

The Nexus

What's a "nexus"? Some sort of demon like a "succubus"? A Korean knockoff of the Japanese Lexus automobile? No.

"Nexus" is a term popular within elements of the constitutionalist community. Unfortunately, "nexus" is not defined in Black's Law Dictionary (Rev. 4th), but the similar terms "nexi" and "nexum" are:

"Nexi. In Roman law, bound; bound persons. . . . insolvent debtors as were delivered up to their creditors, by whom they might be held in bondage until their debts were discharged."

"Nexum. In Roman law, . . . a formal contract, involving a loan of money, and attended by peculiar consequences . . . to have included the special form of conveyance called "mancipatio."

"Mancipatio. In Roman law, . . . a formal process . . . to perfect the sale or conveyance of res Mancipi, (land, houses, slaves, horses, or cattle.)" [Emph. add.]

And "mancipate" (not "emancipate") is defined as "To enslave; to bind; to tie."

Suffice to say that a "nexus" is intended to indicate the law, contract, or presumption that binds (even enslaves) one person to do the will of another. If a

nexus exists, you are bound. Absent a nexus, you are free.

The following are a collection of various proposed "nexi" which are believed by some to bind free Americans to the will of the federal government in ways that are allowed by -- but contrary to the spirit of -- the Constitution. Here's a sample of opinions on what the nexus is.

For example, Kenneth Creamer bumped heads with the IRS in court and lost. With the benefit of hindsight, he believes he's seen the error of his ways as well as the nexus which enables the IRS to collect and enforce the income tax on average people. Mr. Creamer believes that key centers on understanding on how the IRS manages to "convert" our "wages" (which should be tax free) into "income" which can be taxed. Once again, another student/victim of the IRS concludes that Social Security is the mysterious nexus that makes us liable to pay income taxes.

This is a good news bad news story. The good news is that the Silver Bullet has finally been found. The bad news is that it is aimed at us. To make mat-

ters worse, it was fired at the general public in 1935 and there was not one indication or fanfare that a war on productivity had been declared. In fact, it was publicized as a "free lunch," "old age insurance," etc. The gun that fired the silver bullet was the Federal Insurance Contributions Act (FICA).

The Supreme Court has ruled several times that Social Security (FICA) is not an insurance program but simply another income tax that finds its way into the general fund. It has been well documented that SS is really an income tax and should be no surprise to most people. In fact, recently many researchers have declared that the SS program has a link into the 1040 form because a person requesting a benefit from the government has qualified himself to pay an excise tax on wages for the privilege. Although this argument has some merit, it is not the core of the Silver Bullet congress fired at us. The essence of the bullet is that it comes to us in the form of a trap. A trap that we "volunteered" ourselves into just as neatly as the rats that followed the Pied Piper into the river.

The jaws and powerful

spring in this trap can be found today in the Internal Revenue Code (IRC) Section 3101. The bait is our own faith and trust in our government that we are “contributing” to an “insurance” program. The nibble that springs the trap is the FICA *payment* itself.

Congress knows the difference between “wages” and “income” from the wording of IRC sect. 3101, which reads in pertinent part:

“In addition to other taxes, there is hereby imposed on the INCOME of every individual a tax *equal to* the following percentages of *wages* (as defined in section 3121(a)) received by him with respect to employment (as defined in section 3121(b)).” [emphasis added]

In other words, in addition to other taxes, there is hereby imposed a tax on the *income* of every individual *as measured by his wages*. I’d been writing for over a year that Congress knew the difference between wages and income, when it finally dawned on me that, “Yes, Congress *does know* the difference — and that’s exactly why they had to find a way to get each of us to voluntarily make the declaration (nexus) that our wages were income.” By contributing to FICA, we voluntarily declared our wages to be income and therefore taxable.

As a result, although most Patriots have argued that their wages were not taxable as income, the clever judges took judicial notice (in a trial for “willful failure to file,” for example) that the patriot “contributed” to FICA and instructed the jury that “if you find the defendant had wages, those wages were to be considered income as a matter of law.” By what law you say? By IRC sect. 3101, I say. The Defendant himself declared his wages were “income” by voluntarily “contributing to FICA.” Unless refuted in court,

the FICA payment records establish prima facie evidence that the patriot/defendant “believed” his wages were income. His income tax was being measured by his wages!

