

The
SIMPLE
TRUTH

and

THE LIES
WE
TELL

By

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The Simple Truth

The income tax act of 1913 is the most misunderstood piece of legislation in human history. Many Americans feel in their heart, almost knowing, that there is something seriously wrong with the way the federal government applies and enforces this tax. The government of course, through the IRS, operates under the philosophy that the government is entitled to tax the “income” derived from all of the American people’s labors, investments, and property. But, is the government truly entitled under the law to control and claim a share of the fruits of our labor and property, and tax our income in the way that it does? Many Americans feel that the legal confusion surrounding the income tax is being used to effect the destruction of America’s constitutional Republic, and has already substantially diminished the fundamental freedoms of the American people by forcing the population to serve the government, rather than have the government serve the People.

This short paper is intended to cut through all the confusion about the law, because in reality there is no confusion **in** the law, and cut through the maze of legal distractions asserted by the United States government to mislead the American people and the Courts about the income tax, to quickly and absolutely demonstrate the proper application of the income tax under today’s laws, and, to clearly and succinctly show how the government has unlawfully misused and misapplied the law to wrongfully force all Americans to pay a tax that they do not actually owe, and that in fact, has clearly never actually been imposed on their income in America under the law.

To understand the income tax and how it is actually imposed under the law, all we really need to do is read and remember the first sentence of the Supreme Court decision settling the challenge to the income tax law when it was originally passed in 1913.

In *Brushaber v. Union Pacific R.R. Co.*, 240 U.S. 1, (1916) (Exhibit A), the case the government itself cites to establish the Constitutionality of the income tax laws, it clearly states in the very first sentence of the Opinion of the Court, delivered by Chief Justice White:

“..., the appellant filed his bill to enjoin the corporation from complying with the income tax provisions of the **tariff** act of October 3, 1913.”

Brushaber v. Union Pacific R.R. Co., 240 U.S. 1, 9 (1916) (**emphasis added**)

It is very important that you take careful note of the language used by Chief Justice White in this first sentence because he is giving you the **KEY** to understanding the entire income tax law in this sentence. These words were not just carelessly selected by the Chief Justice for inclusion without consideration. They were very carefully considered and selected for their particular and specific meaning before being presented to America as the Opinion of the Court.

Please take careful notice of the **fact** that Chief Justice White **clearly and unequivocally identifies the income tax** in the first sentence of the Opinion **as part of a tariff act**.

Do you know what a **tariff** is? – By definition, it is a tax laid on **foreign** imports or activity.

A tariff is a tax, or a schedule of rates for a tax, on foreign goods or activity entering or being imported into America. A tariff is one form of an “impost”, which is of course, one of the three kinds of indirect taxes authorized by the Constitution in Article 1, Section 8, Clause 1, for the government to lay and collect to provide for the operation of the government’s legitimate functions. However, as a tax on

the importation of goods and activity from a foreign country into America, **a tariff clearly is not, and cannot be, legally or lawfully applied to the domestic activities of American citizens.**

So, the Supreme Court states that the income tax was originally part of a tariff act (law). But that certainly does not agree with how the tax is enforced by the I.R.S. today, does it? So, how is the law really imposed and applied **in the law**? Has it been changed, or under the law, is there still evidence in the law that it is still, and has always been, nothing more than a tariff? Does the Court help us understand the answers to these questions that must be immediately raised by the revelation that the income tax is originally, actually, part of a tariff act?

In the *Brushaber* decision cited above, Chief Justice White in the Opinion of the Court further tells us just prior to 240, U.S. 1, 22 (Exhibit A) that:

“2. The act provides for collecting the tax at the source; that is, makes it the duty of corporations, etc., to retain and pay the sum of the tax ...”

Brushaber v. Union Pacific R.R. Co., 240 US 1, 21-22 (1916) **(emphasis added)**

Here, the court clearly tells us that the scheme of the income tax, as provided by the tariff act, is that of a tax that is collected at the source, **indirectly**, by third parties identified as “*corporations, etc.*” The entire scheme of the tax as it was originally imposed under the law is described by the Court in this sentence. The Court identifies that this “...*collecting the tax at the source;*” is how the income tax is actually imposed in the law because “*The act provides...*”, and it identifies how the tax is to be collected and paid under the actual laws that were passed into existence, as it “...*makes it the duty of corporations, etc. to retain and pay the sum of the tax...*”.

The Opinion of the Court clearly states that the act creates and imposes a legal “*duty*” on the “...*corporations, etc., to retain and pay the sum of the tax...*”

This created “*duty*” of the “*corporations, etc.*”, referenced here by the Supreme Court, is actually defined in the law, and has been since the inception of this tax in 1913. Title 26 U.S. Code Section 7701(a)(16) (Exhibit B) clearly states:

§ 7701 Definitions.

(a) When used in this Title ...

....

(16). Withholding Agent. - The term "Withholding Agent" means any person required to deduct and withhold any tax under the provisions of sections 1441, 1442, 1443, or 1461.”

This is today’s statutory definition (the law), from Title 26 of the United States Code, also called the Internal Revenue Code or IRC. It is also the same law and definition, essentially, as existed in 1913 under the original income tax provisions of the tariff act of October 3, 1913 (the income tax). It is the complete and entire authority to withhold income taxes under Subtitle A of Title 26, and has been continuously since 1913.

This “*Withholding Agent*” is the entity defined in the income tax laws (Title 26 - Subtitle A) with the legal “*duty*” to “*retain and pay the sum of the tax*” as identified by the Supreme Court in the

Brushaber Opinion, or re-stated – the duty to withhold the income tax at the source **from all subject persons under the Subtitle A income tax authorities and mandates.**

The definition of the legal term “*Withholding Agent*” is simple and straight-forward. To understand its complete enacted authority all one need do is read the actual code sections invoked by the statutory definition. The code sections, 1441, 1442 and 1443, which are cited in the definition of a *Withholding Agent*, each provide as follows: (Exhibit B)

§ 1441. Withholding of Tax on Nonresident Aliens

(a) General rule. Except as otherwise provided in subsection (c) all persons, in whatever capacity acting having the control, receipt, custody, disposal or payment of any of the items of income specified in subsection (b) (to the extent that any of such items constitutes **gross income from sources within the United States**), of any **nonresident alien individual**, or of any **foreign** partnership shall deduct and withhold from such items a tax equal to 30 percent thereof, except that in the case of any items of income specified in the second sentence of subsection (b), the tax shall be equal to 14 percent of such item. **(emphasis added)**

Section 1441 **only** authorizes the withholding of income tax from **nonresident aliens**, “*to the extent that any of such items constitutes gross income from sources within the United States*”.

§ 1442 Withholding of Tax on Foreign Corporations

(a) General rule. In the case of foreign corporations subject to taxation under this subtitle, there shall be deducted and withheld at the source in the same manner and on the same items of income as is provided in Section 1441 a tax equal to 30% thereof.

(b) Exemption. Subject to such terms and conditions as may be provided by regulations prescribed by the Secretary, subsection (a) shall not apply in the case of a foreign corporations engaged in trade of business in the United States if the Secretary determines that the requirements of subsection (a) impose an undue administrative burden and that the collection of the tax imposed by section 881 on such corporation will not be jeopardized by the exemption.

(c) Exception for certain possessions corporations. For purposes of this section, the term "foreign corporation" does not include a corporation created or organized in Guam, American Samoa, the Northern Marianna Islands, or the Virgin Islands or under the law of any such possession if the requirements of subparagraphs (A), (B), and (C) of section 881(b)(1) are met with respect to such corporation.

Section 1442 **only** authorizes the withholding of income tax from **foreign** corporations.

§ 1443 Foreign Tax Exempt Organizations

(a) Income subject to section 511. In the case of income of a foreign organization subject to the tax imposed by section 511, this chapter shall apply to income includible under section 512 in computing its unrelated business taxable income, but only to the extent and subject to such conditions as may be provided under regulations prescribed by the Secretary.

(b) Income subject to section 4948. In the case of income of a foreign organization subject to the tax imposed by section 4948 (a), this chapter shall apply, except that the deduction and withholding shall be at the rate of 4 percent and shall be subject to such conditions as may be provided under regulations prescribed by the Secretary.

Section 1443 specifies provisional treatment for some foreign organizations that are partially tax exempt'

Finally, the last code section referenced in the definition of a Withholding Agent, Section 1461, explicitly states:

§ 1461 Liability for withheld tax.

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. **(emphasis added)**

Section 1461 says that the *Withholding Agents* are **made liable for the payment of the income taxes** that they have **withheld** from **subject persons - who are all foreign.**

This is the only code section in all of the income tax laws (Subtitle A) where anyone is actually **made liable for the payment of the income tax by a statute** (law). And who is **made liable** by this statute ? The *Withholding Agents* are made liable for the payment of the tax that they have withheld from subject foreign persons. It is **not** the persons who are actually the subject of the tax (non-resident aliens and foreign corporations) that are made liable for the payment of the tax, **it is the *Withholding Agents*** that are made liable. The injection of this third party, the *Withholding Agent*, into the income tax collection scheme of *collection at the source* keeps the income tax **indirect** because it is collected by a third party indirectly, and is **not** collected directly by the government.

