

American Tax Consultants of Florida

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Do You Know Your Proper IRS **Tax Status?**

Are You Sure??

Establishing Your Proper Status
For Internal Revenue Purposes

Statutory Procedures in Determination of Proper Status
A Brief Overview

TABLE OF CONTENTS

Disclaimer	4
Frequently Asked Questions	5
Introduction	8
The United States & Citizenship	9
Notations	10
Direct & Indirect Taxes	12
Brushaber, Banking & You	16
1040 Booklet Cover	19
Jurisdiction & Status	20
Definitions	21
Conclusion	24
Excerpts	25

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Federal and State laws are constantly changing, and this document does not address all of the tax related and/or legal situations you may encounter as it relates to, by way of example and not limitation, taxation, form preparation, tax court practice and procedures, filing and other tax related requirements and situations.

It is with this positive injunction that you seek competent legal counsel, familiar with the State and Federal taxation, filing requirements and the Internal Revenue Service's policies on all tax related matters, including but without limitation, tax practice and procedures, jurisdiction, compliance, filing and administrative requirements.

FREQUENTLY ASKED QUESTIONS

1. Q: What is “The Revocation of Election” process?

A: The Revocation of Election process is a process which revokes your voluntary election to pay Federal income tax. It is not a single document but a process, recognized and accepted by the IRS, which claims your proper status. Most people have incorrectly identified themselves as taxpayers. The Revocation of Election corrects that mistake.

2. Q: Shouldn't professional people such as Tax Attorneys, CPAs, Accountants, and Bookkeepers know this information?

A: The Revocation of Election is not part of the educational requirements for CPAs, Accountants, etc. These professionals were educated in how to file returns; therefore, they may not be aware of anything that goes beyond that level of education, especially concerning items which would present a conflict of interest. Many are surprised to learn about our system and why it works.

3. Q: Is everyone eligible for these services?

A: While everyone may be eligible for our services, not everyone would benefit from using our system. For instance, the income of Federal employees (those paid directly from the Federal Government and not through a third party paymaster) will still be taxable. However, if they have secondary income, it would be non-taxable. If this is your situation, your representative will be able to help you to determine whether or not becoming a client would be a viable course of action.

4. Q: Who are considered Federal employees?

A: Federal employees are individuals who are paid directly from the Federal Government. Military personnel and elected officials are considered Federal employees, while postal service personnel are not.

5. Q: If my spouse is not a U.S. citizen but is a legal alien, may we utilize The Revocation of Election process as a couple?

A: Yes. However, a legal alien is required to pay Federal income tax. We would need to file your returns as married filing separately. The income or wages of the American citizen would not be taxable. If returns were filed jointly in previous years, we would not be able to petition for the refund of past years' taxes.

6. Q: If I have not filed in the past, do I really need the services of American Tax?

A: No. If you have never filed, there is no legal requirement that you must.

7. **Q: May I expect to recover the money which I have already paid to the IRS from previous 1040 returns?**
- A: American Tax Consultants will petition the IRS and your State income-taxing agency to refund all taxes paid for the current year plus the past ten years. We do not guarantee that you will get a refund, which could take up to three years to receive. However, to date we have not had a single client refused a refund.
8. **Q: When I file for tax exemption, which taxes do they stop taking out?**
- A: You will no longer have to pay Federal and State income taxes.
9. **Q: How could my Federal income tax exemption qualify me for State income tax exemption as well?**
- A: The basis for State income tax is federally earned income, of which you probably have none, if you qualify for our program. Remember, whatever part of your income, which is not derived from the Federal Government, is non-taxable. See the rest of this booklet for more details.
10. **Q: As a business owner, how would the Revocation of Election process benefit me?**
- A: It depends on the structure of your business. If it is a sole proprietorship or a subchapter S corporation, where the profits pass through the corporation to you individually, it would make the corporation non-taxable.
11. **Q: What if I have a tax problem, and the IRS says that I owe them money for last year? Should I submit a statement in response to their letters?**
- A: Absolutely not! As a client of American Tax Consultants, you must cease all communications with the IRS and State income taxing agencies. If there is ever any correspondence from these agencies to you, we will respond to it. That is what you have hired us to do. Otherwise, our Power of Attorney becomes void and must be reinstated in order for us to be of assistance to you.
12. **Q: What if I have tax problems prior to becoming a client? Will utilizing American Tax Consultants' services eliminate them?**
- A: We are able to perform The Revocation of Election for as many previous tax years as may be necessary, which does eliminate the need to continue paying on previous tax deficiencies, with only a few exceptions.
13. **Q: Does every member of my family need to become a client of American Tax Consultants?**
- A: A husband and wife can file jointly. However, any children who have previously filed tax returns need to sign up as single clients.