How clever, neat, and tidy. Neither the defendant nor the jury are any more the wiser from the experience. Patriots have been going into the court room shouting and screaming (as I did) that “wages aren’t income,” “I *had* to pay FICA,” “SS is just another form of an income tax,” etc., and the ol’ judge just sits there and wraps another turn on the hangman’s noose. He must be saying to himself “there can’t be an easier way to make a living. Those idiots just don’t know the key.” The prosecutor never had to plead the issue or present the evidence.

And so, Congress has thoughtfully provided us with the Federal Insurance Contributions Act as a “convenient” way to “voluntarily” declare our “wages” are “income”. Not objecting to FICA deductions is “volunteering.” Every FICA deduction is prima facie evidence that “income” exists for that amount of FICA.

IRC section 3101 and the FICA “contribution” combine to form the nexus between wages and income. It becomes the link to IRC Chapter 24 (“Collection of Income tax at Source on Wages”) and on to Chapter 1 (“Normal Taxes and Surtaxes”). Ignorance of the forgoing facts crippled my

defense against a fraudulent conviction for willful failure to file a return (Sect. 7203). Now knowing these facts to be the core of the problem, the solution becomes obvious.

Mr. Creamer may be correct, but I disagree that the solution is “obvious”. There are a host of alternative attempts to explain the mechanism by which government ensnares and compels average workers to pay what would otherwise be an illegal “income” tax. I, for example, have a pet theory that the real liabilities and obligations imposed by Social Security don’t take effect until your SS account is fully “funded” by making contributions for a minimum number of “quarters”. If you don’t pay in your first minimal number of quarters, you’re not really, fully subject to the administrative procedures that attach to all Social Security “beneficiaries”. I’m probably wrong, just as most of the other theories pointing to Social Security as the cause of our problems are also technically wrong in that they are at least technically imprecise, off the mark.

However, here’s another “nexus” which is backed by more than hunch and is therefore worth considering:

Public Salary Tax Act

According to Jack C. Rifkin, a Missouri researcher into IRS law, in 1939, Congress passed

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the "Public Salary Tax Act" (House Resolution 3790; Title 4 USC §111). This authority is written in the Statutes at Large of April 12, 1939 on pages 574, 575, 576 and 577. This act is the questionable agreement between the Federal government and the FREE and INDEPENDENT, SOVEREIGN states to tax *each other's* employees. Such is recorded in a speech by Hon. John Martin Col. in the Feb. 9, 1939 Congressional Record at page 502:

"... by a vote of 269 to 103 passed a bill to enable the Federal government to tax the income of State and local officers and employees and to enable the states to tax the income of Federal officers and employees."

Plus, Rep. McLean of New Jersey made another speech (*Congressional Record* Feb. 9, 1939 page 1301) in which he said, "Emphasis will be laid upon the fact this is *only* to tax employees of the states and federal government."¹ [emph. added]

Editor's questions

Given that the 16th Amendment (generally, but incorrectly, credited with legalizing the income tax for *everyone*) was ratified in 1913, why would Congress have to pass a "Public Salary Tax Act" in 1939 (thirty-six years later) to allow the Federal government to tax state government employees? Had state government employees been previously exempt from the income tax?

Further, why was the 1939 "Public Salary Tax Act" structured as a "deal" between the state and federal governments, rather than a pure exercise of seemingly lawful Congressional power? That is, why did Congress bother to "trade" the federal power to tax state government employees for the state power to tax federal government employees? If they had the lawful power to impose the federal income tax on everyone (including state government

employees), why not simply pass a law taxing the state employees and leave it at that? Why bother to "horse trade" with the states by allowing the state governments to also tax federal employees? There may be valid reasons for doing so, but this "trade-off" sounds more like a contract or agreement between governments rather than a law that applies to the sovereign American people.

In fact, it seems inconceivable that We the People -- the *sovereigns* -- were automatically subject to the federal income tax if our public *servants* (state and federal officers and employees) were somehow exempt. Therefore, if Congress had to pass a special act to allow the income taxation of state government employees, when did they pass a similar act to allow the income taxation of people who work, but are not employed by government? To my knowledge, no such act has been passed.

Further, if Congress had to "deal" a trade-off with the state governments (you can tax ours, if we can tax yours) in order to pass the "Public Salary Tax Act", what trade-off did Congress work with the American people? That is, if I (a private sector worker) am now obligated to pay income taxes to the feds, am I also empowered to somehow "tax" the feds? Obviously not. But if not, why did government have to "horse-trade" to tax public *servants*, but not the *sovereigns*?