Finally I would like to point out that Section 1463 states who is to be penalized if the tax is not properly withheld and paid into the U.S. Treasury:

§ 1463. Tax paid by recipient of income

If—

- (1) any person, in violation of the provisions of this chapter, fails to deduct and withhold any tax under this chapter, and**
- (2) thereafter the tax** against which such tax may be credited **is paid,** the tax so required to be deducted and withheld shall not be collected from such person; but this section shall in **no case relieve** such person **from liability for interest or any penalties** or additions to the tax otherwise applicable **in respect of such failure to deduct and withhold.** **(emphasis added)**

This code section says that **it is the *Withholding Agent*** who is responsible for and **must pay** the **penalties and interest** that are due on the tax that was not properly withheld, reported, and paid into the Treasury, **not** the subject non-resident alien taxpayer. Is that how the IRS enforces the tax today?

But this is all straight from the law, **as it exists today,** and **this agrees completely with what the Supreme Court wrote in its Brushaber Opinion in 1916:** that the income tax is part of a tariff act,

withheld at the source by *Withholding Agents* from subject persons – who are all foreign. The tax is laid in the original act, and still in the law today, as a **tariff** that is **withheld only** from **foreign** persons - because **only non-resident foreign persons** and **foreign corporations** can be **lawfully forced** to pay a **tariff on their domestic activities** in the **fifty states**.

Perhaps this is where the confusion about the income tax originates. It is not a direct tax, but **indirect** – and, according to the Supreme Court, is withheld at the source and paid by third parties (the “*corporations, etc.*” with a “*duty*” to “*retain and pay the sum of the tax*”), i.e., the *Withholding Agents*. The domestic activity (within America) of an American citizen cannot properly be made the subject of any tariff laws because tariff laws only apply to foreign activity. However, the domestic activity of a non-resident alien or foreign corporation is properly subjected to the payment of an income tariff because it actually constitutes foreign activity and not domestic activity because it is conducted by a foreign entity in America who is not an American citizen or resident. It is foreign activity and foreign activity alone that is legally and properly subjected to the payment of an income **tariff**, which by definition, can **only** be imposed on **foreign** activity (or the income derived from it), and **not** on **domestic** activity or the income derived from it.

After the *Brushaber* decision was taken and the Opinion of the Court was delivered by Chief Justice White, the Treasury Department released Treasury Decision 2313 (Exhibit C) on March 21, 1916. It states, in summary:

T.D. 2313

“Under the decision of the Supreme Court of the United States in the case of *Brushaber v. Union Pacific Railway Co.*, decided January 24th, 1916, it is hereby held that income accruing to nonresident aliens in the form of interest from the bonds and dividends on the stock of domestic corporations is subject to the income tax imposed by the act of October 3, 1913.

Nonresident aliens are not entitled to the specific exemption designated in paragraph C of the income tax law, but are liable for the normal and additional tax upon the entire net income “from all property owned, and of every business, trade, or profession carried on in the United States,” computed upon the basis prescribed in the law.

The responsible heads, agents, or representatives of nonresident aliens, who are in charge of the property owned or business carried on within the United States, shall make a full and complete return of the income therefrom on Form 1040, revised, and shall pay any and all tax, normal and additional, assessed upon the income received by them in behalf of their nonresident alien principals.”

This Treasury Decision is the only place where I have ever seen a legal explanation from the federal government for the proper legal use of Form 1040. Form 1040 was originally to be used by *Withholding Agents* to report the income of **nonresident alien foreign principals**. Under the actual laws enacted it was not to be used by U.S. Citizens to report their own income, and that’s why voluntary self assessment and voluntary compliance are so important to the IRS. Because the current **mythical** system doesn’t work unless the citizen voluntarily misapplies the law and uses the wrong form to mistakenly, voluntarily assess his own domestic income for a *foreign* income (tariff) tax that he is obviously not lawfully subject to because **tariffs cannot be legally applied to a citizen’s domestic economic activity in the fifty states**.

So we clearly see, that the United States government knew (at one time at least) that the income tax was (and under the law still is) a tax in the form of a tariff that was only imposed on and withheld from non-resident foreign persons and corporations. Under the scheme of the tax adopted in the tariff act, the foreign entity (non-resident alien or foreign corporation) is the actual taxpayer **and subject** of the tax, and the sovereign entities (American citizens and corporations) **were cast in the role of the tax collector, not subject taxpayers**. The only tax they paid was on the income of foreign persons that they themselves had withheld monies from when service or property was paid for. Under the letter of the actual law the citizens did not (and still under the law do not) pay tax on their own income, only the foreigners’.

This is how the income tax was applied and enforced for the first thirty one years it existed, from 1913 to 1944. American citizens did not pay the income tax on their own income during this period, as many older folks will tell you, because the law was properly enforced. Then, in 1944 the Subtitle C *Employment* tax laws were passed to authorize the withholding of tax for the new Social Security program, and, for the first time, also authorized the withholding of the income tax from any person who requested it on a Form W-4, rather than only withholding from the actual subject foreign persons as the law had provided for the previous thirty one years as shown above. Additionally, widespread use of Form 1040 began for the first time for the legal purpose of obtaining a refund, or in order to claim deductions, credits, expenses, etc., which all require the filing of a Form 1040 in order to be claimed.

However, the scheme of the income tax under Subtitle A was not changed by this addition to the code in 1944 of the employment tax laws of Subtitle C. The employer of Subtitle C is not the *Withholding Agent* of Subtitle A. Subtitle A and Subtitle C are separate programs (taxes) in the law, each constituting its own distinct authority over its tax program. They do not impinge on each other or directly affect one-another. They are distinct separate authorities implementing different tax elements (programs) in the law. Subtitle A provides the income tax laws that were passed in 1913, and Subtitle C specifies the social security and employment tax laws which were passed 31 years later in 1944. The employment tax laws of 1944 are distinct and separate from the income tax laws passed in 1913. The Subtitle A income tax laws actually imposing the income tax, and providing for its withholding by *Withholding Agents*, were never altered, re-written or expanded to actually impose the tax on domestic activity, it was just authorized under Subtitle C to be withheld by the employer from any employee **who requested that it** be withheld on a Form W-4, *Employee’s Withholding Allowance Certificate*. However, **no** law requiring the filing of a Form W-4 to obtain employment has ever been passed.

Structural Organization of Title

Perhaps a short explanation regarding the organization of the laws in the United States, and specifically, the tax laws, will be helpful at this point in keeping our understanding clear. The United States Code is the collection of all of the laws in America. In order to make the law easy to use it has been divided into separate books or “Titles” which are based on subject matter, each containing its own. For instance, Title 27 is Intoxicating Liquors, Title 18 is Crimes & Criminal Procedure. Title 20 is Education, etc. Practically all of the tax laws of the United States of America are in Title 26 of the United States Code. Title 26 is also called the Internal Revenue Code or I.R.C. Title 26 is broken into a number of Subtitles, each Subtitle being a distinct and separate section of the law or program within it, as the table below shows:

<u>Tax or Topic of Title 26</u>	<u>Subtitle</u>	<u>Chapters</u>	<u>Sections</u>
Income Taxes	A	1 to 6	1
Estate & Gift Taxes	B	11 to 13	2001
Employment Taxes	C	21 to 25	3101
Miscellaneous Excises	D	31 to 47	4041
Alcohol, Tobacco & Certain Other Excises	E	51 to 54	5001
Procedure and Administration	F	61 to 80	6001
Joint Committee on Taxation	G	91 to 92	8001
Financing Presidential Election Campaigns	H	95 to 96	9001
Trust Fund Code	I	98	9500

This paper explains the true scheme of the tax, as identified by the Supreme Court, and the correct application of the laws under Subtitle A - Income taxes, as they **actually** exist. Income taxes are in Title 26, Subtitle A, which consists of chapters 1 through 6. Employment taxes are in Subtitle C, consisting of chapters 21 – 25, an entirely different part of the law and Title.

It is important to understand that each Subtitle establishes a distinct and separate program, or "tax", with its own individual authorities to exercise within that distinct Subtitle. These authorities do not automatically cross over into the other Subtitles and cannot be legitimately invoked as an authority in the other Subtitles. i.e. the *Withholding Agent* does not withhold employment taxes (does the bank withhold employment tax (social security) from interest payments on Certificates of Deposit), and Subtitle C does not impose an **income** tax on any individual, it provides for the administration of the social security employment taxes – which under the law is a completely separate and distinct tax and program from Subtitle A income taxes. Subtitle C provides the tax laws related to the implementation of the Social Security tax, it does not impose an income tax.

Each Subtitle imposes its own tax and establishes its own groups of persons that are subject to that specific Subtitle’s tax. Just because one group of people is subject to one tax under one Subtitle, does not necessarily imply that group is automatically also subject to the taxes imposed by other Subtitles. To demonstrate this point one could ask "Do you pay Subtitle E taxes ?". For most people, the answer is a resounding "No!". Why not, you may ask, isn't everyone subject to the law? The answer, of course, is that the group of persons who are subject to the Subtitle E taxes are only those persons who engage in the manufacture, transportation and sale of alcohol and tobacco products, as proscribed in Subtitle E.

The group of people who are subject to the Subtitle C Employment Tax laws are the foreign persons who are required by law and the American citizens who have **voluntarily** chosen to participate in

the Social Security program and apply for a Social Security number to provide to their employer. But that's another story (– actually it's the same story – pass a law that actually applies **only** to foreigners, and then over time make all Americans believe that it applies to them, when **in fact it does not!**).

