P. Rogers
Internal Revenue Service
P.O. Box 24017
Fresno, CA 93779

Certified Mail #

Entity ID Number:

re: **Written Request for Verified Determination of Status for Individual Income Tax Purposes, Prior to Filing of Tax Returns or paying assessed taxes or penalties. re: LTR 4903(Rev. 01-2004)(LT-26) dated , , We Have No Record Of Receiving Your Tax Returns.** [Exhibit 1]

Dear P. Rogers;

As of this date I am NOT in receipt of a response from you for the two documents submitted over 90 days ago. The two (2) documents were titled; Demand to Produce Document or Admit - 5 USC 552 W-2, W-3, Trade or Business, and Demand for Notice of Levy on Wages 668W(c). I realize these documents may require additional time for a response, however no response is not acceptable.

Pursuant to Internal Revenue Laws and Based upon the facts contained in the Affidavit of Citizenship and Domicile and Declaration of Monetary Receipts, this letter constitutes a written request for an attested, verified "Determination Letter" from your office, determining my status for Individual Income Tax purposes, prior to the filing of any tax returns or the payment of alleged taxes and penalties. These facts and conclusions have been addressed to your agency on several occasions over the years with no response. The only answer given by your agency is that they are not required to respond to interrogatives or complete research. In this document the research has been done all you need do is verify the truth of it.

In summary the reasons are:

1. The federal government lacks the authority to legislate within the borders of the sovereign states. As the Supreme Court has repeatedly stated, the federal government is one of "limited" powers.

2. The federal government, being a government "of the people", lacks the delegated authority to "take" the property of the sovereign people without their consent. Therefore that authority cannot be re-delegated to the Secretary of the Treasury or the Commissioner of Internal Revenue and

Congresses only power to tax is identified in provisions of the Constitution. Congress cannot by legislation increase the powers delegated.

3. The federal government's power to tax comes from its status as a limited "sovereign." That sovereignty extends only to things that it "creates" or exists by its permission. There is nothing about my person, my work, or my property that would make me a "subject" of the federal government. On the contrary, unless there exists a stipulation on the part of the Citizen, it is the Citizen who is the "sovereign" and by right the government, being a "creation" of the people the "government" is the "subject".

4. Rulings by the Supreme Court and the legislative history of Internal Revenue Code section 61 does not support the contention of the federal government that wages are "taxable" income to a Citizen.

5. The legal definition of income is NOT found in the Internal Revenue Code. Notwithstanding the government's attempt to create the illusion that wages, salaries, etc. are income, wages, salaries do not meet the Supreme Courts definition of income.

6. There is no power in the government of the United States or the government of any State to take away the rights of the people through trickery, fraud and deceit. Waivers of "rights" must be a "knowing, willing and intentional acts done with sufficient awareness of the consequences or they are VOID.

If these points and conclusions are authoritatively and successfully rebutted, I will file any forms that are required by the laws of the United States that apply to me and pay any tax liability due and owing. Failure to respond will constitute prima facie evidence that there is no liability imposed upon my person under Title 26 of the United States Code (IRC) or 26 Code of Federal Regulations for filing or paying of an income tax.

Statement of Facts and Conclusions of Law.

Prior to my filing any Individual Income Tax returns or paying any government assessed taxes or penalties, there is a number of issues that must be satisfactorily addressed.

The Internal Revenue Service (IRS) is required to provide Internal Revenue Rulings on requests submitted in writing, on specific situations, questions, or issues and to provide a ruling or determination on the taxability or tax status on the issues or situations in question. The IRS has provided thousands of these types of rulings in the past. A ruling or determination is being requested, as stipulated in the attached "Written Request for Verified Determination of Status for Individual Income Tax Purposes, Prior to Filing of Tax Returns Pursuant to Public Law (11)-23," on the below listed issues. It is requested that you do not delay any one response while attempting to resolve the balance of the requested rulings.

I am also hereby formally requesting under the provisions of Public Law (11)-23 an indefinite extension of time for me to file any tax form for 2010 or any subsequent or previous year(s) federal Individual Income Tax returns, until such time as I have received a full, complete and proper, formal response to all of the issues submitted by Affidavit in this Request.

STATEMENT IN THE FORM OF AFFIDAVIT:

As directed by Internal Revenue Rulings by IR Handbook 4.2, Chapter 7: 7.2.9.8 (1)(05-14-99); "Decisions made at various levels of the court system are considered to be interpretations of tax laws and may be used by either examiners or taxpayers to support a position."

"Certain court cases lend more weight to a position than others. A case decided by the U.S. Supreme Court … takes precedence over decisions of lower courts. The Internal Revenue Service must follow Supreme Court decisions. For examiners, Supreme Court decisions have the same weight as the Code." (Internal Revenue Service (www.irs.gov/bus_info/tax_pro/)

I, , do state and declare that I am not a "taxpayer" (as defined in the IRC) liable for any tax under the Internal Revenue Code, Title 26 U.S.C.; neither am I an "employee" or any other form of "federal personal" Because of the following court decisions and conclusions derived therefrom.

I

"We the People of the United States, …, do ordain and establish this Constitution for the United States of America." Preamble to the Constitution for the United States of America.

The basic theory of constitutional government is that the authority for the central government to act comes from the people. The theory of delegation is that the central government can only act upon proper authority delegated to it from the people, and the people can only delegate to the government authority that they themselves possess.

The corollary is therefore;

"… The proper function of government, then, is limited to those spheres of activity within which the individual Citizen has the right to act. … It cannot claim the power to redistribute money or property nor force reluctant Citizens to perform acts of charity against their will. … No individual possesses the power to take another's wealth or to force others to do good, so no government has the right to do such things either. The creature cannot exceed the authority of the creator." Ezra Taft Benson, "The Constitution, A Heavenly Banner," p. 9.

"The individual Citizens delegate to the (government) their unquestionable right to (lawful defense). (Government) now does for them only what they had a right to do for themselves — nothing more….

"Suppose (individual) 'A' wants another horse for his wagon. He doesn't have the money to buy one, but since (individual) 'B' has an extra horse, he decides that he is entitled to share in his good

fortune. Is he entitled to take his neighbor's horse? Obviously not! If his neighbor wishes to give it or lend it, that is another question. But so long as (individual) 'B' wishes to keep his property, (individual) 'A' has no claim to it.

If 'A' has no power to take 'B's property, can he delegate any such power to the (government)? No! Even if everyone in the community desires that 'B' give his extra horse to 'A', they have no right individually or collectively to force him to do it. They cannot delegate an authority they themselves do not have. This important principle was clearly understood and explained by John Lock nearly 300 years ago;

'... nobody can transfer to another more power than he has in himself, and nobody has an absolute arbitrary power over himself, or over any other, to destroy his own life, or take away the life or property of another." Ezra T. Benson from an address, The Proper Role of Government; p. 130, 131.

