

Friday, May 23 2003

- [Front Page](#)
- [Video News](#)
- [Audio News](#)
- [Peak Oil](#)
- [Economy Watch](#)
- [Euro Vs Dollar](#)
- [Police State](#)
- [Patriot Act 1 & 2](#)
- [Foreign Press](#)
- [Commentary](#)
- [Web Links](#)
- [Contact Us](#)
- [Forum](#)
- [Gallery](#)
- [Downloads](#)
- [Recommend Us](#)

Past News  
[Click here to find all our past news](#)

Surveys/Polls  
**Do You Believe OPEC Will Switch to the Euro in Retaliation to US Foreign Policy?**  
Yes  
No

Browser Prefs  
[Add to Favorites](#)  
[Make Home Page](#)

Hit Counter  
9175 Visitors

**COMMENTARY & ANALYSIS**

[What We Are Not Being Told About The Economy](#)

Native American Lawyer Fights the IRS [Click Here](#)

The Truth About The Income Tax

[PRINT PAGE](#) [SEND EMAIL](#)

22 May 2003



Learn the truth here. LRP World News is providing for free: 2 lessons from Attorney Dr. Eduardo Rivera and a 6 part video called "How To Keep 100% Of Your Earnings". Dont be left in the dark, learn the truth about one of the greatest government scams in history. This will be the first part in our income tax education series.

*There is no worse tyranny than to force a man to pay for what he does not want merely because you think it would be good for him.*

**Robert Heinlein**



**LESSON #1**

**LESSONS FROM THE NATIVES TODAY IS A GOOD DAY TO DIE**

The following lesson is the first in a series that will be taught by Dr. Rivera. You will experience what freedom means from the eyes of a Native Indian and how our tax system was originally designed to support that type of freedom. Ultimately all of us can "go native" as Dr. Rivera explains in this lesson.



**LESSON #2**

**Dedicated to "Employees"**

The following lesson is written for those who are either employees or employers. It can be repetitive because it is intentionally designed to allow the reader to choose their own ending according to the point that they achieve complete understanding of it.

**Video Documentary:  
"How To Keep 100% Of Your Earnings"**

See a Documentary about Taxation, by Marc Lucas.  
These are RealPlayer 8 files, suited for modem connection.  
If you don't have the player, you can [download it here](#) (Basic or Plus version)

- [Part 1](#)
- [Part 2](#)
- [Part 3](#)
- [Part 4](#)
- [Part 5](#)
- [Part 6](#)

Our sincere thanks go to Marc Lucas for his dedicated effort to produce this wonderful documentary! To order your copy of the movie for \$20 entitled "How to Keep 100% of Your Earnings", the contact is below:

Forum Login ...  
Username

Password

Lost [Password?](#)  
No account yet? [Create one here](#)

Clock & Calendar

**May 2003**

Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31



**LISTEN LIVE**  
Saturdays: 5PM PT

**QUOTE OF THE DAY**

**THE TRUTH ABOUT THE INCOME TAX**

**PART 1**  
[Lesson 1](#)  
What freedom means from the eyes of a Native Indian  
[Lesson 2](#)  
written for those who are

**Prison Planet**

[Venezuela and Iraq  
Enhance the Prospects of  
an Oil Shock](#)

**Prudent Bear**

[Fake Terror - The Road to  
Dictatorship](#)

**WRH**

[Patriot Act II: The  
Globalist Grab for  
Absolute Power](#)

**Prison Planet**

Marc Lucas  
41800 Washington St, #105-460  
Bermuda Dunes, California, 92201  
[marc@marclucas.com](mailto:marc@marclucas.com)

---

[\[Back to list\]](#)

either employees or  
employers

**VIDEO  
DOCUMENTARY**

-  [Part 1](#)
-  [Part 2](#)
-  [Part 3](#)
-  [Part 4](#)
-  [Part 5](#)
-  [Part 6](#)

To order your copy of the  
movie for \$20 entitled  
"How to Keep 100% of  
Your Earnings",  
the contact is

Marc Lucas  
41800 Washington St,  
#105-460  
Bermuda Dunes, California,  
92201  
[marc@marclucas.com](mailto:marc@marclucas.com)

The following lesson is the first in a series that will be taught by Dr. Rivera. You will experience what freedom means from the eyes of a Native Indian and how our tax system was originally designed to support that type of freedom. Ultimately all of us can "go native" as Dr. Rivera explains in this lesson.

## **LESSON NO. ONE IS DR. RIVERA'S INSIGHTS OF OUR COUNTRY'S HISTORY AND THE 16TH AMMEMDMENT.**

### **LESSONS FROM THE NATIVES**

#### **TODAY IS A GOOD DAY TO DIE**

I was born, in an adobe house my father built in the middle of the Sonoran Desert in Cochise County, Arizona, on August 18, 1943. Just south of that the Spanish and then the Mexican governments destroyed native people. The native people of the area would go south to Mexico to live for a while and then return. My people settled in the Arizona territory and intermarried with some of the whites. Everyone spoke Spanish and almost all the buying of goods was done in Mexico. My father, mother, older brother and myself left Arizona for Los Angeles when I was about a year old. Father worked at Todd Shipyards during the war and then in construction until he retired. Both my parents are now dead. I am telling you my background so you can understand why I wouldn't continue to go along with the system. I will tell you the truth about the government and the income tax. The Lakotas beat Custer at the Little Big Horn, with the cry, "Today is a good day to die." That phrase has helped me to achieve the courage that I need to overcome the fear of not doing what the government wants. When you realize you have nothing to lose, you will always win.

#### **BEING AND GOING NATIVE**

I have been an Indian all of my life and a lawyer for almost half of it. I won't trace my ancestry back to any particular tribe. I like the idea of joining a tribe with other like - minded people who know the values of living a responsible and self reliant life within their community. This is not about a tribe of a certain race, it is about a choice in a way of life.

I find real delight in simplifying the complex issues involved in the income tax and explaining it to others. This government's income tax has wrecked individual lives and whole families. Tribes are just extended families, which world governments have been breaking up since governments began. Our American government has committed a disproportionate share of all the global atrocities against native people. I believe that Native Americans have imbued the country with a sense of freedom that finds its way into the souls of those born here, which is why you are being called to freedom. My birth, education and upbringing has destined me to teach you what I know of the law, government, taxes and freedom. When you can say everyday, "Today is a good day to die," you are on the right path. You are going native.

When I die, I expect my body to go back into the same earth I came out of and my spirit to become one with God, so I feel no particular attachment to any material thing or any intellectual ideology Especially if it came from something taught in school. Both public and private education has many aspects of brainwashing and is just a waste of time and money. The most valuable education is the one that teaches the student to challenge all authority in search of the truth. This is the only method that I know of to discover truth. Do you see why government views native people as objects of subjugation? Their independence threatens government authority. Your birth and subsequent independence pose a real threat to government.

The Founding Fathers were brilliant men who knew freedom first hand and from books. How much freedom did the colonials learn from the Native Americans who populated the land so extensively that their names are still used to describe the land? I contend that Native Americans were the most independent people on earth. They didn't have industries but they were industrious. They took care of themselves but they didn't work and no one paid taxes. If we saw people act like the Native Americans did before they lost their freedom we would think they were retired or on vacation.

I think that Thomas Jefferson, the creator of the Declaration of Independence owes a lot to the natives. They are Independence incarnate. Native American history, later history and the Founding Documents mark the path for government. This path is plain and clear. It even has a name, the Constitution. The Constitution is neither a source of our rights nor a limitation on our power. These documents are our organic law and as our organic law they must be mastered before we can attempt to understand government made law. The truth is that hardly any of this law has anything to do with us as free people. Our first lesson is to master Declaration of Independence and the Constitution and the Sixteenth Amendment to the Constitution. You know well, from my condensation of the Sixteenth Amendment, that we will uncover betrayal and treachery.

### **AN ELEMENTARY EDUCATION**

I remember going to school and not knowing how to speak English because my family was from southern Arizona which was up until early 1900's part of Mexico. I know I spent a lot of time in my own mind, thinking thoughts in Spanish or perhaps a silent language of pure thought, until I could think in English. I don't have any recollection of being taught to speak and read English. My memory of learning has little to do with school. I got all my learning from libraries. I believe that a person who creates a book instills in that book part of their spirit. It is this spirit in each book that is important. You will find that I will recommend books that may not present issues as I do. Even though these books may contain inaccuracies I recommend them because of the spirit of the author. How are we to learn if we don't hang ourselves out there on a limb. That takes courage and it should be rewarded. As long as you always remember to question everything to find truth – even my material, you will learn what is right. The truth is there. You don't owe an income tax.

### **MY LAW SCHOOL EXPERIENCE WITH THE SIXTEENTH AMENDMENT**

No less than 1/3 of a century has passed since I attended his class at UCLA Law School. Almost half a life span ago I listened, captivated by his booming voice of authority as he expounded on issues of taxation. It was Professor Ralph S. Rice on his first day of class in 'Federal Income Tax, Estate, and Gift Tax' that so had my attention. "The Sixteenth Amendment gives Congress the power to tax income". He then asked, "What is income?" No one responded. He went on, even louder, punching the air with a pointed finger while holding a copy of the Internal Revenue Code in his other hand, "Sect. 61. Except as otherwise provided in this subtitle, gross income means all income from whatever source derived . . ." I think he read all 15 items of gross income.

Professor Rice was a little guy, just 5'3", but he could have been Moses reading the Ten Commandments. If he was trying to throw a scare into me certainly did. How could we possibly avoid these taxes or the wrath if we didn't pay them? He said he would teach us and I believed him. With his background in law school during the depression he had become quite renowned in taxation. UCLA Law School claimed to be among the top ten law schools in the nation so I thought they knew what they were teaching.

Law school did not prepare me to challenge the law or even the way I was taught the law. I realize now, my distaste for the federal taxation class grew from the lies upon which these taxes are based. Income taxes make people sick because they are based on lies. People are sick of bad law and especially bad lawyers. Lets go back to professor Rice's tax class where he is showing us how to get favorable tax treatment by transforming ordinary income into capital gains.

We would study some arcane tax saving device like a collapsible corporation and after we had learned a particularly profitable tax loophole, Professor Rice would admonish us to adhere to the tax practitioner's caveat, "Don't be a pig." The purpose of the admonition was to deflect attention from ourselves and our clients so we could continue to avoid taxes here and there. We were taught that inevitably the IRS would plug the loophole or Congress would change the law. As long as the law grew there would be a need for attorneys. We could thrive so long as we didn't become tax pigs.

### **THE TRUTH ABOUT THE SIXTEENTH AMENDMENT**

Despite my time in law school, I finally found out the truth about the Sixteenth Amendment and the income tax. I am now the teacher and I hope you will be the apt pupil. The course will be the most exciting instruction you have ever experienced. You can forget about not being a pig. We're going whole hog. We're going to feast on government pork. There's no cover and we won't be leaving a tip because we won't be coming back. If you haven't already forgotten everything you learned in school it will be a wise move to do that now. If you have a clear head we can start on the first lesson.

I devised this little lesson, this exercise in self education, to teach what I never learned in law school about income taxes. The Declaration of Independence and the United States Constitution are two of the organic laws that were created for the express purpose of limiting the power of government and establishing the supremacy of the rule of law for We the People. Liberty actually expands with use. Not only that, the more we do to enlarge the freedoms of others, the greater is our own potential for financial reward.

So it follows these documents protect your right to lawfully earn all the money you want without ever having to paying any tax or tribute to government. In fact, our system of government allows you, depending on your individual circumstances to enjoy all the things this country provides without paying taxes, serving in the military or voting. This is not rhetoric this is our law and history.

A congregation of the nation's wisest men signed a document that announced to the world that the People have an inherent right among others to govern themselves. The Declaration goes further, the People have a duty to alter or abolish any government when it betrays them. It is important to recognize the difference between the country, its people and the government. The Declaration of Independence sets out the broad outlines of our national political identity. None of us would have any freedom if there wasn't this difference. This nation was created, upon the exercise, of that duty. The Constitution was written so that the People would not have to revolt in order to alter government. The Founding Fathers recognized government for what it is - a necessary evil. These wise men knew the difference between the government, the People and the country and they sought to preserve it through the power of a written Constitution. The Founding Fathers knew well the difference and they provided for orderly change in the national government in the Constitution.

## **ORGANIC LAW- THE BASIS OF GOVERNMENT**

### **THE DECLARATION OF INDEPENDENCE**

The Declaration of Independence, as the first document of our organic law, presents a spiritual formal statement of the relationship between God the Creator, the People and their government. People have God given rights and these rights are as permanent and glorious as only God can make them. When government stops protecting those rights it is the duty of the people to alter or abolish that government. The purpose of government is to protect and secure these Rights. Furthermore, if a form of government becomes destructive of the Rights of the People it is the Right of the People to alter or abolish it. The statement of independence that was to announce the opening of formal hostilities with the world's greatest military power severed the connection with Great Britain.

### **DYSFUNCTIONAL GOVERNMENT**

You will find in the Declaration of Independence, following the second paragraph, a long list of injuries, including one which imposed, "...Taxes on us without our Consent," the intent of which was, "...the Establishment of an absolute Tyranny over these States", by the King of Great Britain. Taxes have that power when the sovereign is a king. The Declaration of Independence removed the King as sovereign and replaced him with the People. The American Revolution was fought to establish what had already been declared. Despotism, bureaucratic tax agents belittle our claims to be individual sovereign state citizens. That is exactly what we are and the Declaration of Independence proves it.

### **GOD GIVEN RIGHTS**

Inviolable Rights of Life, Liberty and the Pursuit of Happiness were obtained directly from God. This is what the governments of the thirteen original States were founded to protect and this is what they would continue to do. Governments are expendable not the People's rights. The king wouldn't secure their God given rights, so the People have the right to institute new government.

Read the first, second and last paragraphs again with these thoughts: all people, including the king, are equal before God, the people have all God given rights and governments exist only to preserve the rights of the people or the people will establish new government. What you don't find there is also very important. They have no duty or obligation to government. The only duty that the People have is to throw off despotic Government. Government only exists to protect the rights of the People. Having done that it must leave the People alone. There are a few things the People must do. They owe allegiance and defense to each other, which they discharge by their allegiance to the country, and they must sit as sovereigns on juries, when capable, to fully preserve their sovereignty.