14. Q: Is there any urgency for a person to go through The Revocation of Election process?

A: How fond are you of paying income tax?! In all seriousness, the sooner you become a client the sooner you can legally stop paying income tax.

15. Q: Should I become a client now since I don't have to file until next year? Couldn't I just put "Exempt" on my W-4 form and get the same benefits?

A: If you have not gone through the Revocation of Election process and are not entitled to a full refund of all taxes collected for the previous year, you will be committing perjury if you simply put "Exempt" on your W-4 form.

16. Q: How long does it take to stop Federal and State withholdings from a person's paycheck?

A: From the time a client submits their forms and required documents to their company's payroll department, processing time takes anywhere from two to four weeks, or until the next pay period.

17. Q: Is this process legal?

A: Yes. We consistently comply with all IRS code.

18. Q: If this process is legal, then why don't more people know about your services?

A: If we used mass media for advertising, our offices would not be able to handle the volume adequately. At this time, we are doing business by referral only.

19. Q: Are your services connected to any tax protester groups?

A: As mentioned earlier, we are not a tax protester group and we are NOT connected to any such groups. Unlike tax protesters, we utilize the tax laws to your best advantage and always comply with IRS code.

20. Q: Why do I have to continue filing returns if I am tax exempt?

A: The IRS only makes two provisions, which would allow you to stop filing returns once you have started. The first provision for not filing your returns is if you do not make more than \$600 per year, and the second is if you die. We DO NOT recommend either of these options for our clients!

INTRODUCTION

The desire of American Tax Consultants of Florida is to provide a brief overview of the information required to determine one's proper tax status under the law as being a State Citizen, for tax purposes only. Various other Citizenship issues are beyond the scope of this document and the services provided by American Tax Consultants of Florida.

The material presented is based on numerous citations involving the Internal Revenue Code, the Code of Federal Regulations, the United States Code and various state and U.S. court cases. Even though court cases and various code citations are made, this material is provided for educational purposes only and is not legal advice.

After studying this information, you will have gained a basic understanding of certain definitions and concepts addressed in various areas of taxation. Having a limited educational perspective, we ask that you consult with competent legal counsel before acting on, or implementing, any of the topics mentioned in this material.

The first area concerns understanding the concept of the phrase, "for tax purposes". You will discover the definition of; "U.S." or "United States" for tax purposes carries an entirely different meaning than when used in other contexts. Depending on the context there are three different definitions of the "United States". These precise definitions are the result of a U.S. Supreme Court ruling and are promulgated through most law libraries in the United States as well as the classic reference book found in every attorney's office, Black's Law Dictionary. Ironically, most attorneys, even those engaged in taxation, know of only one definition for the "United States"!

You will discover the true meaning of the terms, "United States", "State", "income" and "U.S. trade or business". Please keep in mind that most attorneys and CPA's understand the meaning of the Internal Revenue Code quite well, within certain specific parameters.

In other words, most tax attorneys and CPAs operate under the false assumption that the Internal Revenue Code, and the definitions that it contains, mean what they assume it means. They developed these assumptions through an educational and professional system that did not bother to discover or explain (quite possibly both) the full meaning and context of the Internal Revenue Code. At best, in its current version, the Internal Revenue Code is about as clear as mud. This is why it takes years of study and dedication to decipher the true meaning behind the words and phrases used in the Code.

