.org/Forms/FormIndex.htm>

Which of the above statuses you have depends on the law system you voluntarily invoke when dealing with the government. That law system determines what is called the “choice of law” in your interactions with the government. Form more on “choice of law” rules, see:

[Federal Jurisdiction](#), Form #05.018, Section 3
<https://sedm.org/Forms/FormIndex.htm>

If you invoke a specific choice of law in the action you file in court, and the judge or government changes it to one of the others, then they are engaged in CRIMINAL IDENTITY THEFT:

Identity theft can also be attempted by the government by deceiving or confusing you with legal “words of art”:

7.3 Why a “U.S. Person” who is a “citizen” is NOT a statutory “person” or “individual” in the Internal Revenue Code

The definition of person is found in 26 U.S.C. §7701(a)(1) 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—

(1) Person

The term “person” shall be construed to mean and include an individual, a trust, estate, partnership, association, company or corporation.

The term “individual” is then defined as:

[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).

[26 C.F.R. 1.1441-1T Requirement for the deduction and withholding of tax on payments to foreign persons.](#)

(c) Definitions

(3) Individual.

(ii) Nonresident alien individual.

The term nonresident alien individual means [persons](#) described in section 7701(b)(1)(B), alien [individuals](#) who are treated as [nonresident aliens](#) pursuant to [§ 301.7701\(b\)-7 of this chapter](#) for [purposes](#) of computing their U.S. [tax liability](#), or an alien individual who is a resident of Puerto Rico, Guam, the Commonwealth of Northern Mariana Islands, the U.S. Virgin Islands, or American Samoa as determined under [§ 301.7701\(b\)-1\(d\) of this chapter](#). An alien individual who has made an [election](#) under section 6013(g) or [\(h\)](#) to be treated as a resident of the [United States](#) is nevertheless treated as a [nonresident alien](#) individual for [purposes](#) of [withholding](#) under chapter 3 of the Code and the regulations thereunder.

Did you also notice that the definitions were not qualified to only apply to a specific chapter or section? That means that they apply generally throughout the Internal Revenue Code and implementing regulations. Therefore, we must conclude that the REAL “individual” in the phrase “U.S. **Individual** Income Tax Return” (IRS Form 1040) that Congress and the IRS are referring to can only mean “nonresident alien INDIVIDUALS” and “alien INDIVIDUALS”. That is why they don’t just come out and say “U.S. Citizen Tax Return” on the 1040 form. If you aren’t a STATUTORY “individual”, then

obviously you are filing the WRONG form to file the 1040, which is a RESIDENT form for those DOMICILED on federal territory.

Therefore, all STATUTORY “individuals” are STATUTORY “aliens”. Hence, the ONLY people under Title 26 of the U.S. Code who are BOTH “persons” and “individuals” are ALIENS. Under the rules of statutory construction “citizens” of every description are EXCLUDED from being STATUTORY “persons”.

*"It is apparent 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."
[Bailey v. Alabama, 219 U.S. 219 (1911)]*

*"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)]*

Who might these STATUTORY “persons” be who are also “individuals”? They must meet all the following conditions simultaneously to be “taxpayers” and “persons”:

1. STATUTORY “U.S. citizens” or STATUTORY “U.S. residents” domiciled in the geographical “United States” under 26 U.S.C. §7701(a)(9) and (a)(10) and/or 4 U.S.C. §110(d).
2. Temporarily abroad on travel under 26 U.S.C. §911.
3. Availing themselves of a tax treaty benefit (franchises) and therefore liable to PAY for said “benefit”.
4. Interface to the Internal Revenue Code as “aliens” in relation to the foreign country they are physically in but not domiciled in at the time.
5. Called a “qualified individual” in 26 U.S.C. §911(d)(1).

Some older versions of the code call the confluence of conditions above a “nonresident citizen”. The above are confirmed by the words of Jesus Himself!

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

Peter said to Him, "From strangers [statutory "aliens"/"residents" ONLY. See 26 C.F.R. §1.1-1(a)(2)(ii) and 26 C.F.R. §1.1441-1(c)(3)]."

Jesus said to him, "Then the sons [of the King, Constitutional but not statutory "citizens" of the Republic, who are all sovereign "nationals" and "non-resident non-persons"] are free [sovereign over their own person and labor. e.g. SOVEREIGN IMMUNITY]."
[Matt. 17:24-27, Bible, NKJV]

Note some other very important things that distinguish STATUTORY “U.S. Persons” from STATUTORY “persons”:

1. The term “U.S.” in the phrase “U.S. Person” as used in 26 U.S.C. §7701(a)(30) is never defined anywhere in the Internal Revenue Code, and therefore does NOT mean the same as “United States” in its geographical sense as

defined in 26 U.S.C. §7701(a)(9) and (a)(10). It is a violation of due process to PRESUME that the two are equivalent.

2. The definition of “person” in 26 U.S.C. §7701(a)(1) does not include statutory “citizens” or “residents”.
3. The definition of “U.S. person” in 26 U.S.C. §7701(a)(30) does not include statutory “individuals”.
4. Nowhere in the code are “individuals” ever expressly defined to include statutory “citizens” or “residents”. Hence, under the rules of statutory construction, they are purposefully excluded.
5. Based on the previous items, there is no overlap between the definitions of “person” and “U.S. Person” in the case of human beings who are ALSO “citizens” or “residents”.
6. The only occasion when a human being can ALSO be a statutory “person” is when they are neither a “citizen” nor a “resident” and are a statutory “individual”.
7. The only “person” who is neither a statutory “citizen” nor a statutory “resident” and is ALSO an “individual” is a “nonresident alien individual”:

26 U.S.C. §7701(b)(1)(B) Nonresident alien

An individual is a nonresident alien if such individual is neither a citizen of the United States nor a resident of the United States (within the meaning of subparagraph (A)).

8. The previous item explains why nonresident aliens are the ONLY type of “individual” subject to tax withholding in 26 U.S.C. Subtitle A, Chapter 3, Subchapter A and who can earn taxable income under the I.R.C.: The only “individuals” listed are “nonresident aliens”:

26 U.S. Code Subchapter A - Nonresident Aliens and Foreign Corporations

§ 1441 - Withholding of tax on nonresident aliens

§ 1442 - Withholding of tax on foreign corporations

§ 1443 - Foreign tax-exempt organizations

§ 1444 - Withholding on Virgin Islands source income

§ 1445 - Withholding of tax on dispositions of United States real property interests

§ 1446 - Withholding tax on foreign partners' share of effectively connected income

9. There is overlap between “U.S. Person” and “person” in the case of trusts, corporations, and estates, but NOT “individuals”. All such entities are artificial and fictions of law. Even they can in some cases be “citizens” or “residents” and therefore nontaxpayers:

"A corporation is a citizen, resident, or inhabitant of the state or country by or under the laws of which it was created, and of that state or country only."
[19 Corpus Juris Secundum (C.J.S.), Corporations, §886 (2003)]

10. Corporations can also be individuals instead of merely and only corporations:

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 States v. 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)]

1 We have therefore come full circle in forcefully concluding that “persons” and “U.S. persons” are not equivalent and non-
2 overlapping in the case of “citizens” and “residents”, and that the only type of entity a human being can be if they are a
3 “citizen” or “resident” is a statutory “U.S. person” under 26 U.S.C. §7701(a)(30) and NOT a statutory “person” under 26
4 U.S.C. §7701(a)(1).

5 None of the following could therefore TRUTHFULLY be said about a STATUTORY “U.S. Persons” who are human
6 beings that are STATUTORY “citizens” or “residents”:

- 7 1. That they are a SUBSET of all “persons” in 26 U.S.C. §7701(a)(1).
- 8 2. That they are ALSO statutory “persons” in 26 U.S.C. §7701(a)(1).

9 **7.4 “U.S. Persons” who are ALSO “persons”**

10 26 C.F.R. §1.1441(c)(8) identifies “U.S. Persons” who are also “persons” under the Internal Revenue Code:

11 26 C.F.R. §1.1441-1(c)(8)

12 (8)Person.

13 For [purposes](#) of the regulations under chapter 3 of the Code, the term person shall mean a [person](#) described in
14 section 7701(a)(1) and the regulations under that section and [a U.S. branch to the extent treated as a U.S.](#)
15 [person under paragraph \(b\)\(2\)\(iv\) of this section](#). For [purposes](#) of the regulations under chapter 3 of the Code,
16 the term person does not include a wholly-owned [entity](#) that is disregarded for federal tax [purposes](#) under [§](#)
17 [301.7701-2\(c\)\(2\) of this chapter](#) as an [entity](#) separate from its [owner](#). See [paragraph \(b\)\(2\)\(iii\) of this section](#)
18 for procedures applicable to [payments](#) to such entities.
19 [26 C.F.R. §1.1441-1(c)(8)]

20 There is much overlap between the definition of “person” and “U.S. person”. The main LACK of overlap occurs with
21 “individuals”. Below is a table comparing the two, keeping in mind that the above regulation refers to the items listed that
22 both say “Yes”, but not to “individuals”:

23 **Table 4: Comparison of "person" to "U.S. Person"**

| # | Type of entity | “person”? 26 U.S.C. §7701(a)(1) | “U.S. Person” 26 U.S.C. §7701(a)(30) |
|---|----------------|---|---|
| 1 | Individual | Yes | No (replaced with “citizen or resident of the United States**”) |
| 2 | Trust | Yes | Yes |
| 3 | Estate | Yes | Yes |
| 4 | Partnership | Yes | Yes |
| 5 | Association | Yes | Not listed |
| 6 | Company | Yes | Not listed |
| 7 | Corporation | Yes (federal corporation domiciled on federal territory only) | Yes (all corporations, including state corporations) |

24 We believe that the “citizen or resident of the United States***” listed in item 1 above and in 26 U.S.C. §7701(a)(30)(A) is a
25 territorial citizen or resident. Those domiciled in states of the Union would be NEITHER, and therefore would NOT be
26 classified as “individuals”, even if they otherwise satisfied the definition of “individual” found in 26 C.F.R. §1.1441-
27 1(c)(3). This results from the geographical definition of “United States” found in 26 U.S.C. §7701(a)(9) and (a)(10).
28 Below is an example of why we believe this:

29 [26 C.F.R. §31.3121\(e\)-1 State, United States, and citizen](#)

30 (b)...The term 'citizen of the United States' includes a citizen of the Commonwealth of Puerto Rico or the
31 Virgin Islands, and, effective January 1, 1961, a citizen of Guam or American Samoa.

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7.5 Types of "Individuals" and their characteristics

| # | Description | Definition | "U.S. person" | | "Foreign Person" | | | Notes |
|----|--|---|--|--|--|---|---|--|
| | | | citizen | resident | alien individual | nonresident alien individual | nonresident alien | |
| 1 | Defined in | NA | 26 U.S.C. §3121 ; 26 C.F.R. §1.1-1(c) | 26 U.S.C. §7701(b)(1)(A) | 26 C.F.R. §1.1441-1(c)(3)(i) . Described as an "alien individual" | 26 C.F.R. §1.1441-1(c)(3)(ii) . Described as an "individual" | 26 U.S.C. §7701(b)(1)(B) . Described as an "individual". | |
| 2 | An office within U.S. Inc? (personal jurisdiction) | | Y | Y | N | N | N | |
| 3 | Domestic (within the CORPORATION, not the geography)? | | Y | Y | N | N | N | |
| 4 | Domicile in the statutory geographical "United States" because the corporation "U.S. Inc." is domiciled there? | | Y | Y | N | N | N | |
| 5 | File 1040? | | Y | Y | N | N | N | |
| 6 | File 1040NR? | | N | N | Y | Y | Y | |
| 7 | Present in the United States test? | 26 U.S.C. §7701(b)(7) | Y | Y | Y | Y | Y | Uses the word "individual" |
| 8 | Can have tax home? | 26 C.F.R. §301.7701(b)-2(c) | Y | Y | Y | Y | Y | Uses word "individual" |
| 9 | Substantial Presence Test | 26 U.S.C. §7701(b)(3) | N | N | Y | N | N | Uses the word "individual" but is mentioned only by 26 U.S.C. §7701(b)(1)(A)(ii) , which is only in the context of "alien individuals".. |
| 10 | Closer connection to foreign country | 26 C.F.R. §301.7701(b)-2(d) | N | N | Y | N | N | Uses the word "alien individual" |
| 11 | First year of residency test | 26 U.S.C. §7701(b)(2)(A) | N | N | Y | N | N | |
| 12 | Last year of residency test | 26 U.S.C. §7701(b)(2)(B) | N | N | Y | N | N | |
| 13 | First year of election test | 26 U.S.C. §7701(b)(4) | N | N | Y | N | N | |
| 14 | Expatriation to avoid tax in 26 U.S.C. §877? | 26 U.S.C. §7701(b)(10) | Y | N | N | Y | Y | Uses the word "alien individual" |

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NOTES:

"U.S. Person" Position

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1. All privileges come with associated offices in the government:

privilege \ 'priv-lij, 'pri-və-\ noun

[Middle English, from Anglo-French, from Latin *privilegium* law for or against a private person, from *privus* private + *leg-*, *lex* law] 12th century: a right or immunity granted as a peculiar benefit, advantage, or favor: prerogative especially: such a **right or immunity attached specifically to a position or an office**

[Mish, F. C. (2003). Preface. Merriam-Websters collegiate dictionary. (Eleventh ed.). Springfield, MA: Merriam-Webster, Inc.]

2. Domicile is a PRIVILEGE. See:

Lawrence v. State Tax Commission, 286 U.S. 276 (1932)

https://scholar.google.com/scholar_case?case=10241277000101996613

3. The income tax is upon the DOMICILE of the "taxpayer" and NEVER on the NATIONALITY of the officer.

4. Domicile is always GEOGRAPHICAL and never VIRTUAL.

5. The OFFICE and the OFFICER can have domiciles completely independently of each other. This is shown in [Federal Rule of Civil Procedure 17](#).

6. The domicile of the United States federal corporation under [28 U.S.C. §3002](#)(15)(A) is the District of Columbia per [4 U.S.C. §72](#) and Article 1, Section 8, Clause 17 of the Constitution.

7. While you are representing the United States Inc. federal corporation as an officer of that corporation, your effective domicile is that of the corporation you work for under [Federal Rule of Civil Procedure 17](#).

8. A "qualified individual" under [26 U.S.C. §911](#)(d)(1) is a STATUTORY U.S. citizen or U.S. resident whose "tax home" is situated in a "foreign country" as defined in [26 C.F.R. §301.7701\(b\)-2](#)(b) AND who is:

8.1. A citizen of the United States and establishes to the satisfaction of the Secretary that he has been a bona fide resident of a foreign country or countries for an uninterrupted period which includes an entire taxable year, or

8.2. A citizen or resident of the United States and who, during any period of 12 consecutive months, is present in a foreign country or countries during at least 330 full days in such period.

9. A "tax home" simply means that they have declared privileged "trade or business" deductions under [26 U.S.C. §162](#).

9.1. That is what it says in [26 C.F.R. §301.7701\(b\)-2](#)(c). Thus, they are engaging in a privilege and thus an OFFICE that has a domicile in the District of Columbia.

9.2. In that scenario, they are in effect "resident agents" situated abroad representing an office in the District of Columbia. As "resident agents".

9.3. In the absence of "trade or business" deductions under [26 U.S.C. §162](#), the "tax home" becomes the abode of the OFFICER rather than the OFFICE under [26 C.F.R. §301.7701\(b\)-2](#)(c).

10. [26 C.F.R. §301.7701\(b\)-2](#)(c):

10.1. Defines a "tax home" as the place where you engage in a privileged "trade or business" under [26 U.S.C. §162](#) as an officer of the United States. That office is VIRTUAL and not PHYSICAL, but it is domiciled in the location of its corporate parent. Thus, pursuant to Federal Rule of Civil Procedure 17(b), the OFFICE is domiciled where the United States Inc. is domiciled, which is the District of Columbia under Article 1, Section 8, Clause 17 and [4 U.S.C. §72](#).

10.2. Also says that if there is NO privileged "trade or business" activity, the "tax home" devolves to that of the OFFICER rather than the OFFICE, which is usually in a "foreign country".

11. [26 C.F.R. §301.7701\(b\)-2](#)(b):

11.1. Defines "foreign country" as anything OTHER than the statutory geographical United States in [26 U.S.C. §7701](#)(a)(9) and (a)(10).