### **TAXATION WITHOUT CONSENT**

One of the great usurpations and abuses that was complained of was the imposition of Taxes without consent. That was an acknowledgment that taxation had to meet constitutional criteria and conformance with law. In a free country all taxation is voluntary. In colonial America, income taxes were collected by promise or agreement. Thomas Paine had been such a tax collector in England when he had been employed as an excise officer.

As a consumer you pay taxes you are not fully aware of because the tax is hidden in the cost of goods and services. The payment of indirect taxes is fair because you are always free to buy or not. The People can alter or abolish government. The basic premise in American government is that the People always have the power to change government when it becomes destructive of the Rights of the People. The People can do it on a grand republican scale by electing a brand new House of Representatives every two years. The People speak through their new Congress. The People can also exercise the power of government on an individual basis when they sit on a jury or by simply not buying a taxed commodity when they feel the tax is wrong or just too high. The People can change government by the taxes they pay or refuse to pay. No tax has permitted fewer choices or has caused more problems than the tax called the income tax.

## **CONSTITUTIONAL GOVERNMENT**

The People would rule themselves but not as a mob. The Framers of the Constitution did not establish a democracy for they knew that would be a government of many possible tyrants. Ultimately, We the People of the United States established the Constitution for the United States of America and continued the republic. That great document is both a limitation and prohibition on the national government.

## **ENUMERATED POWERS, FOUR TAXES & TWO RULES**

The Framers of the Constitution came up with ingenious plans for protecting themselves, their children and us from despotic government and unreasonable taxation. Their plans were simple, effective and they're still in the Constitution. Government is limited to specific powers and taxation is limited to four taxes imposed using two rules. The national government is given the exclusive power to tax imports using the two taxes on imports, imposts and duties. Specific activities, commodities, employments, professions and vocations may be taxed by excise. When people or property are taxed, specific amounts are to be apportioned among the States. The national government was not given the general police power which is what the states use to rule. The states can use the police power to create new excises.

## **CONSTITUTIONAL TAXATION PROTECTION**

There are three clauses in the Constitution that protect "We the people", from the passage of unfair taxes by Congress. The first one is located at Article I, Section 2, Clause 3. It commands that Representatives and direct taxes are to be apportioned among the several States. This clause is also very important because it is the first place where we'll see how the text of the original Constitution looks after it has been amended. The original will be marked in some way, usually by an asterisk or by italics and reference will be made to an amendment. Clause 3 was amended by Section 2 of the Fourteenth Amendment. If you look up that section in the Fourteenth Amendment you will see that no change was made in the requirement that direct taxes be apportioned. It is extremely important that only Constitutions which have been printed by the U.S. Government Printing Office be used. Our first lesson will establish that none of the taxing clauses of the Constitution were changed by the Sixteenth Amendment.

The second clause appears at Article I, Section 8, Clause 1. This clause establishes Congressional power to lay and collect taxes. The clause names "Taxes", which mean direct taxes and the three type of indirect taxes: Duties, Imposts and Excises and requires that they be uniform throughout the United States. Once you go through the entire lesson you will see why Chief Justice Melville Fuller said in *Pollock v. Farmer's Loan & Trust Co.*, 157 U.S. 429 (1894), there are only four taxes.

The third taxing clause appears at Article I, Section 9, Clause 4. It states again, that all direct taxes have to be apportioned among the several states according to the census.

## COLONIAL TAXATION LITE

It is now generally recognized by historians that compared to us the people in the Colonies were not heavily taxed. Taxes, then, were perceived as a great governmental interference with their lives. The Revolution was fought to be free from taxation without representation. It very likely that everyone knew, then, knew a lot more about taxes than we know today. Back then Property owners absolutely knew that the apportionment process protected them from confiscation by taxation of their property. We must always remember that our Revolution was a revolt instigated by property owners to protect the freedom to acquire and protect property.

Today, we're heavily taxed and the people still don't know the difference. All tax authorities agree that people, through a capitation tax or property by a property tax are the subjects of direct taxes, and activities, occasions and events are the subjects of indirect taxes.

## TAXATION RECAPITULATION

This then, is the taxing scheme devised by the Framers of the Constitution: Congress has exclusive power to impose duties and imposts on imports. Indirect taxes on harmful or regulated activities can bring in additional steady, regular money. Direct taxation of people or property is available on an as needed basis but the tax has to be apportioned. Taxes on imports at various times in the country's history are sufficient to supply all the revenue needed by the national government so that the excises on alcohol and tobacco are lifted. Indirect taxes bring in so much money that direct taxes have only been used infrequently. The last time was during the Civil War. Indirect taxes are the kind the citizen can easily live with, because they can be avoided. In a free country all taxes must be voluntary, in the sense of the Declaration of Independence. Consent to tax is given when we own real property knowing it will be taxed according to its value. We consent to indirect taxes, when we purchase the product whose price holds the hidden tax. To avoid the tax just don't buy the commodity that is the product of the taxed activity. Don't smoke tobacco products or drink alcoholic spirits and you won't have to pay the indirect excise tax hidden in the purchase price or suffer the ill health they cause.

The Framers of the Constitution placed the apportionment requirement in two places of the Constitution. That tells us how important they felt it was to protect the limitation of direct taxes on real or personal property.

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

The Sixteenth Amendment to the Constitution of the United States

## WHAT TAX IS PARENT TO THE INCOME TAX?

We are now going to put the Sixteenth Amendment to the United States Constitution in its proper place in the main body of the Constitution. First, make certain that you have a government printed copy of the Constitution.

Check the inside cover to see if there is this statement, "For sale by the U.S. Government Printing Office." If you received a copy of the Constitution and the Declaration of Independence with these instructions then you have a genuine government document.

### **INCOME TAX DNA - GOVERNMENT LYING, BUT NOT PERJURY?**

Now, find each of the taxing clauses we cited above and see what changes have been made. You won't see a single, "\*Changed by the Sixteenth Amendment" with reference to any taxing clauses cited here. For example, you will see, "\*Changed by the Seventeenth Amendment," "\*Changed by the Thirteenth Amendment"; "\* Changed by the Fourteenth Amendment"; but you won't see that with reference to the Sixteenth Amendment because it didn't change anything in the Constitution. "\*See Sixteenth Amendment." This is the reference you see at the end of Article I, Section 9, Clause 4, in my Bicentennial Edition of the Constitution. This raises the question: Who is responsible for the asterisk and the note in this copy of the Constitution? This can be an interesting research project for a conscientious student. The reason the asterisk is there is, of course, because someone in the federal government wants you to believe the income tax is the unapportioned bastard child of a direct tax. It is not.

### **MORE GOVERNMENT LYING, STILL NOT PERJURY?**

I have another edition of the Constitution, published by the Library of Congress in association with the Arion Press, that makes no Sixteenth Amendment reference at all any part of the Constitution but all other amendment references remain. This must be taken as an admission by the government that the Sixteenth Amendment did only one thing with reference to Article I, Section 9, Clause 4: Established that an income tax cannot be a direct tax. United States Code Annotated (USCA) makes this reference: Affected by the Sixteenth Amendment.

### **THERE CAN BE NO UNAPPORTIONED DIRECT TAX**

Such an unapportioned direct tax is an impossibility. To do so would create a new tax not subject either to the rule of apportionment or the rule of uniformity. This is hardly a revelation, since a law student pointed this out in a note in the 1909 Harvard Law Review, shortly after Congress approved what would become the Sixteenth Amendment. Years later Chief Justice White would affirm the consequences of such contention in, *Brushaber v. Union Pacific R.R.* 240 U.S. 1. You will read and re-read Supreme Court cases that intone the fact that the Sixteenth Amendment did not create any new taxing authority. Chief Justice White is fond of saying Congress has always had the power to tax incomes. He, of course, never mentioned the excise tax. What he, also, fails to mention is that the national government does not possess the general police power. This is the inherent power of the several states to rule. The importance of the power will be realized when consideration is given to the requirements for the creation of new excises.

### **THE FOUR CONSTITUTIONAL TAXES**

"And although there may have been from time to time intimations that there might be some tax which was not a direct tax nor included under the words "duties, imposts and excises," such a tax has yet remained undiscovered, notwithstanding the stress of particular circumstances has invited thorough investigation into sources of revenue." *Pollock v. Farmer's Loan & Trust Co.*, 157 U.S. 429 (1894), 557, *Thomas v. United States* (1903) 192 u.s. 363, 370.

Congress, when taxing within the states of the Union, may only tax using four taxes, which are subject to two rules. Direct taxes must be apportioned and imposts, duties and excises have to be geographically uniform throughout the several states. These tax facts are absolutely certain when we speak of taxation within the states of the Union. Hold up your hand. Count your fingers. Four taxes, no more than four Taxes. Not in the United States of America. No more than four. If its not one of the four you don't have to pay it.

## **BRUSHABER & STANTON**

Brushaber v. Union Pacific R.R. 240 U.S. 1 and Stanton v. Baltic Mining Co. 240 U.S. 103, were intended by Chief Justice White to be confusing. Did you know that both cases merely allow the corporations to voluntarily pay the income tax? I have two challenges for my students. The first one is find a legal authority that will defend them for their clarity or another White opinion as poorly written. White's biographer, Sister Marie Carolyn Klinkhamer, claims that his opinions are recorded in 962 cases. The second challenge is to find in Brushaber, Stanton or any other Supreme Court case, a holding that the individual income tax is an Article I, Section 8, Clause 1, tax.

In Stanton, Chief Justice White in the very long paragraph about the income tax as a direct tax, that begins on page 112, and at page 114 claims, "that such a tax is not a tax upon property as such because of its ownership, but a true excise levied on the results of the business of carrying on mining operations." White failed to state that the corporate excise of 1909, was repealed and replaced by the 1913 Tariff Act. Leaving that fact out of his opinion in Stanton made it easier for us to forget his vote with the majority in this case. "As has been repeatedly remarked, the corporation tax act of 1909 was not intended to be and is not, in any proper sense, an income tax law. Stratton's Independence v. Howbert (1913) 231 U.S. 399, 414, [58 L. Ed. 285, 339] Congress had no problem with the conversion, no matter how many times it might have been "repeatedly remarked". The individual income tax was imposed on corporations like the Union Pacific and Baltic Mining Co. and the corporate excise tax repealed. Doesn't that invalidate White's argument completely? Has the Supreme Court ever held the individual income tax to be an excise?

## **OH, WHAT TANGLED WEBS WE WEAVE...**

If you learn only one thing from this lesson, it has to be this: the income referred to in the Sixteenth Amendment comes from the excises in Article I, Section 8, Clause 1, of the Constitution. The "sources" in the amendment are various excises not different ways of making money. Are you going to believe me or that White guy, who leaves things out and doesn't tell the truth? The Chief Justice White not our current President. Go back to Brushaber and Stanton and you will find everything that White ascribes to the amendment fits my explanation but without the confusion. "White man speaks with forked tongue". One of White's early law partners claimed he "spun out an argument so fine a spider could not get through."

## **ENABLING CLAUSES**

Before and after the purported ratification of the Sixteenth Amendment other amendments were adopted that did change the Constitution. The expansion of Congressional power was evidenced by an enabling clause such as this one from the Thirteenth Amendment, adopted in 1865. That part of the Amendment that gives Congress the power to pass new laws states:

**Section 2. Congress shall have power to enforce this article by appropriate legislation.**

This very clause is found in the Fourteenth, Fifteenth, Eighteenth, Nineteenth, Twenty-Third, Twenty-Fourth, and Twenty-Sixth Amendments, which assuredly granted new power to Congress. Its absence from the Sixteenth Amendment clearly indicates that no new power was being given to Congress. Several Supreme Court cases held the same thing.

The Sixteenth Amendment is an amendment that changes nothing in the Constitution. This is my legal opinion of the impact of the amendment on the Constitution and on you; Congressional taxation of income is limited to the income produced from the activities of an excise in Article I, Section 8, Clause 1. To make my opinion absolutely clear, the only income that can be taxed after the ratification of the Sixteenth Amendment is the income that results from an excise.

### **THERE'S NO DUTY TO CONVERT MONEY INTO INCOME**

A citizen of the United States, who is subject to no legal impediment, is free to earn as much money or goods as he or she pleases without payment of any tax. Such a person is under no duty to account for or even count earnings. The national government creates such a duty by use of the use of the power to enact taxation through the excise. It is easier for states to enact excises because they have the police power. The excise establishes the duty to account for income produced as the result of the exercise of an excise. Income is the measure of the excise. An occupation tax is an excise measured by the amount of income the person in the occupation produces. A fuel tax is an excise disguised as a consumption tax. The dollar amount of the fuel tax is a factor or percentage of the total amount of fuel sold or delivered. No matter how it is expressed the excise is a factor of gross income. The only difference between a tax on gross income and net income is the certainty of the tax. In either case, there is an absolute requirement of sufficient police power to require the necessary record keeping to calculate either the gross or net income. The national does not possess the general police power. How difficult is it to create excises without it?

### **WHAT'S INCOME AND WHY DOES IT MATTER?**

The question, logically, arises, what of all the talk in income tax cases of what is or is not income? The answer is simple, all the talk is of corporate income. In 1909, Congress enacted the federal corporation excise tax and sent to the states for ratification the proposed income tax amendment. The measure of that excise after a \$5,000 deduction, on the privilege of doing business as a corporation, was income from whatever source derived, including rents and interest on real and personal property. You know what happened to the federal corporation excise tax. Do you suppose this was a chance happening or a well orchestrated plan to force an income tax on Americans? When the excise was upheld by the Supreme Court in *Flint v. Stone Tracy Co.*, (1911) 220 U.S. 107, the court suggested a neat tax avoidance device, just don't operate as a corporation.

The Congress lost no time in plugging this proffered loophole. The Tariff Act of 1913, also known as the federal income tax law, repealed the corporate excise tax on corporations and imposed the individual income tax on corporations instead. This little ploy helped keep the "what's income" controversy pot boiling for decades. Chief Justice White would effectively keep a lid on any "income revelations" until his death in 1921. Chief Justice Taft then took over.