You will soon discover, within very specific areas, what your proper tax status is for Internal Revenue purposes. Hopefully, this material will open your eyes and mind to what the Internal Revenue Service and the Federal Reserve have KNOWN since you started paying your Federal income taxes to the IRS VOLUNTARILY.

THE UNITED STATES & CITIZENSHIP

The courts have ruled on the issue of citizenship many times. The following landmark cases address the key issues raised within this document.

“We have in our political system a Government of the United States** and a government of each of the several states. Each one of these governments is distinct from the others, and **each has citizens of its own**”.

[United States v. Cruikshank, 92 U.S. 542 (1875)]

[Emphasis added]

Website: <http://laws.findlaw.com/us/92/542.html>

“It is quite clear, then, that **there is a citizenship of the United States** and a citizen of a State**, which are distinct from each other and which depend upon different characteristics or circumstances in the individual”.

[Slaughter House Cases, 83 U.S. 36 (1873)]

[Emphasis added]

Website: <http://laws.findlaw.com/us/83/36.html>

“A person who is a citizen of the United States** is necessarily a citizen of the particular state in which he resides. **But a person may be a citizen of a particular state and not a citizen of the United States**.** **To hold otherwise would be to deny the state the highest exercise of its sovereignty, -- the right to declare who are its citizens**”.

[State v. Fowler, 41 La. Ann. 380, 6 S. 602 (1889)]

[Emphasis added]

NOTATIONS

Black's Law Dictionary®, sixth edition (1990) gives three distinct definitions for the United States (page 1533). This term has several meanings:

1. It may be merely the name of a sovereign occupying the position analogous to that of other sovereigns in the family of nations,
2. It may designate territory over which the sovereignty of the United States extends,
3. It may be collective name of the states, which are united by and under the Constitution. *Hooven & Allison Co. v. Evatt*, U.S. Ohio, 324 U.S. 652, 65 S.Ct. 870, 880, 89 L.Ed. 1252.

Knowledge of these distinct and separate meanings is **ABSOLUTELY CRUCIAL** to understanding the remainder of this material and the various codes to which they apply. Confusion will result from failing to comprehend which meaning is being used in any given context. In order to reinforce their importance, these three meanings will be identified by using the following convention whenever possible:

1. United States* or U.S.* (first meaning)
It may be merely the name of a sovereign occupying the position analogous to that of other sovereigns in the family of nations.
2. United States** or U.S.** (second meaning)
It may designate territory over which the sovereignty of the United States extends.
3. United States*** or U.S.*** (third meaning)
It may be collective name of the states, which are united by and under the Constitution.

It is American Tax Consultants of Florida's sincere intent that the addition of asterisks will be obvious in all cases, even if the meaning of "United States" is not obvious in any particular case. American Tax Consultants of Florida will use this convention throughout this presentation of material. Exceptions to this convention will be made for book titles, for United States Codes (abbreviated USC or U.S.C.), for the United States (or U.S.) Constitution, and for the United States (or U.S.) Supreme Court.

Other notations should be obvious from their context, but will be repeated here for extra clarity:

(Page 816)

IR means Internal Revenue: Governmental revenues from internal sources by way of taxes as contrasted with revenues from customs and foreign sources.

IRC means Internal Revenue Code: That body of law, which confides all federal tax laws including income, estate, gift, excise, and etc. taxes. Such laws comprise Title 26 of the U.S. Code, and are implemented by the Internal Revenue Service and through it by Treasury Regulations; Revenue Rulings, etc. Because of the extensive revisions to the tax statutes that occurred with the Tax Reform Act of 1986, Title 26 of the U.S. Code is now known as the Internal Revenue Code of 1986.

IRS means the Internal Revenue Service; The Internal Revenue Service is responsible for administering and enforcing the internal revenue laws, except those relating to alcohol, tobacco, firearms, explosives, and wagering. It is a part of the Department of the Treasury. Basic IRS activities include providing taxpayer service and education; determination, assessment, and collection of internal revenue taxes; determination of pension plan qualification and exempt organization status; and preparation and issuance of rulings and regulations to interpret the provisions of the Internal Revenue Code.