11.2. Establishes the states of the Union, territories, and even possessions are all foreign countries and identifies "individuals" in these places foreign and thus a "nonresident alien" under [26 U.S.C. §7701](#)(b)(1)(B) instead of a "U.S. person" under [26 U.S.C. §7701](#)(a)(30).

12. A "national", Fourteenth Amendment citizen, or STATUTORY "citizen" under [8 U.S.C. §1401](#) or [26 C.F.R. §1.1-1](#)(c) are NEVER subject to the Substantial Presence Test in [26 U.S.C. §7701](#)(b)(3).

7.6 History of the word “individual” and “person” in the context of taxation

The “individual” in today’s Internal Revenue Code has a long history of development. Throughout its entire history, it has always referred to EITHER a resident alien or a citizen abroad. The evolution of the word “individual” follows the following evolution:

1. 1862-1916: Tax imposed on “all persons residing in the United States** and all citizens abroad”
2. 1866: “Nonresident alien” status created.
3. 1913: Sixteenth Amendment passed. Allowed taxation of nonresident aliens almost exclusively.
4. 1916: Tax imposed on all “individuals” for the first time. “individuals” were then defined as aliens.
5. Today: Tax imposed on “all citizens and residents of the United States wherever resident”, meaning wherever they ARE “residents”. The only place a STATUTORY “U.S.** citizen” is ALSO a resident is in a foreign country and he/she interfaces to the Internal Revenue Code as an alien in relation to the country he/she is in under a tax treaty with that foreign country.

Below is a tabular summary of its meaning over time in the various revenue acts:

Table 5: Meaning of "individual" over time

| Year | Name | Authorities | Meaning |
|-----------|--------------|--|--|
| 1862 | | 12 Stat. 473, Section 90 | Tax upon all persons residing in the United States and all citizens abroad. |
| 1864 | | 13 Stat. 281, Section 116 | Tax upon “every person residing in the United States, or of any citizen of the United States residing abroad”. |
| 1866 | | 14 Stat. 98 14 Stat. 301 | Tax upon cotton produced in the United States and trades or professions. |
| 1916 | | 39 Stat. 756 | Tax upon “every individual, a citizen or resident of the United States” and imposed upon nonresident aliens with earnings from sources within the United States. |
| Currently | “Individual” | Current Internal Revenue Code, 26 C.F.R. §1.1441-1(c)(3) | Alien domiciled on federal territory or STATUTORY “U.S. citizen” domiciled on federal territory but temporarily abroad. |

You can look up the acts above by visiting the following:

Historical Federal Income Tax Acts, Family Guardian Fellowship
<https://famguardian.org/PublishedAuthors/Govt/HistoricalActs/HistFedIncTaxActs.htm>

8 Requirement to use identifying numbers for STATUTORY “U.S. Persons”

8.1 26 C.F.R. §301.6109-1

The requirement to use government issued identifying number of “U.S. Persons” is found in 26 C.F.R. §301.6109-1. Below is 26 C.F.R. §301.6109-1:

Title 26: Internal Revenue

PART 301—PROCEDURE AND ADMINISTRATION *§301.6109-1 Identifying numbers.*

(a) In general—

(1) Taxpayer identifying numbers—

(i) Principal types. There are several types of taxpayer identifying numbers that include the following: social security numbers, Internal Revenue Service (IRS) individual taxpayer identification numbers, IRS adoption taxpayer identification numbers, and employer identification numbers. Social security

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numbers take the form 000-00-0000. IRS individual taxpayer identification numbers and IRS adoption taxpayer identification numbers also take the form 000-00-0000 but include a specific number or numbers designated by the IRS. Employer identification numbers take the form 00-0000000.

(ii) Uses. Social security numbers, IRS individual taxpayer identification numbers, and IRS adoption taxpayer identification numbers are used to identify individual persons. Employer identification numbers are used to identify employers. For the definition of social security number and employer identification number, see §§301.7701-11 and 301.7701-12, respectively. For the definition of IRS individual taxpayer identification number, see paragraph (d)(3) of this section. For the definition of IRS adoption taxpayer identification number, see §301.6109-3(a). Except as otherwise provided in applicable regulations under this chapter or on a return, statement, or other document, and related instructions, taxpayer identifying numbers must be used as follows:

(A) Except as otherwise provided in paragraph (a)(1)(ii)(B) and (D) of this section, and §301.6109-3, an individual required to furnish a taxpayer identifying number must use a social security number.

(B) Except as otherwise provided in paragraph (a)(1)(ii)(D) of this section and §301.6109-3, an individual required to furnish a taxpayer identifying number but who is not eligible to obtain a social security number must use an IRS individual taxpayer identification number.

(C) Any person other than an individual (such as corporations, partnerships, nonprofit associations, trusts, estates, and similar nonindividual persons) that is required to furnish a taxpayer identifying number must use an employer identification number.

(D) An individual, whether U.S. or foreign, who is an employer or who is engaged in a trade or business as a sole proprietor should use an employer identification number as required by returns, statements, or other documents and their related instructions.

(2) A trust that is treated as owned by one or more persons pursuant to sections 671 through 678—

(i) Obtaining a taxpayer identification number—

(A) General rule. Unless the exception in paragraph (a)(2)(i)(B) of this section applies, a trust that is treated as owned by one or more persons under sections 671 through 678 must obtain a taxpayer identification number as provided in paragraph (d)(2) of this section.

(B) Exception for a trust all of which is treated as owned by one grantor or one other person and that reports under §1.671-4(b)(2)(i)(A) of this chapter. A trust that is treated as owned by one grantor or one other person under sections 671 through 678 need not obtain a taxpayer identification number, provided the trust reports pursuant to §1.671-4(b)(2)(i)(A) of this chapter. The trustee must obtain a taxpayer identification number as provided in paragraph (d)(2) of this section for the first taxable year that the trust is no longer owned by one grantor or one other person or for the first taxable year that the trust does not report pursuant to §1.671-4(b)(2)(i)(A) of this chapter.

(ii) Obligations of persons who make payments to certain trusts. Any payor that is required to file an information return with respect to payments of income or proceeds to a trust must show the name and taxpayer identification number that the trustee has furnished to the payor on the return. Regardless of whether the trustee furnishes to the payor the name and taxpayer identification number of the grantor or other person treated as an owner of the trust, or the name and taxpayer identification number of the trust, the payor must furnish a statement to recipients to the trustee of the trust, rather than to the grantor or other person treated as the owner of the trust. Under these circumstances, the payor satisfies the obligation to show the name and taxpayer identification number of the payee on the information return and to furnish a statement to recipients to the person whose taxpayer identification number is required to be shown on the form.

(3) Obtaining a taxpayer identification number for a trust, or portion of a trust, following the death of the individual treated as the owner—

(i) In general—

(A) A trust all of which was treated as owned by a decedent. In general, a trust all of which is treated as owned by a decedent under subpart E (section 671 and following), part I, subchapter J, chapter 1 of the Internal Revenue Code as of the date of the decedent's death must obtain a new taxpayer identification number following the death of the decedent if the trust will continue after the death of the decedent.

(B) Taxpayer identification number of trust with multiple owners. With respect to a portion of a trust treated as owned under subpart E (section 671 and following), part I, subchapter J, chapter 1 (subpart E) of the Internal Revenue Code by a decedent as of the date of the decedent's death, if, following the death of the decedent, the portion treated as owned by the decedent remains part of the original trust and the other portion (or portions) of the trust continues to be treated as owned under subpart E by a grantor(s) or other person(s), the trust reports under the taxpayer identification number assigned to the trust prior to the decedent's death and the portion of the trust treated as owned by the decedent prior to the decedent's death (assuming the decedent's portion of the trust is not treated as terminating upon the decedent's death) continues to report under the taxpayer identification number used for reporting by the other portion (or portions) of the trust. For example, if a trust, reporting under §1.671-4(a) of this chapter, is treated as owned by three persons and one of them dies, the trust, including the portion of the trust no longer treated as owned by a grantor or other person, continues to report under the tax identification number assigned to the trust prior to the death of that person. See §1.671-4(a) of this chapter regarding rules for filing the Form 1041, "U.S. Income Tax Return for Estates and Trusts," where only a portion of the trust is treated as owned by one or more persons under subpart E.

(ii) Furnishing correct taxpayer identification number to payors following the death of the decedent. If the trust continues after the death of the decedent and is required to obtain a new taxpayer identification number under paragraph (a)(3)(i)(A) of this section, the trustee must furnish payors with a new Form W-9, "Request for Taxpayer Identification Number and Certification," or an acceptable substitute Form W-9, containing the new taxpayer identification number required under paragraph (a)(3)(i)(A) of this section, the name of the trust, and the address of the trustee.

(4) Taxpayer identification number to be used by a trust upon termination of a section 645 election—

(i) If there is an executor. Upon the termination of the section 645 election period, if there is an executor, the trustee of the former electing trust may need to obtain a taxpayer identification number. If §1.645-1(g) of this chapter regarding the appointment of an executor after a section 645 election is made applies to the electing trust, the electing trust must obtain a new TIN upon termination of the election period. See the instructions to the Form 1041 for whether a new taxpayer identification number is required for other former electing trusts.

(ii) If there is no executor. Upon termination of the section 645 election period, if there is no executor, the trustee of the former electing trust must obtain a new taxpayer identification number.

(iii) Requirement to provide taxpayer identification number to payors. If the trustee is required to obtain a new taxpayer identification number for a former electing trust pursuant to this paragraph (a)(4), or pursuant to the instructions to the Form 1041, the trustee must furnish all payors of the trust with a completed Form W-9 or acceptable substitute Form W-9 signed under penalties of perjury by the trustee providing each payor with the name of the trust, the new taxpayer identification number, and the address of the trustee.

(5) Persons treated as payors. For purposes of paragraphs (a)(2), (3), and (4) of this section, a payor is a person described in §1.671-4(b)(4) of this chapter.

(6) Effective date. Paragraphs (a)(3), (4), and (5) of this section apply to trusts of decedents dying on or after December 24, 2002.

(b) Requirement to furnish one's own number—

(1) U.S. persons. Every U.S. person who makes under this title a return, statement, or other document must furnish its own taxpayer identifying number as required by the forms and the accompanying instructions. A U.S. person whose number must be included on a document filed by another person must give the taxpayer identifying number so required to the other person on request. For penalties for failure to supply taxpayer identifying numbers, see sections 6721 through 6724. For provisions dealing specifically with the duty of employees with respect to their social security numbers, see §31.6011(b)-2 (a) and (b) of this chapter (Employment Tax Regulations). For provisions dealing specifically with the duty of employers with respect to employer identification numbers, see §31.6011(b)-1 of this chapter (Employment Tax Regulations).

(2) Foreign persons. The provisions of paragraph (b)(1) of this section regarding the furnishing of one's own number shall apply to the following foreign persons—

(i) A foreign person that has income effectively connected with the conduct of a U.S. trade or business at any time during the taxable year;

(ii) A foreign person that has a U.S. office or place of business or a U.S. fiscal or paying agent at any time during the taxable year;

(iii) A nonresident alien treated as a resident under section 6013(g) or (h);

(iv) A foreign person that makes a return of tax (including income, estate, and gift tax returns), an amended return, or a refund claim under this title but excluding information returns, statements, or documents;

(v) A foreign person that makes an election under §301.7701-3(c);

(vi) A foreign person that furnishes a withholding certificate described in §1.1441-1(e)(2) or (3) of this chapter or §1.1441-5(c)(2)(iv) or (3)(iii) of this chapter to the extent required under §1.1441-1(e)(4)(vii) of this chapter;

(vii) A foreign person whose taxpayer identifying number is required to be furnished on any return, statement, or other document as required by the income tax regulations under section 897 or 1445. This paragraph (b)(2)(vii) applies as of November 3, 2003; and

(viii) A foreign person that furnishes a withholding certificate described in §1.1446-1(c)(2) or (3) of this chapter or whose taxpayer identification number is required to be furnished on any return, statement, or other document as required by the income tax regulations under section 1446. This paragraph (b)(2)(viii) shall apply to partnership taxable years beginning after May 18, 2005, or such earlier time as the regulations under §§1.1446-1 through 1.1446-5 of this chapter apply by reason of an election under §1.1446-7 of this chapter.

(c) Requirement to furnish another's number. Every person required under this title to make a return, statement, or other document must furnish such taxpayer identifying numbers of other U.S. persons and foreign persons that are described in paragraph (b)(2)(i), (ii), (iii), (vi), (vii), or (viii) of this section as required by the forms and the accompanying instructions. The taxpayer identifying number of any person furnishing a withholding certificate referred to in paragraph (b)(2)(vi) or (viii) of this section shall also be furnished if it is actually known to the person making a return, statement, or other document described in this paragraph (c). If the person making the return, statement, or other document does not know the taxpayer identifying number of the other person, and such other person is one that is described in paragraph (b)(2)(i), (ii), (iii), (vi), (vii), or (viii) of this section, such person must request the other person's number. The request should state that the identifying number is required to be furnished under authority of law. When the person making the return, statement, or other document does not know the number of the other person, and has complied with the request provision of this paragraph (c), such person must sign an affidavit on the transmittal document forwarding such returns, statements, or other documents to the Internal Revenue Service, so stating. A person required to file a taxpayer identifying number shall correct any errors in such filing when such person's attention has been drawn to them. References in this paragraph (c) to paragraph (b)(2)(viii) of this section shall apply to partnership taxable years beginning after May 18, 2005, or such earlier time as the regulations under §§1.1446-1 through 1.1446-5 of this chapter apply by reason of an election under §1.1446-7 of this chapter.

(d) Obtaining a taxpayer identifying number—

(1) Social security number. Any individual required to furnish a social security number pursuant to paragraph (b) of this section shall apply for one, if he has not done so previously, on Form SS-5, which may be obtained from any Social Security Administration or Internal Revenue Service office. He shall make such application far enough in advance of the first required use of such number to permit issuance of the number in time for compliance with such requirement. The form, together with any supplementary statement, shall be prepared and filed in accordance with the form, instructions, and regulations applicable thereto, and shall set forth fully and clearly the data therein called for. Individuals who are ineligible for or do not wish to participate in the benefits of the social security program shall nevertheless obtain a social security number if they are required to furnish such a number pursuant to paragraph (b) of this section.

(2) Employer identification number—

(i) In general. Any person required to furnish an employer identification number must apply for one, if not done so previously, on Form SS-4. A Form SS-4 may be obtained from any office of the Internal Revenue Service, U.S. consular office abroad, or from an acceptance agent described in paragraph (d)(3)(iv) of this section. The person must make such application far enough in advance of the first required use of the employer identification number to permit issuance of the number in time for compliance with such requirement. The form, together with any supplementary statement, must be prepared and filed in accordance with the form, accompanying instructions, and relevant regulations, and must set forth fully and clearly the requested data.

(ii) [Reserved]

(iii) Special rule for Section 708(b)(1)(B) terminations. A new partnership that is formed as a result of the termination of a partnership under section 708(b)(1)(B) will retain the employer identification number of the terminated partnership. This paragraph (d)(2)(iii) applies to terminations of partnerships under section

708(b)(1)(B) occurring on or after May 9, 1997; however, this paragraph (d)(2)(iii) may be applied to terminations occurring on or after May 9, 1996, provided that the partnership and its partners apply this paragraph (d)(2)(iii) to the termination in a consistent manner.

All of the above requirements are also mentioned in 5 U.S.C. §301 (federal employees), which establishes that the head of an Executive or military department may prescribe regulations for the internal government of his department.

TITLE 5 > PART I > CHAPTER 3 > § 301
§ 301. Departmental regulations

*The head of an Executive department or military department **may prescribe regulations for the government of his department, the conduct of its employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and property.** This section does not authorize withholding information from the public or limiting the availability of records to the public.*

The above regulations therefore DO NOT pertain to PRIVATE companies or even government agencies OUTSIDE of the Treasury Department.

8.2 26 C.F.R. §1.1441-1

26 C.F.R. §1.1441-1 also says the following about the requirement to furnish identifying numbers for a “U.S. Person”:

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 -

(1) In general.

Under paragraph (b)(1) of this section, a withholding agent is not required to withhold under chapter 3 of the Code on payments to a U.S. payee, to a person presumed to be a U.S. payee in accordance with the provisions of paragraph (b)(3) of this section, or to a person that the withholding agent may treat as a U.S. beneficial owner of the payment. Absent actual knowledge or reason to know otherwise, a withholding agent may rely on the provisions of this paragraph (d) in order to determine whether to treat a payee or beneficial owner as a U.S. person.