The Constitutional Federal Foreign Jurisdiction

The Constitution, of course, gives the federal government complete authority over all foreign affairs and foreign persons in America. Article 1, Section 8, Clauses 3 and 4 of the Constitution grant foreign powers to the federal government, and Article I, Section 10, Clauses 1, 2 and 3 of the Constitution prohibit the States from enacting agreements with foreign entities. This absolute federal jurisdiction over all agreements with foreign governments and over all foreign persons in America is part of the legal authority allowing for the passage of a tariff act authorizing the collection of an income tax from foreign persons on their domestic activity.

To see that the income tax actually created by the tariff act is **only** imposed by law within this **constitutional foreign jurisdiction** that the federal government possesses over all foreign matters, and is **not** actually imposed domestically beyond that foreign jurisdiction on persons within America, one only need examine the difference in the treatment under the law between non-resident aliens and resident aliens in regards to the withholding of tax at the source.

From the legal definition of the *Withholding Agent* we clearly see that non-resident aliens are subject to the withholding of income tax under Section 1441. However, as soon as a non-resident alien becomes a **resident** alien, then he/she is no longer subject to the withholding of income tax at the source by the *Withholding Agent* because he/she is no longer part of the definition of the *Withholding Agent's* authority over subject persons. The statutory definition of the *Withholding Agent*, from Title 26 U.S.C. Section 7701(a)(16), only specified that withholding was required under Sections 1441, 1442, 1443 and 1461, as we have seen. Once the **nonresident** alien become a **resident** alien they are no longer the subject of the tax, and it is no longer authorized to be withheld from them because they are no longer within its jurisdictional reach because as a resident of one of the fifty states the aliens' activity is now recognized by the law as being domestic and not foreign, and therefore outside the federal territorial and subject matter jurisdictions.

The resident alien's economic activity is no longer within the foreign jurisdictional authority of the federal government because they are now under the territorial jurisdictional authority of the state government that they are resident within. Tariffs are imposed on foreign activity, not domestic. As soon as the non-resident alien becomes a resident ("resident" is defined in the law) his activity is recognized by the law as being moved **from** the "foreign" category (that is subject to a tariff), and **into** the "domestic" category, which is outside the subjectivity to any tariff, and the withholding of tax from their payments terminates. Domestic activity is not subject to any tariff because a tariff is a foreign tax. Even when the activity is conducted by a foreign person who has become a resident in the U.S. (but who is still foreign) the tax is not withheld at the source because the resident is not subject to the payment of a tariff, because a resident's activity is not considered foreign, but domestic, and is therefore not lawfully subject to payment of a tariff on foreign activity. If resident aliens aren't even subject to the income tax it is of course absurd to even suggest that American citizens are, or ever were the proper subjects of this foreign tariff – that is all government mythical fiction and propaganda, as we will expose.

The indirect scheme of the income tax, which is collected at the source by withholding from subject persons, and which is paid by the third party *Withholding Agent*, and is not paid by the actual

subject of the tax (the foreigner), has never changed in 94 years. The rate of tax to be ultimately owed under Sections 1, and the percentage of earnings to be withheld under Sections 1441 and 1442 have all been adjusted both up and down at different times through the years, and the language of the statutes establishing the amounts of the allowable deductions, credits and expenses has been continuously altered as well, but the fundamental scheme of the income tax laws under Subtitle A has never changed in 94 years – it is now, and has always been, a tax that is collected at the source from subject persons by a third party, by withholding at the source from subject payments. The subject persons are **all foreign**, of course, because the tax is clearly, from a simple and straight forward reading of the law, nothing more than an indirect tariff on the income derived from the economic activity of foreigners under the federal jurisdiction, it is not a tax on the domestic activity or income of any American citizens under the States' jurisdiction.

And that is the entire extent of the proper legal domestic application of the income tax (in America) under the law. There are no other provisions anywhere in all of Subtitle A - Income Taxes, authorizing the withholding of this tax from any other persons, foreign or otherwise, or stating that any other person other than the *Withholding Agent* is liable, or is made liable, for the payment of the income tax.

The income tax is an **indirect** foreign tax in the form of a tariff that is collected at the source by withholding (agents) from subject persons - **who are all foreign and properly subjected to the payment of a tariff**. But, **tariffs do not apply to domestic economic activity**, and the scheme of the income tax (withholding at the source from subject persons) has never changed in 94 years. The same provisions exist in the law now as did in 1913, when the Supreme Court ruled (of course) that the whole thing is certainly Constitutional under Article 1, Section 8, Clause 1 authorizing the government to lay taxes: imposts, duties and excises.

This understanding, based on these legal facts presented here regarding the withholding of income tax from subject persons under Subtitle A, represents what is still in the law today in subtitle A – the Income Tax. **The income tax does not apply to domestic economic activity, because domestic activity cannot be lawfully made the subject of any tariff act or tariff tax.**

The Lies We Tell

If what we have just reviewed is true (**and it is**), then the United States government, obviously, has not been forthcoming with the truth about the income tax with the American People and the Courts. How has the United States government been able to deceive the American public and Courts so successfully about the truth about the income tax for so long?

Title 26, Section 1, Tax Imposed (Exhibit D) has long been misrepresented to the American People and the Courts by the government as the code section that imposes the tax on the citizens' incomes. However, what information return or Form is actually required by law to satisfy the information return requirement actually established by the statute imposing the tax in Section 1. Is there a place where one can look up what form is required by any written law, and if so, what Form does the law require a citizen to fill out and file to satisfy the requirement of the law under Section 1, Tax imposed ? Obviously the U.S. government wants the American people and the Courts to believe that Form 1040 is the required Form, **but what is actually in the law?**

The Paperwork Reduction Act provides that the United States government cannot require or collect more information from citizens than is really necessary to satisfy the requirement of the law. Under this act, which was passed in 1980, the IRS was required to file with OMB, the Office of Management and Budget, a list of all the code sections that required information to be collected from individuals, together with the cross-referenced list of forms to be used to satisfy those legal information collection requirements for any given code section.

This table is incorporated into the law in the Code of Federal Regulations in 26 C.F.R. (section) 602.101, whose introduction states that the purpose of this regulatory section is to comply with the legal requirements imposed on the government by the Paperwork Reduction Act. The IRS itself prepared and supplied this Table to OMB.

It states (Exhibit E) in pertinent parts:

PART 602 - OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Section 602.101. OMB Control numbers.

(a) Purpose. This part collects and displays the control numbers assigned to collections of information in Internal Revenue Service regulations by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. The Internal Revenue Service intends that this part comply with the requirements of ... (OMB regulations implementing the Paperwork Reduction Act), for the display of control numbers assigned by OMB to collections of information in Internal Revenue Service regulations....

CFR part or section where identified and described	Current OMB Control No.
1.1-1	1545-0067
1.23-5	1545-0074
1.25-1T.....	1545-0922
	1545-0930
1.25-2T.....	1545-0922
.....	

In the portion of the table reproduced above, the left hand column shows the code section (where the income tax is imposed; in PART 1, Section 1, designated here in the table as **1.1-1**), and the right hand column shows the OMB Document Control Number (DCN) assigned to the information collection request (the **form**), that is required by the code section to satisfy its legal information return requirements. Note that there is only **one** form shown here as being required by the law that imposes the income tax, and note that the form that is to be used to satisfy the requirements of this code section (1), where the income tax is imposed, carries OMB Document Control Number **1545-0067**.

So then, if Form 1040 is the proper form for United States Citizens to file to satisfy the legal filing requirement created by Section 1, that OMB Document Control Number, **1545-0067**, will show up on the top of a Form 1040 (Exhibit E).

Form 1040 Label (See instructions on page 16.)	Department of the Treasury—Internal Revenue Service U.S. Individual Income Tax Return 2006		(99) IRS Use Only—Do not write or staple in this space.
	For the year Jan. 1–Dec. 31, 2006, or other tax year beginning _____, 2006, ending _____, 20		OMB No. 1545-0074
L A B E	Your first name and initial	Last name	Your social security number
	If a joint return, spouse's first name and initial	Last name	Spouse's social security number

Here (above) is the reproduced top portion of a Form 1040 from 2006, and there in the upper right hand corner, it says “**OMB No. 1545-0074**”. Does that number match the number shown in the table as being required by Section 1 where the tax is imposed? **No!** It’s the wrong number! The Table in the Code of Federal Regulations shows that the law requires the form with OMB Document Control Number **1545-0067**, not **1545-0074**.

It’s probably worth saying that **1545** is the prefix assigned by OMB to all IRS documents. But OMB Document Control Number **1545-0074** is assigned to Form 1040, and the form required by the law that imposes the income tax, Section 1, carries Document Control Number **1545-0067**. So what Form does carry the OMB Document Control Number 1545-0067 ?

Form 2555	Foreign Earned Income	OMB No. 1545-0067
Department of the Treasury Internal Revenue Service	▶ See separate instructions. ▶ Attach to Form 1040.	1999 Attachment Sequence No. 34
For Use by U.S. Citizens and Resident Aliens Only		
Name shown on Form 1040	Your social security number	

Here, you see (above) at the top of the form, in the upper right hand corner it says: **OMB No. 1545-0067**. Now that matches the entry in the CFR Table for Section 1. And what is the title of this form? **Form 2555 Foreign Earned Income!** (Exhibit E) And what does it say underneath the title of the Form?