(Page 1533)

USC means United States Code; Prior to 1926, the positive law for federal legislation was contained in the one volume of the Revised Statutes of 1875 and then in each subsequent volume of the Statutes at Large. In 1925, Congress authorized the preparation of the United States Code. This was prepared by a Revisor of Statutes appointed by Congress, who extracted all sections of the Revised Statutes of 1875 that had not been repealed and then all of the public and general laws from the Statutes at Large since 1873 that were still in force. These were then rearranged into fifty titles and published as the United States Code, 1926ed., in four volumes. Each year thereafter a cumulative supplement containing the laws passed since 1926 was published. In 1932 a new edition was issued which incorporated the cumulated supplements to the 1926 edition, and this became the United States Code, 1932ed. Every six years a new edition of the U.S. Code is published with the cumulative supplement volumes being issued during the intervening years. (e.g., **26 USC 7701** refers to Title 26, United States Codes section 7701).

(Page 1534)

USCA means USC Annotated; This multi-volume publication includes the complete text of the United States Code, together with case notes of state and federal decisions which construe and apply specific Code sections, cross references to related sections, historical notes, and library references. USCA is further supplemented with the United States Code Congressional and Administrative News and periodic pamphlet supplements containing laws as passed by Congress during the current session.

(Page 257)

CFR means Code of Federal Regulations; The Code of Federal Regulations is the annual cumulation of executive agency regulations published in the daily Federal Register, combined with regulations issued previously that are still in effect. Divided into 50 titles, each representing a broad subject area, individual volumes of the Code of Federal Regulations are revised at least once each calendar year and issued on a staggered quarterly basis. The CFR contains the general body of regulatory laws governing practice and procedure before federal administrative agencies. (e.g., **26 CFR 1.871-1** are the regulations for Section 871 of Title 26)

(Page 1541)

U.S. means an abbreviation for "United States." Decisions use this abbreviation when used to cite rulings of the Supreme Court. (e.g., **324 U.S. 652** refers to volume 324, page 652 of Supreme Court decisions).

DIRECT & INDIRECT TAXES

Tax attorney Robert S. Schriebman stated in his book, "How to Practice before the New IRS", a brief history of the IRS:

"The IRS, in one form or another, has been with us since 1862. The Office of Commissioner of Internal Revenue was established by an Act of Congress (12 Stat. 432) on July 1, 1862. This same Act created the Bureau of Internal Revenue on March 3, 1863.

Our first tax laws were created in 1791 but were repealed by Congress in 1802. The War of 1812 caused Congress to pass tax legislation for the period of 1813 through 1817. This was called the Revenue Act of 1813. There was no new taxation from 1818 to 1861. In 1862, Congress established an internal revenue system. In 1913, ratification of the Sixteenth Amendment to the U.S. Constitution provided the framework for all tax acts to follow".

1862 was a significant year. The imposition of some sort of taxing system on the sovereign States of the Union, and its Citizens, was viewed by the South as unconstitutional. It was. Slavery was the excuse for the Civil War though money was the reason. When the South withdrew from the Union, as they were allowed under the Constitution, President Lincoln sought to do away with the Republic and replace it with a Democracy, something the Founding Fathers had worked so hard to avoid. Honest Abe did not tell the whole story, and, neither did any of the other Federalists. The sovereign States had been conquered and the Law of the Land had been irrevocably altered.

In 1909, Congress passed the "Corporation Tax Act". Then, as Mr. Schriebman points out, in 1913, Congress passed a law imposing a tax on the income of "U.S. citizens from whatever source derived." This law was commonly known as the 16th Amendment. (Another tax related act was the "Victory Tax Act", imposed by the "Revenue Act of 1942". This law was passed in part, to help fund the war effort of World War II. The "Current Tax Payment Act of 1943" came from the Victory Tax Act and Revenue Act of 1942. This act repealed by the "Individual Income Tax Act of 1944". However, we will not concern ourselves with these particular laws in this material. Just like the 16th Amendment, the Victory Tax Act and its "offspring" applies only to "U.S. citizens".)