(2) Payments for which a Form W-9 is otherwise required.

A withholding agent may treat as a U.S. payee any person who is required to furnish a Form W-9 and who furnishes it in accordance with the procedures described in §§ 31.3406(d)-1 through 31.3406(d)-5 of this chapter (including the requirement that the payee furnish its taxpayer identifying number (TIN)) if the withholding agent meets all the requirements described in § 31.3406(h)-3(e) of this chapter regarding reliance by a payor on a Form W-9. Providing a Form W-9 or valid substitute form shall serve as a statement that the person whose name is on the form is a U.S. person. Therefore, a foreign person, including a U.S. branch treated as a U.S. person under paragraph (b)(2)(iv) of this section, shall not provide a Form W-9. 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.

(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).
[26 C.F.R. §1.1441-1(d)]

Notes on the above:

1. Based on the previous section, the only people who are REQUIRED to have an SSN or TIN are those listed in the previous section, which means GOVERNMENT EMPLOYEES within the Treasury Department ONLY. Private humans or even government workers outside the Treasury Department are not required to have or use such a number.
2. All obligations and requirements from the above pertain ONLY to “persons” and not “U.S. persons”.
3. Statutory “U.S. persons” under 26 U.S.C. §7701(a)(30) are not a subset of “persons”. They are not listed in the definition of “person” found in 26 U.S.C. §7701(a)(1).
4. A statutory “U.S. Person” who is not a statutory “person”, such as a “citizen or resident of the United States” can therefore have NO OBLIGATION, including that to provide a Form W-9.
5. Even 26 C.F.R. §1.1441-1(d)(3) says the information entered on the W-9 relates to a “person” and not a “U.S. person”.
6. 26 U.S.C. §1441, which is the statute upon which this regulation is based, pertains ONLY to statutory “nonresident aliens”. Statutory “citizens” or “residents” or state citizens who are statutory “nationals” are not even mentioned in the section. Therefore, the requirement to furnish the W-9 only pertains to statutory “nonresident aliens”.
7. State “nationals” under 8 U.S.C. §1101(a)(21) are NOT statutory “citizens” under 8 U.S.C. §1401 and also not “nonresident aliens”. If anything, they are “nonresident nationals”. 26 U.S.C. §7701(b)(1)(B) defines what a statutory “nonresident alien” is NOT, not what it IS. See Non-Resident Non-Person Position, Form #05.020 for exhaustive proof of this.
8. The only human “person” under 26 U.S.C. §7701(a)(1) is a statutory “individual”, and that statutory “individual” is defined as an ALIEN in 26 C.F.R. §1.1441-1(c)(3).
9. The only condition in which a statutory “citizen or resident of the United States[**]” can ALSO be treated as a statutory “individual” is found in 26 U.S.C. §911(d)(1), where that party is abroad in a foreign country. State citizens are NOT statutory “citizens” under 8 U.S.C. §1401. See Why You are a “national”, “state national”, and Constitutional but not Statutory Citizen, Form #05.006 for exhaustive proof of this.
10. 26 C.F.R. §1.1441-1(d)(3) above would apply to payments NOT subject to reporting in 26 U.S.C. §6041. This would be the case with human beings not engaged in a public office and therefore not involved in a statutory “trade or business” as defined in 26 U.S.C. §7701(a)(26).
11. 26 C.F.R. §1.1441-1(d)(2) would apply to payments subject to reporting under 26 U.S.C. §6041. That means the recipient must be engaged in “the functions of a public office” under 26 U.S.C. §7701(a)(26). Those who are private and not engaged in such an office would be “not subject” but not statutory “exempt individuals”. See The “Trade or Business” Scam, Form #05.001 for exhaustive proof of this.
12. Based on 26 C.F.R. §1.1441-1(d)(2) says that substitute Form W-9 are permitted. You can make your own. That in fact is what our Affidavit of Citizenship, Domicile, and Tax Status, Form #02.001 identifies itself as doing.

Therefore, if you fill out a W-9 AT ALL as a STATUTORY “citizen or resident of the United States” or a state “national”, you are creating the false impression that you are a statutory “person” under 26 U.S.C. §7701(a)(1) and committing criminal perjury. It’s MUCH safer and better to use our Form #02.001.

Withholding agents will sometimes try to require people who ambiguously claim they are “citizens” to fill out a Form W-9, but it isn’t necessary and such parties are NOT even mentioned in 26 U.S.C. §1441 as being subject to withholding or reporting. IRS seems to know this, because they NEVER say in 26 C.F.R. §1.1441-1 EXACTLY WHO must fill out a W-9 and only talk about “W-9 required”. They do this to illegally rope statutory “U.S. persons”, statutory “citizens and residents”, and statutory state “nationals” illegally into a tax system that doesn’t pertain to them when they are in the country.

8.3 Summary of requirements for use of Identifying Numbers

To summarize the requirement to obtain and use an identifying number, a U.S. person must use their own number:

1. On a W-9, but ONLY if they are a STATUTORY “person”. If they are a “citizen or resident of the United States”, they are NOT either an “individual” or a “person”. “Aliens” as listed in 26 C.F.R. §1.1441-1(c)(3) and “residents” are not equivalent.

2. To avoid backup withholding. Per 26 U.S.C. §3406 and 26 C.F.R. §1.1441-1(d), foreign “persons” who are payees must supply identifying numbers in order to avoid a backup withholding on “reportable payments” under 26 U.S.C. §6041(a).
- 2.1. A “reportable payment” is one involving a payment to a public officer engaged in the “trade or business” franchise, as described in 26 U.S.C. §6041(a). This excludes most people.
- 2.2. However, if the payee is a “U.S. person”, then there is no backup withholding and the party is an “exempt payee”.
3. On a tax return they file. 26 C.F.R. §301.6109-1(b)(1). They won’t need to file a tax return if no information returns are filed against them. For most Americans, it is ILLEGAL to file information returns against them.
4. When requested in connection with the filing of a document by ANOTHER “person” under the tax code. 26 C.F.R. §301.6109-1(b)(1). This would NOT include cases where the other party needs to file information returns if the “U.S. Person” is NOT engaged in a “trade or business”, meaning a public office, as required by 26 U.S.C. §6041(a). For such cases, the payment would not be a “reportable payment”. See:

Correcting Erroneous Information Returns, Form #04.001
<https://sedm.org/Forms/FormIndex.htm>

8.4 How to avoid the requirement for identifying numbers

When asked by withholding agents to supply an identifying number, the payee needs to state the following:

1. IRS Notice 609 dictates the right of the government to ask for information under the Privacy Act of 1974. That form indicates that the authority derives from 26 U.S.C. §§6001, 6011, and 6012, all of which are in Chapter 6 of Title 26 of the U.S. Code.

Figure 2: Capture of top of IRS Notice 609



Department of the Treasury Internal Revenue Service

Notice 609

(Rev. October 2013)

Privacy Act Notice

The Privacy Act of 1974 says that when we ask you for information about yourself, we must first tell you our legal right to ask for the information, why we are asking for it, and how it will be used. We must also tell you what could happen if you do not provide it and whether or not you must respond under the law.

This notice applies to tax returns and any papers filed with them. It also applies to any questions we need to ask you so we can complete, correct, or process your return; figure your tax; and collect tax, interest, or penalties. We ask for information to carry out the U.S. tax laws. We need the information to figure and collect the right amount of tax.

Our legal right to ask for information is found in Internal Revenue Code sections 6001, 6011, and 6012 and their regulations. They say that you must file a return or statement with us for any tax you are liable for. Your response is mandatory under these sections. Sections 7601–7613 authorize us to examine books and records and ask questions to obtain information we need. Section 6109 and its regulations say that you must provide your identification number on what you file. Paid tax return preparers and electronic return originators are also required to provide their identifying numbers.

See:

Privacy Act Notice, Notice 609, Internal Revenue Service
<https://www.irs.gov/pub/irs-pdf/n609.pdf>

2. The Privacy Act of 1974 is found at 5 U.S.C. §552a.
3. 26 U.S.C. §6001 says:

Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe. Whenever in the judgment of the Secretary it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary deems sufficient to show whether or not such person is liable for tax under this title. The only records which an employer shall be required to keep under this section in connection with charged tips shall be charge receipts, records necessary to comply with section 6053(c), and copies of statements furnished by employees under section 6053(a).

- 3.1. If you aren't a "person" because you are a "citizen or resident" per 26 U.S.C. § 7701(a)(30)(A), then you aren't covered by the above.
- 3.2. If you aren't covered by the above, then they have NO RIGHT to ask for information, including a Taxpayer Identification Number.
4. 26 C.F.R. § 301.6109-1(b)(1) requiring identifying numbers is covered by the Privacy Act.
- 4.1. All of the documents listed in 26 C.F.R. § 301.6109-1(b)(1) are documents sent DIRECTLY to the IRS.

Title 26: Internal Revenue
PART 301—PROCEDURE AND ADMINISTRATION
[§301.6109-1 Identifying numbers.](#)

(b) Requirement to furnish one's own number—

(1) U.S. persons.

Every U.S. person who makes under this title a return, statement, or other document must furnish its own taxpayer identifying number as required by the forms and the accompanying instructions. A U.S. person whose number must be included on a document filed by another person must give the taxpayer identifying number so required to the other person on request. For penalties for failure to supply taxpayer identifying numbers, see sections 6721 through 6724. For provisions dealing specifically with the duty of employees with respect to their social security numbers, see §31.6011(b)-2 (a) and (b) of this chapter (Employment Tax Regulations). For provisions dealing specifically with the duty of employers with respect to employer identification numbers, see §31.6011(b)-1 of this chapter (Employment Tax Regulations).
[26 C.F.R. § 301.6109-1(b)(1)]

- 4.2. The Form W-9 in the upper right corner says "Do not send to the IRS".

Figure 3: Capture of top of Form W-9

| | | |
|---|---|--|
| Form W-9 (Rev. December 2014) Department of the Treasury Internal Revenue Service | Request for Taxpayer Identification Number and Certification | Give Form to the requester. Do not send to the IRS. |
|---|---|--|

SOURCE: <https://www.irs.gov/pub/irs-pdf/fw9.pdf>

- 4.3. Therefore, Form W-9 would not be included within the meaning of 26 C.F.R. § 301.6109-1(b)(1) because not sent to the IRS.
5. In addition, state nationals with a legislatively foreign domicile are NEITHER "citizens or residents of the United States**". The only reason for filling out a W-9 is to avoid withholding or reporting for a STUPID withholding agent who doesn't read the code and therefore doesn't understand that he is not in the "United States" and that the money he/she/it is paying is not a "U.S. source". Hence, state nationals:
 - 5.1. Cannot have their earnings withheld because they are NOT "nonresident aliens" and "aliens". See the next section.
 - 5.2. Cannot have a civil status under the civil statutes of Congress, including "person".
 - 5.3. Are not IN the "United States" as geographically defined:

[TITLE 26 > Subtitle F > CHAPTER 79 > Sec. 7701. \[Internal Revenue Code\]](#)
[Sec. 7701. - Definitions](#)

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

(9) United States

The term "United States" [**] when used in a geographical sense includes only the [States](#) and the District of Columbia.

[TITLE 26 > Subtitle F > CHAPTER 79 > Sec. 7701. \[Internal Revenue Code\]](#)
[Sec. 7701. - Definitions](#)

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

(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.

5.4. Do not earn "U.S. source" statutory "income":

[TITLE 26 > Subtitle A > CHAPTER 1 > Subchapter J > PART I > Subpart A > § 643](#)
[§ 643. Definitions applicable to subparts A, B, C, and D](#)

(b) **Income**

For purposes of this subpart and subparts B, C, and D, **the term "income", when not preceded by the words "taxable", "distributable net", "undistributed net", or "gross", means the amount of income of the estate or trust for the taxable year determined under the terms of the governing instrument and applicable local law. Items of gross income constituting extraordinary dividends or taxable stock dividends which the fiduciary, acting in good faith, determines to be allocable to corpus under the terms of the governing instrument and applicable local law shall not be considered income.**

5.5. Are not statutory "persons" subject to any kind of civil or criminal enforcement or penalties for failure to comply:

[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 > § 7343](#)
[§7343. Definition of term "person"](#)

The term "person" as used in this chapter 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.

5.6. Do NOT have "reportable payments" if not engaged in a public office per 26 U.S.C. §6041 and therefore such payments are not SUBJECT to withholding under 26 U.S.C. §3406.

5.7. Do not have to obey the civil statutes of Congress because outside the geographical "United States" defined in 26 U.S.C. §7701(a)(9) and (a)(10).

5.8. Are not in most cases dealing with REAL statutory "withholding agents". All such parties:

5.8.1. MUST be only within the national government. See:

[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>

5.8.2. Must request to be such a withholding agent using IRS Form 2678: Employer/Payer Appointment of Agent. Most people who act as "withholding agents" seldom make such a request.

5.8.3. Must be accepted and appointed by the Secretary of the Treasury after having requested approval.

9 Withholding on STATUTORY “U.S. Persons”

Tax withholding requirements are described in 26 U.S.C. Subtitle A, Chapter 3, Subchapter A. The only “individuals” listed are “nonresident aliens”:

[26 U.S. Code Subchapter A - Nonresident Aliens and Foreign Corporations](#)

[§ 1441 - Withholding of tax on nonresident aliens](#)

[§ 1442 - Withholding of tax on foreign corporations](#)

[§ 1443 - Foreign tax-exempt organizations](#)

[§ 1444 - Withholding on Virgin Islands source income](#)

[§ 1445 - Withholding of tax on dispositions of United States real property interests](#)

[§ 1446 - Withholding tax on foreign partners' share of effectively connected income](#)

Note that neither “citizens” nor “residents” are listed in the above list or anywhere else as being subject to withholding. The IRS Form SS-4 also recognizes this requirement in block 15:

Figure 4: IRS Form SS-4, Block 15

| | |
|----|--|
| 15 | First date wages or annuities were paid (month, day, year). Note. If applicant is a withholding agent, enter date income will first be paid to nonresident alien (month, day, year) ▶ |
|----|--|

STATUTORY “U.S. Persons” use IRS Form W-9 as their withholding document. They DO NOT use IRS Form W-4! This is the only form you need to fill out in order to be “exempt”.

Treasury Decision (T.D.) 8734 exempts STATUTORY “U.S. Persons” from both withholding AND reporting as follows.

*“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.”*
[T.D. 8734, 62 F.R. 53391; SEDM Exhibit #09.038]

In the context above:

1. Chapter 3 of the Code is entitled “Withholding of Tax on Nonresident Aliens and Foreign Corporations”
<https://www.law.cornell.edu/uscode/text/26/subtitle-A/chapter-3>
2. Chapter 61 of the Code is entitled “Information and Returns”
<https://www.law.cornell.edu/uscode/text/26/subtitle-F/chapter-61>

26 C.F.R. §1.1441-1(d)(1) mimics the above by saying that the payor is NOT required to withhold if the payee is a “U.S. Person”, but it leaves out Chapter 61 reporting provisions. The reason is probably because they want people filing false information returns on “U.S. persons” to coerce them to needlessly file tax returns:

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

(1) In general.

Under paragraph (b)(1) of this section, a withholding agent is not required to withhold under chapter 3 of the Code on payments to a U.S. payee, to a person presumed to be a U.S. payee in accordance with the provisions of paragraph (b)(3) of this section, or to a person that the withholding agent may treat as a U.S. beneficial owner of the payment.
[26 C.F.R. §1.1441-1(d)(1)]

Paragraph (b)(3) referenced above says the following:

(b) General rules of withholding

(3) Presumptions regarding payee's status in the absence of documentation—

(i) General rules.

A withholding agent that cannot, prior to the payment, reliably associate (within the meaning of paragraph (b)(2)(vii) of this section) a payment of an amount subject to withholding (as described in §1.1441-2(a)) with valid documentation may rely on the presumptions of this paragraph (b)(3) to determine the status of the payee as a U.S. or a foreign person and the payee's other relevant characteristics (e.g., as an owner or intermediary, as an individual, trust, partnership, or corporation). The determination of withholding and reporting requirements applicable to payments to a person presumed to be a foreign person is governed only by the provisions of chapter 3 of the Code and the regulations thereunder. For the determination of withholding and reporting requirements applicable to payments to a person presumed to be a U.S. person, see chapter 61 of the Code, section 3402, 3405, or 3406, and the regulations under these provisions. A presumption that a payee is a foreign payee is not a presumption that the payee is a foreign beneficial owner. Therefore, the provisions of this paragraph (b)(3) have no effect for purposes of reducing the withholding rate if associating the payment with documentation of foreign beneficial ownership is required as a condition for such rate reduction. See paragraph (b)(3)(ix) of this section for consequences to a withholding agent that fails to withhold in accordance with the presumptions set forth in this paragraph (b)(3) or if the withholding agent has actual knowledge or reason to know of facts that are contrary to the presumptions set forth in this paragraph (b)(3). See paragraph (b)(2)(vii) of this section for rules regarding the extent which a withholding agent can reliably associate a payment with documentation.