> "For, the very idea that one man may be compelled to hold his life, or the means of living, or any material right essential to the enjoyment of life, at the mere will of another, seems to be intolerable in any country where freedom prevails, as being the essence of slavery itself." *Yick Wo vs. Hopkins,* 118 U.S. 356, 370 (1886).

> "Every man has a natural right to the fruits of his own labor, as generally admitted; and no other person can rightfully deprive him of those fruits, and appropriate them against his will...." *The Antelope,* 23 U.S. 66 (1825).

If the right does not exist in the sovereign, it cannot be delegated or given to another. No man has the right to take another man's property. And since, "[t]he right never existed, ... the question whether it has been surrendered, cannot arise." *McCullock v. Maryland,* 17 U.S. 316, 430.

> "The theory or our governments, State and National, is opposed to the deposit of unlimited power anywhere. The executive, the legislative, and the judicial branches of these governments are all of limited and defined powers." *Loan Association vs. Topeka,* 20 Wallace 655; *Buffington v. Day,* 11 Wall. 113.

Do I, or any individual, have power over another's property? Most assuredly not! The people, individually or collectively, do not possess the power to take another's property, therefore the general government cannot derive that from the will of the people.

As with any entity or creation, the government is supreme and unlimited WITHIN its 'sphere'. Outside that 'sphere' there are limitations. Justice Roberts (1935), speaking about the Union and quoting Justice Story, stated; "The Constitution was, from its very origin, contemplated to be the frame of a national government, of special and enumerated powers, and not of general and unlimited powers." *U.S. vs. Butler,* 297 U.S. 1, 66 (1935). Now this would seem to contradict other court opinions which state that the power of taxation was unlimited and that Congress was within its right to exercise that authority to its fullest extent.

"That government is as sovereign within its sphere as the States are within theirs. True, its sphere is limited. Certain subjects are committed to it; but its power over those subjects is as full and complete as is the power of the State over the subjects to which their sovereignty extends. ..." *Kohl vs. U.S.,* 91 U.S. 367.

II

"Powers in General. The governmental powers of the United States, to the extent that they are delegated by the Constitution, are supreme and paramount. The United States has no inherent sovereign powers, and no legislative powers other than those delegated by the Constitution." *91 Corpus Juris Secundum, United States,* §4.

The term "sovereignty" is not compatible with the principles of the Constitution for the Federal Government. Yet is has a place although very limited as explained by former Chief Justice Marshall:

"All subjects over which the sovereign power of a state extends, are objects of taxation; but those over which it does not extend, are, upon the soundest principles, exempt from taxation. This proposition may almost be pronounced as self-evident.

"The sovereignty of a state extends to everything which exists by its own authority, or is introduced by its permission." *M'Cullock v. Maryland,* 17 U.S. 316, 429 (1819); reaffirmed in *Shaffer vs. Carter,* 252 U.S. 37, 51 (1919); Reaffirmed and expanded in, State Tax Commission of *Utah vs. Aldrich,* 316 U.S. 174 (1942); *Hale vs. Henkle,* 201 U.S. 43, 74,75 (1906).

It is admitted that both the Federal and State governments have "sovereign" powers. These powers do not overlap as Justice Marshall continues to explain:

"In America, the powers of sovereignty are divided between the government of the Union, and those of the States. They are each sovereign with respect to the objects committed to it, and neither sovereign with respect to the objects committed to the other." *M'Cullock v. Maryland,* 17 U.S. 316, 410.

Each governmental entity has a "sphere" within which it operates and those objects which are given to it or which it creates, as previously explained by Justice Marshall, become subject to the sovereign powers of that respective government. Outside of that defined sphere however, the governments are not sovereign. *J. Sutherland dissenting: Steward Machine Co. vs. Davis,* 301 U.S. 548,611-616; also, *Dobbins v. Commissioner,* 16 Peters 435; *Pacific Ins. Co. v. Soule,* 7 Wallace 433.

Since both federal and state governments are creations of the people, the people, as creators, remain the sovereign. This principle was clearly explained by former LDS Church President Ezra Taft Benson:

"... The proper function of government, then, is limited to those spheres of activity within which the

individual citizen has the right to act. … It cannot claim the power to redistribute money or property nor force reluctant citizens to perform acts of charity against their will. … No individual possesses the power to take another's wealth or to force others to do good, so no government has the right to do such things either. The creature cannot exceed the creator."

> "There is no such thing as a power of inherent sovereignty in the government of the United States…. In this country sovereignty resides in the people, and Congress can exercise no power which they have not, by their Constitution entrusted to it: All else is withheld." *Julliard v. Greenman,* 110 U.S. 421 (1884); *Yick Wo v. Hopkins,* 118 U.S. 356 (1886).

> "In the United States, sovereignty resides in the people, who act through the organs established by the Constitution. (Cites omitted) The Congress as the instrumentality of sovereignty is endowed with certain powers to be exerted on behalf of the people in the manner and with the effect the Constitution ordains. The Congress cannot invoke the sovereign power of the people to override their will as thus declared. The powers conferred upon the Congress are harmonious." *Perry v. United States,* 294 U.S. 330, 353.

> "A State does not owe its origin to the Government of the United States, in the highest or in any of its branches. It was in existence before it. It derives its authority from the same pure and sacred source as itself: The voluntary and deliberate choice of the people." *Chisholm, Ex'r v. Georgia,* 2 Dallas 419, 448 (1794).

Again, these limited powers of sovereignty are confined to objects within the respective spheres of governmental control. These objects are the proper subjects or objects of taxation and none else.

> "The power to tax is an incident of sovereignty and is coextensive with sovereignty." *Curry vs. McCanless,* 307 U.S. 357; See also, 26 R.C.L., Taxation (1920), 12. Power of Taxation Inherent in Sovereignty.

The early remarks that come to mind demonstrate the revenue sources of this nation. During the debates in the Federal Convention of 1787 as reported by Madison, Mr. Sherman stated that "[t]he objects of the Union, he thought were few, 1. Defence against foreign danger, 2. against internal disputes and a resort to force, 3. treaties with foreign nations, 4. regulating foreign commerce, and drawing revenues from it…."

And later, the remarks of Col. David Crockett (Rep. from Tennessee) before Congress; "The power of collecting and disbursing money at pleasure is the most dangerous power that can be entrusted to man, particularly under our system of collecting revenue by a tariff, which reaches every man in the country, no matter how poor he may be, and the poorer he is the more he pays in proportion to his means." "The Life of Colonel David Crockett," by Edward Sylvester Ellis.

The exercise of an authority not granted to the government under color of authority, through the use of armed force, is in effect a criminal act in violation of Title 18 §§ 241 and 242 and Terrorism as

defined by Congress.