"For Use by U.S. Citizens and Resident Aliens Only".

Now, does Form 1040 say anything about who is supposed to use it? No, it doesn't! But **Form 2555 - Foreign Earned Income** states who is supposed to use it: “**U.S. Citizens and Resident Aliens Only**”. This is the form that’s listed in the law as being required to satisfy the information reporting requirements associated with the individual citizen's information Return requirement for the income tax on **"taxable income"** imposed by Section 1, Tax Imposed. The only income a citizen is required to report

under the law is income earned in a foreign country ! Income earned in a foreign country could be properly subject to the payment of a tariff since it constitutes foreign activity, as it will be shown.

So we see that Treasury Decision 2313 properly stated the correct legal use of Form 1040 in 1916. It was to be used by United States Citizens to report the income of his or her **foreign principals**. It was **not** to be used to report the Citizen's **own** personal domestic income because that is reported on a Form 2555 – *Foreign Earned Income*, and that legal fact was still recorded in the law in 1994 as we have shown above.

Now this scheme for the tax as identified above, that we have found in today's laws, is Constitutional, and that is what the Supreme Court said about the income tax in the *Brushaber* case – that it was Constitutional as imposed. But, if a citizen was required by law to report and pay tax on his own domestic income - **that would constitute direct taxation** without apportionment - **which is barred by the Constitution**, which is why **there is no such requirement**. Article 1, Section 9, Clause 4 of the Constitution clearly states:

"**No capitation or other direct tax shall be laid, unless in proportion** to the Census or Enumeration herein before directed to be taken."

Additionally, Article I, Section 2, Clause 3 of the Constitution says:

"Representatives and **direct taxes shall be apportioned** among the several states which may be included in this union, according to their respective numbers..."

The 16th Amendment **does not say** that the income tax is to be direct. It says:

"Congress shall have power to lay and collect taxes on income from whatever source derived, without apportionment among the several states, and without regard to any census or enumeration."

The 16th Amendment says that the income tax is to be without apportionment, but **it does not say that the tax is to be direct**. That interpretation would cause the 16th Amendment to come **into direct conflict and be in direct contradiction to the existing provisions of Article I** regarding direct taxation, and in direct contradiction with the actual tariff laws enacted by Congress, as shown herein. Thereby **engineering by interpretation, an inherent contradiction** within the Constitution. A contradiction that does not actually or necessarily exist by virtue of the actual language of the document, but which must be engineered through a faulty interpretation of it. This, the engineering by faulty interpretation of an inherent contradiction within the Constitution cannot be allowed to happen.

It is wrong and unlawful for the IRS to attempt **to replace by interpretation the written provisions** of Article I, with something not actually written in the 16th Amendment (or anywhere else in the Constitution), and in so doing engineer an apparent inherent contradiction within the Constitution itself.

It is not legitimate for the I.R.S. to attempt to replace the two written and un-repealed provisions of Article I regarding the prohibition on direct taxation unless laid in proportion to the census and apportioned to the States for collection, with an interpretation of the 16th amendment that attempts to transform the indirect income tax tariff into an allegedly direct tax without apportionment that is imposed on all domestic activity.

The written provisions of Article I of the Constitution regarding direct taxation must be upheld and given force of law until they are actually repealed or amended by Congress, and the IRS must be forced to recognize and operate within these existing Constitutional limitations on the government's power of taxation.

Article I **explicitly prohibits** the government from acting as it does – i.e.- enforcing the income tax as though it were a direct tax that did not have to be proportionately laid or apportioned (to the states) for collection, and then arriving at the front door of the homes of the good American people to demand arbitrary amounts of money in the name of tax (under color of law). The Constitution absolutely prohibits this. Why is the IRS allowed to ignore and violate these provisions of the Constitution? Is the IRS now allowed to pick and choose which sections of the Constitution it will recognize and obey?

These facts concerning the 16th Amendment authorizing an indirect tax, not a direct one, and confirming the still existent constitutional prohibition on direct taxation, are confirmed by the Congressional Research Service Report #79-131A, composed by Congressional legislative Attorney Howard Zaritsky in 1979 (Exhibit F).

In the beginning of this brief it was shown that the **Supreme Court stated** that the **income tax provisions were part of a tariff act**. Form 2555 - *Foreign Earned Income*, the title of the Form that is actually required by law (as we have seen), requires the reporting of income earned in a foreign country. Could that foreign income somehow also be subject to a tariff tax, since it is earned outside the United States and would be under the jurisdiction over foreign affairs that the federal government does possess? But how could the federal government hold jurisdiction in a foreign country? Doesn't that foreign country's government have jurisdiction over its own affairs, like the American government has over its affairs? Yes, of course it does, unless there is an agreement between governments, like a tax treaty; that often mutually allows each government some taxing powers over its own people in the foreign land.

Section 1, Tax Imposed (Exhibit D), imposes a tax on the "taxable income" of each subject group identified in the law. Section 63 is the code section that identifies what "taxable income" is. It states:

§ 63. Taxable income defined

(a) In general. Except as otherwise provided in subsection (b), for purposes of this subtitle, the term "taxable income" means **gross income** minus the deductions allowed by this chapter (other than the standard deduction)... (emphasis added)

Since the definition of "taxable income" references "gross income" we are led straight to Section 61, which states:

§ 61. Gross income defined.

(a) General definition. Except as otherwise provided in this subtitle, gross income means all income from whatever source derived, including (but not limited to) the following items:

- (1) Compensation for services, including fees, commissions, fringe benefits and similar items;
- (2) Gross income derived from business;
- (3) Gains derived from dealings in property;
- (4) Interest;
- (5) Rents;
- (6) Royalties;
- (7) Dividends;

- (8) Alimony and separate maintenance payments;
- (9) Annuities;
- (10) Income from life insurance and endowment contracts;
- (11) Pensions;
- (12) Income from discharge of indebtedness;
- (13) Distributive share of partnership gross income;
- (14) Income in respect of a decedent; and
- (15) Income from an interest in an estate or trust.

(b) Cross references. For items specifically included in gross income, see part II (sec. 71 and following). For items specifically excluded from gross income, see part III (sec. 101 and following).

This version of Section 61 that is reproduced above is from the current 1986 version of the United States Code. The previous version (re-codification) of the United States Code is dated 1954. This Section, 61, is nearly identical in both codified versions of the law, except for the following footnote that is shown in the 1954 I.R.C. version of the Statute (Exhibit G):

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

For some reason this footnote was forgotten or dropped from Section 61 when the law was recodified in 1986. It is not known why the footnote was dropped in 1986, but it is very important because, as you can see, the footnote identifies the source of Section 61 as being **Section 22(a)** in the 1939 code, the last codified version previous to the 1954 version of the United States Code.

Being able to research the source of a law is very important to determining how that law is supposed to be properly applied under its original intent. Without a review of the original source materials it is very difficult to accurately determine how a law was originally intended to be applied. Original intent and original implementation are very important in determining how a law should properly be enforced today. Section 22(a) from the 1939 code is printed below and we can see that the substance of the language is similar to that in the 1986 version already shown.

SEC. 22 GROSS INCOME.

(a) General Definition.- "Gross Income" includes gains, profits, and income derived from salaries, wages, or compensation for personal service ... of whatever kind and in whatever form paid, or from professions, vocations, trades, businesses commerce or sales, or dealings in property, whether real or personal, growing out of the ownership or use of or interest in such property; also from interest, rent, dividends, securities, or the transaction of any business carried on for gain or profit, or gains or profits and income derived from any source whatever....

In order to understand how Section 61 is actually applied under the law today, **it is absolutely essential to know and understand how Section 22 was implemented and applied in 1939**, because that implementation has been carried forward "*substantially unchanged*" according to the now missing footnote.

Research reveals the following table, shown here from the Code of Federal Regulations, Parts 500-599, *Index of Parallel Tables - 1991*, enabling sections from the 1939 I. R. Code, it clearly shows that **Section 22**, under the 1939 code (but still annotated in the law in the enabling sections) was implemented under Title 26, **Part 519** (Exhibit G2).

CFR INDEX PARALLEL TABLE

1991 Enabling sections

26 U.S.C. (1939 I.R.C.)

22.....	26 Part 519
40.....	26 Part 1
62.....	26 Parts 509, 513, 521
143—144.....	26 Part 521
211.....	26 Part 521
231.....	26 Part 521
800—938.....	26 Part 507
3791.....	26 Part 509

The next table reveals what Part 519 actually is:

CHAPTER 1 - INTERNAL REVENUE SERVICE DEPARTMENT OF THE TREASURY (Parts 500 to 529)

SUBCHAPTER G - Regulations Under Tax Conventions

Part

500 [Reserved]
501 Australia
502 Greece
503 Germany
504 Belgium
505 Netherlands
506 Japan
507 United Kingdom
509 Switzerland
510 Norway
511 Finland
512 Italy
513 Ireland.....
514 France
515 Honduras
516 Austria
517 Pakistan
518 New Zealand
519 Canada
520 Sweden
521 Denmark.....