(ii) Presumptions of classification as individual, corporation, partnership, etc.

(A) In general.

A withholding agent that cannot reliably associate a payment with a valid withholding certificate or that has received valid documentary evidence under §§1.1441-1(e)(1)(ii)(2) and 1.6049-5(c)(1) or (4) but cannot determine a payee's classification from the documentary evidence must apply the rules of this paragraph (b)(3)(ii) to determine the payee's classification as an individual, trust, estate, corporation, or partnership. The fact that a payee is presumed to have a certain status under the provisions of this paragraph (b)(3)(ii) does not mean that it is excused from furnishing documentation if documentation is otherwise required to obtain a reduced rate of withholding under this section. For example, if, for purposes of this paragraph (b)(3)(ii), a payee is presumed to be a tax-exempt organization based on §1.6049-4(c)(1)(ii)(B), the withholding agent cannot rely on this presumption to reduce the rate of withholding on payments to such person (if such person is also presumed to be a foreign person under paragraph (b)(3)(iii)(A) of this section) because a reduction in the rate of withholding for payments to a foreign tax-exempt organization generally requires that a valid Form W-8 described in §1.1441-9(b)(2) be furnished to the withholding agent.

(B) No documentation provided.

If the withholding agent cannot reliably associate a payment with a valid withholding certificate or valid documentary evidence, it must presume that the payee is an individual, a trust, or an estate, if the payee appears to be such person (e.g., based on the payee's name or other indications). In the absence of reliable indications that the payee is an individual, trust, or an estate, the withholding agent must presume that the payee is a corporation or one of the persons enumerated under §1.6049-4(c)(1)(ii)(B) through (Q) if it can be so treated under §1.6049-4(c)(1)(ii)(A)(1) or any one of the paragraphs under §1.6049-4(c)(1)(ii)(B) through (Q) without the need to furnish documentation. If the withholding agent cannot treat a payee as a person described in §1.6049-4(c)(1)(ii)(A)(1) through (Q), then the payee shall be presumed to be a partnership. If such a partnership is presumed to be foreign, it is not the beneficial owner of the income paid to it. See paragraph (c)(6) of this section. If such a partnership is presumed to be domestic, it is a U.S. non-exempt recipient for purposes of chapter 61 of the Internal Revenue Code.

(C) Documentary evidence furnished for offshore account.

If the withholding agent receives valid documentary evidence, as described in §1.6049-5(c)(1) or (4), with respect to an offshore account from an entity but the documentary evidence does not establish the entity's classification as a corporation, trust, estate, or partnership, the withholding agent may presume (in the absence of actual knowledge otherwise) that the entity is the type of person enumerated under §1.6049-4 (c)(1)(ii)(B) through (Q) if it can be so treated under any one of those paragraphs without the need to furnish documentation. If the withholding agent cannot treat a payee as a person described in §1.6049-4(c)(1)(ii)(B) through (Q), then the payee shall be presumed to be a corporation unless the withholding agent knows, or has reason to know, that the entity is not classified as a corporation for U.S. tax purposes. If a payee is, or is presumed to be, a corporation under this paragraph (b)(3)(ii)(C) and a foreign person under paragraph (b)(3)(iii) of this section, a withholding agent shall not treat the payee as the beneficial owner of income if the withholding agent knows, or has reason to know, that the payee is not the beneficial owner of the income. For this purpose, a withholding agent shall have reason to know that the payee is not a beneficial owner if the documentary evidence indicates that the payee is a bank, broker, intermediary, custodian, or other agent, or is treated under §1.6049-4(c)(1)(ii)(B) through (Q) as such a person. A withholding agent may, however, treat such a person as a beneficial owner if the foreign person provides a statement, in writing and signed by a person with authority to sign the statement, that is attached to the documentary evidence stating it is the beneficial owner of the income.

(iii) *Presumption of U.S. or foreign status.*

A payment that the withholding agent cannot reliably associate with documentation is presumed to be made to a U.S. person. except as otherwise provided in this paragraph (b)(3)(iii), in paragraphs (b)(3) (iv) and (v) of this section, or in §1.1441-5 (d) or (e).

(A) *Payments to exempt recipients.* If a withholding agent cannot reliably associate a payment with documentation from the payee and the payee is an exempt recipient (as determined under the provisions of §1.6049-4(c)(1)(ii) in the case of interest, or under similar provisions under chapter 61 of the Code applicable to the type of payment involved, but not including a payee that the withholding agent may treat as a foreign intermediary in accordance with paragraph (b)(3)(v) of this section), the payee is presumed to be a foreign person and not a U.S. person—

(1) *If the withholding agent has actual knowledge of the payee's employer identification number and that number begins with the two digits "98";*

(2) *If the withholding agent's communications with the payee are mailed to an address in a foreign country;*

(3) *If the name of the payee indicates that the entity is the type of entity that is on the per se list of foreign corporations contained in §301.7701-2(b)(8)(i) of this chapter; or*

(4) *If the payment is made outside the United States (as defined in §1.6049-5(e)).*

(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) *Certain payments to offshore accounts.* A payment is presumed made to a foreign payee if the payment is made outside the United States (as defined in §1.6049-5(e)) to an offshore account (as

defined in §1.6049-5(c)(1)) and the withholding agent does not have actual knowledge that the payee is a U.S. person. See §1.6049-5(d)(2) and (3) for exceptions to this rule.

(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) Grace period.

A withholding agent may choose to apply the provisions of §1.6049-5(d)(2)(ii) regarding a 90-day grace period for purposes of this paragraph (b)(3) (by applying the term withholding agent instead of the term payor) to amounts described in §1.1441-6(c)(2) and to amounts covered by a Form 8233 described in §1.1441-4(b)(2)(ii). Thus, for these amounts, a withholding agent may choose to treat an account holder as a foreign person and withhold under chapter 3 of the Internal Revenue Code (and the regulations thereunder) while awaiting documentation. For purposes of determining the rate of withholding under this section, the withholding agent must withhold at the unreduced 30-percent rate at the time that the amounts are credited to an account. However, a withholding agent who can reliably associate the payment with a withholding certificate that is otherwise valid within the meaning of the applicable provisions except for the fact that it is transmitted by facsimile may rely on that facsimile form for purposes of withholding at the claimed reduced rate. For reporting of amounts credited both before and after the grace period, see §1.1461-1(c)(4)(i)(A). The following adjustments shall be made at the expiration of the grace period:

(A) If, at the end of the grace period, the documentation is not furnished in the manner required under this section and the account holder is presumed to be a U.S. non-exempt recipient, then backup withholding applies to amounts credited to the account after the expiration of the grace period only. Amounts credited to the account during the grace period shall be treated as owned by a foreign payee and adjustments must be made to correct any underwithholding on such amounts in the manner described in §1.1461-2.

(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 underwithholding on amounts credited to the account during the grace period, based on the adjustment procedures described in §1.1461-2.

[26 C.F.R. §1.1441-1(b)(3)]

To summarize:

1. Remember: Every place where an obligation is imposed relating to WITHHOLDING in 26 C.F.R. §1.1441-1 uses the word “person”, and a “U.S. person” is NOWHERE identified in the code as a “person”, including in the definition found in 26 U.S.C. §7701(a)(30). Hence, those who are “U.S. Persons” CANNOT have any such obligations enforced against them, including the obligation to supply a number.
2. 26 U.S.C. §3406 governs backup withholding on “foreign persons”, meaning nonresidents who are aliens, who receive “reportable payments” under 26 U.S.C. §6041. That means payments connected with a the “trade or business” and public office franchise. Most Americans are NOT public officers. Payments that are not reportable are not subject to such withholding, which includes most payments.
3. Payments supplied without documentation are presumed to be made to a “U.S. person” under 26 C.F.R. §1.1441-1(b)(3)(iii).
4. Pursuant to 26 C.F.R. §1.1441-1(b)(3)(ii)(B), if you don’t provide documentation, the withholding agent may PRESUME your status and likely will FALSELY PRESUME you to be a statutory “individual”, and therefore an ALIEN under 26 C.F.R. §1.1441-1(c)(3), which is BAD if you are not an alien. In other words, you are guilty and a “taxpayer” until you prove that you are NOT a statutory “taxpayer”. The documentation you provide should therefore

be that you are NOT a statutory “individual” and NOT an “alien” under 26 U.S.C. §1.1441-1(c)(3). The W-9 form serves this purpose.

5. You are allowed to make your own substitute W-9 per 26 C.F.R. §31.3406(h)-3(c)(2). The form must include the payees name, address, and TIN (if they have one). The form is still valid even if they DO NOT have an identifying number.

26 C.F.R. §1.1441-1(d)(3)

(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.

[26 C.F.R. §1.1441-1(d)(3)]

6. 26 C.F.R. §301.6109-1(b)(1) says a “U.S. Person” who makes a statement or return or other document must furnish ITS own taxpayer identification number as required by the forms and the accompanying instructions. However, if the “U.S. person” is a human and not representing an office, it is illegal to use such a number, which is PUBLIC property, because they are private. Hence, they cannot supply a number if acting in a PRIVATE capacity without STEALING:

(b) Requirement to furnish one's own number—

(1) U.S. persons.

Every U.S. person who makes under this title a return, statement, or other document must furnish its own taxpayer identifying number as required by the forms and the accompanying instructions. A U.S. person whose number must be included on a document filed by another person must give the taxpayer identifying number so required to the other person on request. For penalties for failure to supply taxpayer identifying numbers, see sections 6721 through 6724. For provisions dealing specifically with the duty of employees with respect to their social security numbers, see §31.6011(b)-2 (a) and (b) of this chapter (Employment Tax Regulations). For provisions dealing specifically with the duty of employers with respect to employer identification numbers, see §31.6011(b)-1 of this chapter (Employment Tax Regulations).

[26 C.F.R. §301.6109-1(b)(1)]

7. If you “have” or you “supply” a Taxpayer Identification Number, then you are PRESUMED to BE a statutory “taxpayer”, which is not something that a PRIVATE human not serving in a public office should be doing and would be committing FRAUD to do.
8. We explain in the following documents that you as a private human, and even a “U.S. person” who is PRIVATE, do not “HAVE” any identifying number and cannot lawfully use one:
- 8.1. Why It is Illegal for Me to Request or Use a Taxpayer Identification Number, Form #04.205
<https://sedm.org/Forms/FormIndex.htm>
- 8.2. About SSNs and TINs on Government Forms and Correspondence, Form #05.012
<https://sedm.org/Forms/FormIndex.htm>

26 C.F.R. §1.1441-1(d)(2) says you should provide the TIN of the U.S. Person, but this is based on the presumption that they HAVE ONE. If they don’t, there is nothing to supply. The only reason for asking for such a number is for reporting that can’t legally be made ANYWAY, as we describe in the next section, so don’t give them a number!

The IRS Form W-9 functions essentially as an exemption from withholding, which indirectly also implies that one earns no taxable or reportable “income”. That is why the form says the following in the upper right corner:

“Do not send to the IRS”

The IRS does NOT want to know that you are exempt and earn no reportable income. If they received this form, then they would also have evidence in their possession that any reporting connected to the form is knowingly and willfully FALSE and would have to penalize or even prosecute the withholding agent for filing a false return under 26 U.S.C. §7207. Incidentally, this is the SAME reason that the IRS Form W-8 also should not be sent to the IRS. From the perspective of

the IRS, they won't know what your status is and will never see this form, so it doesn't really matter whether you use a Form W-8 or Form W-9.

Lastly since "nonresident aliens" are the only parties subject to withholding, if you are not a "person" because exempt and not receiving reportable earnings, then the withholding form to use that would produce the withholding result closest to that applying to a non-person would be the "U.S. person".

10 Reporting on STATUTORY "U.S. Persons"

Pursuant to 26 U.S.C. §6041(a), information returns such as IRS Forms W-2, 1098, 1099, etc. may only be filed against those who are engaged in a "trade or business":

[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 term "trade or business" is a word of art 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—

(26) Trade or business

"The term 'trade or business' [includes](#) the performance of the functions of a [public office](#)."

Hence, those not lawfully engaged in a public office should NOT be the target of these returns and are victims of crime when they are. For more on this subject, see:

[Correcting Erroneous Information Returns](#), Form #04.001
<https://sedm.org/Forms/FormIndex.htm>

Third parties filing "trade or business" information returns under 26 U.S.C. §6041(a) usually have the presumed STATUTORY "United States person" status of the recipient as their basis under 26 U.S.C. §7701(a)(30). "United States person" status is within the meaning of "trade or business in the United States". Below are a few examples that prove that:

1. The different tax treatment of Social Security benefits, depending solely on the tax status of the recipient.
 - 1.1. If the recipient is a United States person, the benefit is reported on a SSA-1099 and taxed at a graduated trade or business rate.
 - 1.2. If the recipient is a nonresident alien, the benefit is not effectively connected with a trade or business under IRC, and reported on 1042-SSA.
2. Annuities also are treated differently under IRC, solely based on whether the recipient is a United States person or a nonresident alien.
3. Interest on U.S. bank accounts are reported on 1099-INT, but are not taxed if paid to a nonresident alien (unless effectively connected with a trade or business). Making it fairly clear that the trade or business involved with a 1099-INT must be the United States person status of the recipient.

4. 26 C.F.R. §1.1-1 indicates that all income is taxable in the case of a United States person, while a nonresident alien is taxed under IRC Section 1 only to the extent that the nonresident alien has taxable income that is effectively connected with the conduct of a trade or business. See 26 C.F.R. §1.1-1(a).
5. The IRS Form 1040 allows deductions under 26 U.S.C. §162 for EVERYTHING reported as income on the tax return. Such deductions are ONLY permitted in the case of those with “trade or business” earnings and therefore, “U.S. persons”, including STATUTORY “citizens” and “residents” (aliens) under 26 U.S.C. §7701(a)(30). Nonresident aliens, on the other hand, who have no earnings from the statutory geographical “United States” under 26 U.S.C. §7701(a)(9) and (a)(10) or the “United States” federal corporation have all their earnings “excluded” by law under 26 U.S.C. §872 and therefore do not NEED such an exemption.

By deduction, we can see that the United States person status itself makes all income of such person “effectively connected”.

11 Tax Returns of STATUTORY “U.S. Persons”

Statutory “U.S. Persons” who are not “persons” under the Internal Revenue Code file IRS Form 1040NR with an attachment. This is done to emphasize the fact that they are not domiciled within and “nonresident” to the statutory geographical “United States**” (federal zone) defined as follows and that they are therefore not “citizens of the United States**” under the Internal Revenue Code:

*TITLE 26 > Subtitle F > CHAPTER 79 > Sec. 7701. [Internal Revenue Code]
Sec. 7701. - Definitions*

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

(9) United States

*The term “United States”^[**] when used in a geographical sense includes only the [States](#) and the District of Columbia.*

*TITLE 26 > Subtitle F > CHAPTER 79 > Sec. 7701. [Internal Revenue Code]
Sec. 7701. - Definitions*

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

(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.

For an exhaustive legal treatise on “non-resident non-persons” who file IRS Form 1040NR, see:

| |
|---|
| <i>Non-Resident Non-Person Position</i> , Form #05.020 https://sedm.org/Forms/FormIndex.htm |
|---|

Lastly, for detailed instructions on how to file a return and remain as a compliant member, see:

| |
|---|
| <i>How to File a Return</i> , Form #09.074 https://sedm.org/Forms/FormIndex.htm |
|---|

12 Statutory Obligations connected to “United States persons”

1. Must report transfers of property to foreign corporations. 26 U.S.C. §6038B(a)
2. Must report foreign gifts exceeding 10,000. 26 U.S.C. §6039F(a).

- 1 3. Are subject to withholding of 30% under 26 U.S.C. §1471(a) if accounts held in Foreign Financial Institutions are not
2 reported per 26 U.S.C. §1471(b).