What value or purpose does such an amendment have? The Sixteenth Amendment is a dodge, a subterfuge and it worked. After its ratification, everyone in the country was poised to receive and accept an income tax from the Congress. There was popular support for an income tax on the rich. Everyone knew it was coming and everyone who wasn't rich wanted it. Practically, no one thought they would ever be lucky enough to have to pay an income tax. It allowed the Congress to create a fifth tax, an "income tax" outside the constitutional taxation scheme of four taxes the Framers created to protect themselves and us from runaway taxation.

Congress had passed a similar income tax during the Civil War. The Civil War tax law contained a section that imposed a requirement to keep track of any money earned. What good does it do to fool people into believing that something called income is being taxed if no one has any? The Irs is very open about their Civil War history. The Irs admits they sent agents out to make up assessment lists of those who were believed to owe a tax. If a person didn't sign up for the tax right away there was a 50% penalty. What I never expect them to admit is that these agents were outside their area of jurisdiction.

The income tax they were collecting was one based on the exercise of general police powers which Congress only had in the District and the territories. Even in those areas it was a direct tax that had to be apportioned. That problem was resolved by making the tax a "forced" voluntary tax. How such a tax could be fully implemented will be the subject of an entire lesson.

The Sixteenth Amendment gives Congress the power to enact an excise tax, but Congress created an income tax that wasn't an excise. Rather than name an excisable activity Congress created the magic words "taxable income". The Congress then created a voluntary self-assessment taxation system based on "taxable Income". Such a taxation system depended completely on the power to exercise the police power. Congress had the police power in the seat of government and the territories. The U.S. Supreme Court would then cite some old cases to seemingly find the new income tax to be constitutional.

## **THE PRESIDENTS' ROLE IN INCOME TAXATION**

Presidents since Abraham Lincoln have been involved in the deception that is the income tax. In coming lessons we'll look at William Howard Taft who played a big part in proposing an income tax amendment. He elevated Justice White to Chief Justice. This was the first time a sitting Justice had been elevated to Chief Justice. Taft would be named Chief Justice upon White's death. The man who figured out the secret of the Sixteenth Amendment, Charles Evans Hughes was made Chief Justice when Taft died in 1930. I can't imagine a tighter lock on the law that what I just described. Are we going to have fun looking at those good old boys? White and Taft died in harness. Hughes retired in 1941 and died in 1948.

The President appoints the United States Attorney General and that office has for years falsely claimed in its prosecutions of persons who have refused to file or have allegedly filed false tax returns, that the Sixteenth Amendment to the Constitution gave Congress the power to tax personal income. Just as my old law professor did. The U.S. Attorney General's Office also falsely claims personal income tax is a direct tax that does not have to be apportioned. We know the only tax referred to in the Sixteenth Amendment is an excise tax on income that does not have to be apportioned.

That claim can be refuted by simply looking at the Sixteenth Amendment and asking yourself, "What kind of tax does not have to be apportioned? Yes, that's right an indirect tax.

The United States Supreme Court has said that the purpose of the Sixteenth Amendment was for the courts to forever keep the income tax in the category of an excise tax. It does not add to the power of Congress to tax, it does not amend, change or eliminate any protection in the Constitution. I submit that the Sixteenth Amendment has been used since its purported ratification to frighten us into believing that Congress was given a special power to tax our incomes without having to specifically describe a taxable harmful activity, identify an activity in need of regulation, or set the total amount of direct tax to be apportioned among the states.

Big government was created out of this mythical tax. To this day no one has found the subject of an excise called an income tax, that would apply to most individuals.

The Internal Revenue Code is full of excise taxes. There are taxes on making airline flights, telephone calls, fishing rods, tires, liquor, fuels, cigars, snuff, outboard motors, bows and arrows, gas guzzler cars etc. What you won't find is a tax on the activities that produce your income. Lawful taxation of harmful activities and regulated industries helps to secure our Rights to Life, Liberty and the Pursuit of Happiness. Taxation of our God given rights reduces us to slavery. Before the income, tax we were free to chose whether or not we would be taxed. The law was clear. After 1913, big government began its cancerous growth. The income tax grew by fraud, intimidation and deceit. Making you believe that you owe a tax and then coercing you to pay it by threatening to put you in prison if you don't is real tax fraud.

## RECOMMENDED READING

The legal history of the Sixteenth Amendment to the United States Constitution proves it did not change the Constitution in any way. That history and Mr. Skinner's excellent analysis is available in the books of Otto Skinner. His books are HIGHLY RECOMMENDED. You will find great tips on how to stay out of trouble in your new found freedom. As a matter of fact, go to his web site and review all of his books and newsletters. His web site is [www.ottoskinner.com](http://www.ottoskinner.com). The Biggest "Tax Loophole" of All is \$39.95 plus \$5.00 shipping and handling. Otto Skinner, PO Box 6609, San Pedro, CA 90734.

Lynne Meredith, author of "Vultures in Eagles Clothing", markets my opinion letter on excises. The letter is \$150.00 but it is worth it, once you master the material in this letter you will fully understand why income can never be the subject of any tax. The number for the order department is 562-592-9077.

Dr. Joe Sweet's book, Good News for Form 1040 Filers, Bad News for the IRS! Read it so you can get your own thoughts in order and add more pieces to the puzzel. Dr. Joe Sweet, 5726 Cortez Road W., Suite 118, Bradenton, FL 34210 Telephone: 941-798-3970

## REVIEW

The Declaration of Independence is the first and most important part of our organic law. This great document firmly establishes the source of our individual rights and sovereignty. Our only Duty, as a people, is to throw off Government that, "evinces a Design to reduce them under absolute Despotism..." We owe no other duty to government and our Constitution limits government in order to maintain our freedom. National taxation is limited to four taxes: direct, imposts, duties and excises. No national tax is proper that cannot be made to fit in the mold of the four taxes. The Sixteenth Amendment is a further limitation on the power of Congress to tax.

After the ratification of the amendment, an "income tax" cannot be a direct tax. If an "income tax" is to be imposed among the several states it must be in the form of the remaining three, indirect taxes, or one of them. The excise is the likely choice, since it regularly produces income of some kind.

The King of Great Britain caused the dissolution of the political connection with the United States of America by his many injurious acts including one, "For imposing Taxes on us without our Consent." The Congress created an "income tax" that does not fit within the mold established by the Constitution. Such a tax may only be imposed upon us with our consent. The voluntary yielding to the will of the proposition of another is necessary for valid consent. Such consent is an act of reason, attended by due deliberation and exercised only after full consideration of the values on each side. The blind execution of tax agreements (W-4 and 1040) under penalty of perjury, without sufficient tax knowledge is an act of negligence when committed by a citizen.

## CONCLUSION

You have learned, in this first lesson, that taxable income only exists in the several states as the result of taxable activities (excises). The states can easily create new excises because they have the police power. The national government has only enough police power to carry out its enumerated powers and it, therefore, is severely limited in its power to create new excise taxes. The Sixteenth Amendment was an attempt to overcome the constitutional limitation of four taxes, by the mythical creation, of a fifth new tax, an unapportioned direct income tax. In reality as you saw in the government document, it verifies limits to the four taxes. Income is a human creation. We make it when we count our money. Until and unless we count it, money is just money or money's worth. Taxable income is created by government, when, as a consequence of an excise, a permit or license requires a person to account for the money or goods produced because of some taxed activity. The retail sales tax is the best example of an income tax that I can think of. A retailer makes the customer pay his tax, which the customer freely does, or he gets no goods. This is the tax system envisioned by the Founding Fathers. In their words, "it was on the expense and not on the revenue."

The Title 26, personal individual income tax is on the revenue. Congress creates gross income by fiat. It adds to the list of items of gross income as its mood and perceived need for taxes arises. In 1917, the Supreme Court ruled that alimony was not income. Alimony, simply, is the obligation of the husband to support the wife. In 1940, alimony and separate maintenance payments made the gross income list. I believe barter is the most recent addition to the list. In this tax system, income gross or taxable is whatever Congress wants to make it. How does Congress get away with it? It's all voluntary. Why do so many volunteer? Congress and the IRS have their sneaky ways to make you sign up. Even when people realize they have been fooled, they are scared to fight. They just don't know the freedom that comes when they can say "today is a good day to die". This and future lessons will give you the will to resist the tax that demands your consent.

You can visit Attorney Ed Rivera's website at: [www.edrivera.com](http://www.edrivera.com)

[www.edrivera.com](http://www.edrivera.com)

The following lesson is written for those who are either employees or employers. It can be repetitive because it is intentionally designed to allow the reader to choose their own ending according to the point that they achieve complete understanding of it.

Dedicated to "Employees"

## PROLOGUE

The federal personal income tax on the privilege of contracting with government is just one lawful tax out of dozens of others that the federal government may impose. However, legal liability for a tax qualifies one as a "taxpayer", - that special name for a person who has to fill out tax forms. Neither the law nor history was changed to accomplish the transition of federal income tax from private to public law. The federal personal income tax remains a tax on the privilege of government contracting. It has undergone a mythical illicit morphing from government employment tax to "rich man's tax" to unapportioned "direct tax" on income. Paying the federal income tax requires a declaration under penalty of perjury that the tax is owed. The IRS will return an unsigned tax return. If after reading the material contained here you personally want to pay federal and state income taxes, that is certainly your choice.

## INTRODUCTION TO OATH BASED GOVERNMENT

Whether or not we personally acknowledge it, our country is founded on a belief in a Supreme Being. Our money is a constant reminder that: "In God We Trust" and our Pledge of Allegiance reaffirms that our Nation was established "Under God." Our existence and the freedom to enjoy it have always been traceable to God. We have whatever freedom we have and a citizen controlled government to some degree because our commerce and politics is based on the faith based personal oath. Our God based government requires an oath as the foundation of all duties. The oath equalizes all persons to the level of their comprehension of the truth no matter what the subject of the truth might be. The superiority of God based government is evident in the recent demise of godless communism. Non-God based oaths quickly supplant expediency for justice and dogma for truth. This is not conjecture. This is historical fact. We have all witnessed the faithful beat socialism. The Reds are now capitalists

Our political system operates always at the individual level of power and responsibility. Each one of us has the inalienable right to make our own decisions respecting how we live our lives because personal responsibility requires individual acceptance of the consequences of those decisions. Major decisions like these are brought on or attended by oaths. Analysis of every required change of any significant proprietary right or interpersonal relationship will reveal an oath of some kind. We can be required to act to the extent another will take an oath that such an act is necessary.

My function as an attorney is to assist clients to understand how the law can demand certain actions of them. If we are functioning at a productive level in society, we have each taken a silent personal oath to accept personal responsibility. History at various times recounts how government in one form or another may dispute either our right to decide or the decisions themselves. To the degree we can keep our oath of personal responsibility we remain free. Our own national government was created upon the proclamation that all men are created equal and possess inalienable rights. This is but a restatement of personal responsibility, which in turn is embodied in every oath taken. An oath forced by government indicates a complete loss of personal freedom. Until recently, forced oaths of personal liability for state and federal income taxes were common. Today, there is the beginning of a recognition that a refusal to take an oath of liability requires a personal oath of liability on behalf of government. Agents of government are unwilling to make the oath.

Unfortunately, many of us have stopped believing in equality of opportunity and God given rights to the degree we have stopped accepting personal responsibility and have become timid in challenging government's power over us. Most of us believe our rights come from government and we have to pay income taxes on those rights and our very right to exist. Slavery existed at the nation's founding and it exists as today as a taxed existence. Government rules, regulations and law condoned slavery then and it actively creates it and nurtures it today. Then the slaves were black and female. Today as then, a slave is a person forced to work for another. In former times the person who worked for another without pay was also owned as property. We no longer have state governments that recognize titles to men, women and children but we do allow the federal government to numerically register us like automobiles so we can be tracked and located when state and federal government wants to change our orders. The conflict called the Civil War or War between the States depending on your sympathies settled the issue of private ownership of a person called a slave but not the interest the government has in the many other forms of "slavery". The conflict caused a shift in political power from the states to the national government with a steady usurpation of police power by the national government. Today government still creates slaves but they do not belong exclusively to one race or a particular gender. Now, anyone can become a wage tax slave by giving up or just giving in to the government's theft of labor. You, the reader, might now view what you read as a libertarian harangue. I guarantee that what I have stated here is exactly how the government and our political system works.

## **GOVERNMENT CONTROLS**

Government controls; government exists for no other reason. Government created slaves will exist so long as government makes and enforces laws to supply the funds it wants and not necessarily just what it needs or should have. There will always be military conscripts, convicts and children. Aren't these persons made to work for little or no pay? The argument that they are who they are because of the law proves my point. The conscript completes his tour of duty; the convict serves his time, gets paroled or escapes, and the child becomes an adult. Government seeks and usually gets a new oath yearly on a 1040 or similar form. That form is the modern equivalent of fealty, the allegiance sworn to a feudal lord by a vassal or tenant. This form of government is exactly what the American Revolution was fought against and what inspired the Title of Nobility notion of rule that was sought to be proscribed in the Constitution, at Article I, Section 9.

Government rules, regulations and laws permit slavery to again take place in our time because we as individuals fail to stop it. The reason we do little or nothing to stop government from exercising more and more control over people is because we have allowed government to control even what we know. Government will control and will use all means, powers and influences to control. Government has been permitted to control public and private education for so long now many of us cannot think for ourselves. Government thinks for us and controls or shares financially in every thing in our lives save the least important. We should expect nothing less than for government to act according to its nature. Our July 4th Declaration of Independence reminds us of our duty to alter or abolish such a government but we don't believe it's possible. The Founding Fathers would be ashamed of our government today.

## **CITIZEN CONTROL OF GOVERNMENT**

Thomas Jefferson, however, would be proud of all who take a stand for freedom because by these actions one is doing more than any mindless minion or subservient supporter of bad government.

Still one thing more, fellow citizens—a wise and frugal government, which shall restrain men from injuring one another, which shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned. This is the sum of good government, and this is necessary to close the circle of our felicities.

Thomas Jefferson, First Inaugural Address [March 4, 1801]

We are challenging government by saying: "I am not liable for this tax. I do not owe this tax. Prove that this tax is mine. Prove that I owe this tax." If government has an interest, in having the tax paid, it certainly has the power at its disposal to meet this challenge. If it is up to the challenge, we welcome the opportunity to resolve the issue.