Part 519 is the **Canadian Tax Treaty**. Section 61 actually defines, through the inherited limited implementation of Section 22 from the 1939 code, which was carried forward *substantially unchanged*, the sources of taxable income under the 75 year tax **treaty** with Canada that was signed in 1918 and lasted until 1993.

Section 61 does not define the **domestic** sources of taxable income at all according to this table. As far as citizens are concerned, Section 61 only defines the **Canadian sources** of taxable, gross income under the **Canadian Tax Treaty**. Which agrees with everything else in the law that we have seen

regarding subtitle A income tax being a foreign tax in the form of a tariff as identified by the Supreme Court in the Brushaber Opinion !

However, since the Canadian Tax Treaty expired in 1993, Part 519 is now shown as reserved for future use in this Table. Section 61 no longer has any application at all to Canadian income because there is no longer any tax treaty between the two nations (we have NAFTA instead). But for 75 years from 1918, when it was first signed, to 1993 when it expired, the 75 year tax treaty with Canada is identified here as the jurisdiction under which Section 22 was originally applied and imposed. Subsequently after recodification in 1954, Section 61 should have carried the same limitation and been applied the same way in order to be properly applied, because the law wasn't changed - being brought forward "*substantially unchanged*", and after all, the income tax was (and still is) a foreign tax in the form of a tariff that is withheld at the source from subject persons, **who are all foreign**. It is not a domestic tax at all.

In case you hadn't already guessed, the government is still working hard (again) to continue to deceive the Courts and the American People about the true nature of the income tax. Since the Canadian Tax treaty expired in 1993, the IRS has slowly begun to change these facts about the law that reveal its true nature in order to continue to try to hide the truth from the American People and the Courts. The IRS has since removed entirely from the table the entry for section 1.1 showing that Form 2555 - Foreign Earned Income is actually required by Section 1, not Form 1040. And they have since had OMB assign to Form 2555 the same OMB Document Control Number that is on Form 1040 (1545-0074) so that the separate requirements of each form can no longer be kept track of through legal reference by interested parties!

But here from the General Index for the United States Code Annotated where one can cross-index subject matter to statutes, we see the entries for *Citizens* under the major heading *Income Tax* (Exhibit H):

INCOME TAX, Cont'd.

.....

Citizens,

 About to depart from U.S., waiver of requirements
 as to termination of taxable year **26 § 6851**

 Living abroad, exclusion of earned income and
 foreign housing costs from gross income **26 § 911**

Civic Leagues,

....

There are only two code sections listed as being applicable to citizens, and they both have to do with **living and working in a foreign country**. The General Index for the United States Annotated Code still today almost immediately confirms what we were originally told by the Supreme Court 1916, that the income tax laws **are a foreign tariff**. There are no other entries for citizens or citizenship showing applicability to income tax listed anywhere in the entire Index.

Furthermore, if one looks up "Income Tax" under the major heading of "**Aliens**" in this General Index, one will find **nine pages** of applicable code sections listed, and nearly eight of those pages list the statutory cross-applicability to **nonresident aliens** (Exhibit I)

And, finally, in the Internal Revenue Manual (IRM), Chapter 1100, Section 1132.75 (Exhibit J) we find a statement of jurisdiction for the IRS in the form of a statement of enforcement authority for the Criminal Investigative Division:

1132.75

Criminal Investigative Division

The Criminal Investigative Division enforces the criminal statute applicable to income, estate, gift, employment, and excise tax laws (other than those excepted inIRM1112.51) involving **United States Citizens residing in foreign countries** and **nonresident aliens** subject to Federal income tax filing requirements. ... (emphasis added)

There is no other corresponding section anywhere in the I.R.M. that provides any other authority or jurisdiction for the IRS to investigate American citizens for potentially criminal charges. Citizens who are not residing **in foreign countries**, but are living and working in America **are not under the federal jurisdiction** and are **not under** any IRS jurisdiction **properly derived** from the subject matter income tax.

This of course, again, agrees completely with everything else that we have found in the law about the income tax (tariff). Evidencing again that the income tax in America has always been, and is **still, just a foreign tax** in the form of a **foreign tariff** that is **collected at the source** in America, **indirectly**, through the **“duty”** of *Withholding Agents* to **“retain and pay”**, or withhold, **“the sum of the tax”** **from subject** persons – who are **ALL FOREIGN**; and which tax is also paid by Citizens - **but only as a tariff** on the income they **earn in a foreign country under a tax treaty**. All, exactly as identified by the Supreme Court in its controlling Opinion:

“... , the appellant filed his bill to enjoin the corporation from complying with the income tax provisions of the tariff act of October 3, 1913.”

Brushaber v. Union Pacific R.R. Co., 240 US 1, 9 (1916)

This evidence is overwhelming and conclusive. **Under the legal authority of a tariff act the IRS has no territorial or subject matter jurisdiction to tax the domestic activities or income of an American citizen.**

Summary and Conclusion

The Truth about the Income Tax is that **everything you have EVER been taught about it by your government is a lie !**

The Truth is that **it does not exist to fund the operation of the government or to pay for its programs. It exists to unlawfully control you and your resources.**

IT EXISTS SO THAT YOU CANNOT RESIST !

It exists so that you **cannot** oppose the government's policies whether you feel represented by them or not ! It exists so that the politicians, social planners, and bankers can co-opt control of America, in order to increase their own spheres of influence and power, and of course, personal wealth, at the expense of the good of the Nation, for the betterment of an elitist few. The Truth is that for over forty years it has **not** been necessary for the government to tax the income of the citizens to pay for the government's functions, and the income tax is **not** used for purposes of raising revenue for the government, as is mistakenly believed by most of the good American People. The Truth is that raising money was **never the intended purpose** of the income tax; social engineering, redistribution of wealth to buy votes, and the desire of an elitist group of bankers to ascend to ever greater levels of economic power through political and economic control of the nation, and eventually the world, are the real reasons for the income tax.

The Truth about the Income Tax is that it is the mechanism that has been unlawfully used by the government to co-opt and **seize control** of America and its People's wealth and their labor in order to engage in social engineering that it is not authorized by the Constitution to engage in ! The Truth is that it is the mechanism that has been used by the government to reverse the role of government in America as the servant of We the People, to usurp the People's rightful role, and itself become the Master. It is We the People who are supposed to be the Masters of the American "house", not our government. The government is supposed to serve us as our representative, not rule us as our Master. The Truth about the income tax is that it is the reason why we are now **ruled** by the government, rather than **represented** by them!

The Truth about the income tax "system" in America today is that while the letter of the law, **as it is actually written in the law** (as shown), is Constitutional, **the IRS does NOT enforce the written Law**, it enforces a myth that does not actually exist in the law: the myth of the "fair share" which does not exist anywhere in the law. The truth of the matter is that the collection and enforcement system that the IRS operates **blatantly violates BOTH the written Law AND the Constitution !**

It seems that certain elements of the government itself are irreconcilably in conflict with the Supreme Law of the land - the Constitution of the United States of America. They are actively engaged in an outright rebellion against the Constitutional provisions prohibiting direct taxation of the People (unless apportioned to the States for collection and laid in proportion to the census). This means that the government can never demand money from the citizens directly in the name of tax, but rather must collect direct taxes from the state governments. So, if according to the last census 10% of the population lived in California, and the federal government passes a 10 billion dollar direct tax, then the State government of California, not its citizens and residents, would have to pay 1 billion dollars (10%) to the U.S. Treasury. The federal government is absolutely barred now (and always has been) by the Constitution from demanding money directly from the citizens in the name of tax.

The limitations on direct taxation in Article I of the Constitution **have never been repealed or amended**, but they are ignored and actively and openly violated by the government. The government willfully and intentionally violates these provisions of the Constitution, choosing to intentionally ignore the controlling clauses of Article I prohibiting direct taxation, and thereby attempting to render meaningless these provisions of the Constitution.

Specifically, the Executive Branch of the government (the I.R.S.) has intentionally chosen to use an obviously faulty and incorrect interpretation of the 16th Amendment to enter into a conspiracy of sedition against the American People in order to operate and propagate an unconstitutional system of intimidation and theft in place of legitimate taxation. A system, that freely gives far more power to the government than it is authorized by the Constitution to possess.

Surprisingly (to most Americans), the Constitution contains within it the authorization for a fundamental system of taxation, sufficient to provide for both the operation of the government's legitimate functions (as laid out in the Constitution) and the solvency of the nation (paying off debt and balancing the budget), wherein the government is absolutely prohibited from demanding money from the People in the name of tax.

I'll repeat that: **the Constitution prohibits the Federal government from demanding money directly from the People in the name of tax.** That is the real reason why the income tax is actually imposed as a tariff on foreign activity, it is otherwise prohibited.

Furthermore, the Supreme Court reiterates its finding in *Brushaber* in the very next case, *Stanton v. Baltic Mining Co.*, 240 US 112 (1916), stating:

"...by the previous ruling, it was settled that the provisions of the 16th Amendment **conferred no new power of taxation** but simply **prohibited** the previous complete and plenary power of income taxation possessed by Congress from the beginning **from being taken out of the category of indirect taxation** to which it inherently belonged.." **(emphasis added)**

The Supreme Court, in both the *Brushaber* and *Stanton* decisions of 1916, declare that the income tax, under the newly enacted 16th Amendment, does not create for the government any new power to tax. Ruling that because the tax is without apportionment (by virtue of the wording of the Amendment itself), then the tax that is authorized by the Amendment **must be an Indirect tax** because the un-repealed and unamended provisions of Article I, Section 2 - Clause 3, and Article 1, Section 9 - Clause 4 still prohibit any direct tax from being laid unless it is laid in proportion to the census, and is apportioned to the State governments for collection.