3 **13 Foreign Account Tax Compliance Act (FATCA)**

- 4 1. Described at:
5 <https://www.irs.gov/businesses/corporations/foreign-account-tax-compliance-act-fatca>
6 2. FATCA withholding is described in 26 U.S.C. §1471.
7 3. FATCA applies to “United States accounts” held by “specified United States persons”.
8 4. Withholding is 30% on “recalcitrant account holders”.
9 5. Not applicable for accounts less than \$50,000.
10 6. Reporting on information about “specified United States person”. These include natural persons.
11 7. “Specified United States persons” described in 26 U.S.C. §1473(3)

12 [26 U.S. Code § 1473. Definitions](#)

13 (3)SPECIFIED UNITED STATES PERSON

14 Except as otherwise provided by the [Secretary](#), the term “[specified United States person](#)” means any [United](#)
15 [States person](#) other than—

16 (A) any [corporation](#) the [stock](#) of which is regularly traded on an established securities market,

17 (B) any [corporation](#) which is a member of the same [expanded affiliated group](#) (as defined in [section 1471\(e\)\(2\)](#)
18 without regard to the last sentence thereof) as a [corporation](#) the [stock](#) of which is regularly traded on an
19 established securities market,

20 (C) any [organization](#) exempt from taxation under [section 501\(a\)](#) or an [individual retirement plan](#),

21 (D) the [United States](#) or any wholly owned agency or instrumentality thereof,

22 (E) any [State](#), the District of Columbia, any possession of the [United States](#), any [political subdivision](#) of any of
23 the foregoing, or any wholly owned agency or instrumentality of any one or more of the foregoing,

24 (F) any [bank](#) (as defined in [section 581](#)),

25 (G) any [real estate investment trust](#) (as defined in [section 856](#)),

26 (H) any [regulated investment company](#) (as defined in [section 851](#)),

27 (I) any [common trust fund](#) (as defined in [section 584\(a\)](#)), and

28 (J)any [trust](#) which—

29 (i) is exempt from [tax](#) under section 664(c), or

30 (ii) is described in section 4947(a)(1).

- 31 8. “United States Account” described in 26 U.S.C. §1471(d)(1) as:

32 [26 U.S. Code § 1471. Withholdable payments to foreign financial institutions](#)

33 (d) DEFINITIONS

34 For purposes of this section—

35 (1) UNITED STATES ACCOUNT

36 (A) In general

The term “United States account” means any financial account which is held by one or more specified United States persons or United States owned foreign entities.

(B) Exception for certain accounts held by individuals.

Unless the foreign financial institution elects to not have this subparagraph apply, such term shall not include any depository account maintained by such financial institution if—

(i) each holder of such account is a natural person, and

(ii) with respect to each holder of such account, the aggregate value of all depository accounts held (in whole or in part) by such holder and maintained by the same financial institution which maintains such account does not exceed \$50,000.

To the extent provided by the Secretary, financial institutions which are members of the same expanded affiliated group shall be treated for purposes of clause (ii) as a single financial institution.

(C) Elimination of duplicative reporting requirements

Such term shall not include any financial account in a foreign financial institution if—

(i) such account is held by another financial institution which meets the requirements of subsection (b), or

(ii) the holder of such account is otherwise subject to information reporting requirements which the Secretary determines would make the reporting required by this section with respect to United States accounts duplicative.

9. “specified United States persons” in 26 U.S.C. § 1473(3) and “United States persons” in 26 U.S.C. § 7701(a)(30) are NOT equivalent.

9.1. For one to be a subset of the other, it must be listed in the OTHER’s definition.

9.2. 26 U.S.C. § 1473(3) does include “United States” persons in its definition so “specified United States persons” are a subset.

9.3. Throughout 26 C.F.R. § 1.1441-1, the term “United States person” is used only once under 26 C.F.R. § 1.1441-1(e)(4)(ix)(B)(1) under the context of “beneficial owner”.

https://sedm.org/Forms/04-Tax/2-Withholding/26CFR1.1441-1-US81303316_114411_123113-20190716.pdf

14 Dave Champion’s Approach Towards the U.S. Person Position

Dave Champion talks about his approach to the U.S. Person Position in the following book:

Income Tax: Shattering the Myths, Dave Champion, 2010, ISBN 978-0-615-35685-3
<https://davechampionsliberty.com/book/>

He talks about statutory “U.S. Persons” in the following sections:

1. Treasury Decision (T.D.) 8734, p. 127
2. Indirectly Working the Mark, p. 227
3. Ignorant Frank, p. 231
4. Financial Institutions, p. 258

Basically, Dave’s approach is as follows:

1. Ordinary Americans are NOT statutory “U.S. persons”. They are “nontaxpayers”.
2. Ordinary Americans cannot fill out Forms W-9 or W-4, because neither pertains to them.
3. There is a HUGE difference between the common word “payer” and the statutory word “payor”. All “payors” are statutory withholding agents under 26 U.S.C. § 7701(a)(16). pp. 120 (Illegal Backup Withholding), 123 (Payor).
4. Statutory “withholding agents” may only deduct upon statutory “foreign persons” and not anyone domiciled in a constitutional state of the union or even on federal territory.

5. All reporting upon “U.S. persons” deals with those who are flow-through entities for payments eventually headed to “foreign persons”. Pp. 130-131. NEVER are payments reported that are not directly headed directly or indirectly to “foreign persons”. He uses Treasury Decision (T.D.) 8734 as the basis for such a conclusion, which says:

“The term also includes any person that makes a payment to an intermediary, flow-through entity, or U.S. branch that is not treated as a U.S. person to the extend the intermediary, flow-through, or U.S. branch provides a Form W-9 or other appropriate information relating to a payee so that their payment can be reported under chapter 61 of the Internal Revenue Code and, if required, subject to backup withholding under section 3406. This latter rule does not preclude intermediary, flow-through entity, or U.S. branch from also being a payor.

6. Statutory “foreign persons” include only statutory “nonresident aliens” and “foreign corporations” per 26 U.S.C. §1441-1443, 1461. p. 122

7. All statutory “U.S. persons” are statutory “withholding agents” under 26 U.S.C. §1461 who are paying “foreign persons”. Those who are not “withholding agents” cannot ALSO be “U.S. persons”.

15 Rebutting False Presumptions About “Taxpayer” Status of STATUTORY “U.S. Persons”

The main technique for systematic government theft is what we call “theft by presumption”. The tactic works as follows:

1. Make the government unaccountable for any of its statements or publications.
2. Remove the study of law from the public schools so that people will not be able to recognize the lies of public servants about the limits placed by law upon their delegated authority.
3. Lie to the public by spoken work, in government publications, and even court rulings about the authority of government to enforce. Exaggerate its authority or extend it to places that it does not exist.
4. The combination of laziness on part of the public and false statements by government then is used to institutionalize false presumptions on a mass scale about the authority and power of government.
5. When or if the public reads the law and challenges public servants on their misrepresentations and illegal enforcement, call them “frivolous” and don’t define what “frivolous” means. This by itself not only is a violation of due process and a FRAUD, but also essentially amounts to the accusation that the party challenging the authority of government is a heretic who refuses to join the state sponsored religion.

We describe the above tactics in:

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

The following sections will describe the use of the above techniques to create and perpetuate false presumptions about the authority of government and how to challenge them. The subject of government deception and false statements is a very extensive subject that will not be covered by this section and is covered in:

Legal Deception, Propaganda, and Fraud, Form #05.014
<https://sedm.org/Forms/FormIndex.htm>

15.1 IRREBUTTABLE Presumptions that impair constitutional rights are unconstitutional

Conclusive presumptions that are enforceable as obligations are unconstitutional. By conclusive, we mean presumptions that the TARGET or victim of the presumption is not allowed to rebut. The following quote from a federal civil trials and evidence practice guide explains why this is:

(1) [8:4993] *Conclusive presumptions affecting protected interests:*

*A conclusive presumption may be defeated where its application would impair a party's constitutionally-protected liberty or property interests. In such cases, conclusive **presumptions have been held to violate a party's due process and equal protection rights.** [Vlandis v. Kline (1973) 412 U.S. 441, 449, 93 S.Ct. 2230, 2235; Cleveland Bd. of Ed. v. LaFleur (1974) 414 U.S. 632, 639-640, 94 S.Ct. 1208, 1215-presumption under Illinois law that unmarried fathers are unfit violates process]*

Note that IRREBUTTABLE presumptions are also disfavored by the courts:

Statutes creating permanent irrebuttable presumptions have long been disfavored under the Due Process Clauses of the Fifth and Fourteenth Amendments. In *Heiner v. Domman*, 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 government therefore abuses legal ignorance, propaganda, equivocation, and word of art tricks to create false presumptions that the target of the presumptions will not recognize, and therefore will have no reason or motive to even TRY to rebut. Thus, the presumptions result in a THEFT of property and rights.

It is of extreme importance to learn enough about the law to recognize when presumptions are made, to challenge them properly, and to demand evidence to prove them. In the absence of evidence, presumptions must be dismissed and cannot be used as a "plausible deniability defense".

15.2 Presumption rules according to the Internal Revenue Service

Presumption Rules

If you cannot reliably associate a payment with valid documentation, you must apply certain presumption rules or you may be liable for tax, interest, and penalties. If you comply with the presumption rules, you are not liable for tax, interest, and penalties even if the rate of withholding that should have been applied based on the payee's actual status is different from that presumed.

The presumption rules apply to determine the status of the person you pay as a U.S. or foreign person and other relevant characteristics, such as whether the payee is a beneficial owner or intermediary, and whether the payee is an individual, corporation, partnership, or trust.

In the case of a withholdable payment you make to an entity, you must apply the presumption rules for chapter 4 purposes to treat the entity as a nonparticipating foreign financial institution (FFI) when you cannot reliably associate the payment with documentation permitted for chapter 4 purposes.

You are not permitted to apply a reduced rate of chapter 3 withholding based on a payee's presumed status if documentation is required to establish a reduced rate of withholding. For example, if the payee of interest is presumed to be a foreign person, you may not apply the portfolio interest exception or a reduced rate of withholding under a tax treaty since both exceptions require documentation.

If you rely on your actual knowledge about a payee's status and withhold an amount less than that required under the presumption rules or do not report a payment that is subject to reporting under the presumption rules, you may be liable for tax, interest, and penalties. You should, however, rely on your actual knowledge if doing so results in withholding an amount greater than would apply under the presumption rules or in reporting an amount that would not have been subject to reporting under the presumption rules.

In the case of a participating FFI or registered deemed-compliant FFI that cannot report with respect to an individual account holder, the FFI must classify the account holder under the requirements (as applicable) of the FFI agreement, Treasury regulations section 1.1471-5(f), or an applicable IGA. Whether withholding applies to payments made to such account holders classified as recalcitrant account holders (including payments to intermediaries or flow-through entities allocating payments to such account holders on an applicable withholding statement) differs under these requirements.

1 The presumption rules, in the absence of documentation, for the subject matter are discussed in the regulation section
2 indicated below.

3 **Table 6: Presumption Rules in the Absence of Documentation**

| Presumption Rules in the Absence of Documentation | |
|--|--|
| For the presumption rules related to: | See regulation section: |
| Payee's status - general | 1.1441-1(b)(3); 1.6049-5(d) 1.1471-3(f) (chapter 4 payees) |
| Effectively connected income | 1.1441-4(a)(2) |
| Partnership and its partners | 1.1441-5(d); 1.1446-1(c)(3) |
| Estate or trust and its beneficiaries or owner | 1.1441-5(e)(6) |
| Foreign tax-exempt organizations (including private foundations) | 1.1441-9(b)(3) |

4 **Presumption Rules for Chapter 4**

5 If you determine that you are making a withholdable payment to an entity and cannot reliably associate the payment with a
6 valid [Form W-8 or other documentation](#) that you are permitted to rely upon and that is sufficient to determine the chapter 4
7 status of the entity, you are required to treat the entity payee as a nonparticipating FFI such that withholding applies.

8 If you are making a withholdable payment to joint payees and cannot reliably associate the payment with valid
9 documentation from each payee and each of the payees appears to be an individual, the payment is presumed made to an
10 unidentified U.S. person. If any of the joint payees does not appear, by its name or other information in its account file, to
11 be an individual, then the entire payment is treated as made to a nonparticipating FFI. However, if you receive from one of
12 the joint payees a Form W-9, the payment shall be treated as made to that payee.

13 **References/Related Topics**

14 [Beneficial Owners and Documentation](#)

15 [Standards of Knowledge](#)

16 [Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities](#)

17 **Note:** This page contains one or more references to the Internal Revenue Code (IRC), Treasury Regulations, court cases,
18 or other official tax guidance. References to these legal authorities are included for the convenience of those who would
19 like to read the technical reference material. To access the applicable IRC sections, Treasury Regulations, or other official
20 tax guidance, visit the [Tax Code, Regulations, and Official Guidance](#) page. To access any Tax Court case opinions issued
21 after September 24, 1995, visit the [Opinions Search](#) page of the United States Tax Court.

22 Page Last Reviewed or Updated: 24-Nov-2015

23 [\[SOURCE: IRS Presumption Rules; SOURCE: <https://www.irs.gov/individuals/international-taxpayers/presumption-rules/>](#)

24 **16 Historical Efforts by the IRS to undermine the U.S. Person Position**

25 Up to 2011, the IRS Form W-9 recognized you could be “exempt”. Here is the block that allowed it:

26 **Figure 5: IRS Form W-9, 2011**

| | | |
|---|--|---|
| Form W-9 (Rev. December 2011) Department of the Treasury Internal Revenue Service | Request for Taxpayer Identification Number and Certification | Give Form to the requester. Do not send to the IRS. |
| Print or type instructions on page 2. | Name (as shown on your income tax return) | |
| | Business name/disregarded entity name, if different from above | |
| | Check appropriate box for federal tax classification: <input type="checkbox"/> Individual/sole proprietor <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ <input type="checkbox"/> Exempt payee <input type="checkbox"/> Other (see instructions) ▶ _____ | |
| | Address (number, street, and apt. or suite no.) _____ _____ _____ | |

The current version of the IRS Form W-9 eliminates the “Exempt payee” from the above, even though such status is and exemption still referenced in the regulations at 26 C.F.R. §1.1441-1(d).

Figure 6: IRS Form W-9, 2017

| | | |
|---|--|---|
| Form W-9 (Rev. December 2014) Department of the Treasury Internal Revenue Service | Request for Taxpayer Identification Number and Certification | Give Form to the requester. Do not send to the IRS. |
| Print or type instructions on page 2. | 1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank. | |
| | 2 Business name/disregarded entity name, if different from above | |
| | 3 Check appropriate box for federal tax classification; check only one of the following seven boxes: <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner. <input type="checkbox"/> Other (see instructions) ▶ _____ | |
| | 4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ (Applies to accounts maintained outside the U.S.) | |

If you want to be exempt on the current form, you have to check the “Other” block and write the following:

“Exempt payee. See 26 C.F.R. §1.1441-1(d)(1). No withholding or reporting. See: <https://sedm.org/Forms/04-Tax/0-CorrErrInfoRtns/CorrErrInfoRtns.pdf>”

17 Problems with the U.S. Person Position

The main theme of SEDM’s sovereignty materials it to become a “non-resident non-person” domiciled in God’s kingdom and outside of any terrestrial government. By “non-resident non-person” we mean someone with a domicile outside of federal territory and no civil status under the laws of Congress such as “person”, “individual”, “taxpayer”, etc. That means we cannot have ANY civil status under any government law and must be left alone civilly. Everything other than a “national” or “U.S. national” under Title 8 is a civil status, and especially anything that includes the word “citizen”.

The irony and conflict we have with the U.S. Person Position is that:

1. It is a rule of statutory construction that anything not expressly mentioned in the statutes is 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]

"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)]

2. If you claim NO CIVIL STATUS under the entire Internal Revenue Code, then you are excluded from the entire TITLE of code! Remember: The ONLY remedies proposed in the I.R.C. are for those who are statutory "Taxpayers". There ARE no remedies for those who are not subject but also not statutorily "exempt" (a privilege for those subject).