In essence, the very existence of the 1939 "Public Salary Tax Act" casts serious doubt on any claim that the average non-governmental worker is "liable" for paying income taxes. The Public Salary Tax Act *proves* that, at least until 1939, the income tax did not universally apply to *all* working Americans. Therefore, what additional laws have been passed since 1939 to extend the obligation for paying income

taxes to all private-sector Americans? So far as I know, none.

So, perhaps the more accurate question might be: What additional *agreements* (not laws) have been passed between the state and federal governments to allow the federal taxation of non-governmental state citizens? (Richard MacDonald's observations on the "Buck Act" follow and may answer that question,)

In any case, the Public Salary Tax Act of 1939 offers persuasive evidence that the income tax was not originally intended to apply to average Americans working in the private sector. Instead, the income tax was a "return", a "kickback" of sorts for the *privilege* of working for the government. Of course, from today's economic perspective of nearly full employment, the idea that it was ever regarded as a "privilege" to work for government seems ludicrous. However, from the economic perspective of 1939 -- after a decade of growing unem-

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ployment, and at the height of the depression -- any job, especially a government job (which was virtually guaranteed to last forever) would've been regarded as a great gift, blessing and privilege. Therefore a "kick-back" in the form of income tax would not be resisted as unreasonable -- and even if it were, who would dare complain and risk losing his cushy government job to be forced back into unemployment?

Point: the Public Salary Tax Act of 1939 suggests that the income tax was fundamentally intended to apply only to government officers and employees -- not private citizens. However, given that massive numbers of private citizens have been paying income tax for almost half a century, we naturally tend to dismiss any evidence to the contrary -- no matter how compelling -- as absurd, virtually impossible. After all, if the income tax was only intended for government officers and employees, how could government have managed to somehow secretly extend that tax to apply to private sector employees, too?

How, indeed?

California researcher Richard MacDonald believes the answer is:

The Buck Act

Under the Constitution, our nation is divided into a "federal" system of government in which governmental powers and jurisdiction is divided among the fifty States and what has come to be known as the "Federal government". Originally, these state and "federal" powers and jurisdictions were intended by the Constitution to be mutually exclusive and as a result, the Feds had limited powers *between* the States and even less powers *within* the sovereign States. However, in Federal *territories* (areas like the "Louisiana Purchase" which the

Federal government owned before enough Americans moved in to become a State) the Federal power was virtually absolute and only slightly fettered by the Constitution.

The Federal government always does everything according to various principles of laws. Therefore, under the Constitution, all acts of Congress are *territorial* in nature, and apply only *within* the *territorial* jurisdiction of Congress but *not* "within" the boundaries of the sovereign States.² Unwilling to violate this constitutional principle, but determined to tax all citizens of the several states, the Feds had to create a contractual nexus between the Federal government and the State citizens. For most of us, this contractual nexus is called "Social Security".

The Feds instituted Social Security in 1935 and created ten Social Security "Districts" which completely covered the 48 independent and sovereign states much like an overlay of clear glass. In this way, the Feds created a series of "Federal Areas" over the entire United States that expanded Federal jurisdiction far beyond the original constitutional limits.

In 1939, the federal government instituted the "Public Salary Tax Act"³ which allowed all states to impose state income taxes on federal employees who worked in State territory in return for allowing the Feds to impose a federal income tax on state government employees who were employed in federal territories. Although the federal and state governments could legally *agree* to impose an income tax each other's *employees* working within state or federal territories, the federal government had no power to mandate an income tax on State citizens who were not government employees and did not work within federal territories.

In 1940, knowing it could

not tax private sector employees who live and work outside the territorial jurisdiction of the Federal government, Congress passed the "Buck Act" (4 USCS Sections 104-113). Section 110(e) defined "Federal area" as "any lands or premises held or acquired by or for the use of the United States or any department, establishment, or agency of the United States; any federal area, or any part thereof, which is located within the exterior boundaries of any State, shall be deemed⁴ to be a Federal area located within such State."

Thus, Section 110(e) allowed any "department, establishment, or agency" of the federal government -- including the Social Security Administration -- to create additional "Federal areas" within which the "Public Salary Tax Act of 1939" could even be imposed on persons other than government employees. In other words, if a Federal agency "created" a "Federal area" that some-

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how included you, your job, or perhaps even your residence — you would be instantly obligated to pay federal income tax, even though you were not a state or federal employee. In fact, through the use of Federal areas, Section 111 of the Buck Act and then the taxing law in Title 26 (the Internal Revenue Code), the income tax originally intended only for government employees is now imposed on virtually all “U.S. citizens”.