At this point it is reasonable to consider what types of income might be (as the older regulations state) "under the Constitution, not taxable by the Federal Government." While the public seems largely ignorant of this fact, Congress has legal power over only those few matters that the Constitution puts under federal jurisdiction (and the Tenth Amendment clearly states this). Within the 50 states, Congress has legal control over only those matters listed in Article I, Section 8 of the Constitution.

*" We start with first principles. The Constitution creates a Federal Government of enumerated powers. See **U.S. Const., Art. I, 8**. As James Madison wrote, "[t]he powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite." The Federalist No. 45, pp. 292-293 (C. Rossiter ed. 1961)."*

[United States v. Lopez, 514 U.S. 549 (1995)]

In the 1995 case cited above, the Supreme Court threw out the "Gun Free School Zone" law (18 USC §922(q)) as unconstitutional, on the grounds that it was outside of Congress' enumerated powers described in Article I, Section 8. Not only did the court say this, but also the lawyers on the *other* side tried to argue that the law was about regulating "interstate commerce" (which Article I, Section 8 puts under federal jurisdiction), demonstrating that they *agreed* that the law had to be based on something in Article I, Section 8.

Article I, Section 8 *does* include the "*power to lay and collect taxes*," but does not say *what* Congress may tax. This allows for two options. The first option is that there are essentially **no** limitations on what Congress can tax (though there are certain rules on *how* "direct" and "indirect" taxes must be imposed). The problem with this option is that it would essentially negate the entire Constitution, as this option would give Congress the jurisdiction and power to control *anything and everything*, provided it exerted that control through **tax** legislation. For example, if this option were true, in response to the Lopez decision mentioned above, Congress could simply impose a \$1,000,000 **tax** on carrying a firearm near a school, to get around the restriction that would otherwise exist.

The Supreme Court seems to agree that this option cannot be. The court said that they could not allow Congress to control by **tax** legislation matters, which they have no jurisdiction to *regulate*. (Congress was attempting, in this case, to control "child labor" within the states through tax legislation.) The Supreme Court said the following:

*" Grant the validity of this law, and all that Congress would need to do, hereafter, in seeking to take over to its control any one of the great number of subjects of public interest, jurisdiction of which the states have never parted with, and which are reserved to them by the **Tenth Amendment**, would be to enact a detailed measure of complete regulation of the subject and **enforce it by a so-called tax** upon departures from it. **To give such magic to the word 'tax' would be to break down all constitutional limitation of the powers of Congress** and completely wipe out the sovereignty of the states."*

[Bailey v. Drexel Furniture Co., 259 U.S. 20 (1922)]

In the same year, the court also ruled on the Future Trading Act, which imposed a tax "on all contracts for the sale of grain for future delivery." The court quoted the citation above, and immediately afterward said this:

*" This has complete application to the act before us, and requires us to hold that the provisions of the act we have been discussing **cannot be sustained as an exercise of the taxing power of Congress conferred by section 8, article 1.**"*

[Hill v. Wallace, 259 U.S. 44 (1922)]

Clearly the court saw that Congress' power to lay and collect taxes does *not* grant unlimited jurisdiction over everything within the states. To ignore the limits of federal jurisdiction when reading the taxation clause would lead to concluding that Congress can control *everything* by tax legislation. (In fact, this reading would also mean that Congress has the power to tax everyone in China, since the taxing clause does not mention *geographical* jurisdiction either.)

The second option is that "*the power to lay and collect taxes*" applies only to matters **otherwise** under federal jurisdiction. For example, Article I, Section 8 specifically puts international commerce under federal jurisdiction, and Article IV, Section 3 gives Congress control of federal possessions. However, "intrastate" commerce (commerce that happens entirely within a single state) is *not* under federal jurisdiction. So the power to tax, together with the clauses giving Congress jurisdiction over

international commerce, and commerce within federal possessions, would give Congress the power to tax income from international commerce, and income from federal possessions.

The Supreme Court made an interesting comment in 1918 related to this. The case concerned the income tax act of 1913 (which is the basis of the current tax), and how it applied to a domestic corporation in the business of buying things in the states and selling them in foreign countries. The corporation was arguing that the tax in this case violated the provision of the Constitution, which forbids the federal government from taxing exports from any state.