"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 [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."
[Economy Plumbing & Heating v. U.S., 470 F.2d. 585 (1972)]

For information on this subject, see:

- 2.1. Who are "Taxpayers" and Who Needs a "Taxpayer Identification Number"?, Form #05.013
<https://sedm.org/Forms/FormIndex.htm>
- 2.2. Non-Resident Non-Person Position, Form #05.020, Section 10.2.5: Excluding "not subject" from Government Forms and offering only "Exempt"
<https://sedm.org/Forms/FormIndex.htm>
3. Under the U.S. Person Position, you must claim the civil status of "U.S. Person" to be civilly left alone for tax purposes. By "left alone" we mean you do NOT:
 - 3.1. Have any tax withheld from payments.
 - 3.2. Have anything reported on an information return.
 - 3.3. Have to file any tax return form.
 - 3.4. Have to use an identifying number.
 - 3.5. Acquire any civil status under any civil legislative enactment of Congress, a legislatively but not constitutionally foreign jurisdiction, which might create a presumption of government civil jurisdiction, such as "citizen", "resident", "taxpayer", "person", "individual", etc. Without a civil domicile on federal territory, it is impossible and even criminal identity theft to acquire any such domicile under the exclusive jurisdiction of Congress.
4. Technically, "U.S. Persons" DO have mandatory obligations associated with them. See section 0 earlier. They are required to provide an identifying number in 26 C.F.R. §301.6109-1(b)(1). Therefore, they could not be entirely private or even an absolute owner over their own status and identity. Therefore, they must be a fiction of law created by Congress and therefore a privilege. The number, in fact, serves as a de facto license to represent a public office, because the entire code is only for public officers who are aliens called "taxpayers", as we prove in Form #05.008.

Title 26: Internal Revenue
PART 301—PROCEDURE AND ADMINISTRATION
[§301.6109-1 Identifying numbers.](#)

(b) Requirement to furnish one's own number—

(1) U.S. persons.

Every U.S. person who makes under this title a return, statement, or other document must furnish its own taxpayer identifying number as required by the forms and the accompanying instructions. A U.S. person whose number must be included on a document filed by another person must give the taxpayer identifying number so required to the other person on request. For penalties for failure to supply taxpayer identifying numbers, see sections 6721 through 6724. For provisions dealing specifically with the duty of employees with

1 respect to their social security numbers, see §31.6011(b)-2 (a) and (b) of this chapter (Employment Tax
2 Regulations). For provisions dealing specifically with the duty of employers with respect to employer
3 identification numbers, see §31.6011(b)-1 of this chapter (Employment Tax Regulations).
4 [26 C.F.R. §301.6109-1(b)(1)]

5 There are ways around this problem identified in Forms #04.205 and 05.012, but not without getting into an argument
6 with your business associates. This complicates the use of the position and threatens your livelihood and even survival.

- 7 5. To claim the “U.S. Person” status, you must admit to being EITHER “citizen or resident of the United States[**]” or a
8 “resident of the United States[**]”, which means that you CANNOT be someone with a foreign domicile and no civil
9 status such as “person” or “U.S. Person”.
10 6. The “United States” mentioned is then tied to the STATUTORY United States defined in 26 U.S.C. §7701(a)(9) and
11 (a)(10), which means federal territory not within a constitutional state. There is no separate definition of “United
12 States” as used in 26 U.S.C. §7701(a)(30) that would include states of the Union and exclude federal territory. Hence,
13 federal territory is the ONLY thing that “United States” can mean in 26 U.S.C. §7701(a)(30) in the case of “citizens
14 and residents”. To PRESUME that foreign states such as states of the Union are included is a violation of due process
15 and reasonable notice requirements in the case of state nationals:

16 (1) [8:4993] **Conclusive presumptions affecting protected interests:** A conclusive presumption may be
17 defeated where its application would impair a party's constitutionally-protected liberty or property interests. In
18 such cases, conclusive **presumptions have been held to violate a party's due process and equal protection**
19 **rights.** [Vlandis v. Kline (1973) 412 U.S. 441, 449, 93 S.Ct. 2230, 2235; Cleveland Bd. of Ed. v. LaFleur
20 (1974) 414 US 632, 639-640, 94 S.Ct. 1208, 1215-presumption under Illinois law that unmarried fathers are
21 unfit violates process]
22 [Federal Civil Trials and Evidence, Rutter Group, paragraph 8:4993, p. 8K-34]

- 23 7. As an educated state national domiciled outside of the statutory “United States**” (federal territory), you are therefore
24 committing fraud to identify yourself as any of the following civil statuses without at least defining the terms to
25 exclude domiciled parties or civil statuses on federal territory or under any act of Congress so as to reserve all rights
26 and remain exclusively private:
27 7.1. “citizen or resident of the United States**”
28 7.2. “person” under 26 U.S.C. §7701(a)(1).
29 7.3. “U.S. person” under 26 U.S.C. §7701(a)(30).
30 8. Presuming or enforcing a civil domicile or any associated civil statuses against a non-consenting party is criminal
31 identity theft as described in:
32 8.1. Government Identity Theft, Form #05.046
33 <https://sedm.org/Forms/FormIndex.htm>
34 8.2. Your Exclusive Right to Declare or Establish Your Civil Status, Form #13.008
35 <https://sedm.org/Forms/FormIndex.htm>
36 9. The consequence of the fraud and perjury on the Form W-9 withholding form regarding your civil status is that you
37 create the PRESUMPTION that you are subject to ALL the civil enactments of Congress. Thus, even though you
38 escaped tax withholding and hopefully income tax liability entirely, you now have to pay the price for that
39 PRIVILEGED escape (a statutory EXEMPTION and therefore a privilege applicable only on federal territory) by
40 making yourself subject to civil statutes of Congress that you would not otherwise be subject to.
41 10. The only way to avoid all the problems above is to complete the Form W-9 in the following way:
42 10.1. Define the term “United States” as used in 26 U.S.C. §7701(a)(30) to mean states of the Union and exclude
43 federal territory.
44 10.2. Define the term “citizen” to mean someone who is a CONSTITUTIONAL citizen under the Fourteenth
45 Amendment but not a STATUTORY citizen under 26 U.S.C. §3121(e) or 26 C.F.R. §1.1-1(c).
46 10.3. Identify the submitter as a statutory “non-resident non-person” under civil laws of Congress and all governments
47 with a foreign domicile.
48 11. A form which does the things in item 6 above is available on our website as follows:

Federal and State Tax Withholding Options for Private Employers, Form #09.001, Section 27.9
<https://sedm.org/Forms/FormIndex.htm>

49 The reason that Congress plays the above games it to recruit more “customers” called “citizens” or “residents”. It does this
50 by refusing to even acknowledge the existence of those who are NOT “customers” called “non-resident non-persons”. This
51 is called a “marketing tool”. It’s still crooked. If they wanted to be completely honest and respect your First Amendment
52 right to politically and civilly disassociate, they would define the term “U.S. Person” as follows:

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

(30) United States person

The term "United States[*] person" means -

- (A) a citizen or resident of the United States[**].
(B) a human being born in a state of the Union (the "United States"*) who is not domiciled within the civil jurisdiction of the national government and has no civil status under said laws.
(C) a domestic partnership domiciled on federal territory (called the United States[**]),
(D) a domestic corporation domiciled on federal territory (called the United States[**]),
(E) any estate (other than a foreign estate, within the meaning of paragraph (31)) of a person domiciled on federal territory (called the United States[**]) at the time of the death of the decedent, and
(F) any trust domiciled on federal territory (called the United States[**]) if -
(i) a court within the United States[**] is able to exercise primary supervision over the administration of the trust, and
(ii) one or more United States[**] persons have the authority to control all substantial decisions of the trust.

It will be a cold day in hell when Congress decides to tell the WHOLE truth by rewriting 26 U.S.C. §7701(a)(30) to be consistent with the above. That would be against their marketing plan.

Another problem is that after you do all the above as a state national who is a "non-resident non-person", if money is withheld from your pay that you want back, then you have to choose one of the following approaches:

1. Choose which type of return to file and ask for the money back. This process can create even more false presumptions about your status, because there are no forms for "non-resident non-persons". The form that would be closest to your status would be the Form 1040NR, but even that form is wrong because you are not an "alien" and the definition of "individual" only includes aliens, although it does pertain to nonresidents. Therefore, you would have to attach the following form to overcome that presumption and make it a non-resident non-person form:

Tax Form Attachment, Form #04.201

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

2. File a non-resident non-statutory claim to get your money back.

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

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

The above unconventional process is sure to draw unwarranted ire from IRS agents, who are trained, conditioned, and propagandized to falsely believe that EVERYONE is a "taxpayer" and a "resident", and that there is no such thing as a "non-resident non-person". We explain in our Disclaimer why this is:

SEDM Disclaimer

4. Meaning of Words

The term "non-person" as used on this site we define to be a human not domiciled on federal territory, not engaged in a public office, and not "purposefully and consensually availing themselves" of commerce within the jurisdiction of the United States government. Synonymous with "transient foreigner", "in transitu", and "stateless" (in relation to the national government). We invented this term. The term does not appear in federal statutes because statutes cannot even define things or people who are not subject to them and therefore foreign and sovereign. The term "non-individual" used on this site is equivalent to and a synonym for "non-person" on this site, even though STATUTORY "individuals" are a SUBSET of "persons" within the Internal Revenue Code. Likewise, the term "private human" is also synonymous with "non-person". Hence, a "non-person":

1. Retains their sovereign immunity. They do not waive it under the Foreign Sovereign Immunities Act, 28 U.S.C. Chapter 97 or the longarm statutes of the state they occupy.
2. Is protected by the United States Constitution and not federal statutory civil law.
3. May not have federal statutory civil law cited against them. If they were, a violation of Federal Rule of Civil Procedure 17 and a constitutional tort would result if they were physically present on land protected by the United States Constitution within the exterior limits of states of the Union.

4. Is on an equal footing with the United States government in court. "Persons" would be on an UNEQUAL, INFERIOR, and subservient level if they were subject to federal territorial law.

Don't expect vain public servants to willingly admit that there is such a thing as a human "non-person" who satisfies the above criteria because it would undermine their systematic and treasonous plunder and enslavement of people they are supposed to be protecting. However, the U.S. Supreme Court has held that the "right to be left alone" is the purpose of the constitution. *Olmstead v. United States*, 277 U.S. 438. A so-called "government" that refuses to leave you alone or respect or protect your sovereignty and equality in relation to them is no government at all and has violated the purpose of its creation described in the Declaration of Independence. Furthermore, anyone from the national or state government who refuses to enforce this status, or who imputes or enforces any status OTHER than this status under any law system other than the common law is:

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

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

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

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

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

[SEDM Disclaimer, Section 4; SOURCE: <https://sedm.org/disclaimer.htm>]

18 "Foreign" v. "alien": Which one are you as a "state national" and a member?⁶

We define "state national" as follows:

SEDM Disclaimer
Section 4: Meaning of Words

The term "state national" means those who are born in a Constitutional but not Statutory "State" as described in the Fourteenth Amendment. Equivalent to a "non-citizen national of the United States OF AMERICA". EXCLUDES any of the following:

1. STATUTORY "person" under [26 U.S.C. §6671\(b\)](#) and [§7343](#).

⁶ Source: *Non-Resident Non-Person Position*, Form #05.020, Section 1.12; <http://sedm.org/Forms/FormIndex.htm>.

2. Statutory "national and citizen of the United States** at birth" as defined in [8 U.S.C. §1401](#). This is a territorial citizen rather than a state citizen.

3. "citizen of the United States**[federal zone]" under [26 U.S.C. §911](#), 26 U.S.C. §3121(e), or [26 C.F.R. §1.1-1\(c\)](#).

4. "National but not citizen of the United States** at birth" under [8 U.S.C. §1408](#). This is a person born in a federal possession RATHER than a state of the Union.

5. "U.S.[**] non-citizen national" under [8 U.S.C. §1452](#). This is a person born in a federal possession RATHER than a state of the Union.

6. STATUTORY "U.S. person" as defined in [26 U.S.C. §7701\(a\)\(30\)](#), which is a human being born and domiciled on federal territory not within the exclusive jurisdiction of any Constitutional state.

[SEDM Disclaimer, Section 4; <https://sedm.org/disclaimer.htm>]

All of our members are "state nationals". They are not statutory "U.S. persons" under 26 U.S.C. §7701(a)(30). They also can't use "tax information or services" if they take any other approach. This can be confusing for members who have to describe their status to others. Most people avoid confusion or the cognitive dissonance it creates. The only way for people to feel comfortable using our materials is to eliminate this confusion. Several questions, for instance, can and often do arise about the status of our members that we will therefore answer in this section:

1. What is the main characteristic that makes someone "foreign" in relation to a specific legislative jurisdiction?
2. Is the civil status of members who are "state nationals" and "non-residents" found anywhere in the Internal Revenue Code?
3. Would these people be "foreign" in relation to the Internal Revenue Code?
4. Under what circumstances would these people become statutory "aliens" in relation to the Internal Revenue Code?
5. What is the difference between "foreign" and "alien"?

We prove in Form #05.001 that the Internal Revenue Code Subtitles A and C are a franchise available only to those domiciled, present, or doing business in the statutory "United States", which means federal territory or the GOVERNMENT.⁷ This is also revealed by the definition of the geographical "United States" in 26 U.S.C. §7701(a)(9) and (a)(10) and 4 U.S.C. §110(d).

Anything outside of the U.S. government and outside of federal exclusive jurisdiction is therefore legislatively "foreign" but not necessarily "alien" in relation to the Internal Revenue Code. By "foreign" we mean:

Foreign

English

Adjective

(en adjective)

☐ Located outside a country or place, especially one's own.

foreign" markets"; ""foreign soil

☐ Originating from, characteristic of, belonging to, or being a citizen of a country or place other than the one under discussion.

foreign" car"; ""foreign" word"; ""foreign" citizen"; ""foreign trade

☐ * {{quote-book, year=1905, author=, title=, chapter=2 citation, passage=The cane was undoubtedly of foreign make, for it had a solid silver ferrule at one end, which was not English hall-marked.}}

⁷ See: *The "Trade or Business" Scam*, Form #05.001; <http://sedm.org/Forms/FormIndex.htm>.

☐ * {{quote-magazine, date=2013-08-24, volume=408, issue=8850, magazine=(The Economist), title=Guardian warriors and golden eggs , passage=Foreign' companies love to complain about doing business in China.

☐ Relating to a different nation.

foreign" policy"; ""foreign navies

☐ Not characteristic of or naturally taken in by an organism or system.

foreign" body"; ""foreign" substance"; ""foreign" gene"; ""foreign species

☐ Alien; strange.

It was completely foreign to their way of thinking.

☐ * (and other bibliographic particulars) (Jonathan Swift)

This design is not foreign from some people's thoughts.

☐ (label) Held at a distance; excluded; exiled.

☐ * (and other bibliographic particulars) (Shakespeare)

Kept him a foreign man still; which so grieved him, / That he ran mad and died.

☐ From a different one of the states of the United States, as of a state of residence or incorporation.

☐ Belonging to a different organization, company etc.

Synonyms

* (from a different country) overseas, international * (strange) alien, fremd * (in a place where it does not belong) extraneous

Antonyms

* (from a different country) domestic * (not characteristic) native * (native to an area) indigenous

Derived terms

{{der3, foreign body , foreign correspondent , foreign country , , foreign debt , foreign exchange , foreignize , foreignization , foreign key , foreignness , foreigner , foreign tongue , foreign policy , Foreign Office}}

Noun

(en noun)

☐ (informal) foreigner

☐ * {{quote-news, year=2011 , date=August 30 , author= , title=White House Extremely Worried About People Saying Dumb Stuff on 9/11 , work=Gawker citation, page= , passage=The messaging instructions come in two sets: one for domestics, another for the foreigners . }}

Statistics

* 1000 English basic words English words not following the I before E except after C rule

[Wikidiff: Alien vs Foreign-What's the Difference?, Downloaded 20200102; SOURCE: <https://wikidiff.com/alien/foreign>]

The term “foreign” in the Internal Revenue Code is defined ONLY in the context of federal corporations that are franchises of the national government.

“U.S. Person” Position

Copyright Sovereignty Education and Defense Ministry, <http://sedm.org>
Form 05.053, Rev. 2-18-2025

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

(5) Foreign

The term “foreign” when applied to a corporation or partnership means a corporation or partnership which is not domestic.

Thus, everything OUTSIDE of the “United States” federal corporation is “foreign” and that corporation, itself is “foreign” in relation to the constitutional states:

*“The United States government is a foreign corporation with respect to a state.”
[19 Corpus Juris Secundum (C.J.S.), Corporations, §§883-884 (2003);
SOURCE: <http://famguardian.org/TaxFreedom/CitesByTopic/UnitedStates-19CJS883to884.pdf>]*

“Domestic” is the opposite of “foreign”. One only becomes “domestic” by being assimilated INTO the above corporation or doing business with that corporation. Those doing “business” with Uncle are called “partnerships” or “corporations” in the I.R.C. In fact, these are the ONLY “persons” for the purposes of both criminal enforcement and civil penalties. For everyone else, they cannot be subject to any kind of enforcement:

1. Definition of “person” for the purposes of “assessable penalties” within the Internal Revenue Code means an officer or employee of a corporation:

[TITLE 26](#) > [Subtitle F](#) > [CHAPTER 68](#) > [Subchapter B](#) > [PART I](#) > Sec. 6671.
Sec. 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.