III

> ""The jurisdiction of the nation within its own territory is necessarily exclusive and absolute. It is susceptible of no limitation not imposed by itself. Any restriction upon it, deriving validity from an external source, would imply a diminution of its sovereignty to the extent of the restriction, and an investment of that sovereignty to the same extent in that power which could impose such restriction.
> 'All exceptions, therefore, to the full and complete power of a nation within its own territories, must be traced up to the consent of the nation itself. They can flow from no other legitimate source . ..."" *Cunard S. S. CO. v. Mellon,* 262 U.S. 100 , 124 (1923).
>
> "Legislation is presumptively territorial, and confined to geographical limits within the jurisdiction of the law-making power." *Sandberg v. McDonald,* 248 U.S. 185, 39 S. Ct. 84, 86 (63 L. Ed. 200).
>
> **"All legislation is prima facie territorial.' *American Banana Co. v. United Fruit Co.*, 213 U.S. 347, 356, ..." *New York Central R.Co. v. Chisholm,* 268 U.S. 29 (1925).**
>
> "The Founding Fathers confirmed that most areas of life ... would remain outside the reach of the Federal Government." J. Thomas' concurring opinion, *United States v. Lopez,* S. Ct., No. 93-1260, at p. 7.
>
> "There are other powers granted to Congress outside of Art. I, 8 that may become wholly superfluous as well due to our distortion of the Commerce Clause. For instance, Congress has plenary power over the District of Columbia and the territories. See U.S. Const., Art. I, 8, cl. 15 and Art. IV, 3, cl. 2. The grant of comprehensive legislative power over certain areas of the Nation, when read in conjunction with the rest of the Constitution, further confirms that Congress was not ceded plenary authority over the whole Nation." (emphasis added) Footnote 3 of J. Thomas' concurring opinion, *Lopez,* supra, at page 21.
>
> "[E]xclusive jurisdiction which the United States has in forts and dock-yards ceded to them, is derived from the express assent by the states by whom the cessions are made. It could be derived in no other manner; because, without it, the authority of the state would be supreme and exclusive therein." *US v Bevans,* 16 US (3 Wheat) 336 (1818)

The *Bevans* decision was followed by decisions in two state courts and one federal court within two years. In *Commonwealth v Young,* [Brightly N.P. 302,at 309 (Pa., 1818)] the court stated that the "legislation and authority of Congress is confined to cessions by particular states for the seat of government. The legislative power and exclusive jurisdiction remained in the several states, ***of all territory within their limits, not ceded to or purchased by, Congress,*** with the assent of the state legislature, to prevent collision of legislation and authority between the United States and the several states."

The Supreme Court of New York was presented with the issue of whether the State of New York had jurisdiction over a murder committed at Fort Niagara, a federal fort. In *People v Godfrey,* the court held that the fort was NOT subject to federal jurisdiction because the lands had not been ceded to the United States. The Court stated that "[T]o bring the offense within the jurisdiction of the courts of the union, it must have been committed out of the jurisdiction of the state; it is not the offense committed, but the place in which it is committed, which must be out of the jurisdiction of the state." 17 Johns 225, at 233 (N. Y, 1819)

> "[A]lthough the United States may well purchase and hold lands for public purposes within the territorial limits of a state, this does not of itself oust the jurisdiction or sovereignty of such State over the lands so purchased." *US v Cornell,* 25 Fed. Cas. 646, No. 14, 867 (C.C.D.R.I., 1819) at 648

> "Special provision is made in the Constitution for the cession of jurisdiction from the States over places where the federal government shall establish forts or other military' works. And it is only in these places, or in the territories of the United States, where it can exercise a general jurisdiction." *New Orleans v United States,* 35 US (10 Peters) 662 (1836)

The question of federal jurisdiction was, once again, before the Court. The Court found that "a proper examination of this subject will show that the United States never held any municipal sovereignty, jurisdiction, or right of soil in and to the territory, of which Alabama or any of the new States were formed.... [Moreover], "the United States have no constitutional capacity to exercise municipal jurisdiction, sovereignty, or eminent domain, within the limits of a State or elsewhere, except in the cases in which it is expressly granted." *Pollard v Hagan,* 44 US (3 How) 212 (1845)

The proposition that a State retains a degree of jurisdiction over property ceded to the federal government is well settled. *Surplus Trading Co. v Cook,* 281 US 647, 50 5. Ct. 455(1930); *James v Dravo Contracting Co.,* 302 US 134, 58 5. Ct. 208 (1937); *Silas Mason Co. V Tax Commission of State of Washington,* 302 US 186, 58 5. Ct. 233(1937); *Pacific Coast Dairy v Dept. Of Agriculture of California,* 318 US 285, 63 5. Ct. 628 (1943); *Penn Dairies v Milk Control Commission of Pennsylvania,* 318 US 261, 63 S.Ct. 617(1943); *E.R.A. v Minnesota,* 327 US 558, 66 5. Ct. 749 (1946)

> "The principles regarding the distinction between State and federal jurisdiction continue through today. If jurisdiction is not vested in the United States pursuant to statute, there is no jurisdiction." *Adams v US,* 319 US 312, 63 S.Ct. 1122 (1943)

In June of 1957, the government of the United States published a work entitled Jurisdiction Over Federal Areas Within the States: (Report of the Interdepartmental Committee for the Study of Jurisdiction Over Federal Areas Within the States. Part II.) Therein the Committee stated: *"The Constitution gives express recognition to but one means of Federal acquisition of legislative jurisdiction–by State consent under Article 1, Section 8. Clause 17.... [T]he Constitution provided the sole mode for transfer of jurisdiction, and that if this model is not pursued, no transfer of*

jurisdiction can take place." [p. 41]

"It scarcely needs to be said that unless there has been a transfer of jurisdiction (1)pursuant to clause 17 by a Federal acquisition of land with State consent. or ***(2) unless the Federal government has reserved jurisdiction upon the admission of the State, the Federal Government possesses no legislative jurisdiction over any area within a State, such jurisdiction being exercise by the State, subject to non-interference by the State with Federal function."*** [p. 45]

> "The government of the United States, as was well observed in the argument, is one of limited powers. It can exercise authority over no subjects except those which have been delegated to it. Congress cannot, by legislation, enlarge the federal jurisdiction, nor can it be enlarged under the treaty-making power. .... **Special provision is made in the constitution for the cession of jurisdiction from the states over places where the federal government shall establish forts or other military works, and it is only in these places, or in the territories of the United States, where it can exercise a general jurisdiction."** *Mayor & Alderman of the City of New Orleans v. United States,* 35 U.S. 593, 736 - 737.

"The Federal Government cannot, by unilateral action on its part, acquire legislative jurisdiction over any area within the exterior boundaries of a State." [p. 46].

"The Act of October 9, 1940, 40 U.S.C. 255, 40 U.S.C.A. 255, passed prior to the acquisition of the land on which Camp Claiborne is located, provides that United States agencies and authorities may accept exclusive or partial jurisdiction over lands acquired by the United States by filing a notice with the Governor of the state on which the land is located or by taking other similar appropriate action. The Act provides further: 'Unless and until the United States has accepted jurisdiction over lands hereafter to be acquired as aforesaid, it shall be conclusively presumed that no such jurisdiction has been accepted.'" (See also, Territorial Jurisdiction Title 18, Section 7 [3]).