For most of us, the tax liabilities and obligations imposed in “Federal areas” are based on the use of a Social Security Number (SSN). However, “Federal areas” are not only those defined by the Social Security Administration. Because they can include *any* area designated by *any* “agency, department, or establishment” of the federal government, Federal areas include the federal “judicial districts” which cover all fifty states, “wetland areas” designated by the Environmental Protection Agency, public housing areas that have federal funding, homes that have federal bank loans, federally funded roads, and almost everything that the federal government touches through any type of aid.⁵

These Federal areas are deemed similar to *territories* acquired by the federal government through purchase or conquest, and therefore allow federal territorial law to be imposed on anyone operating *within* a “Federal area”. By creating a host of “Federal areas” *within* the boundaries of the states, the federal government has expanded its jurisdiction and cleverly usurped the constitutional Sovereignty of the People and States.

Thus, there was created a fictional Federal “state within a state”.⁶ This fictional “State” is identified by the use of two letter abbreviations like: “CA”, “TX”, and “AL” as distinguished from the authorized abbreviations like,

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“Calif.”, “Tex.”, and “Ala.”. This fictional State uses a ZIP Code (ZIP Code is copyrighted by the Government) which is within the municipal-legislative jurisdiction of congress. Federal territorial law is also evidenced by the Executive Branch’s yellow-fringed U.S. flag flying in schools, offices and all courtrooms. As a result, even though they reside in one of the States of the union, “U.S. citizens” (legally, citizens of the *District of Columbia*) are classified as property, franchises, and “individual entit[ies]” of the federal government.⁷ This places all private sector workers who have a SSN “within a Federal area” and therefore subject to all State and Federal laws.⁸

Tax avoidance?

To escape the taxes and performance obligations that exist within the fictional “Federal areas”, you must live “on the land” in one of the several states of the union of several states, not in any fictional “Federal State” or “Federal Area” nor can you be involved in any activity that would make you subject to “federal laws”. You cannot have a valid Social Security Number, a “resident” drivers license, a motor vehicle registered in your name, a “federal” bank account, a Federal Register Account Number relating to Individual persons [SSN],⁹ or any other known “contract implied in fact” that would place you *within* any “federal area” and thus, within

the territorial (administrative) jurisdiction of the municipal laws of Congress.

So do some research, I have given you all the proper directions to look for the jurisdictional nexus that places you within the purview of the federal government.

Mr. MacDonald is correct. You must do some research and confirm in your own mind that any of these theories is valid. But the theories abound, and the three we’ve seen so far are only a good start.

For example, some patriot researchers believe a key to understanding the SSN/ income tax nexus is found in Title 5 (Government Organization and Employees) of the United States Codes at Section 552a. There, in subsection (a) (Definitions) we find:

“(2) the term ‘individual’ means a citizen of the United States or an alien lawfully admitted for permanent residence;” and

“(13) the term ‘Federal personnel’ means officers and employees of the Government of the United States, members of the uniformed services (including members of the Reserve Components), individuals entitled to receive immediate or deferred retirement benefits under any retirement program of the Government of the United States (including survivor benefits).”

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Note that the phrase "officers and employees" appears in both the Public Salary Tax Act of 1939 and 5 USC 552a(13). Does it follow that all "Federal personnel" -- including "members of the uniformed services" and "individuals entitled to receive . . . retirement benefits under *any* retirement program of the Government . . ." -- are therefore liable to pay income tax? Is Social Security a "government program that provides a *retirement* benefit? If so, are all individuals who have a SS Number "entitled to receive . . . retirement benefits" under a Government retirement program and therefore defined as "Federal personnel" liable to pay income tax? Some researchers say Yes.

According to Shawn Talbot Rice, in *Boswell v. Powell*, 43 SW 2d 497 (see also, *Crow v. State*, 14 Mo. 237, 264), the term "in the State" is construed by the courts to mean, "in the State [government]". In other words, if you admit to working "in the State of

Texas" or "in the State of Oregon" etc., you may have inadvertently allowed government to *presume* that you work "in the State [government] of Texas". Based on your unwitting admission, the courts may then *presume* you are a "state employee" as mentioned in the Public Salary Tax Act of 1939 and therefore obligated to pay income tax.