2. Definition of “person” for the purposes of “miscellaneous forfeiture and penalty provisions” of the Internal Revenue Code means an officer or employer of a corporation or partnership within the federal United States:

[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, 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

3. Definition of “person” or “individual” for the purposes of levy within the Internal Revenue Code means an elected or appointed officer of the United States government or a federal instrumentality:

*26 U.S.C., Subchapter D - Seizure of Property for Collection of Taxes
[Sec. 6331](#). Levy and distraint*

(a) Authority of Secretary

*If any person liable to pay any tax neglects or refuses to pay the same within 10 days after notice and demand, it shall be lawful for the Secretary to collect such tax (and such further sum as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under section [6334](#)) belonging to such person or on which there is a lien provided in this chapter for the payment of such tax. **Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such officer, employee, or elected official.** If the Secretary makes a finding that the collection of such tax is in jeopardy, notice and demand for immediate payment of such tax may be made by the Secretary and, upon failure or refusal to pay such tax, collection thereof by levy shall be lawful without regard to the 10-day period provided in this section.*

The previous analysis about the meaning of “United States” is also consistent with our sample tax collection response letter template as follows and helps explain it contextually:

7. My earnings are thus not subject to either W-2 “wage” withholding per 26 C.F.R. §31.3121(b)-3(c)(1) and 26 C.F.R. §3.3401(a)(6)-1(b) or “backup withholding” per [26 U.S.C. §3406](#). My earnings are not subject to backup withholding because they are not “reportable”. They can only be reportable if:

7.1. They are connected with the “trade or business”/public office excise taxable franchise per [26 U.S.C. §6041\(a\)](#).
7.2. They are from “sources within the United States” in the case of IRS Form 1042s as ALLEGED “gross income”, but even THAT is “trade or business” income per [26 U.S.C. §864\(c\)\(3\)](#). The implications of this provision are that everything from “sources in the United States” is government payments and you IMPLICITLY agree as the recipient of the payment to in effect CONSENT to “effectively connect” the earning to the “trade or business”/public office excise taxable franchise, even though it TECHNICALLY is NOT.
Otherwise, they are NOT reportable, per [26 U.S.C. §3406](#) and 26 C.F.R. §31.3406(g)-1(e).

[. . .]

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/>]

The Bible forbids Christians from doing such business and thereby being assimilated into “The Beast” by becoming “domestic”.

“And I saw **the beast, the kings of the earth**, and their armies, gathered together to make war against Him who sat on the horse and against His army.”
[[Rev. 19:19](#), Bible, NKJV]

Curses of Disobedience [to God’s Laws]

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

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

“Because you did not serve [ONLY] the Lord your God with joy and gladness of heart, for the abundance of everything, therefore you shall serve your [covetous thieving lawyer] enemies, whom the Lord will send against you, in hunger, in thirst, in nakedness, and in need of everything; and He will put a yoke of iron [[franchise codes](#)] on your neck until He has destroyed you. The Lord will bring a nation against you from afar [the District of CRIMINALS], from the end of the earth, as swift as the eagle flies [the American Eagle], a nation [whose language \[LEGALESE\] you will not understand](#), a nation of fierce [coercive and fascist] countenance, which does not respect the elderly [assassinates them by denying them healthcare through bureaucratic delays on an Obamacare waiting list] nor show favor to the young [destroying their ability to learn in the public FOOL system]. And they shall eat the increase of your livestock and the produce of your land [with “trade or business” franchise taxes], until you [and all your property] are destroyed [[or STOLEN/CONFISCATED](#)]; they shall not leave you grain or new wine or oil, or the increase of your cattle or the offspring of your flocks, until they have destroyed you.
[Deut. 28:43-51, Bible, NKJV]

1 Notice the phrase:

2 *"He shall lend to you [Federal Reserve counterfeiting franchise], but you shall not lend to him; he shall be*
3 *the head, and you shall be the tail."*

4 The scripture is talking about government franchises, ALL of which consist of loans of government property with strings
5 attached! Thus, indirectly, God is forbidding Christians from engaging in any government franchise, being a "borrower" of
6 government property, and thereby becoming "domestic" under any of their civil.

7 *"The rich rules over the poor, And the borrower is servant to the lender."*
8 *[Prov. 22:7, Bible, NKJV]*

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

16 The above curse in Deut. 28:43-51 is also the same curse spoken of in the book of Revelation, and it is instituted by "The
17 Beast". The Beast is then defined in Rev. 19:19 as "the kings of the earth", which today would be our political rulers:

18 *"And I saw the beast, the kings of the earth, and their armies, gathered together to make war against Him who*
19 *sat on the horse and against His army."*
20 *[Rev. 19:19, Bible, NKJV]*

21 In the book of Revelation, Babylon the Great Harlot is "fornicating" with the government by engaging in commerce with it.
22 Black's Law Dictionary defines "commerce" as "intercourse":

23 *"Commerce. ...Intercourse by way of trade and traffic between different peoples or states and the citizens or*
24 *inhabitants thereof, including not only the purchase, sale, and exchange of commodities, but also the*
25 *instrumentalities [governments] and agencies by which it is promoted and the means and appliances by which it*
26 *is carried on..."*
27 *[Black's Law Dictionary, Sixth Edition, p. 269]*

28 If you want your rights back people, you can't pursue government employment in the context of your private job. If you
29 do, the Bible, not us, says you are a harlot and that you are CONDEMNED to hell!

30 *And I heard another voice from heaven saying, "Come out of her, my people, lest you share in her sins, and lest*
31 *you receive of her plagues. For her sins have reached to heaven, and God has remembered her iniquities.*
32 *Render to her just as she rendered to you, and repay her double according to her works; in the cup which she*
33 *has mixed, mix double for her. In the measure that she glorified herself and lived luxuriously, in the same*
34 *measure give her torment and sorrow; for she says in her heart, 'I sit as queen, and am no widow, and will not*
35 *see sorrow.' Therefore her plagues will come in one day—death and mourning and famine. And she will be*
36 *utterly burned with fire, for strong is the Lord God who judges her.*
37 *[Rev. 18:4-8, Bible, NKJV]*

38 Furthermore, all civil legislative jurisdiction is based on domicile, as we prove in Form #05.002. Those who are domiciled
39 in a physical place therefore have the statutory "civil status" of "person" for the purpose of civil legislation relating to that
40 place. Otherwise they would be legislatively "foreign", "non-resident", and "stateless" in relation to that place. "Civil
41 status" is exhaustively described in:

- 42 1. Civil Status (important)-SEDM
43 <https://sedm.org/civil-status/>
44 2. Your Exclusive Right to Declare or Establish Your Civil Status, Form #13.008
45 <https://sedm.org/Forms/13-SelfFamilyChurchGovnce/RightToDeclStatus.pdf>

46 Those without a civil domicile in a specific place or jurisdiction would therefore not be subject to the civil statutes of that
47 place and not have a civil status under the civil legislation protecting that place. They would be legislatively "foreign" in
48 respect to that place because they could not be sued under the statutes of that place per Federal Rule of Civil Procedure 17.

1 They would, however, be subject to the common law of that place if they either physically go there or do business remotely
2 with people situated there.

3 In a country where there are 53 (or more) unique and separate jurisdictions that are legislatively foreign in respect to each
4 other, the chief characteristic therefore that makes one "foreign" for the purposes of civil legislation is DOMICILE, and not
5 necessarily one's nationality or place of birth.⁸ Puerto Ricans, for instance, are considered STATUTORY "nationals and
6 citizens of the United States** at birth" under 8 U.S.C. §1401, but at the same time, they are "non-residents" for the
7 purposes of the Internal Revenue Code as described in 26 U.S.C. §2209. This is because:

- 8 1. The STATUTORY "citizen" under the Internal Revenue Code at 26 C.F.R. §1.1-1(c) and under 8 U.S.C. §1401 is a
9 statutory privilege, not an irrevocable right. It can be revoked at any time by Congress. See *Rogers v. Bellei*, 401 U.S.
10 815 (1971).
- 11 2. We can SEE that STATUTORY "citizen" is a STATUTORY privilege and not a CONSTITUTIONAL or PRIVATE
12 status because:
- 13 2.1. The IRS 1040 form can only be used by those engaged in a STATUTORY "trade or business", which is defined
14 as "the functions of a public office".
- 15 2.2. EVERYTHING on the form 1040 is subject to deductions. Such deductions can only be taken by those engaged
16 in the "trade or business"/public office franchise per 26 U.S.C. §162.
- 17 3. Anything that can be taken away by the government without the consent of the party possessing or using it is a
18 privilege and property of the government on loan to the party possessing or using it. It is, in fact, property LOANED
19 to those temporarily possessing or using it.

20 *"In a legal or narrower sense, the term "franchise" is more often used to designate a right or privilege*
21 *conferred by law,⁹ and the view taken in a number of cases is that to be a franchise, the right possessed must*
22 *be such as cannot be exercised without the express permission of the sovereign power¹⁰ –that is, a privilege or*
23 *immunity of a public nature which cannot be legally exercised without legislative grant.¹¹ It is a privilege*
24 *conferred by government on an individual or a corporation to do that "which does not belong to the citizens of*
25 *the country generally by common right."¹² For example, a right to lay rail or pipes, or to string wires or poles*

⁸ See the following for proof: *Why Domicile and Becoming a "Taxpayer" Require Your Consent*, Form #05.002, Sections 11.5, 11.14;
<http://sedm.org/Forms/FormIndex.htm>.

⁹ *People ex rel. Fitz Henry v. Union Gas & E. Co.* 254 Ill. 395, 98 N.E. 768; *State ex rel. Bradford v. Western Irrigating Canal Co.* 40 Kan 96, 19 P. 349;
Milbau v. Sharp, 27 N.Y. 611; *State ex rel. Williamson v. Garrison (Okla)*, 348 P.2d. 859; *Ex parte Polite*, 97 Tex Crim 320, 260 S.W. 1048.

The term "franchise" is generic, covering all the rights granted by the state. *Atlantic & G. R. Co. v. Georgia*, 98 U.S. 359, 25 L.Ed. 185.

A franchise is a contract with a sovereign authority by which the grantee is licensed to conduct a business of a quasi-governmental nature within a particular area. *West Coast Disposal Service, Inc. v. Smith (Fla App)*, 143 So.2d. 352.

¹⁰ The term "franchise" is generic, covering all the rights granted by the state. *Atlantic & G. R. Co. v. Georgia*, 98 U.S. 359, 25 L.Ed. 185.

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¹¹ *State v. Real Estate Bank*, 5 Ark. 595; *Brooks v. State*, 3 Boyce (Del) 1, 79 A. 790; *Belleville v. Citizens' Horse R. Co.*, 152 Ill. 171, 38 N.E. 584; *State ex rel. Clapp v. Minnesota Thresher Mfg. Co.* 40 Minn 213, 41 N.W. 1020.

¹² *New Orleans Gaslight Co. v. Louisiana Light & H. P. & Mfg. Co.*, 115 U.S. 650, 29 L.Ed. 516, 6 S.Ct. 252; *People's Pass. R. Co. v. Memphis City R. Co.*, 10 Wall (US) 38, 19 L.Ed. 844; *Bank of Augusta v. Earle*, 13 Pet (U.S.) 519, 10 L.Ed. 274; *Bank of California v. San Francisco*, 142 Cal. 276, 75 P. 832; *Higgins v. Downward*, 8 Houst (Del) 227, 14 A. 720, 32 A. 133; *State ex rel. Watkins v. Fernandez*, 106 Fla. 779, 143 So. 638, 86 A.L.R. 240; *Lasher v. People*, 183 Ill. 226, 55 N.E. 663; *Inland Waterways Co. v. Louisville*, 227 Ky. 376, 13 S.W.2d. 283; *Lawrence v. Morgan's L. & T. R. & S. S. Co.*, 39 La. Ann. 427, 2 So. 69; *Johnson v. Consolidated Gas E. L. & P. Co.*, 187 Md. 454, 50 A.2d. 918, 170 A.L.R. 709; *Stoughton v. Baker*, 4 Mass 522; *Poplar Bluff v. Poplar Bluff Loan & Bldg. Asso.*, (Mo App) 369 S.W.2d. 764; *Madden v. Queens County Jockey Club*, 296 N.Y. 249, 72 N.E.2d. 697, 1 A.L.R.2d. 1160, cert den 332 U.S. 761, 92 L.Ed. 346, 68 S.Ct. 63; *Shaw v. Asheville*, 269 N.C. 90, 152 S.E.2d. 139; *Victory Cab Co. v. Charlotte*, 234 N.C. 572, 68 S.E.2d. 433; *Henry v. Bartlesville Gas & Oil Co.*, 33 Okla 473, 126 P. 725; *Elliott v. Eugene*, 135 Or. 108, 294 P. 358; *State ex rel. Daniel v. Broad River Power Co.* 157 S.C. 1, 153 S.E. 537; *State v. Scougal*, 3 S.D. 55, 51 N.W. 858; *Utah Light & Traction Co. v. Public Serv. Com.*, 101 Utah 99, 118 P.2d. 683.

A franchise represents the right and privilege of doing that which does not belong to citizens generally, irrespective of whether net profit accruing from the exercise of the right and privilege is retained by the franchise holder or is passed on to a state school or to political subdivisions of the state. *State ex rel. Williamson v. Garrison (Okla)*, 348 P.2d. 859.

Where all persons, including corporations, are prohibited from transacting a banking business unless authorized by law, the claim of a banking corporation to exercise the right to do a banking business is a claim to a franchise. The right of banking under such a restraining act is a privilege or immunity by grant of the legislature, and the exercise of the right is the assertion of a grant from the legislature to exercise that privilege, and consequently it is the usurpation of a franchise unless it can be shown that the privilege has been granted by the legislature. *People ex rel. Atty. Gen. v. Utica Ins. Co.*, 15 Johns (NY) 358.

1 along a public street, is not an ordinary use which everyone may make of the streets, but is a special privilege,
2 or franchise, to be granted for the accomplishment of public objects¹³ which, except for the grant, would be a
3 trespass.¹⁴ In this connection, the term "franchise" has sometimes been construed as meaning a grant of a
4 right to use public property, or at least the property over which the granting authority has control.¹⁵
5 [American Jurisprudence 2d, Franchises, §1: Definitions (1999)]

- 6 4. Anything that is a privilege attaches to an "office" in the government. In the case of STATUTORY "citizen", the
- 7 status IS the name of the office. It is an office because both RIGHTS and corresponding OBLIGATIONS attach to it.
- 8 5. The only way that the obligations of an office in the government can lawfully be imposed upon a PRIVATE human
- 9 protected by the Thirteenth Amendment prohibition against involuntary servitude is for the human to EXPRESSLY
- 10 rather than IMPLIEDLY consent to lawfully OCCUPY the office. Absent demonstrated evidence of express consent,
- 11 the office must be conclusively presumed to NOT exist or not be lawfully occupied.
- 12 6. Puerto Rico is NOT a "territory" but rather a possession and is thus legislatively foreign, just like states of the Union
- 13 are. See section 4.6 later for more on this.

14 So, let's proceed to answer each of the questions posed at the beginning of this section, based on the above considerations,
15 in as simple a fashion as we possibly can:

16
17
18 QUESTION 1. What is the main characteristic that makes someone "foreign" in relation to a specific legislative
19 jurisdiction?

20 ANSWER 1: The main characteristic that makes someone legislatively "foreign" is not having a civil domicile in the
21 geographical place.

22
23
24 QUESTION 2. Is the civil status of members who are "state nationals" and "non-residents" found anywhere in the Internal
25 Revenue Code?