IV

> "Since the right to receive income or earnings is a right belonging to every person, this right cannot be taxed as privilege." *Jack Cole Co. v. MacFarland,* 337 S.W. 2d 453 at 456 [1960]

> "The individuals, unlike the corporation, cannot be taxed for mere privileges of existing. ...; the individuals' right to live and own property are natural rights for the enjoyment of which an excise cannot be imposed." 26 R.C.L. Taxation § 209, p. 236; Cooley Taxation (4th ed.) §1676, *Redfield v. Fisher,* 292 P. Reporter 813, 819 [1930]; See also the Supreme Court of Arkansas, *Sims v. Ahrens,* 271 S.W. 720, 722 [1925]; *Thompson v. Wiseman,* 75 S.W. 2D 393, 394 [1934]

> "Where rights secured by the Constitution are involved, there can be no rule-making or legislation which would abrogate them." *Miranda v. Arizona,* 384 U.S. 436, 471; *Lucas v. Forty-forth Gen. Assembly,* 377 U.S. 713, 736-737 [1964]; *Adair v. U.S.,* 208 U.S. 161,173

[1907]; *Adkins v. Children's Hospital,* 261 U.S. 525, 545 [1922]; *Allgeyer v. Louisiana,* 165 U.S. 578, 589 [1896]

"Among these inalienable rights, as proclaimed in that document, is the right of men to pursue their happiness, by which is meant the right to pursue any lawful business or vocation, in any manner not inconsistent with the equal rights of others, which may increase their prosperity or develop their faculties, so as to give their highest enjoyment." *Butcher's Union Co. v. Crescent City Co.,* 111 U.S. 746, at 756-757 (1883)

"There is no such thing in the theory of our national government as unlimited power of taxation in Congress. There are limitations of its powers arising out of the essential nature of all free government; there are reservations of individual rights, without which society could not exist, and which are respected by every government. The right of taxation is subject to these limitations." *Loan Associates v. Topeka,* 20 Wallace 655; *Parkersburg v. Brown,* 106 U.S. 487; *United States v. Lopez,* S. Ct., No. 93-1260

"When such regulations do not conflict with any constitutional inhibition or natural right, their validity cannot be successfully controverted. The general government was not formed to interfere with or control them." *Butcher's Union vs. Crescent City Co.,* 111 U.S. 746, 754

"For, the very idea that one man may be compelled to hold his life, or the means of living, or any material right essential to the enjoyment of life, at the mere will of another, seems to be intolerable in any country where freedom prevails, as being the essence of slavery itself." *Yick Wo vs. Hopkins,* 118 U.S. 356, 370 [1886].

"Every man has a natural right to the fruits of his own labor, as generally admitted; and no other person can rightfully deprive him of those fruits, and appropriate them against his will...." *The Antelope,* 23 U.S. 66 [1825].

Once the foundation for the taxing authority of the Internal Revenue Service is determined, the following issues become relevant:

A

Work on our present income tax law began shortly after the ratification of the Sixteenth Amendment. Representative Hull, in Congress was one of the pushers for the amendment and a key member in drafting the legislation for the tax law. In the discussions surrounding the legislation and taxable income, Representative Hull states: "Paragraph B (Statutes at Large, 63rd Congress, Sess. I, ch. 16, Income tax, [1913]) defines the net income of a taxable individual or person. Income as thus defined **does not embrace capital or principle,** but only such **gains or profits** as may be realized from rent, interest, salaries, trade, commerce, or sales of any kind of property, and so forth, or **profits or gains** derived from any other **source**." 1 (emphasis added)

When the tax laws were challenged the courts were clear on this distinction. In the *Eisner* case the

court stated: "The Government, although basing its argument upon the definition as quoted, placed chief emphasis upon the word 'gain', which was extended to include a variety of meanings; while the significance of the next three words was either overlooked or misconceived. 'Derived – from – capital'; – 'the gain – derived – from – capital,' etc.

"The same fundamental conception is clearly set forth in the Sixteenth Amendment...." 2 (emphasis added)

The language used by the attorney for the respondent in *Lucas v. Earl* emphasizes the same opinion.

> "It is noted that by the language of the Act it is not 'salaries, wages or compensation for personal service' that are to be included in gross income. That which is to be included is 'gains, profits and income derived' from salaries, wages or compensation for personal services. Salaries, wages or compensation for personal services are not to be taxed as an entirety unless in their entirety that they are gains, profits and income. Since also, it is the gain, profit or income to the individual that is to be taxed, it would seem plain that it is only the amount of such salaries, wages or compensation as it is gain, profit or income to the individual, that is, such amount as the individual beneficially receives, for which he is to be taxed." 3

After quoting Justice Holmes from *Lucas v. Earl*, 4 in his book, Roswell Magill, professor of law, Columbia University, Member of the New York Bar, comments: "That it is reasonable to tax a salary to the man who earns it, even in the case of an assignment, is a proposition readily accepted. It is not so clear that the federal statute in fact so provides any compelling form. The language ...., occurring in the definition of gross income, (IRC 22a) ... seems rather to state that salary is a source from which taxable income arises, than to allocate such income for the purpose of taxation to the owner." 5 (emphasis added)

> "...[I]t often happens that those closer in time to the enactment of a statute or the handing down of a precedent know best what it really stands for. Frequently changes in social and political beliefs cause later courts to put glosses on statutes and precedents which do not really belong there." 6

In order to understand how Section 61 is to be applied today, it is very important to know and understand how Section 22 was implemented and applied in 1939. The two sections are inextricably linked in such relevant fashion, and the answer to our question of how Section 61 is properly applied can only be found by a thorough examination of this relationship.

In the 1954 version of the I.R.C., Section 61 carries a revealing footnote that was inexplicably removed from the code in subsequent editions of the I.R.C. This footnote reveals the legislative source of Section 61. It states at the bottom of Section 61, in the footnote:

"Source: Sec. 22(a), 1939 Code, substantially unchanged"

This is also confirmed by table I in the fore-front of Title 26 of the 1954 United States Code. Table I is an aid prepared as a comparison between the 1939 code and the revision of the code in 1954 showing the section changes.

What might better help to understand the meaning of the wording of the Sixteenth Amendment and section 61 of the revenue code is to understand the phrase "derived from". Milk is "derived from" cows, however, a cow is not the milk.

Looking at the wording of the Sixteenth Amendment, it reads that; "The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration." The important element of this amendment is "collect taxes on incomes, from whatever source derived," as explained in the Eisner case.

Income and source are not synonymous. The source is not the income, income is derived from the source. Milk is derived from the cow, the cow is not the milk.

Look now at the wording of section 22 of the 1939 IR Code. A comparison of the language of IRC Section 61 is interesting. Reading from the 1939 IRC Section 22, (53 Stat. 1 – 504), in pertinent parts:

SECTION 22 [1939]:

Gross Income – (a) General Definition.