## **NO GOVERNMENT CONTROL OF EMPLOYERS**

We cannot, however, abide a sniper's campaign of treacherous attacks on our means of support. In all out war clandestine attacks on transported troops and supplies are accepted and even well regarded. Our fight is not war we want the government to obey ordinary civil rules of taxation, due process and commerce. We must be willing to face whatever government may throw at us and be ready to take on the government of the United States in a fair fight. This letter will make assertions and claims no government agent would ever utter. I challenge anyone to disprove anything said in these pages.

It is the officer, agent, employee or contractor of the federal government who owes the personal income tax which is properly withheld because that property belongs to government. "Actual possession and custody of Government property nearly always are in someone who is not himself the Government but acts in its behalf and for its purposes". (1943) United States v. County of Allegheny, 322 US 174,187,188. 88 L. ed 1209, 1219. References in the Internal Revenue Code to "withholding agent" or "employer" are references to the officer, agent, employee or contractor of the federal government who has custody of Government property and is authorized to act on its behalf. This critical information along with the balance of this letter will furnish the reader with all necessary information to understand the IRC and the persons who are actually subject to its individual personal income tax.

## **THE REQUIREMENT OF AN OATH FOR TAX**

I take the position that absent a certification by the Secretary of the United States Treasury, the Commissioner of Internal Revenue or delegates of these officials, that an employee is not liable for a federal tax. For my clients, any refusal to honor a claim of exemption based on non-liability of federal tax or proper completion and execution of a W-4 claiming exemption from withholding under penalty of perjury must inevitably lead to arbitration or litigation of my client's claims. The employer can never win against the claim of the true owner of wages, the employee. No matter by what form or format the employee has declared, under penalty of perjury, that he is exempt from withholding because he has no federal tax liability; no stronger claim under oath has been made to counter this employee's claim. In order to prevail against the employee the employer must now prove that the employee is liable for federal income taxes. If that were possible the IRS would have obtained a certification of a federal tax due from either the Secretary or the Commissioner. The fact that the IRS agent does not is all the evidence that is needed to prove no such tax liability exists.

The IRS will attempt to have employers subvert an employee's oath by trickery. They will ask them to "please disregard the claim of exemption" or they might be more forceful and say "we have reviewed the withholding certificate in which you claimed to be exempt and declare it invalid." Since we are never told who the "we" are we do not know, nor can we ever determine their authority for making the declaration.

Note that no reason is given why the form was declared to be invalid. Further in this letter it will be shown that W-4 is applicable only to federal employees. This will explain how an otherwise valid declaration can be said to be invalid. It can be valid only when a federal employee has over paid the tax. A free country's liberties and freedoms are based completely and entirely upon the oath. Oaths take many forms. We all began our oath taking with the Pledge of Allegiance and we graduate to stronger oaths. Governments do not and can not make oaths. Only real, competent and authorized persons can make oaths. Without oaths and admissions the proof of facts may inevitably require costly and expensive trials. Imagine a trial without oaths, what a futile exercise. Authentications and certifications are validated by oaths. Without oaths the words on forms mean nothing. The one most relevant here is the oath taken under penalty of perjury. The information, data, or material to which the oath pertains is transformed because of the oath. For example, data concerning the amount of money paid to an employee will not be transformed into taxable income by him. You can determine that you are not liable for the above listed taxes. You may refuse and continue to refuse to declare under penalty of perjury that your wages are taxable. Until it is established by our law that your wages are taxable, they are exactly what you say they are. I have told you what the law is. the Secretary of the United States Treasury, the Commissioner of Internal Revenue or delegates of these officials have not been given the authority to determine that you are liable for a federal tax. No employer has that power, no other officer or official of the United States, including the President of the United States has the power to determine that you are subject to a federal tax. No ordinary statement of liability will suffice even if made by the Secretary or Commissioner. An oath is required. Before an agent of the IRS can collect a tax the tax must be certified. The IRS as the administrative tax collection arm of Congress cannot create tax liability only Congress can do that. Brushaber v. Union Pacific R.R. 240 U.S. 1. Section 6065 of the IRC requires any certification or verification of any kind to be under oath. As ministerial officers the IRS can collect no uncertified or unverified tax. The IRS will therefore use whatever means possible to obtain an oath from non-governmental private party because of the impossibility of obtaining a governmental certification that such a persons owes a tax.

## **APPLYING THE CORRECT LAW**

Our Constitution would be mere sheets of paper without the solemn oaths of the officers, officials and employees who will carry out the work of government strictly according to law. Nothing prevents IRS agents from applying the wrong law to private employees. IRS agents have in the past been able to flout the law by pretending to enforce the special legislation personal income tax on non-liable private employees. That scam can work on many but it can't be pulled on this employee. However, the employers who "read" themselves into the Code as "employers" and the officers or agents of "Government", create an economic hardship for the employee astute enough to have seen through the personal income tax scheme. An employer's gift of an employee's wages creates a real liability for the private employer. This is not a problem that will go away soon. In fact this problem will only grow. As more and more of employer's employees read this letter additional employees will see that what they have suspected for years is true. The income tax is not owed by persons who labor. A tax on government employment is seen not only as an appropriate charge but an excellent curb on the growth of government. Their oaths when coupled with constitutional or statutory authority determine the power each government agent has.

We, as citizens and residents, in the first instance, determine what laws we will be subject to in our respective states, and we thereby govern ourselves by acknowledging the laws that have application to our lives. If the government has a different idea of the facts and law, then those facts and law must be tested against ours in an orderly process consistent with due process.

The employer's distrust of the employee's oath is symptomatic of our general loss of faith or belief in a Supreme Being. Oaths had their origin and emanate from a belief in a higher order than just government. Our money says it even if we don't openly acknowledge it: In God We Trust. The oath symbolizes our Nation's God based faith. Any failure to find an oath attached to a claim of government over a person's liberty or property will lead to a direct denial of due process. Everything that is legitimate in government and commerce is done on the basis of an oath. In the government's failure to use the oath, can be seen the beginnings of the breakdown in the rule of law. The recent impeachment of the President was based on a violation of his oath. The IRS will not seek certification of a tax against the employee because it is generally known that such a certification cannot be obtained. No one can be found who will make an oath to a falsehood. It cannot be proved the tax is owed. Instead, the IRS will attempt to have the employer act to collect the tax without the authority of any law or oath. IRS agents, as ministerial officers, of the government can only act within their authority. You can be certain that an agent would act unhesitatingly to collect the tax if the power was theirs to exercise. Without power and authority IRS agent fall back on base intimidation or forceful begging and pleading. Once the realization of an almost powerless IRS is accepted any person can begin to see through the bogus "Notices" of liens and levies. These are "ghosts" of the real thing but without the oaths that can validate them. They work on employers as they work on everyone else. We simply have not been aware that at point where a right to liberty or property right might be lost an oath must bear witness to the event. If the critical oath is missing due process is lacking and someone's rights have been violated.

## **EMPLOYER'S RULE: REQUIRE AN OATH**

The Declaration of independence created this nation and the creation of the Declaration was based on the oaths of the men who signed the document. If the nation is to continue to remain free, oaths will have to be made by new people who really understand an oath's significance. These oaths can continue the unbroken link with the first oaths though the men and women who uttered them are long dead. An understanding of the oath process will enable anyone in the employer's employee governmental administrative process to determine the propriety of any governmental action that will result in a change or transfer of property from one entity to another. Such a change requires the oath of a person with the authority of a governmental office to make the transfer. The employer's rule can be as simple as: no office, no oath, no transfer of funds.

## **IS THE END OF THE COLD WAR AN END TO INCOME TAXES?**

Since the dismantling of the Union of Soviet Socialist Republics on December 31, 1991, signaled the end of the Cold War, many Americans have had to consider the possibility of adjusting to freedom as it existed early in our Nation's history. The limited freedom we enjoy despite state and federal income taxation has permitted us to prevail over communist and socialist governments. Recent espionage incidents concerned with the Communist Chinese even suggest an attempt to create an adversary to replace the former Soviet Union so we might have either a resumption of the cold war or allies in ruling the rest of the world. Either scenario puts our political leaders in control of our private lives. We will remain free because of our Constitution, our faith and our fidelity and adherence to our oaths. A free country and its people base that freedom on the individual responsibility each person has to recognize the freedom of the next person.

The oath taken by every government employee from the President of the United States to the lowest municipal clerk is in recognition of the oath taker's individual's personal responsibility for his or her conduct. I submit that the oath is the basis of our freedoms. We need look no further than the Declaration of Independence for our first proof. In our relations to government the oath is encountered at every significant turn. We declare under oath that what we state is true. That oath is a challenge to others with a contrary view of the subject of our oath to supply evidence of our error. Without a challenge, our view prevails. An unacknowledged superior challenge will lead inevitably to a trial of the issues before a jury sworn to judge the truth. In our system of justice, due process is attended at every crucial juncture with an oath. The absence of an oath indicates a fault in due process. We think such a lapse occurs wherever a fundamental right is compromised. Such compromises are transfers of property without a sworn oath authorizing the change from one party to another. Employers who transfer money from their employees to accounts of the IRS without an oath or certification authorizing the transfer are abetting the denial of due process as well as subjecting themselves to a valid claim for conversion of the employee's wages. Only the employee may authorize such a transfer by using an executed W-4 claiming allowances. Absent an executed W-4 claiming allowances an employer should require a certification from the Secretary or the Commissioner. Without one of these no withholding should take place.

## **INCOME TAX NOT A PROPERTY TAX ON LABOR**

There are two common misconceptions of federal income taxation that this letter will seek to correct. The first is that income taxation is a kind of property tax on the amount of money any person earns anywhere in any of the states that constitute the United States of America. It appears that everyone including lawyers and judges believe that the federal income tax is a direct tax (a tax on property) that does not have to be apportioned. The second is that employers will be liable for the payment of an employee's alleged income taxes if the employer does not "withhold" wages from the employee and pay them over to the IRS. I will show in this letter how these two false ideas began and what can be done about correcting the harm both misconceptions have caused. My purpose is not to change your thinking or attitude with regard to taxation but for you to understand and recognize that your thinking and attitude should not interfere with someone else's freedom to discern for himself his personal liability and to allow him to act accordingly. An employer is entitled to an opinion on any subject as we all are, however, opinions cannot merge into control and authority over the rights and property of others.

The Internal Revenue Code (IRC) is the epitome of complexity. There has never been nor will there ever be in all history a revenue code that is as complex and difficult to understand. The taxation of personal income is based on the fiction of a physical existence of government. "The 'Government' is an abstraction, and its possession of property largely constructive. Actual possession and custody of Government property nearly always are in someone who is not himself the Government but acts in its behalf and for its purposes. He may be an officer, an agent, or a contractor. His personal advantages from the relationship by way of salary, profit, or beneficial personal use of the property may be taxed as we have held." (1943) *United States v. County of Allegheny*, 322 US 174, 187, 188. 88 L. ed 1209, 1219.

Nothing more than the contractual benefits obtained from a contract with government be it state or federal is being taxed in the IRC and other state's tax laws. With the exception of the excise tax on the privilege of selling at retail, I have found no tax and certainly no cases that say that income is being taxed as property. Having said that I will attempt to summarize its aim and scope in a few short paragraphs.

## **A SUMMARY OF THE INCOME TAX PORTION OF THE IRC**

Section one of Subtitle A of the IRC imposes an excise tax on the taxable income payable in public funds of various individuals for the privilege of contracting, particularly for employment, with the national or federal government. Actual liability for payment of the tax is not imposed on the government's employees whose wages are used to calculate the tax. The persons, who as government officials or agents will make the payments for wages to them pursuant to Chapter 24, withholding of employee income, are made liable for the tax. These agent/paymasters bear the burden of making payments, records, statements, returns and complying with the Secretary's rules and regulations. The government's employees are made liable for returning a portion of their claim on government's income, as a tax, back to the government.

Employees earning additional gross income described in Section 61 from sources within the areas owned by the United States Government and subject to its police power must report that income on 1040 forms and pay additional taxes or get credits as the case may be. That form can also be used to claim refunds, tax credits and has other numerous applications.

## **FEDERAL INCOME TAXES LIMITED FEDERAL WORKERS AND PLACES**

Federal income tax law is structured and written in such a way as to cause anyone who reads the code to believe all income from all sources in all the states is to be considered taxable.

Actually, only government income from excises, such as the privilege tax on federal employment is being taxed. All taxable income, no matter what its source, results from a regulated and taxed activity. Federal government employment, as you find as you read on, meets all the excise tax criteria and private employment does not. Other less significant government source income is also taxed, as well as other privileges such as those relating to alcohol and tobacco. All federal government officials, officers and employees agree to have taxation withheld by the government/employer assuring government 100% tax collections. Functions of the IRS are purely ministerial, to collect taxes from a list certified by Secretary of Treasury or Commissioner of Internal Revenue or the person executing a 1040 or W-4. The federal income tax is a constitutional tax but it narrowly applies only to government workers, and those, like permanent residents, aliens and inhabitants of U.S. owned territory, who are subject to the jurisdiction of Congress.

There is no dispute that Title 26, the Internal Revenue Code is not positive law. This means that no part of the IRC has been enacted as general and permanent law. Because of its subject matter Subtitle A-Income Taxes can never become positive law. As I will prove in this lesson, only federal government workers can ever be subject to federal income taxes of the type enacted in Subtitle A of the Code. Legal income taxation requires the police power to enforce properly. Congress has this power over employees and its lands such as Washington D.C.

## **FEDERAL INCOME TAXES MUST BE ASSESSED**

In a free country any person may decide to pay only the taxes he or she wishes to pay. Does this mean that any person can defy the law and refuse to pay any tax that person may object to? Of course not. With the exception of state and federal income taxes all the necessary elements of taxes are known or knowable in a free country. That is the reason it is called a free country. In the former Soviet Union access to information from outside was strictly regulated. Soviet citizens were immediately suspect if the authority of the state was questioned. Here it is your duty to question the authority of government officials.