26
27 ANSWER 2: "State national" is not found in the Internal Revenue Code. But all of the terms we use to DEFINE "state
28 national" in the SEDM Disclaimer, Section 4.24 ARE in the Internal Revenue Code and "state national" is therefore a
29 placeholder for that entire definition to abbreviate the treatment throughout this site. As a general rule, it is dangerous to
30 invoke a status in dealing with the IRS which is NOT found in the Internal Revenue Code. What makes it dangerous is that

¹³ New Orleans Gaslight Co. v. Louisiana Light & H. P. & Mfg. Co., 115 U.S. 650, 29 L.Ed. 516, 6 S.Ct. 252; People's Pass. R. Co. v. Memphis City R. Co., 10 Wall (US) 38, 19 L.Ed. 844; Bank of Augusta v. Earle, 13 Pet (U.S.) 519, 10 L.Ed. 274; Bank of California v. San Francisco, 142 Cal. 276, 75 P. 832; Higgins v. Downward, 8 Houst (Del) 227, 14 A. 720, 32 A. 133; State ex rel. Watkins v. Fernandez, 106 Fla. 779, 143 So. 638, 86 A.L.R. 240; Lasher v. People, 183 Ill. 226, 55 N.E. 663; Inland Waterways Co. v. Louisville, 227 Ky. 376, 13 S.W.2d. 283; Lawrence v. Morgan's L. & T. R. & S. S. Co., 39 La. Ann. 427, 2 So. 69; Johnson v. Consolidated Gas E. L. & P. Co., 187 Md. 454, 50 A.2d. 918, 170 A.L.R. 709; Stoughton v. Baker, 4 Mass 522; Poplar Bluff v. Poplar Bluff Loan & Bldg. Asso. (Mo App) 369 S.W.2d. 764; Madden v. Queens County Jockey Club, 296 N.Y. 249, 72 N.E.2d. 697, 1 A.L.R.2d. 1160, cert den 332 U.S. 761, 92 L.Ed. 346, 68 S.Ct. 63; Shaw v. Asheville, 269 N.C. 90, 152 S.E.2d. 139; Victory Cab Co. v. Charlotte, 234 N.C. 572, 68 S.E.2d. 433; Henry v. Bartlesville Gas & Oil Co., 33 Okla 473, 126 P. 725; Elliott v. Eugene, 135 Or. 108, 294 P. 358; State ex rel. Daniel v. Broad River Power Co. 157 S.C. 1, 153 S.E. 537; State v. Scougal, 3 S.D. 55, 51 N.W. 858; Utah Light & Traction Co. v. Public Serv. Com., 101 Utah 99, 118 P.2d. 683.

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¹⁴ People ex rel. Foley v. Stapleton, 98 Colo. 354, 56 P.2d. 931; People ex rel. Central Hudson Gas & E. Co. v. State Tax Com. 247 N.Y. 281, 160 N.E. 371, 57 A.L.R. 374; People v. State Tax Comrs. 174 N.Y. 417, 67 N.E. 69, affd 199 U.S. 1, 50 L.Ed. 65, 25 S.Ct. 705.

¹⁵ Young v. Morehead, 314 Ky. 4, 233 S.W.2d. 978, holding that a contract to sell and deliver gas to a city into its distribution system at its corporate limits was not a franchise within the meaning of a constitutional provision requiring municipalities to advertise the sale of franchises and sell them to the highest bidder.

A contract between a county and a private corporation to construct a water transmission line to supply water to a county park, and giving the corporation the power to distribute water on its own lands, does not constitute a franchise. Brandon v. County of Pinellas (Fla App), 141 So.2d. 278.

one might be fined for being “frivolous”. “non-resident” is, however, found frequently in the rulings of the Supreme Court and is safe.

QUESTION 3. Would these people be “foreign” in relation to the Internal Revenue Code?

ANSWER 3: Yes. If they are not domiciled in the statutory geographical “United States”, not physically present there, and not consensually doing business there, then they remain “foreign” and have no civil status under the Internal Revenue Code, including but not limited to “person”, “taxpayer”, “citizen”, “alien”, “individual”, etc.

QUESTION 4. Under what circumstances would these people become statutory “aliens” in relation to the Internal Revenue Code?

ANSWER 4: Those doing business with a government are considered legally but not physically “present” within the jurisdiction OF that government. This concept is called the “Minimum Contacts Doctrine” by the U.S. Supreme Court. It is explained in International Shoe Co. v. Washington, 326 U.S. 310 (1945). By BEING legally but not physically present, they become “persons” under the statutes of that government. Thus, a fictional “office” is created in the government when people do business with that government. It is legally present WITHIN the United States Corporation (28 U.S.C. §3002(15)(A)) but it is not physically present within the geographical “United States” under 26 U.S.C. §7701(a)(9) and (a)(10). All such offices are “aliens” under the I.R.C., because the code does not tax domestic activity. Below is the same concept applied to the GOVERNMENT when it does business within a constitutional state:

“It is, we think, a sound principle, that when a government becomes a partner in any trading company, it divests itself, so far as concerns the transactions of that company, of its sovereign character, and takes that of a private citizen. Instead of communicating to the company its privileges and its prerogatives, it descends to a level with those with whom it associates itself, and takes the character which belongs to its associates, and to the business which is to be transacted. Thus, many states of this Union” who have an interest in banks are not suable even in their own courts; yet they never exempt the corporation from being sued.”
[Bank of the U.S., The v. The Planters’ Bank of Georgia, 22 U.S. 904, 9 Wheat 904; 6 L.Ed. 244 (1824)]

The converse of the above is also true. If you as a private human contract with the government, you take on a government character as an agent of the government. All contracts create agency. As a bare minimum, that agency includes the duty to deliver the consideration promised in the contract. The consideration is part of the mutual “benefit” delivered by the contract. The other party similarly becomes YOUR agent in delivering the consideration to you that they also promised. If they do not fulfill that agency by delivering the consideration, they have caused an injury and given you standing to sue them for reimbursement and/or damages under the contract.

QUESTION 5. What is the difference between “foreign” and “alien”?

ANSWER 5: One is “foreign” if they have no civil statutory status under the laws of a place, usually because they have no civil domicile there. One becomes “alien” when one is physically situated outside of a place but either physically visits that place or does business with the people physically there. Here is an example:

The reasons for not allowing to other aliens exemption ‘from the jurisdiction of the country in which they are found’ were stated as follows: ‘When private individuals of one nation [states of the Unions are “nations” under the law of nations] spread themselves through another as business or caprice may direct, mingling indiscriminately with the inhabitants of that other, or when merchant vessels enter for the purposes of trade, it would be obviously inconvenient and dangerous to society, and would subject the laws to continual infraction, and the government to degradation, if such individuals or merchants did not owe temporary and local allegiance, and were not amenable to the jurisdiction of the country. Nor can the foreign sovereign have any motive for wishing such exemption. His subjects thus passing into foreign countries are not employed by him, nor are they engaged in national pursuits. Consequently, there are powerful motives for not exempting persons of this description from the jurisdiction of the country in which they are found, and no one motive for requiring it. The implied license, therefore, under which they enter, can never be construed to grant such exemption.’ 7 Cranch, 144.

In short, the judgment in the case of The Exchange declared, as incontrovertible principles, that the jurisdiction of every nation within its own territory is exclusive and absolute, and is susceptible of no limitation not imposed by the nation itself; that all exceptions to its full and absolute territorial jurisdiction must be traced up to its own consent, express or implied; that upon its consent to cede, or to waive the exercise of, a part of its

territorial jurisdiction, rest the exemptions from that jurisdiction of foreign sovereigns or their armies entering its territory with its permission, and of their foreign ministers and public ships of war; and that the implied license, under which private individuals of another nation enter the territory and mingle indiscriminately with its inhabitants, for purposes of business or pleasure, can never be construed to grant to them an exemption from the jurisdiction of the country in which they are found. See, also, *Carlisle v. U.S.* (1872) 16 Wall. 147, 155; *Radich v. Hutchins* (1877) 95 U.S. 210; *Wildenhuss' Case* (1887) 120 U.S. 1, 7 Sup.Ct. 385; *Chae Chan Ping v. U.S.* (1889) 130 U.S. 581, 603, 604, 9 Sup.Ct. 623.
[*United States v. Wong Kim Ark*, 169 U.S. 649, 18 S.Ct. 456, 42 L.Ed. 890 (1898)]

The “implied license” above is an office and a privilege. It imputes to the party to whom it is associated obligations documented in civil statutory law. As we point out in Form #05.030, many if not most “licenses” are in fact a type of franchise, including that above.¹⁶ All franchises, in turn, impute an “office” to the party exercising them. That “office” in the context of the civil statutory law is “person”:

privilege \ 'priv-līj, 'pri-və- \ noun

[Middle English, from Anglo-French, from Latin *privilegium* law for or against a private person, from *privus* private + *leg-*, *lex* law] 12th century: a right or immunity granted as a peculiar benefit, advantage, or favor: prerogative especially: such a right or immunity attached specifically to a position or an office
[Mish, F. C. (2003). Preface. Merriam-Websters collegiate dictionary. (Eleventh ed.). Springfield, MA: Merriam-Webster, Inc.]

The current version of Black’s Law Dictionary attempts to hide the existence of the office that franchises regulate by not even mentioning “office” in the definition of “franchise”, even though the courts routinely do:

“Is it a franchise? A franchise is said to be a right reserved to the people by the constitution, as the elective franchise. Again, it is said to be a privilege conferred by grant from government, and vested in one or more individuals, as a public office. Corporations, or bodies politic are the most usual franchises known to our laws.”
[*People v. Ridgley*, 21 Ill. 65, 1859 WL 6687, 11 Peck 65 (Ill., 1859)]

The office of “person” occupied by aliens doing business in a place they are not domiciled in is a “fiction of law”.

“Fiction of law. An assumption or supposition of law that something which is or may be false is true, or that a state of facts exists which has never really taken place. An assumption [PRESUMPTION], for purposes of justice, of a fact that does not or may not exist. A rule of law which assumes as true, and will not allow to be disproved, something which is false, but not impossible. *Ryan v. Motor Credit Co.*, 30 N.J.Eq. 531, 23 A.2d. 607, 621. These assumptions are of an innocent or even beneficial character, and are made for the advancement of the ends of justice. They secure this end chiefly by the extension of procedure from cases to which it is applicable to other cases to which it is not strictly applicable, the ground of inapplicability being some difference of an immaterial character. See also *Legal fiction.*”
[*Black’s Law Dictionary*, Sixth Edition, p. 623]

The OFFICE has a domicile in the place of business but the OFFICER consensually exercising said office usually does not. The OFFICE and the OFFICER have two independent and usually non-overlapping domiciles. Federal Rule of Civil Procedure 17 points this out by saying that the civil statutory law that applies to a party depends on whether he or she is operating in a representative capacity. The “office” is the thing “represented” by the private human:

IV. PARTIES > Rule 17.
Rule 17. Parties Plaintiff and Defendant; Capacity

(b) Capacity to Sue or be Sued.

Capacity to sue or be sued is determined as follows:

(1) for an individual who is not acting in a representative capacity, by the law of the individual's domicile;
(2) for a corporation [the “United States”, in this case, or its officers on official duty representing the corporation], by the law under which it was organized [laws of the District of Columbia]; and
(3) for all other parties, by the law of the state where the court is located, except that:
(A) a partnership or other unincorporated association with no such capacity under that state's law may sue or be sued in its common name to enforce a substantive right existing under the United States Constitution or laws; and

¹⁶ See: *Government Instituted Slavery Using Franchises*, Form #05.030, Sections 19 and 20; <https://sedm.org/Forms/FormIndex.htm>.

(B) 28 U.S.C. §§754 and 959(a) govern the capacity of a receiver appointed by a United States court to sue or be sued in a United States court.
[SOURCE: <http://www.law.cornell.edu/rules/frcp/Rule17.htm>]

Consistent with the content of this section we state in Form #05.020 that our members are STATUTORY “non-resident non-person” if they are NOT engaged in a public office and “nonresident aliens” if they ARE. We also discuss in this form in much greater detail the subject of “foreign” and “alien”. You can find the form and the discussion of “foreign” and “alien” below:

Non-Resident Non-Person Position, Form #05.020, Section 7.2
<https://sedm.org/Forms/FormIndex.htm>

19 Conclusions

We will now concisely summarize the findings of this document:

1. The U.S. Person Position describes statutory exemptions from income tax withholding and reporting for those domiciled on federal territory or representing offices that are domiciled there.
2. The U.S. Person Position simplifies dealing with tax withholding and reporting for those private humans engaged in GOVERNMENT employment or public office. It cannot be used by:
 - 2.1. Those who are private and protected by the Constitution.
 - 2.2. Those who are domiciled and physically present within a constitutional state.
3. The position is as simple as possible to describe, so that your commercial business transactions do not become confrontational and go as smoothly as possible.
4. The main disadvantages of the U.S. Person Position are:
 - 4.1. To employ it, you must in effect produce evidence that you have a domicile on federal territory and are a STATUTORY “U.S. citizen” engaged in a public office franchise.
 - 4.2. Because you admit to having a domicile on federal territory and a public office, you have no constitutional rights and are subject to ALL enactments of Congress.
 - 4.3. Those invoking it in the context of withholding documentation must supply a Social Security Number (SSN) to claim its “benefits”. This turns RIGHTS into PRIVILEGES and connects you to the Social Security franchise.
 - 4.4. Invoking results in legal obligations and a corresponding loss of rights or property. See Section 0. Pursuing any civil status that results in a loss of rights or property essentially amounts to a “tacit procuration”. The rights and property lost include:
 - 4.4.1. Must report transfers of property to foreign corporations. 26 U.S.C. §6038B(a)
 - 4.4.2. Must report foreign gifts exceeding 10,000. 26 U.S.C. §6039F(a).
 - 4.4.3. Are subject to withholding of 30% under 26 U.S.C. §1471(a) if accounts held in Foreign Financial Institutions are not reported per 26 U.S.C. §1471(b).
 - 4.5. When you claim the status of STATUTORY “citizen” under 8 U.S.C. §1401, you are presumed to waive sovereignty and sovereign immunity per 28 U.S.C. §1603(b)(3).
5. A better way to ensure an exemption from withholding and reporting that does NOT involve obligations or a corresponding loss of rights and property is to claim that you are exempt NOT by statute, but by “fundamental law”, meaning the constitution. Authorities on this subject can be found in:
 - 5.1. *Flawed Tax Arguments to Avoid*, Form #08.004, Section 8.13
<https://sedm.org/Forms/FormIndex.htm>
 - 5.2. *Non-Resident Non-Person Position*, Form #05.020, Sections 1.2 and 10.2.5
<https://sedm.org/Forms/FormIndex.htm>

20 Resources for Further Study and Rebuttal

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

1. Nonresident Alien Position Course, Form #12.045-simplified description to the only approach to taxation authorized for use by members of this site.
<https://sedm.org/LibertyU/NRA.pdf>
2. Proof That American Nationals are Nonresident Aliens, Form #09.081-this is the only authorized approach to taxation that members can take.
<https://sedm.org/Forms/09-Procs/ProofAnNRA.pdf>
3. Rebutted False Arguments About the Nonresident Alien Position When Used by American Nationals, Form #08.031
<https://sedm.org/Forms/08-PolicyDocs/RebArgNRA.pdf>
4. Non-Resident Non-Person Position, Form #05.020
<https://sedm.org/Forms/FormIndex.htm>
5. Identity Theft Affidavit, Form #14.020-use this form if the government will not recognize or allow you to change from U.S. Person to Nonresident Alien
<https://sedm.org/Forms/14-PropProtection/Identity Theft Affidavit-f14039.pdf>
6. Why the Federal Income Tax is a Privilege Tax Upon Government Property, Form 04.404-proves that the income tax does not apply within the exclusive jurisdiction of a constitutional state. Therefore “U.S. person” is a territorial term and civil status.
<https://sedm.org/Forms/FormIndex.htm>
7. Citizenship Status v. Tax Status, Form #10.011, Section 15: Income Taxation is a Proprietary Power Limited to Federal Territory, Possessions, Enclaves, Offices, and Other Property-proves that the income tax does not apply within the exclusive jurisdiction of a constitutional state. Therefore “U.S. person” is a territorial term.
https://sedm.org/Forms/10-Emancipation/CitizenshipStatusVTaxStatus/CitizenshipVTaxStatus.htm#15_INCOME_TAXATION_PROPRIETORIAL
8. 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>
9. Legal Fictions, Form #09.071
<https://sedm.org/Forms/FormIndex.htm>
10. Proof That There Is a “Straw Man”, Form #05.042-SEDM
<https://sedm.org/Forms/FormIndex.htm>
11. Correcting Erroneous Information Returns, Form #04.001
<https://sedm.org/Forms/FormIndex.htm>
12. Federal and State Tax Withholding Options for Private Employers, Form #09.001
<https://sedm.org/Forms/FormIndex.htm>