"Gross income" includes gains, profits, and income derived from salaries, wages, or compensation . . ."

It is the GAIN – DERIVED – FROM – SALARIES … The cow is not the milk. Income, gains, and profits are separated by the phrase "derived from" from the salaries, wages that are earned by the majority of Americans.

The language of Section 22 was altered when the Revenue Act of 1954 was passed (68A Stat. 3) to read:

SECTION 61 [1954]:

Gross income defined:

(a) Except as otherwise provided in this subtitle, gross income means all income from whatever source derived . . . .

(1) Compensation for services. . . . . Etc.

In the language of Sec. 22 it is clear that "salaries, wages, or compensations" were "sources" of income. However, when Congress finished rewording the law, that distinction became clouded. In any event, and notwithstanding the attempts to hide the essential facts in the law, salaries, wages, etc. are sources (property) of "potential" income for those in taxable activities. Remember, that the committee in revising the 1939 code by the 1954 edition did not alter the 'substance' of the meaning of IRC Section 22a.

The House Report on the proposed legislation for Section 61 it is interesting in that the House states that:

"[t]his section (§61) corresponds to section 22(a) and the 1939 Code. While the language in existing section 22 (a) has been simplified, the all-inclusive nature of statutory gross income has not been affected thereby. Section 61 (a) is as broad in scope as section 22(a)." 7

The Senate Report goes on to say:

"Section 61(a) provides that gross income includes 'all income from whatever source derived.' This definition is based upon the sixteenth amendment and the word 'income' is used as in section 22(a) in its constitutional sense. It is not intended to change the concept of income that obtains under section 22 (a)." 8

Yet it is quite clear that there is a definite difference.

Accordingly, IRC Section 61(a) was not meant to change "the concept of income" under which that word, income, was understood to be in Section 22(a). That is: "Gross income" includes gains, profits, and income derived from salaries, wages, or compensation . . ." (Internal Revenue Code Section 22(a), 1939)

If IRC Section 61(a) did not change the meaning of the word income, what then is the correct reading of Section 61(a)? Does gross income include wages, salaries, compensation, etc., or is it the "income" that is derived from wages, salaries, compensation, etc. that is to be included in gross income?

Under code section 22 it read:

'income includes gains — derived from — salaries'

After congress restructured section 22 into section 61 it read:

'Income — from any source — derived'

The restructuring of section 22 turned the 'itemized list' from being 'sources of income' into being income themselves. Section 22 of the 1939 code is the correct reading of the regulation which

corresponds to the Sixteenth Amendment. Section 61 reverts back to the pre-Pollock era (pre- 1894) which the Supreme Court found unconstitutional in the Pollock decision because it fails to separate the income from the source.

INCOME DEFINED

"In determining what constitutes income substance rather than form is to be given controlling weight." 9

"Income in its usual acceptation, is a loose and vague term; it applies equally to gross receipts and to net produce; but when the legislature had limited it to be synonymous with profits and gains, it became clear and precise as any other word." (Oxford English Dictionary)

The Internal Revenue Code does not define the term income.

"The opinion in Glenshaw Glass Company, ..., regardless of what it said about Eisner vs. McComber, ..., did not repudiate the concept that there must be gain before there is income within meaning of the sixteenth amendment." 10

"(t)he true function of the words 'gains' and 'profits' is to limit the meaning of the word income." 11

"..... income is nothing more nor less than realized gain. .... If there is no gain, there is no income. ...." 12

"To be taxable, 'income' must be actually and substantially derived, and the concept of 'gain' or 'profit' is implicit in the term." 13

"That which is not income cannot be made taxable by calling it income." 14

"The Treasury Department cannot, by interpretative regulation, make income of that which is not income within the meaning of the revenue acts of Congress, ..." 15

"In income taxation, no matter what form transactions may take, the inquiry must always go to the fundamental, whether the taxpayer really had income ...." 16

It is said by some authorities that "the language of the statute governs." That may be true, but in reading the Code as to the imposition of the tax on individuals, the language is misleading and has confused many court opinions leading to the detriment of many honest Americans.

The language of the statute (26 USC Section 1) is: "There is hereby imposed on the taxable income of -"

Liability to pay the tax is not dependent upon the making of "income." Income is only the "measure of the tax." Something else must transpire before one is liable. And what is that something? If we read the language of the Code we are led to understand that the income tax is "imposed upon" the individual. If that is the case then the income tax amounts to a "poll" tax, and poll taxes are "direct" taxes.

A report prepared by F. Morris Hubbard, formerly of the legislative drafting research fund of Columbia University and a former legislative draftsman in the Treasury Department, was introduced into the Congressional Record by Rep. Carlson of Kansas, March 27, 1943.

"The income tax is, therefore, not a tax on income as such. It is an excise tax with respect to certain activities and privileges which is measured by reference to the income which they produce. The income is not the subject of the tax: it is the basis for determining the amount of the tax." 17

"In form, the tax is one upon the value of a privilege, and income is nothing but the measure." 18

In the Congressional Record, Representative Hull emphasizes this point when he said; "In any event, the proposed tax is measured by net profits or gains, and is not imposed upon gross income nor capital or other property." 19

"It is therefore well settled by the decisions of this court that when the sovereign authority has exercised the right to tax a legitimate subject of taxation as an exercise of a franchise or privilege, it is no objection that the measure of taxation is found in the income produced in part from property which of itself considered is non-taxable." 20

B

ARE WAGES, SALARIES, etc. A 'GAIN?'

Notwithstanding the numerous decisions by the lower courts in respect to this question, there are serious reservations concerning those decisions. Research into this issue reveals certain facts which the courts refuse to consider for one reason or another. One such researcher presents a detailed paper on application of IR Code section 83 in determining any gain with respect to wages, salaries, and such.

FOUNDATION FOR THE SECTION 83 ARGUMENT
Researched by David Myrland

The term "property" applies to every species of valuable right or interest, to anything subject to ownership, to anything with an exchangeable value, visible or invisible, corporeal or incorporeal, tangible or intangible, this should include labor. (See Black's Law Dictionary, Sixth Edition, "Property")

> "Section 83(a) explains how property received in exchange for services is taxed." *Montelepre Systemed v. C.I.R.,* 956 F. 2d 496, 498 (CA5 1992)

Internal Revenue Code section 83 applies to ANY compensation income (See 26 CFR 1.83-3(e), (f); *Pledqer v. C.I.R.,* 641 F.2d 287, 295 (U.S.App.5th Cir. 1981); *Cohn v. C.I.R.,* 73 USTC 443, 446; *MacNauqhton v. U.S.,* 888 F.2d 418, 421 [2] (6th Cir. 1989); *Klinqler Elec. Corp. v. U.S.,* 776 F.Supp. 1158, 1164 (S.D.Miss. 1991); *Robinson v. C.I.R.,* 82 T.C. 444, 453 (1984)).