*"[T]he act obviously **could not impose a tax forbidden by the Constitution...** The Constitution broadly empowers Congress not only **'to lay and collect taxes, duties, imposts, and excises,** **"but also, to regulate commerce with foreign nations."** So, if the prohibitory clause [meaning the clause forbidding taxes on exports from states] invoked by the plaintiff be not in the way, Congress undoubtedly **has power to lay and collect such a tax as is here in question.**"*

[William E. Peck & Co. v. Lowe, 247 U.S. 165 (1918)]

In other words, if not for the question about whether this was a tax on state exports, this income would be taxable because Congress is given the general power "to lay and collect taxes," and is given *specific* jurisdiction over "regulat[ing] commerce with foreign nations." The court obviously thought the second clause was relevant to whether Congress could tax such income.

The courts have long argued over the concept that "the power to tax is the power to destroy," meaning that the ability to tax something implies the ability to regulate it or to forbid it entirely. This conversely implies that if a government has no jurisdiction to *regulate* or *forbid* an activity, then it also has no jurisdiction to *tax* that activity. There are numerous Supreme Court cases dealing with the concept.

*"[N]o state has the right to lay a tax on interstate commerce in any form... and the reason is that such **taxation** is a burden on that commerce, and amounts to a **regulation** of it, which belongs solely to congress. This is the result of so many recent cases that citation is hardly necessary."*

[Leloup v. Port of Mobile, 127 U.S. 640 (1888)]

In this case the court is stating the restrictions on what a *state* can tax, but the underlying logic is clear. Taxing commerce is a burden on that commerce, and amounts to a *regulation* of commerce. While Congress is authorized to regulate *interstate* commerce (commerce crossing state lines) and international commerce, it has no jurisdiction over *intrastate* commerce (commerce occurring entirely within a single state). By the simple logic above, which means Congress cannot tax income from intrastate commerce.

"No interference by Congress with the business of citizens transacted within a state is warranted by the Constitution, except such as is strictly incidental to the exercise of powers clearly granted to the legislature."
[License Tax Cases, 72 U.S. 462 (1866)]

It is true that the opinions of the courts have fluctuated significantly on this, from saying that the power to tax requires the power to regulate, to saying that Congress may tax things it cannot regulate, provided that taxation does not amount to *regulation* under the guise of a "tax." But considering the massively complex "social engineering" in the income tax laws (punishing some behaviors and rewarding others) it would be difficult to argue that it would not constitute an attempt to regulate behavior.

However, the courts' position on the matter is ultimately irrelevant. Regardless of what the courts think Congress *could* tax, the statutes and regulations show what Congress *did* tax. Whether the courts think Congress has the constitutional power to tax the income of all Americans is only relevant if Congress

attempts to *impose* such a tax, which has not occurred. (The courts cannot expand the scope of a tax just by saying that Congress *could* have taxed more if they had wanted to.)

Brief mention should be made of the 16th Amendment to the Constitution, since there is a common but erroneous belief that the 16th Amendment expanded Congress' power to tax incomes. The purpose of the 16th Amendment, according to the Supreme Court in *Brushaber v. Union Pacific* (240 U.S. 1), and again in *Stanton v. Baltic Mining* (240 U.S. 103) was to make it clear that the income tax is, and has always been, an indirect "excise" tax, which never required apportionment. The Secretary of the Treasury agreed with the Court in Treasury Decision 2303:

*"The Sixteenth Amendment. **The provisions of the sixteenth amendment conferred no new power of taxation**, but simply prohibited [Congress' original power to tax incomes] from being taken out of the category of indirect taxation, **to which it inherently belonged**, and being placed in the category of direct taxation subject to apportionment."* [Treasury Decision 2303]

An in-depth explanation of direct and indirect taxes, and how they must be imposed, is not necessary here. The only relevant point is that Congress' taxing jurisdiction was **not** expanded by the 16th Amendment.

American Tax Consultants of Florida takes the position:

No matter if the 16th Amendment was ratified properly or not, it has no bearing on the process American Tax Consultants of Florida uses to insure our clients pay the least amount of taxes by law.