Since the government is not bound by the unlawful or unauthorized acts of its agents the duty to ascertain the authority of particular agents falls upon the citizen dealing with the agent. There is available to all free access to practically all government information, save that which would benefit our enemies. Taxes which are just some of the laws are not secrets hidden until ready to be sprung like a trap on an unsuspecting citizenry. All taxes have subjects and knowing the subjects of these taxes can help you steer clear of the tax itself. Knowing the subject of the tax permits assessment. The "employers" in the IRC are government agents who know the subject of the tax, the amount of taxable income each government employee earns and how much must be withheld from each government worker. The exercise of free will or freedom, if you will, necessarily requires that we all take personal responsibility for all our actions and our omissions to act. This includes both the public and private sectors. In the public sector, public officers exercising authority of a discretionary nature are given immunity from the claims of others harmed by their acts provided those actions occur within the scope of their authority. Government officers are personally liable for civil wrongs committed while performing their ministerial duties. Tax collection is considered to be a purely ministerial act.

## **SELF-ASSESSMENT REQUIRES TAX SUBJECT**

Responsibility for our actions requires little or no discussion but, an omission to act as in not recognizing an alleged duty to pay an income tax has been made by government into faithless renunciation of our citizenship rather than the sincere challenge to the validity of an alien charge. The federal government will impugn the honor and patriotism of anyone who questions its tax. Yet the tax has no apparent visible ancestry and the Supreme Court denies the federal income tax has its origin in the Sixteenth Amendment. Where does the duty arise to pay this tax? Can patriotism and the fear of prison ever be a sound basis for a tax? Questions like these and my opinion that the federal income tax is all the reason you need not to continue to self-assess.

## **NO FEDERAL DUTY TO PAY TAXES**

If we are to analyze taxation and our responsibilities under tax law we must first understand what duties we have as inhabitants of this political state we call California and the federal republic we know as the United States of America. Sound decisions of tax liability cannot be made using the shibboleths of "every citizen and resident of the United States must pay taxes," or "wages are income" Under our law there are no duties specifically imposed on adult females and only a few on adult males. Certain males must register for selective service and be conscripted for military service and in old case law adult men could be required to perform physical labor for road maintenance. Jury duty may be required of both genders but actual service on a jury panel is so uncertain as to not really qualify as a meaningful duty. "Jury duty" is really the exercise of the power of the sovereign. Duties to act are imposed by law and we have seen general duties placed on the population as a whole do not exist in this free society. There is no duty to pay taxes and many cases that affirm a person's right to arrange financial affairs to avoid taxation altogether.

## **FREEDOM ABHORS IMPOSITIONS OF DUTIES**

The general growth of government and laws is the result of the desire of government and society to create duties for others. Every time a heinous crime takes place in view of others who do nothing to stop it, a loud demand for legislation is heard that inevitably goes nowhere.

Halfway through the writing of the legislation that now requires bystanders to intervene in what may or may not be a crime, the proponents of the new law realize that it also legitimates vigilantes and the posse comitatus. The legal reformers are never heard from again until the next semi-public and horrible crime takes place. In a republic the people are the sovereigns so duties to act cannot be imposed upon them; laws must be posed in "Thou Shall Not" form.

## **SALES TAX IS A GENUINE INCOME TAX**

In California as in most states a duty to obtain a license or permit may be required for persons who sell at retail as part of the legislature's power to regulate business, occupations and the professions. California state law goes further to impose the duty or obligation to record and pay a tax on the gross receipts of taxable sales. Today state sales taxes may be an expensive annoyance but they are not the object of protest that state income taxation has become. Yet, the sales tax as an excise imposed on the privilege of selling at retail measured by gross receipts is an income tax. As a tax levied on or measured by gross receipts it certainly fits the federal definition of an income tax. California strongly denies that the sales tax is an income tax. Our sales tax is not a tax on the sale or because of the sale but is an excise tax for the privilege of conducting a retail business measured by the gross receipts from sales. *City of Pomona v. State Board of Equalization* (1960) 1 Cal. Rptr. 489; *Roth Drugs v. Johnson* (1936) 13 C.A.2d 720. The Franchise Tax Board does not want too much information spread about the characteristics of income taxation lest a tax revolt ensue.

The FTB does not want the general population to know taxable state income is created by operation of law; a lawfully imposed duty or obligation requires the record keeping that creates taxable income. Absent a positive law that requires the record keeping that creates taxable income, earnings, wages, fees, money in whatever guise can be saved, spent, lost or stolen without a thought as to where it came from or where it went. All state income taxing agencies would want its citizens kept permanently blind as to the true mechanisms of legal income taxation. Record keeping is absolutely essential to income taxation. **There can be no income taxation without mandated records. We have seen that record keeping is imposed on federal paymasters to legitimate the tax and to cause non-federal employee to believe that record keeping was not part of the taxation process.**

## **NO FEDERAL POLICE POWER IN THE SEVERAL STATES**

What, if any, are our federal duties? Again, certain males must register for the draft and some persons might be called for jury duty. But as far as a requirement to record and make statements of our net or gross income or gross receipts I know of no such requirements. There is a movement to replace the income tax with a national retail sales tax. But, that group is propelled by the idea that the federal government has the police powers that are required to create the obligations and duties that would make such a tax possible.

The creation of taxable income by creating the duty or obligation to record, account for and pay a tax on gross income, net income or gross receipts is the basis of all income taxation. In federal taxation the duty to record, render statements, make returns and comply with the rules and regulations of the Secretary is imposed on the person liable for any tax. The IRC imposes the federal income tax not on the person with the income but on the individual or person responsible for making the payments of income to the federal employees. The duty is contained in Section 6001 of the IRC. As our discussion proceeds you will learn that federal law defines a sales tax as an income tax. The federal definition for income taxation will naturally play a very important part of our topic.

At this point in our discussion the focus is the duty to account for and record income as either gross or net and in the case of the sales tax, gross receipts. California's sales tax is found at Section 6001 of Revenue and Taxation Code. The duty to account for and make a record of gross sales is located in the regulations to the sales tax law. Such records are made under penalty of perjury. .

## **LICENSE, PERMIT OR FEDERAL WAGES NEEDED FOR INCOME TAX**

I explained that it is not my intention to change your thinking about federal income taxation. I merely want you to recognize the power that you the employee has over your wages and the law that is to be followed by the government. Here is how we retain freedom and control over our actions and our property. If there is no license or permit that requires a person to record and account for income how can there be any income taxation? In federal taxation the federal government keeps the record and pays the tax on federal income. What is federal income? This is the money paid to federal workers. What duty is placed on federal workers to count gross or net income? The answer is none. However, they are required to return a portion of their income. This is called a return of income not to be confused with an income tax return which is required of the person who is liable for the tax. What duty or obligation is placed on us as non-governmental employees? Again, the answer is none. The duty or obligation to record, account and pay a tax on income is imposed on the person liable for the tax. That person is the one who controls employee payroll before it gets paid. This method of course makes delinquencies impossible and a windfall of ignorant self assessed taxpayers inevitable.

There is no dispute, the American Revolutionaries created the oldest self-governing nation. Our nation continues because we cherish our freedoms and we are willing to abide by the rule of law. Our freedom is not license to do what we want but freedom to choose our own course in life: self-determination. This self-determination is matched with personal responsibility. Under our system of law and government, if this self-determination is to be challenged by anyone it must be done by lawful means using well established legal process. The essence of the income tax is in the obligation to record, account for and pay a tax based on net or gross income or gross receipts. Without that obligation no taxable income can be created. We have seen in the federal income tax the obligation to record, account and pay become a tax that ultimately comes out of the earnings of the federal government employee. Shifting the accounting and record keeping to another does not change the nature of the tax. The tax on federal employment is a privilege tax. The only privilege tax on income that I have discovered is the sales tax. Clearly, an employee is not involved in the privilege of selling at retail or in working for the federal government. The employer, would be aware of it if that were the case.

When sales taxes were introduced, it was thought they were property taxes on the goods being sold. The tax was seen as a tax on the value of goods measured by the price paid. After much protest, complaint, prosecution and litigation most people agreed that this tax was merely one of many excises on the privilege of selling at retail. The proximity of property involved in the transaction and the activity associated with the property caused the problem of again isolating the activity so it could be taxed as a privilege associated with the property and not a tax on the property itself.

## **TAXATION:TAXES ON PROPERTY AND TAXES ON EVERYTHING ELSE**

Taxes generally fall into two categories: taxes on property and taxes on everything else. Everything else can be a very large category, but as we saw above the activity taxed usually but not always has something to do with property of some kind.

In the past objection to taxes took a familiar form. All taxes were objected to because it was felt they were direct taxes that had not been apportioned. That tactic was very successful in the attack on the 1894 Tariff bill which contained an income tax that really was an unapportioned direct tax. I will qualify taxable activities further by saying: throughout history certain activities have been regulated and taxed by government because they were generally accepted as part of the realm of things and activities controlled by government. No one argued this is what government did. It taxed alcohol and tobacco among others. The activities that comprise the realm of government rise and shrink with the times. In the history of the world, the United States has symbolized the struggle for freedom of all people everywhere. This is known as the land of the free for good reason: the native people of North America were not ruled by despotic government and the Europeans who arrived after them revolted rather than continue to be ruled by a despot.

#### **PURPOSE OF THE W-4**

The only purpose of the W-4 is to discharge a tax liability where one exists. When an employee denies such a liability exists no agent of the government will certify there is liability. This is not speculation or wishful thinking on our part. This is the law as it has existed for over two hundred years. Old law was once revered as "Black Letter Law". This law needed little interpretation by either attorneys or judges. For example, the "Black Letter" definition of the common law crime of burglary is: The breaking and entering of the dwelling house of another in the nighttime with the intent to commit a felony therein, whether or not the felony be actually committed or not. Sure, there have been changes to the definition of the crime over the years but the basic idea remains. The income tax is an excise imposed on a privilege measured by gross or net income or on gross receipts. Taxation is still all "Black letter Law." However, government has relentlessly replaced "Black Letter Law" with the casebook method of teaching. By this approach the law is learned by studying actual cases decided by appellate courts. We learn "nonsense" law from mostly federal judges that "wages are income" and we are left to conclude that income is the subject of the tax so we owe an income tax because other judges have said we do. This teaching method has supplanted what was once a foundation of the legal principles that gave us the Declaration of Independence and the Constitution. Our freedoms now rest on the legal opinions of judges of unknown or dubious competence.

There was a time when judges were aware of how government functioned and what taxes could be imposed. Most importantly, these judges sought to protect individual freedom from the incursions of government. Judges come from the ranks of tax ignorant lawyers. Today the Internet supplies the latest decisions in the law and most of the state cases only go back a few years. Courts are mainly interested in upholding government interests not enlarging individual freedom. This can be changed over night. But, it means that the law has to be wrenched out of old cases. Current digests of the law will make no mention of the cases I have cited in this letter. If there is no current reference to them they will never be found by the modern lawyer. That is why lawyers believe the income tax is a direct tax that does not have to be apportioned. The sad thing is they don't know what a direct tax or apportionment is. The law hasn't been repealed, just ignored. I will over time bring out cases that have been forgotten but not overturned. These cases will cause a stir in the legal community. Be forewarned that my purpose is to place responsibility where it belongs. If an employer is giving my client's funds to the IRS without proper authority they will be made responsible. The day of reckoning is fast approaching. Everything in this letter can be verified to be accurate and correct. Nothing can illustrate tax ignorance better than this actual example of judicial legislation in the field of taxation.

Because the W-4 is a government form to be used primarily for government employees, its use has generated regulations for its use in cases where a government employee claims an exemption from income taxation. I make sure my clients are not government employees. Therefore they are not subject to those regulations. Over regulation of business by the federal government has made the government W-4 form to be perceived as mandatory for everyone. Therefore we will deal with it as it is. There should be no need to send the W-4 form into any Federal or State agency. However if it is sent a copy of an attorney letter must accompany it to make certain that the client will be treated as a private employee.

If one carefully examines the dictionary definition of withholding, one must soon realize, that only that which one owns and controls can be lawfully withheld. Private withholding of wages must be the result of an agreement because the employee owns the wages and the employer only exercises limited control over them. Government employee wages can be controlled by government because government owns and controls the employee's wages even when they have been earned. Unilateral withholding can only occur when government money is being used to pay wages part of which are going to be used to pay a government employment privilege tax. This employer/government has a substantial power not even the biggest and wealthiest private employer enjoys. The government employer is sovereign.

If a person is not liable for federal and state income taxes that person is also not required to agree with his employer to have part of his pay withheld to pay for those taxes. The stated purpose of a completed W-4 is "so your employer can withhold the correct Federal Income tax from your pay". If one owes no federal income tax the correct amount of tax to withhold is none. An employee would never agree to have pay withheld if there is no federal income tax liability. As was learned above there is only governmental unilateral withholding. All withholding in Chapter 24 of the IRC is governmental withholding as to public employees. All wages are wages paid by government. As the federal income tax includes a privilege tax on federal government employment, it follows that all wages in Chapter 24 will be subject to withholding. Section 3401(e) states:

For purposes of this chapter, the term "number of withholding exemption claimed" means the number of withholding exemptions claimed in a withholding certificate in effect under section 3402(f), or in effect under the corresponding section of prior law, except that if no such certificate is in effect, the number of withholding exemption claimed shall be considered to be zero. Emphasis added.

In the case of private employment where an employee is not liable for federal income taxation, no W-4 would be required because no tax is due and there is no requirement to withhold. Section 3401(e) clearly establishes that Chapter 24 is devoted entirely to government employers and employees because all these government employees are subject to taxation and withholding by the usual operation of the tax. Exemption from Chapter 24 withholding is granted based on over payment of prior withholding and not because any government employees have been made legislatively exempt from the privilege tax by Congress.

Similarly, section 3402 (a) (1) commands "every employer making payment of wages shall deduct and withhold upon such wages a tax determined in accordance with tables. . ." There is no caveat that such wages are only taxable wages. These wages are taxable because they are paid by government agencies to government employees who are being taxed on the privilege of working for the federal government. The employer "shall deduct and withhold" because the employer is an agency of the federal government and section 3402 (a) (1) of the Internal Revenue Code is merely Congressional instructions to the government. It is here exercising the police power but now matter how powerful we might perceive the national government to be it simply cannot exercise police power over us here in California. We can and do on a voluntary basis agree to pay the federal government's privilege tax in the same way we voluntarily agree to pay the retailer's privilege tax we call the sales tax when we contract with him.