Since these pre-existing prohibitions and requirements on direct taxation in Article I were not repealed, annulled or amended in conjunction with the passage of the 16th Amendment, clearly Congress never intended to remove this restriction and prohibition on direct taxation. Therefore, in order for the Constitution to remain consistent and not become inherently contradictory it is absolutely necessary to interpret the 16th Amendment as authorizing the Income Tax as an indirect tax (like a tariff or an excise), **not** a direct one.

This is completely and totally evident when one reads the Opinion of the Supreme Court in the *Brushaber* case, clearly stating in the first sentence of the first paragraph that the income tax is a **tariff**. I'll repeat that one last time: **the Supreme Court says the income tax is a tariff.** By now you should

know that a **tariff is a foreign tax, not paid by citizens on domestic activities**, but is **only** paid by persons engaged in the importation of goods, commodities, services and labor **from foreign countries**.

The Constitution, we know, gives the government authority and jurisdiction over all foreign affairs: treaties with foreign nations, foreign trade policies, and foreign persons in the United States (including the fifty states). The income tax under the letter of the law, it turns out, **is a foreign tariff taxing that foreign jurisdiction, AND NOTHING MORE !** A Tariff, of course is one form of an "impost", which is one of the three categories of **indirect** taxation provided for in the Constitution (imposts, duties and excises at Article 1, Section 8, Clause 1), just like the Supreme Court said in 1916.

Article I still today **absolutely prohibits the Federal government from taxing the American People directly** unless the tax is laid in proportion to the census and apportioned to the State governments for collection. We the People have substantially more right to rely on these Constitutional guarantees of protection from heavy-handed and direct takings in the name of tax, than the government has right to rely on the false claim that the 16th Amendment authorizes a direct tax on the income of all Americans.

Certain elements of the government have chosen to operate in direct contradiction to this indirect finding / ruling / fact that the income tax under the law is really an indirect tariff since Franklin Roosevelt was president. This rebellion within the government has, to this day, gone unannounced, remains unpublicized, and is still unaddressed by the American People. But the havoc and tyranny and despotism unleashed upon the American People by these treasonous snakes is obvious and apparent to anyone today familiar with the horror known as I.R.S. tax collection and enforcement operations.

The 1916 Supreme Court decisions were sound because the court recognized the potential inherent conflict created by the passage of the 16th Amendment - i.e. Article 1 demands that direct taxes be apportioned to the states for collection and prohibits direct taxation unless laid in proportion to the census, while the 16th Amendment lays the income tax as a tax without apportionment and without regard to any census or enumeration. If the income tax is construed to be a direct tax, we have **engineered the creation of an inherent contradiction** within the Constitution. A contradiction that is engineered **by our interpretation**, but a contradiction that does not actually exist within the language of the document.

In order to maintain the consistency of the Constitution, and in order to prevent it from coming into direct conflict with itself, the Court determined that the 16th Amendment **does not create any new power to tax**, i.e.: the power to tax directly and without apportionment. So, by virtue of the language of the Amendment itself, as a tax laid without apportionment, the income tax must be laid as an indirect tax not a direct tax in order to not violate these other provisions of the Constitution in Article I regarding direct taxation.

Now, Indirect taxes are divided into three categories by the Constitution. Imposts, duties and excises. Imposts and duties are primarily related to the import and export of goods into and out of the country, as are tariffs, and are mostly collected at the border. But the *Brushaber* Supreme Court opinion tells us at 240 U.S. 1, 21-22, *supra*: "2. *The act provides for collecting the tax at the source; that is, makes it the duty of corporations, etc. to retain and pay the sum of the tax ...*", and thus we are immediately led to the legal definition of the *Withholding Agent*, and their actual legal authority defined in the law under Subtitle A – Income Taxes. The income tax is stated by the Supreme Court in its Opinion to be a **tariff** that is **withheld at the source from subject persons** rather than to be collected at the borders as with most tariffs. Collecting an income tax tariff at the border would of course be a completely un-workable scheme, thus we have the *withholding at the source* concept introduced into American tax law for the first time.

Now, while the Court in *Brushaber* calls the income tax provisions under review part of a **tariff** act - it recognizes that where applied to certain privileged or licensed activities (like selling alcohol, tobacco or firearms), the income tax is entitled to be enforced as an excise. This is partly because "excise" is the only category of **indirect** taxation left for the income tax to "fit" into when applied outside of the foreign jurisdiction (not as a tariff) granted by the Constitution.

Excise taxes are taxes that are laid on the manufacture, consumption and sale of commodities within the country, upon licenses to pursue certain occupations, and upon corporate privileges. They are assumed by those persons who engage in activities that are made subject to the excise tax (like selling alcohol or tobacco) and thus arise the claims that the tax is "voluntary", i.e.- must be assumed by (voluntarily) engaging in some taxable activity. If one does not want to pay the tax, he simply can choose not to participate in the taxable activity.

The IRS today however, alleges and operates as if, and under the claim that, the 16th Amendment did indeed authorize the income tax as a direct tax without apportionment. This position is based on an obviously erroneous interpretation, by a constitutionally ignorant or consciously treasonous person sitting on a Circuit Court bench, that the 16th Amendment did authorize a new power to tax - i.e.: directly and without apportionment, foolishly reasoning that since the tax is authorized by the Amendment to be without apportionment then it must also be direct (**even though the Amendment does not say that**), **while ignoring the inherent conflict engineered within the Constitution by virtue of their interpretation**, and while ignoring the explicit correct logic, reasoning and decision of the Supreme Court handed down earlier in the *Brushaber* and *Stanton* Opinions, which should stand as the final word from the legal system. Some federal Judges and Courts have apparently chosen to ignore the Supreme Court's rulings, Opinions, and controlling decisions and have handed down decisions that are in direct conflict with both the Supreme Court ruling and any consistent interpretation or reading of the Constitution of the United States of America; and that is a crime against America that must be addressed by the People of this great Nation.

So, certain elements within the government have apparently chosen to ignore the Constitution and the Supreme Court, and operate in direct contradiction to, and in conflict with, the actual written law, the Constitution, and the Supreme Court rulings and Opinions and decisions, in outright rebellion against all of them.

This rebellion within the government itself remains unpublicized and unaddressed to this day, and therein lies the heart of the conflict in America today over the income tax laws. It's not the laws, or Section 61, or Section 1, or anything else the government may change or allege in its futile attempts to undermine the People's knowledge of the Truth, **it is this rebellion within the government itself**, and the conflict between the People and the government over this issue will never be resolved until this treasonous rebellion within the government (by the judicial and executive branches) is recognized and addressed, and **halted**, restoring a Constitutional operation to our government's existence and tax collection systems.

Personally, I know the Supreme Court got it right in 1916. The income tax authorized by the 16th Amendment is clearly a tariff under the laws that were passed and we must enforce this understanding on the government or we will have allowed the effective total destruction (by interpretation) of the Constitution and one of its most important provided protections: the prohibition on and protection from continuous and unlimited, arbitrary and capricious, heavy handed and forcibly direct takings by the federal government in the name of tax.

Might I remind you that “A *heavy progressive or graduated income tax*” is actually the **2nd plank of the Communist Manifesto**. Did you **know or realize that your government is practicing communism**, and is **forcing you to do the same by wrongfully imposing the income tax on your labor and earnings? Do you care?** The government and our court's duplicitous behavior concerning the income tax is despicable, amoral, and in the end - unlawful and unconstitutional, and ultimately History will condemn all those who participated in engineering and maintaining this monumental fraud in the name of tax under mere color of law against the American People.

If you are taxed then you are not free !

If you are free then you are not taxed !

Ye shall know the Truth and THE TRUTH SHALL SET YOU FREE !

You are encouraged to GIVE THIS TO A FRIEND !

SO WHAT WILL IT BE: THE SIMPLE TRUTH or THE LIES WE TELL ?

By Thomas Freed

U.S. Supreme Court

BRUSHABER v. UNION PACIFIC R. CO., 240 U.S. 1 (1916)

240 U.S. 1

FRANK R. BRUSHABER, Appt.,

v.

UNION PACIFIC RAILROAD COMPANY.

No. 140.

Argued October 14 and 15, 1915.

Decided January 24, 1916.

[240 U.S. 1, 2] Messrs. Julien T. Davies, Brainard Tolles, Garrard Glenn, and Martin A. Schenck for appellant.

Mr. Henry W. Clark for appellee.

[240 U.S. 1, 5] Solicitor General Davis, Assistant Attorney General Wallace, and Attorney General Gregory for the United States.