> "The general rule for the taxation of compensation income upon the receipt of property, rather than cash, is very simple. The taxpayer may be taxed upon the [FMV] of the property received less any amount he may have paid to receive the property. Taxable gain equals [FMV] minus basis." *Pledqer,* supra.

> "Section 83(a) applies to all property transferred in connection with the performance of services." *Klingler* 776 F.Supp. 1158, 1164 [1] (S.D.Miss. 1991)

> "...In *Alves v. C.I.R.,* 734 F.2d 478, 481 (9th Cir. 1984), the court discussed whether the phrase "in connection with the performance of services" means that the employee must be "receiving compensation for his performance of services." (Emphasis added). The Alves court stated that the plain language of section 83(a) belied this argument because the "statute applies to all property transferred in connection with the performance of services" and because no "reference is made to the term 'compensation.'" Id. See *MacNaughton v. U.S.,* 888 F.2d 418, 421 [2] (CA6 1989).

The cost of the goods sold is not to be included in gross income because gross income, and not GROSS RECEIPTS, is the foundation of income taxation (See *Clark v. U.S.,* 211 F.2d 100, cert.den. 75 S.Ct. 289 (C.A.Mo. 1954))

"The basis of property you buy is usually its cost. The cost is the amount of cash you pay for it...or services you provide in the transaction." (emphasis added) (See IRS Pub. 17, pg. 118, heading of "Cost basis" (1994))

> "In principle, there can be no difference between the case of selling labor and the case of selling goods." *Adkins v. Childrens Hospital,* 261 U.S. 525, 558 (1922).

26 CFR 1.83-4(b)(2) If property to which § 1.83-1 applies is transferred at arm's length, the basis [cost] of the property...shall be determined under §1012 and the regulations thereunder.

26 CFR 1.1012-1(a) general Rule. In general, the basis of property is the cost thereof. The cost is the amount paid for such property in cash or other property.

So, the regulation under which the basis of property subject to § 83 must be calculated does not exclude any property, tangible or intangible.

26 CFR 1.1001-1(a) "...The general method of computing such gain...[is] that from the amount realized upon the sale or exchange there shall be withdrawn a sum sufficient to restore the adjusted basis. . ." (cost)

§ 1012 Basis of Property-Cost. The basis of property shall be the cost of the property...

26 CFR 1.1012-1 Basis of property.-(a) General rule. In general, the basis of property is the cost thereof. The cost is the amount paid for such property in cash or other property.

§ 1001(a) Computation of gain or loss. The gain from the sale or other disposition of property shall be the amount realized therefrom over the adjusted basis...

26 CFR 1.1001-1(a) General Rule. ...The fair market value of property is a question of fact, but only in rare and extraordinary cases will property have no fair market value. The general method of computing such gain or loss is...that from the amount realized upon the sale or exchange there shall be withdrawn a sum sufficient to restore the adjusted basis. ...The amount that remains after the adjusted basis has been restored to the taxpayer constitutes realized gain. If the amount realized upon the sale or exchange is insufficient to restore to the taxpayer the adjusted basis of the property, a loss is sustained to the extent of the difference between such adjusted basis and the amount realized.

26 CFR 1.1011-1. Adjusted basis.-The adjusted basis for determining the gain or loss from the sale or other disposition of property is the cost or other basis prescribed in section 1012...

Above, it is impossible to identify any exclusion of intangible property from that which is cost. There is absolutely no foundation in Law for the exclusion of what the Supreme Court calls sacred property (The labor) from that which is cost when it is disposed of in the acquisition of other property.

> A "determination" must be the result of a consideration of all relevant facts and statutes. (See *Portillo v. C.I.R.,* 932 F.2d 1128 (8th Cir,1991); *Carson v. U.S.,* 560 F.2d 693 (1977); *Pizzarello v. U.S.,* 408 F.2d 579 (1969); *U.S. v. Janis,* 428 U.S. 433, 442 1975); *Couzens,* 11 B.T.A. 1140, 1159, 1179; *Terminal Wine Co.,* 1 B.T.A. 697, 701-702 (1925); *Scar v. C.I.R.,* 814 F.2d 1363 (9th Cir. 1987); *Benzvi v. C.I.R.,* 787 F.2d 1541 (11th Cir. 1986); *Elias v. Connett,* 908 F.2d 521 (9th Cir. 1990); *Huqhes v. U.S.,* 953 F.2d 531(9th Cir. 1992); *Alexander v. "Americans United" Inc.,* 416 U.S. 752, 758-770 (1973); *Maxfield v. U.S. Postal Service,* 752 F.2d 433 (1984); *Jensen v. I.R.S.,* 835 F.2d 196 (9th Cir.1987).

If a particular argument is founded upon allegations of deprivations of statutory provisions, said to be applicable to every dollar earned as an employee or an independent contractor, is it groundless? If no case has disposed of "protestor's" argument and application of that statute, is the argument "tired"? If they cannot simply explain why STATUTORY arguments, also concerning regulatory construction, are off point in some way, does the argument "lack merit"?

II

Based upon the facts herein presented, if there is such a law or there are any cross-references that would dispute the facts presented herein please specifically identify that law, or cross-reference it in your Finding of Facts and Conclusions of Law.

Your reply should include:

(1)Facts showing that I am subject, in this case, to the "sovereign" powers of taxation possessed by the Federal United States of America.

(2)Facts showing that my activities (job, residence, existence) are privileges granted by the Federal United States of America.

(3)Facts showing that the legislative authority granted by the United States Constitution to the Federal United States extend over territory where claimant works or lives.

(4)Facts showing that the State of Oregon has ceded legislative jurisdiction (exclusive or concurrent) over the property where I reside or work.

(5)Facts showing whether the powers granted to the Federal United States of America by the people of the union of States, extend over my property, activity or natural rights.

(6)Facts showing whether I earned any "income" as that legal term is defined by the United States Supreme Court.

Also:

Under legal doctrine "expression unius est exclusio alterius" (the express mention of one thing means the implied exclusion of another), it appears that the Congress could have, but specifically chose not to create any mandatory liability for income taxes or for the need to make income tax returns with reference to American Citizens.

Obviously, IRC sections 6001 and 6011 do not apply to Individual Income Taxes, but might apply to other code sections that create a liability for taxes that are imposed (i.e., 4374 creates the liability for taxes imposed on insurance policies issued by foreign insurers, 4401(c) creates liability for a wagering tax, 5505 creates the liability for taxes imposed on distilled spirits, and 5703(a) creates the liability for tobacco taxes.)

There is no comparable section of the code creating any liability for income taxes. Nor should it be assumed that anyone who receives income is "automatically" liable because it only "make sense" that the recipient of income would be liable for the tax. This assumption is shown to be false in a gift tax event where the donor (not the recipient) is liable for the tax on gifts. This can be ascertained by reading section 2503(c).

How have the courts responded to the question of liability?