Does it surprise you to learn that withholding of a private employee must be by agreement between employee and employer? Why should it? It is unfortunate that so little real legal analysis is done by lawyers these days. Today lawyers accept without question practically everything a court states in a legal opinion. Taxation consumes from one third to sometimes more than half of what we earn, yet attorneys even tax attorneys are abysmally ignorant of fundamental taxation principles. Tax ignorance is what allows the IRS to bully us to pay what we don't owe. My client tells me that in the past the IRS has pressured other employers to refuse to accept his W-4 Employee's Withholding Allowance Certificate as he has prepared it. IRS pressure is not a legitimate function of tax collection, a purely ministerial function. Such activity must be seen for what it is, intimidation. The IRS must use pressure and intimidation because it has no substantive power over an employee in the private sector. Remember the IRS can only collect a certified tax. It has no other function.

Can a company's own legal advisor explain why they seemingly have the power to disregard an employee's certification under penalty of perjury while the IRS does not? Whatever power the IRS has it has not been elevated beyond the level of instruction. No court decision that I have read has found the IRS to have any power beyond that to suggest. This is in keeping with its ministerial function. My supposition is the IRS claims that if the tax is not paid over by the employer the IRS will collect it from the entity that has been made liable under the Code—the employer. However, as I suggested in my synopsis of the IRC the employer made liable is the person acting as paymaster for the government. Such an arrangement gets the tax assuredly paid and provides misconception that the private employer is liable for the tax if the tax is not withheld. If employer's counsel is pressed to provide a code section in the Code, most lawyers come up with an answer dredged up from Chapter 24, the withholding chapter of Subtitle-A. My guess is that Section 3403. Liability for tax will be chosen:

The employer shall be liable for the payment of the tax required to be deducted and withheld under this chapter, and shall not be liable to any person for the amount of any such payment. Compared to other liability clauses in the code Section 3403. Liability for tax isn't much different from the other liability clauses for other privilege taxes in the Internal Revenue Codes. Let's compare:

Section 5005. Person liable for tax

(a) General. The distiller or importer of distilled spirits shall be liable for the taxes imposed thereon by section 5001(a)(1).

Section 5703. Liability for tax and method of payment

The manufacturer or importer of tobacco products and cigarette papers and tubes shall be liable for the taxes imposed thereon by section 5701.

Section 3403. Liability for tax, in writing style, is not much different from the other liability sections for tobacco and consumable alcohol products and the other excise taxes in the balance of the Internal Revenue Code. The big difference is that every other excise tax is clearly described. By supplying the missing description of the tax in Section 3403, we get this:

The employer shall be liable for the payment of the tax on federal government employment required to be deducted and withheld under this chapter, and shall not be liable to any person for the amount of any such payment.

Government propaganda is everybody owes the individual personal federal income tax. If we accept that idea, Section 3403 must apply to government employees. That is, of course, obvious. The real question is what in Chapter 24 makes withholding applicable to private employers? We know the correct answer is nothing. There is nothing in the Code or in any other federal law that makes private employers subject to or liable for a federal income tax.

Withholding means to 1. Hold back; restrain or check. 2. To refrain from giving or granting. Only a true owner can hold back, restrain or refrain from giving and granting. Only federal government wages may be withheld because the source of such wages is federal money, such money is owned and controlled by government until it is finally paid to the employee.

That which is being withheld as taxes from the federal official, officer or employee also belongs to the federal government. A private employer does not own the wages of the employee. State labor law makes wages the property of the employee. Once wages are earned the employer loses control over them and they become the property of the employee. The employee may assign his rights to those wages to another but the employer can only delegate his duty to pay them to another. The duty to pay wages to the employee is not discharged by paying them to someone not authorized by the employee. Withholding can only be done by the true owner. That is why the IRS begs and pleads for you, the employer, to alter or ignore the employee's Exempt W-4 and send the funds you have no claim on to them. The obligations and protections given to employers in Chapter 24, the withholding, are only for federal government employers because "employers" are defined with respect to "employees", who are federal employees, officers or officials.

The W-4, still represents a private agreement between two contracting parties, employer and employee. Now the employee can clearly establish that chapter 24 of the code has nothing to do with him. Everyone must agree that the employer of a government worker is the GOVERNMENT. If you have not already done so, examine a Form W-4 and the instructions provided. You will find no place where an employer is to impose, upon the employee, liability for any federal tax. Nor will you find anywhere in those instructions a source of authority for an employer to alter or ignore an employee's W-4. You may have had prior experience with an employee who claimed to be exempt and such claim was rejected by the IRS. The IRS and its agents only have the power given them by the Congress over its employees and other contracting parties. The W-4 is completed, executed and delivered to you the employer to satisfy what has become the perceived legal requirement employers now accept without question.

For over 125 years the Internal Revenue Service has been no more than an organization of tax collectors who must perform their duties exactly as required by law. But, it has also been described by many of its own members as the closest thing to a Gestapo as has ever existed in this country. Can a government organization be Gestapo-like and still be part of our government? To paraphrase William Jefferson Clinton, "It depends on what the meaning of government is." The IRS works for the Commissioner of Internal Revenue, who works for the Secretary of the Treasury, who in turn is appointed by the President. It does one thing and one thing only. The IRS collects taxes. No matter what the tax is called it can only collect two types of taxes. One is the kind certified under penalty of perjury by a person or other legal entity who will pay the tax and another that is certified by another granted that power by Congress. The only persons who can certify that someone else owes a federal tax is the Commissioner of Internal Revenue and the Secretary of the Treasury. Altering or ignoring a fully executed W-4 is the equivalent of imposing, assessing and collecting a tax. If an employer wants to impose a federal tax on an employee that power must have been delegated to them prior to their imposition of the tax. That is the system of federal internal revenue collection.

Throughout IRS history its members have continually overstepped authority. Taking that extra step beyond lawful authority enhanced revenues Congress has steadily, if half-hearted, restrained their abuses until 1998 when significant reforms were made. Those reforms allow my client's determinations of non-liability for federal income tax to stick. Unfortunately, reform has not changed the IRS they merely change focus. They now claim the power to instruct employers in the art of imposing taxation without proper authority. They can claim, plead, implore, and instruct but they can't break the law. They can use their claims, pleadings and instructions to employers to have them break the law. That hasn't changed. The IRS hasn't violated the law you have. As there are two kinds of internal revenue taxes there are two types of employers, government and private. Can you guess which one the IRS can instruct? Notice, also, how carefully the IRS picks its words. Congress commands. IRS instructs.

The IRS has no power over government only over persons who have declared themselves to be taxpayers. What about those who have been declared to be certified grade A taxpayers? Government produces two types of federal taxpayers. There are those who know why they are paying and those who don't. The majority of those who know are federal government employees. They sign on the dotted line, agree to withholding and wait for retirement. Those who don't know why they are paying constitute the majority of federal taxpayers. They sign up for withholding, overpay the tax they don't owe and are ecstatic when they can claim even a partial refund. There are millions of people who do not pay federal income taxes for a variety of reasons but their major reason is that they simply do not owe a tax. Only a government employer can withhold wages, because what the government withholds actually belongs to the government. If a private employer withholds wages he is taking from the employee. State law may call it theft or conversion depending on the technique. The federal income tax is an excise tax on the privilege of contracting with the federal government. In Chapter 24 the tax is on the employment contract with the federal government. As such the federal government knows where these taxes are at all times. The tax bonanza is what is voluntarily assessed. Every tax of whatever kind must be assessed, which just means determined or calculated. This is the drill: Congress imposes the tax-"There is hereby imposed a tax on the taxable income of. . ." Federal government contractor assesses tax on form 1040, certifies there is taxable income, states what is due if anything, pays that, case closed. Self-made taxpayer doesn't have a clue, pays as little as possible not realizing nothing is owed. Once a person has "come out" as a taxpayer the IRS can try and get more by whatever shaky tactics Congress has left them. No need to describe IRS methods of revenue enhancement. They aren't pretty.

The IRS's true function is analogous to that of a county tax collector who merely collects taxes from a list prepared by a county assessor. The IRS is required to collect taxes only from persons who have been certified in some way to have a federal internal revenue tax liability. This is why the United States Supreme Court in *Royal Indemnity Company v. United States of America*, (1940) 313 U.S. 289, held that IRS officers are subordinate and ministerial officers only, charged with the duty of collecting taxes. Such officers cannot make the discretionary determination of tax liability for any person, only the Commissioner and Secretary can do that. Furthermore, as ministerial officers, IRS agents can only collect taxes from persons or entities that have been certified to owe them. The W-4 can supply such a certification when the employee who certifies the W-4 states he or she owes a tax, enters a Social Security Number, and claims allowances. Absent such documentation the IRS must seek a certification from the Commissioner or Secretary.

What follows is not a common sense but a "better sense" explanation of taxation so you can understand why employees have never had an income tax liability. The American working man and woman has not consented to a state and federal tax on earnings. It is the employer who has unwittingly conspired with a lawless IRS to hand over worker money in violation of contract and labor law. Common sense has made us all believe we have to pay an income tax because we earn money. Common sense tells attorneys and CPA's that the Sixteenth Amendment permits Congress to impose a direct tax without apportionment. There is no such tax. My "better sense" approach says income is not a concern until we are certain a tax is owed. If you are at all uncertain about the many incongruities of the tax that the overwhelming majority of Americans once thought they would never pay because it was the tax on the rich, then you should continue reading.

Taxation of the fruit of the working man's labor is always possible in despotic governments. Communist and socialist governments are the best modern examples but all monarchies despotic whether or not the ruler is enlightened. Most people perceive the income tax to be a tax or charge on the money itself or other forms of value earned by capital or labor because that is the perception government wants us to have.

That thought of the income tax as a property tax permitted by the Sixteenth Amendment to the Constitution is a silly notion and it has been rejected by the United States Supreme Court in case after case where that belief has been presented. Despite rejection by the highest Court of the land, this now common legal fallacy has been taught to lawyers and accountants since 1913, the year of enactment of the modern income tax. That the income tax is an unapportioned direct tax is the moral equivalent of belief in a flat earth. Such a tax is a legal impossibility but this heresy is found in every income tax treatise written for lawyers. It is no wonder lawyers are universally despised and members of the Supreme Court believe the overwhelming majority of lawyers are incompetent.

They make no tax sense but these lawyers who really believe what amounts to mumbo jumbo are made judges. A businessman would say it is good for the "bottom line" because it gets taxes paid, though at great damage to truth. As a consequence of this we have hundreds of tax cases that add little more than gibberish to what we know about taxation. Grown men who happen to be federal district court judges decide cases by announcing "wages are income" or "all United States citizens and residents are subject to taxation". When supposedly learned men can utter no more cogent observations than these is it any wonder that common folk can only resign themselves to a lifetime of taxation because of the fear of prison. A person does not have a federal income tax liability because of where he lives or because wages are income, money, earned or anything else. What is behind all this hocus-pocus? It's the lust for tax revenues and power over people.

It is not difficult to see in these facts: uninformed and incompetent legal counselors, dogmatic and Draconian judges and unscrupulous tax collectors who will use every trick to snatch what only they call taxes, a conspiracy to grow more and more bad government. The prospects for honest change in government do not look good particularly if we depend on admittedly flawed apparatus for needed change. Every year the national attention span declines by a few minutes. It hard to imagine how public education can get worse but it does. What intelligence remains is used to conceal the depth of ignorance that is now a permanent part of this nation's infrastructure. Government only promises more of the same government. The American working men and women are ready to lead the rest of the world's workers to a new independence and freedom. All that they ask is an opportunity for a fair fight. These workers, like this client, are ready to wade into red tape and government intransigence. We must listen to the judges and bureaucrats because there is much to learn in their weasel words but we must, also, judge for ourselves everything we are told, particularly what we are told we should do. Employers hold the keys to the arsenal that will supply the combatants for Americas Second Revolution. Loyalists fled the country at the end of America's first revolution rather than put up with the taunts of the victors. The world has grown smaller since then and history has shown us the safe bet is on freedom.

Government has not provided for a free exchange of basic taxation that I discuss in these pages. For that reason, I will not in this letter cite much legal precedent for any of the principles I will advance. Those principles are so basic they are to be found in hundred year old cases, in antique legal texts and in simple reasoning. Dictionaries are more useful than case books. Judges more often than not befuddle the reader of a tax decision because they must cleverly hide their own tax ignorance and be careful that no tax truth emerge that might bite back later. Courts cannot impose, assess or collect a tax (with the possible exception of the California Supreme Court ). Any tax that spends a lot of time in court is a failure as a tax. State and federal income taxation qualified as failures a long time ago but the government doesn't care because it remains in control of the money. Successful taxes are simple to understand and easy to administer. The best ones are in your face every day and you still pay them. You put up with them because you decide when you don't want to pay them and you really have that option. The sales tax is a simple tax but before we substitute it for the federal income tax we better know a lot more about each of them.

Only the legislative branch of government may impose a tax. The administration of the tax is left to the executive branch and courts do what courts have always done-tell you the law. Why would any employer need a federal judge to tell him not to alter, disregard or ignore a certificate that was executed under penalty of perjury for the purpose of telling the employer how to pay out the employee's own funds? Such an act if carried out is the moral equivalent of suborning perjury and the tort of conversion. If the IRS was more than just a money grubbing Gestapo and the employer was doing this without the instigation of these errant agents, the employer might face a federal indictment for altering a document. Ever since federal court judges lost their own fight against the individual federal income tax federal judges can be counted on to play along with the executive branch to hide dirty tax details from the public. Legal education, apathy and Every day employers are doing the IRS's dirty work and dirty tricks without a thought of the consequences of their acts. Is it fear, stupidity or patriotism that would cause an employer to break the law to help the IRS collect a tax that is not owed?