[240 U.S. 1, 9]

Mr. Chief Justice White delivered the opinion of the court:

As a stockholder of the Union Pacific Railroad Company, the appellant filed his bill to enjoin the corporation from complying with the **income tax provisions of the TARIFF act of October 3, 1913** (II., chap. 16, 38 Stat. at L. 166). Because of constitutional questions duly arising the case is here on direct appeal from a decree sustaining a motion to dismiss because no ground for relief was stated. **(emphasis added)**

The right to prevent the corporation from returning and paying the tax was based upon many averments as to the repugnancy of the statute to the Constitution of the United States, of the peculiar relation of the corporation to the stockholders,

[240 U.S. 1, 21]

....

2. The act provides for collecting the tax at the source; that is, makes it the duty of corporations, etc., to retain and pay the sum of the tax on interest due on bonds and mortgages, unless the owner to whom the interest is payable gives a notice that he claims an exemption. This duty cast upon corporations, because of the cost to which they are subjected, is asserted to be repugnant to due process of law as a taking of their property without compensation, and we recapitulate various contentions as to discrimination against corporations and against individuals, [240 U.S. 1, 22] predicated on provisions of the act dealing with the subject. **(emphasis added)**

(a) Corporations indebted upon coupon and registered bonds are discriminated against, since corporations not so indebted are relieved of any labor or expense involved in deducting and paying the taxes of individuals on the income derived from bonds.

Title 26 United States Code

§ 7701 Definitions.

(a) When used in this Title ...

....

(16). Withholding Agent. - The term "Withholding Agent" means any person required to deduct and withhold any tax **under the provisions of sections 1441, 1442, 1443, or 1461.** (emphasis added)

§ 1441 Withholding of Tax on Nonresident Aliens.

(a) General rule. Except as otherwise provided in subsection (c) all persons, in whatever capacity acting having the control, receipt, custody, disposal or payment of any of the items of income specified in subsection (b) (to the extent that any of such items constitutes gross income from sources within the United States), **of any nonresident alien individual**, or of any foreign partnership shall deduct and withhold from such items a tax equal to 30 percent thereof, except that in the case of any items of income specified in the second sentence of subsection (b), the tax shall be equal to 14 percent of such item. (emphasis added)

§ 1442 Withholding of tax on foreign corporations.

(a) General rule. In the case of **foreign corporations** subject to taxation under this subtitle, there shall be **deducted and withheld at the source** in the same manner and on the same items of income as is provided in Section 1441 a tax equal to 30% thereof.

(b) Exemption. Subject to such terms and conditions as may be provided by regulations prescribed by the Secretary, subsection (a) shall not apply in the case of a foreign corporations engaged in trade of business in the United States if the Secretary determines that the requirements of subsection (a) impose an undue administrative burden and that the collection of the tax imposed by section 881 on such corporation will not be jeopardized by the exemption.

(c) Exception for certain possessions corporations. For purposes of this section, the term "foreign corporation" does not include a corporation created or organized in Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands or under the law of any such possession if the requirements of subparagraphs (A), (B), and (C) of section 881(b)(1) are met with respect to such corporation. (emphasis added)

§ 1443 Foreign Tax Exempt Organizations

(a) Income subject to section 511. In the case of income of a foreign organization subject to the tax imposed by section 511, this chapter shall apply to income includible under section 512 in computing its unrelated business taxable income, but only to the extent and subject to such conditions as may be provided under regulations prescribed by the Secretary.

(b) Income subject to section 4948. In the case of income of a foreign organization subject to the tax imposed by section 4948(a), this chapter shall apply, except that the deduction and withholding shall be at the rate of 4 percent and shall be subject to such conditions as may be provided under regulations prescribed by the Secretary.

§ 1461 Liability for withheld tax.

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. (emphasis added)

(T.D. 2313)

Income tax

Taxability of interest from bonds and dividends on stock of domestic corporations owned by nonresident aliens, and the liabilities of nonresident aliens under section 2 of the act of October 3, 1913.

Treasury Department
Office of Commissioner of Internal Revenue
Washington, D.C., March 21, 1916

To collectors of internal revenue:

Who is subject? Under the decision of the Supreme Court of the United States in the case of *Brushaber v. Union Pacific Railway Co.*, decided January 21, 1916, it is hereby held that income accruing to nonresident aliens in the form of interest from the bonds and dividends on the stock of domestic corporations is subject to the income tax imposed by the act of October 3, 1913.

Who is liable? Nonresident aliens are not entitled to the specific exemption designated in paragraph C of the income-tax law, but are liable for the normal and additional tax upon the entire net income "from all property owned, and of every business, trade, or profession carried on in the United States," computed upon the basis prescribed in the law.

Who files Form 1040? Regarding whose income? The responsible heads, agents, or representatives of nonresident aliens, who are in charge of the property owned or business carried on within the United States, shall make a full and complete return of the income therefrom on Form 1040, revised, and shall pay any and all tax, normal and additional, assessed upon the income received by them in behalf of their nonresident alien principals.

The person, firm, company, copartnership, corporation, joint-stock company, or association, and insurance company in the United States, citizen or resident alien, in whatever capacity acting, having the control, receipt, disposal, or payment of fixed or determinable annual or periodic gains, profits, and income of whatever kind, to a nonresident alien, under any contract or otherwise, which payment shall represent income of a nonresident alien from the exercise of any trade or profession within the United States, shall deduct and withhold from such annual or periodic gains, profits, and income, regardless of amount, and pay to the office of the United States Government authorized to receive the same such sum as will be sufficient to pay the normal tax of 1 per cent imposed by law, and shall make an annual return on Form 1042.

§ 1. Tax imposed

(a) Married individuals filing joint returns and surviving spouses

There is hereby imposed on the taxable income of—

(1) every married individual (as defined in section [7703](#)) who makes a single return jointly with his spouse under section [6013](#), and

(2) every surviving spouse (as defined in section [2 \(a\)](#)),
a tax determined in accordance with the following table:

If taxable income is:	The tax is:
Not over \$36,900	15% of taxable income.
Over \$36,900 but not over \$89,150	\$5,535, plus 28% of the excess over \$36,900.
Over \$89,150 but not over \$140,000	\$20,165, plus 31% of the excess over \$89,150.
Over \$140,000 but not over \$250,000	\$35,928.50, plus 36% of the excess over \$140,000.
Over \$250,000	\$75,528.50, plus 39.6% of the excess over \$250,000.

(b) Heads of households

There is hereby imposed on the taxable income of every head of a household (as defined in section [2 \(b\)](#)) a tax determined in accordance with the following table:

If taxable income is:	The tax is:
Not over \$29,600	15% of taxable income.
Over \$29,600 but not over \$76,400	\$4,440, plus 28% of the excess over \$29,600.
Over \$76,400 but not over \$127,500	\$17,544, plus 31% of the excess over \$76,400.
Over \$127,500 but not over \$250,000	\$33,385, plus 36% of the excess over \$127,500.
Over \$250,000	\$77,485, plus 39.6% of the excess over \$250,000.

(c) Unmarried individuals (other than surviving spouses and heads of households)

There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section [2 \(a\)](#) or the head of a household as defined in section [2 \(b\)](#)) who is not a married individual (as defined in section [7703](#)) a tax determined in accordance with the following table:

If taxable income is:	The tax is:
Not over \$22,100	15% of taxable income.
Over \$22,100 but not over \$53,500	\$3,315, plus 28% of the excess over \$22,100.
Over \$53,500 but not over \$115,000	\$12,107, plus 31% of the excess over \$53,500.
Over \$115,000 but not over \$250,000	\$31,172, plus 36% of the excess over \$115,000.
Over \$250,000	\$79,772, plus 39.6% of the excess over \$250,000.

(d) Married individuals filing separate returns

There is hereby imposed on the taxable income of every married individual (as defined in section [7703](#))

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Exhibit E

§ 602.101, OMB Control numbers.

(a) *Purpose.* This part collects and displays the control numbers assigned to collections of information in Internal Revenue Service regulations by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. The Internal Revenue Service intends that this part (together with 26 CFR 601.9000) comply with the requirements of §§ 1320.7(f), 1320.12, 1320.13, and 1320.14 of 5 CFR part 1320

(OMB regulations implementing the Paperwork Reduction Act), for the display of control numbers assigned by OMB to collections of information in Internal Revenue Service regulations. This part does not display control numbers assigned by the Office of Management and Budget to collections of information of the Bureau of Alcohol, Tobacco, and Firearms.

(b) *Cross-reference.* For display of control numbers assigned by the Office of Management and Budget to Internal Revenue Service collections of information in the Statement of Procedural

§ 602.101

26 CFR (4-1-94 Edition)

Rules (26 CFR part 601), see 26 CFR 601.9000.

(c) *Display.*

CFR part or section where identified and described	Current OMB control No.
1.1-1	1545-0067
1.23-5	1545-0074
1.25-1f	1545-0022
	1545-0030

CFR part or section where identified and described	Current OMB control No.
1.50A-6	1545-0005
1.50A-7	1545-0005
1.50B-1	1545-0005
1.50B-2	1545-0005
1.50B-3	1545-0005
1.50B-4	1545-0005
1.50B-5	1545-0005
1.51-1	1545-0219
	1545-0241

the code section that imposes the tax.

the Form ID #'s

the only form listed

This doesn't match

Form **1040** Department of the Treasury—Internal Revenue Service **U.S. Individual Income Tax Return** (0) **1993** IRS Use Only—Do not write or staple in this space

For the year Jan. 1–Dec. 31, 1993, or other tax year beginning _____, 1993, ending _____, 19 **OMB No. 1545-0074**

Label (See instructions on page 12.) Use the IRS label. Otherwise	L A B E L	Your first name and initial _____ Last name _____	Your social security number _____
	H F	If a joint return, spouse's first name and initial _____ Last name _____	Spouse's social security number _____
	Home address (number and street). If you have a P.O. box, see page 12. _____ Apt. no. _____	For Privacy Act and Paperwork Reduction _____	

Form **2555**

Department of the Treasury
Internal Revenue Service

Foreign Earned Income

▶ See separate instructions. ▶ Attach to front of Form 1040.