> "Keeping in mind the well settled rule that the citizen is exempt from taxation unless the same is imposed by clear and unequivocal language, and that where the construction of tax law is doubtful, the doubt is to be resolved in favor of those upon whom the tax is sought to be laid." *Spreckles Sugar Ref. Co. v. McClain,* 192 U.S. 397.
>
> "Liability for taxation must clearly appear from statute imposing tax." *Higley v. Commissioner of Internal Revenue Service.*
>
> "... [T]he taxpayer must be liable for the income tax. Tax liability is a condition precedent to the demand! Merely demanding payment, even repeatedly, does not cause liability." *Boethke v. Flour Engineers & Contractors,* 713 F. 2nd 1405.

The courts have also been very clear that the term "taxpayer" is not an appellation to be taken lightly:

> "The reasonable construction of the taxing statutes does not include vesting any tax official with absolute power of assessment against individuals not specified in the statutes as persons liable for the tax without an opportunity for judicial revue of this status before the appellation of "taxpayer" is bestowed upon them and their property seized." *Botta v. Sanlon,* 228 F. 2d 304 (1961).

I want to exhaust all administrative remedies prior to petitioning for a judicial determination of the term "taxpayer" being used on myself, should it be necessary. This request for a Determination Letter should satisfy that requirement.

The courts have made it very clear that an American citizen does not have to pay a tax for the mere privilege of existing, as otherwise inferred by the Internal Revenue Code. The court ruled:

> "The individual, unlike the corporation, cannot be taxed for the mere privilege of existing. The corporation is an artificial entity which owes its existence and charter to the state; but the individual's right to live and own property are natural rights for the enjoyment of which an excise cannot be imposed." *Redfield v. Fisher,* 292 P. 813.

The courts have also ruled that a non-taxpayer is not subject to Internal Revenue Laws in any way:

> "The revenue laws are a code or system in regulation of tax assessment and collection. They relate to taxpayers, and not to non-taxpayers. The latter are without their scope. No procedure is prescribed for non-taxpayers and no attempt is made to annul any or their rights and remedies in due course of law. With them Congress does not assume to deal and they are neither the subject or the object of the revenue laws." *Long v. Rasmussen,* 281 F. 236.

My claim (unless proven otherwise by your forthcoming Findings of Facts and Conclusions of Law)

Based upon the facts herein presented, if there is such a law or there are any cross-references that would dispute the facts presented herein please specifically identify that law, or cross-reference it in your Finding of Facts and Conclusions of Law.

Your reply should include:

(1)Facts showing that I am subject, in this case, to the "sovereign" powers of taxation possessed by the Federal United States of America.

(2)Facts showing that my activities (job, residence, existence) are privileges granted by the Federal United States of America.

(3)Facts showing that the legislative authority granted by the United States Constitution to the Federal United States extend over territory where claimant works or lives.

(4)Facts showing that the State of Oregon has ceded legislative jurisdiction (exclusive or concurrent) over the property where I reside or work.

(5)Facts showing whether the powers granted to the Federal United States of America by the people of the union of States, extend over my property, activity or natural rights.

(6)Facts showing whether I earned any "income" as that legal term is defined by the United States Supreme Court.

Also:

Under legal doctrine "expression unius est exclusio alterius" (the express mention of one thing means the implied exclusion of another), it appears that the Congress could have, but specifically chose not to create any mandatory liability for income taxes or for the need to make income tax returns with reference to American Citizens.

Obviously, IRC sections 6001 and 6011 do not apply to Individual Income Taxes, but might apply to other code sections that create a liability for taxes that are imposed (i.e., 4374 creates the liability for taxes imposed on insurance policies issued by foreign insurers, 4401(c) creates liability for a wagering tax, 5505 creates the liability for taxes imposed on distilled spirits, and 5703(a) creates the liability for tobacco taxes.)

There is no comparable section of the code creating any liability for income taxes. Nor should it be assumed that anyone who receives income is "automatically" liable because it only "make sense" that the recipient of income would be liable for the tax. This assumption is shown to be false in a gift tax event where the donor (not the recipient) is liable for the tax on gifts. This can be ascertained by reading section 2503(c).

How have the courts responded to the question of liability?

> "Keeping in mind the well settled rule that the citizen is exempt from taxation unless the same is imposed by clear and unequivocal language, and that where the construction of tax law is doubtful, the doubt is to be resolved in favor of those upon whom the tax is sought to be laid." *Spreckles Sugar Ref. Co. v. McClain,* 192 U.S. 397.
>
> "Liability for taxation must clearly appear from statute imposing tax." *Higley v. Commissioner of Internal Revenue Service.*
>
> "... [T]he taxpayer must be liable for the income tax. Tax liability is a condition precedent to the demand! Merely demanding payment, even repeatedly, does not cause liability." *Boethke v. Flour Engineers & Contractors,* 713 F. 2nd 1405.

The courts have also been very clear that the term "taxpayer" is not an appellation to be taken lightly:

> "The reasonable construction of the taxing statutes does not include vesting any tax official with absolute power of assessment against individuals not specified in the statutes as persons liable for the tax without an opportunity for judicial revue of this status before the appellation of "taxpayer" is bestowed upon them and their property seized." *Botta v. Sanlon,* 228 F. 2d 304 (1961).

I want to exhaust all administrative remedies prior to petitioning for a judicial determination of the term "taxpayer" being used on myself, should it be necessary. This request for a Determination Letter should satisfy that requirement.

The courts have made it very clear that an American citizen does not have to pay a tax for the mere privilege of existing, as otherwise inferred by the Internal Revenue Code. The court ruled:

> "The individual, unlike the corporation, cannot be taxed for the mere privilege of existing. The corporation is an artificial entity which owes its existence and charter to the state; but the individual's right to live and own property are natural rights for the enjoyment of which an excise cannot be imposed." *Redfield v. Fisher,* 292 P. 813.

The courts have also ruled that a non-taxpayer is not subject to Internal Revenue Laws in any way:

> "The revenue laws are a code or system in regulation of tax assessment and collection. They relate to taxpayers, and not to non-taxpayers. The latter are without their scope. No procedure is prescribed for non-taxpayers and no attempt is made to annul any or their rights and remedies in due course of law. With them Congress does not assume to deal and they are neither the subject or the object of the revenue laws." *Long v. Rasmussen,* 281 F. 236.

My claim (unless proven otherwise by your forthcoming Findings of Facts and Conclusions of Law)

is that I am not a "taxpayer" as that term applies to the Individual Income Tax and never have been. Any tax return mailed in the past to the IRS were done in ignorance of the law and were done in error.