Whether or not withholding is to take place is a matter of agreement between employer and employee. Ordinary contract principles apply between employer and employee. Neither party is permitted by law to oppress the other until there is a complete capitulation as the IRS is suggesting to the employer. As will be more clearly seen in this letter the United States Government does not possess the necessary police power over a non-federal employer to impose federal withholding or income taxes. All references to employers or employees in Chapter 24 on Withholding of the IRC are to federal employers or employees. The federal government cannot and does not have jurisdiction over non-government personnel or private employers not subject to its regulation. The only government that could possibly exercise some regulation and control over people like my client would be state government and as we shall see that control is limited.

In the state of California, as in all states, the work of certain occupations and professions when performed for profit must be performed by or hired through a person or entity licensed by an agency of the state established for that purpose. Government is permitted to control or regulate certain activities that have the potential of injuring the public. The power that permits that is called the police power and it is the highest power of government.

Taxable income is created when the police power of government is used to impose upon a person or other entity a duty to keep track of the money made from a regulated or controlled activity. No other type of income is relevant to our discussion of liability for state or federal income taxation. A license or permit that requires the licensee or permittee to keep a record of gross or net income or gross receipts for the purpose of taxation is the basis of all income taxation. Here, in California, retail sellers are so licensed, though the tax on their gross receipts is called a sales tax and the persons who actually pay the tax are the customers of the retailers. California government tax officials deny that our sales tax is an income tax. All the smoke, illusion and deception can't keep the sales tax from being exactly what it is-an income tax. In the law as in art a rose or a tax is still a rose or a tax no matter how much it is denied. A rose by another label remains a rose and a tax by whatever name remains a tax. The California income tax is a true tax on, measured by, or with respect to income because it is the police power of the state that imposes the duty or legal obligation to count the gross receipts from a controlled or regulated activity. Any doubt on the matter can be resolved by referring to the income tax experts, the United States Government.

The experts in income taxation, the federal government, have defined income taxation just as I have above, but in much drier terms, in Title 4, Section 110 (c) of the United States Code. The feds have had to become experts in this narrow field because unlike the states our national government does not possess the full police power. A clear signal that an agent or agency has no power is the use of "please", "should". Lacking a general police power over the states, the federal government has had to be more ingenious and inventive in personal taxation. A lot of dishonesty hasn't hurt either.

The general police power was among the reserved powers kept by the People for the purpose of governing themselves when they formed the national government. The national government only possesses enough of the police power to effectively exercise the enumerated powers in Article I, Section 8 of the Constitution. For example, prior to the assassination of President Kennedy the murder of a President was not a federal crime. The Texas authorities were in charge of that crime because it violated Texas law and it occurred within Texas borders. To understand taxation and the power to tax we must understand what a tax is. Every tax like every sentence has a subject and a predicate. In grammar, the predicate is defined as everything but the subject. A tax without a subject is like a sentence without subject, incomplete and useless to convey a thought. A tax without a subject is difficult if not impossible to efficiently administer. Witness-the federal personal income tax. Income is never the subject of tax as a verb is never a subject of a sentence. The predicate tells us more about the subject and in taxation, income is used to tell us or calculate the amount of the tax in dollars. Income is the predicate of a tax because it supplies critical information about the subject. The critical information we need to know is how and how much we have to pay. In our sales tax example, the subject of the tax is the privilege of selling at retail. The person liable for the tax is the retailer and the amount paid is the rate of sales tax expressed as a percent. The amount of tax due is determined by multiplying the rate of the tax times the gross receipts. Without the federal deception, taxation would be simple: Subject, person liable, assessment and collection. Secret subjects of taxation give power to ministerial tax collectors they were never meant to have. Section 1 of Title 26 imposes the income tax on individuals. The subject of the tax is not "income" and it's not "individuals". Taxable individuals turn out to be ordinary people who contract with the federal government. Many individuals are honestly liable for federal income taxes because they contract for federal employment. There is hereby imposed a tax on the privilege of working for the federal government measured by the amount of income earned as wages. When a person works for the federal government he signs up for withholding. Zap! The Employer/Government takes out for taxes and the individual gets the rest. Lucky individual working for federal government wins a sweepstakes prize. Section 74 of IRC says include prize in Section 61. The Employer/Government takes out for taxes and the individual gets the rest. The reason the Internal Revenue Code is so complicated? The feds had to hide the subject of the federal income tax somewhere. They hid it in the Code.

## **TITLE 26 UNITED STATES CODE PART I-TAX ON INDIVIDUALS**

Sec.

1. Tax imposed

(a) Married individuals filing joint return and surviving spouses

There is hereby imposed on the taxable income of

(1) every married individual...

(2) every surviving spouse...

a tax determined in accordance with the following table

(b) Heads of households

There is hereby imposed on the taxable income of every head of a household...

a tax determined in accordance with the following table:

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

There is hereby imposed on the taxable income of every individual...

a tax determined in accordance with the following table:

(d) Married individuals filing separate returns

There is hereby imposed on the taxable income of every married individual...

a tax determined in accordance with the following table:

There is hereby imposed on the taxable income of every head of a household...

a tax determined in accordance with the following table:

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

Presented in this way the tax looks like the program for the awards banquet of Rugged Individualists. Lest someone miss the point, everybody get a prize (booby) no one goes home without being taxed. All of the above could have been replaced with: "There is hereby imposed on the privilege of contracting with the federal government a tax measured by the amount of gross income derived therefrom, determined in accordance with the following table: . . ."

The reason a gross receipt tax is known as an income tax by the tax experts is because the customer pays the tax. It is part of each sales contract the retailer makes with each customer. The customer pays the price and the customer gets the goods. The price the customer pays includes everything that goes into the cost of goods sold. If there was no sales tax the retailer could, in theory, charge the same price and make and keep the amount of the tax for himself, thereby increasing his income.

The federal income tax, according to its own, Title 4, Section 110 (c) of the United States Code definition, is a tax on net income, gross income or gross receipts. Actually, they more precisely say it, "means any tax levied on, with respect to, or measured by net income, gross income or gross receipts". Without the requirement that income or gross receipts be accounted for there can be no income tax. Lacking the general police power the feds can only tax via the privilege taxes like alcohol, tobacco and gambling, imports, in connection with the exercise of the enumerated powers and using an apportioned direct tax on any people or property in the states. The police power is the inherent power in all governments to govern. The national government has cleverly used the little police power it does have in D.C. and its possessions to create an income tax that has grown from a tax on the "rich" to a tax on everyone. The federal income tax in reality is a tax on the privilege of contracting with the federal government. The largest number of federal contractors are its own federal employees. Following federal workers are the persons who live and work on the real estate the United States government owns. Our national city, Washington, District of Columbia is federal government property. The people who live there do not have all the same rights as we who live in one of the several states. The basic difference is sovereignty. The Constitution guarantees the states a republican form of government where the people are sovereign. No such guarantee exists for citizens who live in D.C. The Congress rules D.C. and other United States possessions with the full general police power. This is the power the IRS exercises. The secret even most agents don't know is that this power is limited as to federal places and persons.

Subtitle A -Income Taxes of the Internal Revenue Code is written specially for federal workers and contractors. The employees in the IRC are federal employees. Employers are government departments and agencies. Private sector employers are simply not found in the IRC. Congress has no power over ordinary people living in their states of the Union. Private employers: Do not put yourself into the IRC. You don't belong there. Gross income is income that is earned from working for the federal government or on or from federal property or activity. The real sources of federally taxed income all originate with the federal government.

Today, there are many people who advocate a national retail sales tax as an alternative to the federal income tax. Aren't they failing to recognize that such a tax is an income tax? Of course, they are. As I have pointed out here, the states have the power to impose these "mini" income taxes on various callings, occupations, and professions. The reason they don't and the reason they deny sales taxes are income taxes is their dependence on the federal system of income taxation based on ignorance, fear and taxation of government employees.

An admission that a sales tax is an income tax would leave them with a stable of state government workers who, now alone, would owe a tax on the privilege of working for the government. It is not difficult to imagine the utility of such a tax in restricting the growth of government. Few people, for instance, would oppose income taxes on lawyers and politicians. Our system of state governments, differs from the Government of the United States in that the people rule not only because they can vote for their representatives but because they have an inalienable right of sovereignty. Congress rules like a monarch the lands and people of the United States Government and its possessions because it is the sovereign there. It will always be the sovereign there. That power and that power alone accounts for powers claimed in the IRC. Those powers begin and end at the borders of its territory: Washington, D.C., the federal states it possesses and the federal real estate scattered throughout the rest of the United States of America.

In the days of the powerful kings no king would tax himself. The sovereign always has prerogatives and one of those prerogatives is not to pay taxes. When the king was rejected we made ourselves the sovereigns by imposing taxes not on ourselves but on property, imports and on the activities that would harm us. The other prerogatives of the king became our inalienable rights. The right to work or labor in the calling of one's choosing is such a right. Every state constitution that I have read makes all property real and personal subject to taxation. Sure, there is exempt property belonging to churches, schools, government and the like, but without exception every piece of property may be taxed. Taxation is based on the direct taxes like property taxes. These taxes are the first choice of government because everything within the state's borders can be easily assessed, the owner found and the tax collected. Statements by judges as to the vast and mighty power of government to tax refer to its unlimited power to tax all the property within the nation.

In ancient times other direct taxes like capitation or head taxes were popular because locating the owner and assessment were easily combined. Taxation can be divided into either a tax on property (matter) and heads (people) or taxes on everything else taxable. The latter category is always going to be (non-matter) events or activities. Certainly, the right to sell goods is an inalienable right that we all enjoy. It is part of the right to own property. How can it be taxed? In our system of government any right except the fundamental rights (speech, religion, etc.) can be taxed for revenue by use of the police power. The police power can be used to declare activity over a certain amount a commercial enterprise and therefore subject to control. This is what was done to retail sales. The catch is the revenue must only be used for public safety, health or morals. That is a significant limitation to the state's power to tax for revenue pursuant to the police power.

How does the federal government overcome the powerful forces that are at work in America that keeps us free despite high taxation? You the employer have encountered some of them in dealing with IRS agents. Lies and deception have been at work to deny freedom since the first governments so no one expects them to go away anytime soon. The Internal Revenue Code is filled with lies and deception built upon an indefinite privilege tax that might apply to everyone making money. Once the subject of the tax is found persons like my client can hone in on it like a beacon. He knows he owes no federal income tax because he absolutely knows that income cannot be the subject of any tax. Privileges can be taxed without limit so he knows that his earnings can't be taxed as income from a privilege. Governments make certain activities privileges. Rights can't be made into privileges but non-fundamental rights can be taxed with the police power. The revenue from such taxation must, however, be used for public safety, health and morality.

Whenever the difference between a right and a privilege is very slight you can be sure government will exploit every opportunity to blur the difference and create a new tax. The sales tax is defined as an excise tax on the privilege of selling goods at retail. The manufacture or importation of alcoholic beverages is no doubt a privilege.

Making tobacco products is a privilege. The federal income tax is just another privilege tax. It is not a tax of universal application as the federal government would want us to believe. The tax is defined by Codes, laws, regulations, forms, oaths, certifications, assessments and returns none of which apply to persons not contracting with the federal government.

In the federal income tax we have the easiest privilege for government to exploit, manipulate and control-federal government employment. No one has a right to work for government and when government is both government and employer it can begin to spin its web of deceit to draw into its sphere of influence unsuspecting private employers and employees. In the pages that follow you will see that compulsory withholding is only possible when government is the employer paying wages and salaries. You as an employer have absolutely no power to withhold the funds of your employee once those funds have been earned. The labor laws of all the states make the obligations of employers clear. Absent a judicial order you have no power to pay over your employees' funds to someone other than your employee. Section 3402(a) (1) of the IRC is applicable only to federal government employers. The language in that section reads, ". . . every employer shall deduct and withhold upon such wages a tax. . . ." Every federal employer does precisely that. That language which I have emphasized in bold is language of command. If the IRS really had power over you, employer or over my client do you really think they would be begging and pleading for you to fudge with the W-4 form? Of course not, federal employees are captives. They must pay a tax on the privilege of working for the federal government. Their employee handbook is found in the United States Code, in fact, since the Internal Revenue Code is almost totally devoted to federal employment any private employee should, before paying any tax demand his or his employer to first establish by clear and convincing evidence that the IRC applies to their employment. No worker in the private sector must pay a tax for the right to work.

Employees are engaged in no activity that requires a state or federal license or permit which imposes a duty or legal obligation to record or track his income. Notice that all that record keeping is done by the federal government for its employees. Any reader who has read to this point must accept the basic premise of the federal income tax as a privilege tax on employment. What employers are going to have great difficulty accepting is the exclusive subject of the tax-federal employment

The employer/employee relationship is based on the mutual promises to work and to compensate for that effort. The Founding Fathers thought so much of the sanctity of contract that it is given special protection in the United States Constitution. That special protection should always cause us to investigate any action taken by government to disparage in any way the right of the working man or woman to contract with others the value of his labor without interference from either public or private sources. Withholding is an agreement between employee and employer for the purpose of allowing the employer to withhold the correct Federal income tax. An employer may be requested by the IRS to alter or disregard the employees sworn certificate in which he states that he has no federal tax liability. In Article I, Section 10 of the Constitution the states are prohibited from passing any law impairing the obligation of any contract. That prohibition does not allow the national government such power. In Section 8, of Article I, the Congress was given all the power it would ever have. In none of those powers can be read the power to pass any law impairing the obligation of any contract.

The IRS has no power to impair or interfere with a valid employment agreement. If funds are withheld counter to the agreement of the employee because of "suggestions" from an IRS agent that is an impairment of a contractual obligation. IRS agents are ministerial officers, as such, they have no power other than what is specifically set out in law or regulation. That obligation is to treat the employee exempt from the federal income tax by not withholding any of his funds. The IRS has authority over officials, officers and employees of the federal government it has no power over private persons.

The critical information we need to know: is the employee in the private sector the same kind of "employee" subject to withholding in Chapter 24 of the Internal Revenue Code? Fortunately, distinguishing the "employee" in the withholding chapter of the IRC is rather simple, but tedious. Anyone who has read the Internal Revenue Code knows nothing is said simply. The words, "For purposes of this chapter . . ." "Employee" does not have its ordinary meaning when used in the withholding chapter of the IRC. The reader should be alerted that anytime quotation marks appear around a word in the internal Revenue Code, the government is getting ready to pick your pocket. Section 3401(c) gives "Employee" this special meaning:

For purposes of this chapter, the term "employee" includes an officer, employee, or elected official of the United States, a State, or any political subdivision thereof, or the District of Columbia, or any agency of instrumentality of any one or more of the foregoing. The term "employee" also includes an officer of a corporation.