When only the improbable remains

Admittedly, both the SSN and "in the State" theories seem farfetched as possible explanations for the connection between average Americans and the income tax. But on the other hand, if government needed a Public Salary Tax Act to subject *government* employees to the income tax -- and there is no similar law passed with regard to private sector workers -- how precisely did government maneuver average Americans into paying income tax? As Sherlock Holmes pointed out, "When you've eliminated all the impossibilities, whatever remains, no matter how improbable, must be the answer."

Whether the average American is tied to the income tax by the SSN or some legalistic phrase like "in the State" remains to be proven. But whatever the final nexus is seen to be, you can bet that from a common sense point of view, the connection will seem extremely improbable -- so unlikely, in fact, as to be routinely dismissed as impossible. ("Surely, our own government wouldn't do *that* to us!) And that disbelief, of course, would be the strength of a secret nexus. If common sense tells us that a particular explanation can't possibly be, obviously no one will waste time researching that explanation; even if someone does, no one will believe his evidence or conclusions. As a result, the income tax could roll on, unabated, supported in large measure by its own legalis-

tic impossibility.

Faced with 1) the Public Salary Tax Act of 1939 for taxing *government* employees, and 2) the apparent lack of similar legislation for taxing *private sector* employees, how unreasonable is it to assume that private sector employees have been tricked into *voluntarily* paying income tax? If there's a law that says the *Judge* must pay income tax, there'd better be a similar law that says *I* have to pay income tax. If there's not, the only way government can get my money is through unlawful coercion or my own lawful but *voluntary* contribution.

¹ Rep. McLean's comment was highlighted to emphasize that only *government* employees could be taxed. But I suspect the word "employee" might also be crucial.

We know government can't tax the exercise of a right. Texas is a "right to work" state, and clearly we are all endowed by our Creator with a "right to *work*". But does it follow that we also have a "right to *employment*"? Maybe not.

Work is clearly a "right", but employment ("working" for someone else) may be a *privilege*, especially if your "employer" is the government or some government-chartered *corporation*. In either case, given the presence of the government-granted advantage of limited personal liability for those "employees" working for government or corporations, it's arguable that "employment" by either constitutes a *privilege* and thus, unlike work, could be taxed.

Of course, some of us who work for ourselves will merrily admit (even brag) we are "self-employed". But perhaps the judge's reaction is: "Employed? Did you say 'employed'? GOTCHA!"

It's only a hunch, but I suspect a man might do well to avoid applying any variety of the E-word (employee, employer,

employment) to his person. Are you "self-employed"? Nope. I work. "Are you an employee?" No. I'm a worker.

² See, Article I, Section 8, Clause 17 ["To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;" Also, Article IV, Section 3, Clause 2 "The Congress shall have Power to dispose of and make *all* needed Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United

States, or of any particular State.]. See, *American Banana Co. v. U.S. Fruit Co.*, (1909) 213 U.S. 347; *U.S. v. Spear*, (1949) 338 U.S. 217; *N.Y. Central R.R. Co. v. Chisholm*, (1925) 268 U.S. 29.

³ Municipal law of the District of Columbia.

⁴ Editor's comment: According to *Black's Law Dictionary* (Rev. 4th), "Deemed" may be a key word since it means, "To hold; consider; adjudge; condemn; determine; treat as if; construe But see *Kleppe v. Odin Tp., McHenry County*, 40 N.D. 595, 169 N.W. 313, 314, which gives 'deemed' the force of only a 'disputable presumption,' or of prima facie evidence." Therefore, it might be possible to argue that the fiction of Federal areas created (deemed) by statute is merely a presumption, and with proper evidence, defeat that presumption.

⁵ See *Springfield v. Kenny*, (1951 App.) 104 NE2d. 65.

⁶ *Howard v. Commissioners of Sinking Fund*, 344 U.S. 624, 73 S.Ct. 465, 476; *Schwartz v. O'Hara TP. School Dist.*, 100 A.2d. 621, 625, 375 Pa. 440. (See also 31 C.F.R. Part 51.2, which also identifies a fictional State within a state.)

⁷ See, *Wheeling Steel Corp. v. Fox*, 298 U.S. 193, 80 L.Ed. 1143, 56 S.Ct. 773.

⁸ This argument is supported by California Form 590, Revenue and Taxation which declares that if you merely declare that you live in "California" (rather than "CA"), you have established that you do not live in a "Federal area" and are exempt from the Public Salary Tax Act of 1939 and from the California Income Tax for residents who live "in this State."

⁹ Exec. Order Number 9397, Nov 1943.

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