Another issue concerns the method in which you communicate with me. All previous correspondence has been addressed to . You will notice that all of the letters in the names are capitalized. The United States Style Manual specifically states that the names of all natural persons are printed with a combination of upper and lower case letters. Only entity modules are referred to with all capital letters. I understand that the IRS has created the fictitious entity of . This fictitious entity(s) was created by the IRS and is, in reality, nonexistent. In support of that is the statement from the Internal Revenue Manual 6209, which states:

Section 9/Notices and Notice Codes
.01 General

"Computer generated notices and letters of inquiry are mailed to taxpayers in connection with tax returns for BMF, IMF, and IRAF. Computer paragraph (CP) number (3 digit numbers for BMF and IRAF, and 2 digit numbers for IMF) are located in the upper left corner of the notices and letters…"

BMF – Business Master File

IMF – Individual Master File

As an example, when no return has been mailed in, I have been sent CP-515 and 518 letters requesting a 1040 form. According to the 6209 Manual, these letters are for businesses, not individuals.

If it continues, a complaint will be filed with the Treasury Inspector General for Tax Administration (TIGTA) pursuant to the IRS restructuring and Reform Act of 1998, section 1203 against the offending agent. If the IRS wishes to correspond with me in the future, the correspondence must be addressed properly as specified in the United States Style Manual.

I will begin to close this letter with one final ruling from the U.S. Supreme Court. The court in its response to the requirement of the filing of a 1040 Individual Income Tax Return and to the effects of the government's actions as it relates to that requirement, stated:

> "Because of what appears to be a lawful command on the surface, many citizens, because of their respect for what only appears to be law, are cunningly coerced into waiving their rights due to ignorance." *U.S. v. Minker,* 350 U.S. 179 at 187

As I continue to research the laws and regulations associated with the Income Tax, I can do nothing but agree with the courts. If you have any certified documents and/or case rulings that refute the Finding of the courts referred to in this Request, please put them in with the Finding of Fact and Conclusions of Law.

If you are unable to refute the claims made in this document I will expect to receive a letter from you indicating that the natural person, _____, is in fact, not a "taxpayer" as far as the Individual Income Tax is concerned, and that any file you might keep on me in the future will reflect that status.

Bottom line: "have I ever been made liable for the Individual Income Tax for any of the years in question.

> *"Tax liability is a condition precedent to the demand. Merely demanding payment, even repeatedly, does not cause liability. For the condition precedent of liability to be met, there must be a lawful assessment, either a voluntary one by the taxpayer or one procedurally proper by the IRS."* Bothke v. Terry, 713 F. 2d 1405, at 1414 (1983)

Added to the determinations requested before, are:

(7)How, when and where I became a Federal Individual Income Tax payer for each of the years in question.

(8) The specific Federal Tax I have been liable for each of the years in question. Please do not refer to any IRS Form as a "kind of tax".

(9)The specific form I am required to file for that tax for each of the years in question. According to the Individual Master File (IMF) the classification of tax forms required of me are represented by MFR-05, which according to the 6209 manual related to a business entity. In respect to this classification;

(10) Provide me with the facts and documents that justify this coding.

(11) Provide the specific statutes that make me "liable" for the so called income tax.

I hereby request a copy of the Finding of Facts and Conclusions of Law that you will use as a basis of your determination pursuant to the Administrative Procedures Act, specifically 5 USC 556(d). I ask for the Determination Letter to be sent within 30 days of the date of receipt of this letter. If more time is need, please make a written request and it will be granted. Should your Determination be that I have been "made liable" for the Individual Income Tax for any of the years in question, this is a request for a conference with the local authority pursuant to section 8.02(7).

If this is not for proper format for making this request, please send that format with instructions to me. Please respond within 30 days.

Failure to respond will indicate that you have "acquiesced" to the validity of the claims outlined in this document in their entirety. All responses must contain an original signature and must be attested to under penalties of perjury to insure that the responses provided by the IRS are valid.

Any statements or claims in this document, properly rebutted by Finding of Facts and Conclusions of Law or Supreme Court ruling, such shall not prejudice the lawful validity of other claims not property rebutted.

Under the penalty of perjury, I certify that the above cited principles by the courts pertaining to the taxing authority possessed by our respective governments form the foundation for the position taken in this matter by the claimant. And that to the best of my knowledge they are true and accurate.

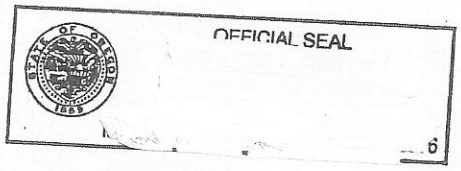
All Rights Reserved Without Prejudice.

Respectfully submitted,

Sui juris

NOTARY

This is to certify that, Michael Steven Schagunn, did appear before me, a Notary Public, and set his hand and seal to the herein above document.
My commission expires:



Notary Public

Foot Notes:

1. Rep. Hull, Congressional Record House, April 26, 1913, p. 506; referring to Pub. Law. Passed by the Sixty-Third Congress, Session I, Ch. 16, Section II, paragraph B (1913).
2. Eisner v. Macomber, supra, p. 207
3. Lucas vs. Earl, 281 U.S. 111, 113
4. 281 U.S. 111,
5. Taxable Income, pp. 283, 284.
6. Ewing v. U.S.,711 F. Supp. 265 (1989).
7. House Report – Detailed discussion of Bill. Subchapter B – Computation of taxable income. Part 1 – Definitions; U.S. Code Congressional and Administrative News, Vol. 3; IRC 1954 History; p. 4155.
8. Senate Report – Detailed discussion of Bill. Subchapter B – Computation of taxable income, Part 1 – Definitions. U.S. Code Congressional and Administrative News, Vol. 3; IRC 1954 History; p. 4802.
9. Bowers v. Kerbaugh-Empire Co., 271 U.S. 170, 175 [1925].

10. Connor vs. U.S., 303 F. Supp. 1187 (1969).
11. South Pacific vs. Lowe, 238 F. Supp. 84.
12. Connor vs. United States, 303 F. Supp. 1187 (1969); U.S. vs. Kirby, 284 U.S. 1; Brown vs. Commissioner, 133 F. 2d 582; Helvering vs. Edison Bros., 133 F. 2d 575.
13. 26 USCA sec. 61; Fellows Sales Co. vs. U.S., 200 F. Supp. 347.
14. 85 CJS sec. 1096, "Taxation," p. 731; Brandon vs. State Revenue Commission, 186 S.E. 872.
15. Helvering vs. Edison Bros. Store, 133 F. 2d 575.
16. quoting Lewis v. O'Malley, 140 F. 2D 740; Sanders v. Fox, 253 F. 2D 855, 860.
17. Congressional Record – House, March 27, 1943, p. 2579; Brushaber vs. Union Pac. R.R. Co., 240 U.S. 1; Eisner vs. Macomber, 252 U.S. 189; Prescott vs. C.I.R., 561 F. 2d 1287; Simpson vs. United States, 423 F. Supp. 720; U.S. vs. Gaumer, 972 F. 2d 723 (1992).
18. Portland Cement vs. Knapp, 230 N.Y. 48, 68.
19. Congressional Record – House, April, 26, 1913, p. 505.
20. Flint vs. Stone Tracy Co., 220 U.S. 107,165.