The reason "employee" is given a special definition in the IRC is because the employee subject to withholding is special. The purpose of all the preceding commentary was to demonstrate that where it comes to picking the pockets of working people the United States Congress has a very limited territory though these little enclaves may be scattered all over the world. The 'employee has to be a government officer, official or employee in order to give the entire chapter validity. The government of the United States is without jurisdiction in the non-federal states of the Union. The several states or states of the Union is where the Nation's real police power of government resides. Chapter 24 applies in Washington, D.C. and the other possessions of the United States and over its own employees. It is good in every federal building, federal courthouse, fort, magazine and federal outpost and outhouse.

How is the definition for "employee" to be read? First, a special definition, which this is, does not include the meaning of the common term, it can't apply to all employees because it is a limited definition. Congress has no enumerated power over all employees not its own and its police power is limited to its own territory. This is a special definition for the purposes of this Chapter. My client and millions of employees are included in the common term as are all employees everywhere in the world. He is not included in this special definition. This special definition of "employee" applies only to persons who fit the labels listed after the word "includes". To be a person subject to withholding, one must fit into one or more of the following groups: (1) an, "officer, . . . of the United States, a State, or any political subdivision thereof, or the District of Columbia, or any agency of instrumentality of any one or more of the foregoing". (2) . . . employee, . . . of the United States, a State, or any political subdivision thereof, or the District of Columbia, or any agency of instrumentality of any one or more of the foregoing. (3) An, . . . elected official of the United States, a State, or any political subdivision thereof, or the District of Columbia, or any agency of instrumentality of any one or more of the foregoing". Or, (4) an officer of a corporation.

Why wouldn't any employee fit within group number 2? Geographically, they would, if all the government and taxation principles I have discussed were completely ignored and If that group were to include all employees living and working in the United States, a State, or any political subdivision thereof, or the District of Columbia, or any agency of instrumentality of any one or more of the foregoing". If the terms, United States, a State, or any political subdivision thereof, or the District of Columbia, or any agency of instrumentality of any one or more of the foregoing", were being used geographically, "employee" would not be a special term. The only way that "employee" can be a special term is for the terms, United States, a State, or any political subdivision thereof, or the District of Columbia, or any agency of instrumentality of any one or more of the foregoing", to mean the "employer" of the "employee".

We know that "united States" is not used in the geographical sense because Section 7701 (a) (9) of the Code states: "The term "united States" when used in a geographical sense includes only the States and the District of Columbia." The term United States is being used in its political sense as government /employer.

Finally, in plainer talk, what does the term "employee" include and what does it not include? And, what does "include" really mean? From the discussion preceding, only government workers are "employees." The term employee as a worker in private industry is not part of the term "employee". If we think of the word "includes" as an equal sign we can see that the parts of the whole can't be larger than everything on the other side of the word "includes". "Employee" consists of the three groups of federal government workers identified above and officers of federal corporations.

I think the best way to understand the use of the word "includes" is to imagine its use on television. In this way we can visualize that the term "employee" can stand for any term. "This offer includes. . .all the workers you see here". ". "Employee" includes all the government workers you see here, officers, elected officials and all the corporate officers you'll ever need." "This fantastic offer includes all the worker bees you see here and all the worker bees in the hive." "And for the first 25 callers you'll get a set of corporate officers that never need sharpening". Operators are standing by! "Everybody you see here is included in this great offer." I certainly hope no one sees himself or himself in this outrageous example that is unless you are a government worker.

The truth of the matter is we are being sold on TV and we are being deceived in the Code. Hear the TV pitchman say, "This fantastic offer includes everything you see here." The fantastic offer can't get bigger unless more is added to "everything you see here." The fantastic offer is never larger than the things we see on our TV screen. We have all seen offers sweetened on TV. The TV audience is asked if more ought to be included in the offer. More! They Scream! This is part of the hype that is TV. The fantastic offer is limited in more than one way. But, what you see is what you get. No one responding to a fantastic offer thinks they're going to get a fantastic offer and "everything you see here." In government speak, not only do you get a fantastic offer you get all the things you see here. Actually, you get nothing. You are the loser. I am speaking of employer and employees alike. The government wants you to see the word "employee" and have you believe that all public and private employment is contained in the word "employee". It just isn't so.

My last offering to the Gods of wisdom is from, The New Fowler's Modern English Usage, 3rd Ed.

include, comprise. It should be recalled that the second of these seems to be prevailing in its battle with compose (see comprise), regrettable though that is. Comprise is simultaneously competing with include. When two words such as include and comprise have roughly the same meaning, examination will generally reveal a distinction; and the distinction between the present two seems to be that comprise is appropriate when the content of the whole is in question, and include only when the admission or presence of an item is in question: good writers say comprise when looking at the matter from the point of view of the whole, include from that of the part. With include, there is no presumption (though it is often the fact) that all or even most of the components are mentioned; with comprise, the whole of them are understood to be in the list. Thus the University of Oxford includes All Souls, Christ Church, Magdalen College and Somerville College; but it comprises all Souls Balliol College. Brasenose College, and more than 30 other colleges, as well as several permanent halls. This leads to the distinction that one cannot legitimately say that the University of Oxford comprises All Souls, Christ Church, Magdalen College and Somerville College; in such a context only includes is correct. Similarly, include, not comprise, must be used in the following example: The Serbian forces attacking Sarajevo are units of the former Federal army: they do not include regiments still stationed in Zagreb.

## SUMMARY AND CONCLUSION

I have seen letters from the IRS to employers instructing the employer to alter an executed Form W-4. Many employers blindly follow the instructions of a letter writer they have never seen. I doubt if one employer in ten realizes that if they carry out those instructions they are altering a federal document that has been signed under penalty of perjury. Employers are altering sworn documents upon instructions of "you should change the W-4 to read 0 allowances and cross out Exempt. These instructions are the most outrageous attacks on freedom of thought imaginable. Where do these people get the idea that a person's oath can be so easily trashed? They are simply telling you to commit a crime. No federal or state court would ever rule that a private employer had the power to alter or disregard what an employee had declared under penalty of perjury. If you are an employer who is reading this, be wary of letters from the IRS that are carefully written to suggest that you take it upon yourself to alter, obliterate or ignore completely a W-4 that has been executed under penalty of perjury. Refuse to be fooled by letters that ask you to "please" do something or that you "should" do something else. Any action that you take in response to these requests is your voluntary act. The law is absolutely clear those persons who deal with government must be certain as to the authority of the government representative they are dealing with. Remember the agent has not stated you must do anything. If you act you act at your own peril. Heckler v. Community Health Services, 467 U.S. 51, 81 L. Ed 2d 42, 104 S Ct 2218. The federal government has not promised to reimburse you for your costs if your employee sues you for altering his W-4 or disregarding it completely. No person anywhere has authority to alter or disregard a certificate executed under penalty of perjury. Under no circumstances should anyone alter or disregard any persons statement made under penalty of perjury.

The IRS has devised the Questionable W-4 Program as another devious method of getting the employer to do something they have no power to do themselves-impose a tax on a person who is not liable for the tax. I have shown you that Chapter 24 of the Internal Revenue Code is only applicable to officers, officials and employees of the national government. If you are a federal employee you are not subject to withholding. The IRS will attempt to claim that the "mandatory" W-4 completed is invalid. This is because it doesn't comply with their regulations for government employees and officers of federal corporations. Their failure to establish a certified tax will be their defeat. My clients will not be blackmailed into paying a tax that is not owed. They will never swear a false oath. This circuitous argument should be seen for exactly what it is a scam to cheat the working man or woman of their wages.

You have seen in my discussion of the definition of "Employee" in Chapter 24, the Withholding chapter withholding is purposely established so employees and employers are confused about who is an employee. Federal employees must pay their federal income taxes as they earn federal money according to the regulations that govern the taxation of federal employment. Withholding applies to them and them only. However, these regulations are also intentionally written to be confusing. The purpose of the confusion is to cause employers and employees to believe withholding applies to all public and private employees. When one reads the withholding regulations it appears as if you as a private employer believe that withholding is required for private sector employees and in order for a federal employee to be exempt from withholding that employee must have previously prepaid a year's future taxes.

My clients are exempt from withholding because they are not liable for any federal internal revenue taxes and because they do not work for the state or federal government. Any employer who seeks the assistance of legal counsel should retain only someone who understands the basic power of government and the fundamentals of taxation.

Those subjects have been broadly discussed here but any exceptionally intelligent, open minded, thoughtful and experienced attorney should be able to grasp the difference between the valid exercise of the taxing power and a "voluntary" submission to authority out of ignorance and fear and flesh them out for you.

Dr. Eduardo M. Rivera

Friday, May 23 2003

Native American Lawyer Fights the IRS [Click Here](#)

Forum Login ...  
Username

- [Front Page](#)
- [Video News](#)
- [Audio News](#)
- [Peak Oil](#)
- [Economy Watch](#)
- [Euro Vs Dollar](#)
- [Police State](#)
- [Patriot Act 1 & 2](#)
- [Foreign Press](#)
- [Commentary](#)
- [Web Links](#)
- [Contact Us](#)
- [Forum](#)
- [Gallery](#)
- [Downloads](#)
- [Recommend Us](#)

Is the First Amendment really under attack?



Password

08 May 2003

Lost [Password?](#)  
No account yet? [Create one here](#)



**Embattled Native American Lawyer Fights the USA for Free Speech & Attorney-Client Privilege**

Is the First Amendment really under attack? Ask Dr. Eduardo M. Rivera, a UCLA graduate and licensed member of the California State Bar since 1972. The US Government is seeking to enjoin him from his practice limited to the representation of those individuals who have decided for themselves to become what the U.S. Congress has classified as "Nonfilers" and from continuing to publish dissent on his website [www.edrivera.com](http://www.edrivera.com).

Clock & Calendar

May 2003

Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

Is this a case, "where the truth hurts"?, or simply a case of, "God forbid that the good American citizens who pay 40% of their total income to the various

governments in a myriad of taxes, fines, penalties, etc. hear dissenting legal and historical analysis from a learned licensed attorney.....a Native American Attorney yet?"

Even though Dr. Rivera does not claim or teach that the Federal Income Tax is unconstitutional, illegal or collected by means other than by voluntary compliance, nor does he advise individuals to pay or not to pay, the Department of Justice attorneys seem bent on taking suppression of free speech and destruction of attorney-client privilege to dangerous unconstitutional new levels. In the case of United States of America v. Eduardo Marmolejo Rivera, an unverified complaint, Federal Department of Justice attorneys are conducting an outrageous assault on this country's most fundamental rights, freedom of speech and the cornerstone right of attorney-client privilege, according to Dr. Rivera.

Dr. Rivera contends that the unverified civil complaint is nothing more than a naked attempt to silence him. By removing all dissenting opinions, the federal government wants to remove all views of the laws but its own. By the IRS's own admission its 9,500 + pages of rules, codes, and regulations are "gibberish". The American Bar Association has publicly admitted that an estimated 100 million Americans can't afford even basic legal services.

A review of the complaint against Dr. Rivera indicates that the government is seeking to enjoin him from continuing to publish his legal and historical findings and conclusions which he generously publishes for all to see in the public domain of the internet. As for his unique law practice, Dr. Rivera correctly assents that anyone who thinks he is wrong about the law can complain to the California State Bar. Members of the State Bar are subject to discipline for violating any laws or rules of professional ethics---and yes for gross incompetence in the practice of law. In more than 30 years of active practice, Dr. River had only 2 complaints brought against him. He won the one that charged him with not knowing the law. The other was a fee dispute and what lawyer hasn't had one of those?

All persons admitted to the bar of a state's highest court may interpret the law, make



**LISTEN LIVE**  
Saturdays: 5PM PT

**QUOTE OF THE DAY**

**THE TRUTH ABOUT THE INCOME TAX**

**PART 1**  
[Lesson 1](#)

What freedom means from the eyes of a Native Indian

[Lesson 2](#)

written for those who are

Past News  
[Click here to find all our past news](#)

Surveys/Polls  
**Do You Believe OPEC Will Switch to the Euro in Retaliation to US Foreign Policy?**

Yes  
No

Browser Prefs  
[Add to Favorites](#)  
[Make Home Page](#)

Hit Counter  
9176 Visitors

**COMMENTARY & ANALYSIS**  
[What We Are Not Being Told About The Economy](#)

**Prison Planet**

[Venezuela and Iraq](#)

[Enhance the Prospects of an](#)

[Oil Shock](#)

**Prudent Bear**

[Fake Terror - The Road to](#)

[Dictatorship](#)

**WRH**

[Patriot Act II: The Globalist](#)

[Grab for Absolute Power](#)

**Prison Planet**

conclusions of laws, and in so doing counsel others, as well as represent others in federal court and before federal and administrative agencies. How would legal representation evolve without free speech? Expression of dissent? Who would represent the minority or dissenters on any issue?

"Ah." you say, but these are merely income tax non-filers who hold a dissenting view of the law and of what is forced on them already because of a complete lack of accurate information about a Byzantine labyrinth of codes 9,500 pages think that is "gibberish" indeed. While your ox has not been gored yet, consider this, "Who will be next?" The elderly? Christians? Non-Christians? Intelligencia? Entrepreneurs?

Dr. Rivera can be contacted at [edrivera@edrivera.com](mailto:edrivera@edrivera.com) before we or he goes any farther down that slippery slope of fascism.

[\[Back to list\]](#)

either employees or employers

**VIDEO DOCUMENTARY**

-  [Part 1](#)
-  [Part 2](#)
-  [Part 3](#)
-  [Part 4](#)
-  [Part 5](#)
-  [Part 6](#)

To order your copy of the movie for \$20 entitled "How to Keep 100% of Your Earnings", the contact is

Marc Lucas  
41800 Washington St,  
#105-460  
Bermuda Dunes,  
California, 92201  
[marc@marclucas.com](mailto:marc@marclucas.com)