For Use by U.S. Citizens and Resident Aliens Only

But this does!

OMB No. 1545-0067
1993
Attachment Sequence No. 34

Name shown on Form 1040 _____ Your social security number _____

Part I General Information

1 Your foreign address (including country) _____ 2 Your occupation _____

decision and the new constitutional provision.

The Sixteenth Amendment provides 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.

In *Brushaber v. Union Pacific R. R. Co.*, 240 U.S. 1 (1916), the Supreme Court held that the income tax, including a tax on dealings in property, was an indirect tax, rather than a direct tax, and that the

command of the amendment that all income taxes shall not be subject to the rule of apportionment by a consideration of the source from which the taxed income may be derived forbids the application to such taxes of the rule applied in the *Pollock* case by which alone such taxes were removed from the great class of excises, duties, and imposts subject to the rule of uniformity and were placed under the other or direct class.

240 U.S. at 18-19 (1916).

This same view was reiterated by the Court in *Stanton v. Baltic Mining Co.* in which the court stated that the:

Sixteenth Amendment conferred no new power of taxation but simply prohibited the previous complete and plenary power of income taxation possessed by Congress, from the beginning from being taken out of the category of indirect taxation to which it inherently belonged.

240 U.S. at 112 (1916).

Therefore, it is clear that the income tax is an "indirect" tax of the broad category of "Taxes, Duties, Imposts and Excises," subject to the rule of uniformity, rather than the rule of apportionment.

[9] **Income Taxes (I.R.C.) 20,285**

SEC. 61. GROSS INCOME DEFINED.

(a) **General Definition.**—Except as otherwise provided in this subtitle, gross income means all income from whatever source derived, including (but not limited to) the following items:

- (1) Compensation for services, including fees, commissions, fringe benefits, and similar items;
- (2) Gross income derived from business;
- (3) Gains derived from dealings in property;
- (4) Interest;
- (5) Rents;
- (6) Royalties;
- (7) Dividends;
- (8) Alimony and separate maintenance payments;
- (9) Annuities;
- (10) Income from life insurance and endowment contracts;
- (11) Pensions;
- (12) Income from discharge of indebtedness;
- (13) Distributive share of partnership gross income;
- (14) Income in respect of a decedent; and
- (15) Income from an interest in an estate or trust.

**NEW
1986**

Last amendment.—Sec. 61(u)(1) appears above as amended by Sec. 331(c) of Public Law 98-369, July 18, 1984 (which inserted "fringe benefits," after "commissions,") effective (Sec. 331(i) of P.L. 98-369, amended by Sec. 13207(d) of P.L. 99-272, Apr. 7, 1986) January 1, 1985. Sec. 61(u)(1) as it read before this amendment is in P11 Cumulative Changes.

95-134 (commonly referred to as the Omnibus Territories Act of 1977). This section shall be effective for taxable years beginning after December 31, 1985.

Implied amendments of Sec. 61(u) were made by the following:

Section 61 came under our scrutiny through the activities of our power of attorney department during the normal course of case development.

In a series of correspondence, Agent Ballard from a California office of the IRS contended that the income of one of our members was taxable because this section defined "gross income." It was therefore necessary for us to respond and correct the agents misperception of its applicability.

In order to show this agent the limited nature of this section we compared the language of the 1986 code with that of the 1954 code. Both are reprinted to the right. Note that, although the "form" of the statute (layout on the page) may have changed, the actual text itself remains unchanged.

The only exception would be footnote #1 in the 1954 code which for some inexplicable reason did not seem to make it into the new "layout."

SEC. 61. GROSS INCOME DEFINED.

[Sec. 61(a)]

(a) **GENERAL DEFINITION.**—Except as otherwise provided in this subtitle, gross income means all income from whatever source derived, including (but not limited to) the following items:

- (1) Compensation for services, including fees, commissions, and similar items;⁽¹⁾
- (2) Gross income derived from business;
- (3) Gains derived from dealings in property;
- (4) Interest;
- (5) Rents;
- (6) Royalties;
- (7) Dividends;
- (8) Alimony and separate maintenance payments;
- (9) Annuities;
- (10) Income from life insurance and endowment contracts;
- (11) Pensions;
- (12) Income from discharge of indebtedness.
- (13) Distributive share of partnership gross income;
- (14) Income in respect of a decedent; and
- (15) Income from an interest in an estate or trust.

**OLD
1954**

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

Internal Revenue Code

Sec. 61(a)

MISSING FOOTNOTE

That footnote reveals the source law in the 1939 code from which this section was derived (see 1939 section 22 reprinted to the right). Note that while the actual construction of the 1954 code has changed from that of the 1939 code, the footnote explains that the law itself is effectively "unchanged."

According to the missing footnote, the source law for section 61 in the 1954 and 1986 codes is section 22(a) of the 1939 code. When we use the Parallel

SEC. 22. GROSS INCOME.

(a) **General Definition.**—"Gross income" includes gains, profits, and income derived from salaries, wages, or compensation for personal service (including personal service as an officer or employee of a State, or any political subdivision thereof, or any agency or instrumentality thereof, or of whatever kind and in whatever profession, vocation, trades, businesses, commerce, or property, whether real or personal, growing out of the ownership or interest in such property; also from interest, rent, or the transaction of any business carried on for gain or profit and income derived from any source whatever. In the case of residents of the United States and judges of courts of the United States taking office after June 6, 1932, the compensation received as such shall be included

**OLDER
1939**

Table of Cross References in the Code of Federal Regulations to identify the 1939 application of this section we find that it is limited to 26 CFR Part 519.

Part 519 is listed in a former version of the Code of Federal Regulations in Part

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28	26 Part 1
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APPLICATION

500 to 599 under subchapter G (reprinted to the far right). Part 500 to 599 gives the "regulations under tax conventions" (tax treaties) for those provisions that currently exist concerning "foreign earned income."

The application of the income tax is imposed upon, and limited to the income of nonresident aliens, certain foreign earned income of U.S. citizens, and income generated from specific activities or occupations only. Other Reasonable Action Newsletters explain these limitations therefore we will not detail them in this issue, other than to show that only certain foreign earned income is taxable if a tax treaty is in effect. The return that would be required of such U.S. citizens would be the Form 2555 "Foreign Earned Income" return. This is confirmed by checking the listing of approved information collection requests at the Office of Management and Budget.

INCOME UNDER SECTION 22 PERTAINED ONLY TO FOREIGN EARNED INCOME FROM CANADA AND AS OF 1993 THAT TREATY IS NO LONGER IN EFFECT

As you can see from the reprint, Part 519 pertains only to the tax treaty with Canada. Therefore at present, taxable "foreign earned income" is limited to Canadian "sources" only that would meet the description listed in section 61 - but surprise - the tax treaty with Canada is no longer in effect and subsequent versions of the Code of Federal Regulations Part 500 to 599 reveal (reprinted to the right) that Part 519 is now vacant and reserved for future use (in the event a new treaty should be established).

CHAPTER 1—INTERNAL REVENUE
DEPARTMENT OF THE TREASURY—

(Parts 500 to 599)

SUBCHAPTER G—REGULATIONS UNDER TAX CON

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501	Greece
502	Germany
503	Belgium
504	Netherlands
505	Japan
506	United Kingdom
507	Switzerland
509	Norway
510	Finland
511	Italy
512	Ireland
513	France
514	Honduras
515	Austria
516	Pakistan
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518	Canada
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(Continued)

SUBCHAPTER G—REGULATIONS UNDER TAX CONVENTION

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503	Germany
504-507	(Reserved)
508	Switzerland
510-512	(Reserved)
513	Ireland
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515	(Reserved)
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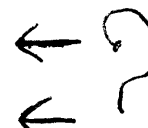
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Resident starts here

Resident ends here

1132.75 (12-21-87)

Criminal Investigation Division

The Criminal Investigation Division enforces the criminal statute applicable to income, estate, gift, employment, and excise tax laws (other than those excepted in IRM 1112.51) involving United States citizens residing in foreign countries and nonresident aliens subject to Federal income tax filing requirements by developing information concerning alleged criminal violations thereof, evaluating allegations and indications of such violations to determine investigations to be undertaken, investigating suspected criminal violations of such laws, recommending prosecution when warranted, and measuring effectiveness of the investigation processes. Assists other Criminal Investigation offices in special inquiries, secures information from foreign countries relating to tax matters under joint investigation by district offices involving United States citizens, including those involved in racketeering, stock fraud and other illegal financial activity, by providing investigative resources upon district and/or the Office of the Assistant Commissioner (Criminal Investigation) requests; also assists the U.S. attorneys and Chief Counsel in the processing of criminal investigation cases, including the preparation for the trial of cases.

Citizens residing where ?

What kind of aliens ?