BRUSHABER, BANKING & YOU

Website: <http://laws.findlaw.com/us/240/1.html>

The Brushaber decision (Brushaber v. Union Pacific Railroad Co., [240 U.S. 1(1916)]) is important for many reasons. Secretary of State, Philander C. Knox, in 1913, declared the 16th Amendment ratified (even though the requisite number of states for its ratification was never attained) and that it was the supreme law of the land. Publishing companies, law schools, CPA's, and even Congress dutifully followed suit without ever questioning the validity of the pronouncement. The courts allowed it to stand out of political necessity and have stated as much. Moreover, remember, under federal law, this is permissible.

In essence, Brushaber was assessed a tax on dividend income he received from the Union Pacific Railroad Company. Mr. Brushaber felt that he did not owe the taxes because of his status as a State Citizen for tax purposes. While the court agreed with his assertion that he was, indeed, a State Citizen, he was incorrect in his assertion that the Union Pacific Railroad was a foreign corporation. That is, a corporation that was formed outside of the narrowly defined region known as the "United States". Accordingly, he still owed the tax. What Frank Brushaber did not realize was that he based his complaint upon an incorrect assumption.

What most tax professionals do not realize is that they base their practice upon an incorrect assumption! They assume every single client, for tax purposes, is a U. S. citizen.

The Brushaber case has been used as "proof" that individuals owe tax on income. This statement is only partly true. It is dependant on a number of factors.

1. The source of the income.
2. The nature of the income.
3. The status of all concerned.

We will discuss the meaning of very specific terms such as: foreign, domestic, citizenship and income.

The Department of the Treasury, almost 60 years after the Brushaber decision, cites the 16th Amendment as the constitutional basis on which the government can tax the income earned by individuals and corporations. Since Congress has exclusive legislative jurisdiction within all federal areas and districts (or zones, which coincide with the Postal zones), it really does not matter if the 16th Amendment is valid or not. Congress can say anything it wants, because within the federal zone they can do practically anything they want. Moreover, U.S. citizens only need to go along for the ride. Where it does matter is within each of the several States. It is within each sovereign State that the notions of Congress, take a back seat to the exclusive legislative jurisdiction of the State. Nevertheless, keep in mind that Congress controls property within each of the sovereign States. This property is clearly identified with a two-letter label. For example, federal property within California would be identified with the label of "CA" plus the postal zone number (Zip Code). Moreover, on that property and with the U.S. citizens that occupy it, Congress can do what they will.

Commissioner of Internal Revenue, Donald C. Alexander published this statement in the Federal Register (Vol. 39, No.62, page 11572), on March 29, 1974. In part, it reads:

“Since 1862, the Internal Revenue Service has undergone a period of steady growth as the means for financing Government operations shifted from the levying of import duties to internal taxation. Its expansion received considerable impetus in 1913 with the ratification of the Sixteenth Amendment to the Constitution under which Congress received constitutional authority to levy taxes on the income of individuals and corporations.”

While most tax professionals and IRS agents cite the 16th Amendment as the basis for the federal government collecting taxes imposed on income, they are only partly correct. The Federal government has the legal authority to collect taxes from “U.S. citizens”, “persons” and “U.S. corporations”. However, this ability is limited to being exercised exclusively within the “United States” and it is not because of the 16th Amendment.

The hidden gems within the Brushaber decision concern status and jurisdiction. Frank Brushaber made this statement in his Bill of Complaint:

“Frank R. Brushaber, a citizen of the State of New York and a resident of the Borough of Brooklyn, in the City of New York...”

Indeed, the federal courts stated that, Brushaber, under the law, was a “State Citizen”. In other words, Frank Brushaber was a “State Citizen” because he lived and worked outside of those areas in which Congress could claim exclusive jurisdiction.

Because of his statement of citizenship, he was born in New York, i.e., “a citizen of the State of New York” and not the District of Columbia or other federal enclaves, territories and possessions over which Congress has exclusive legislative jurisdiction. He was not a “United States citizen” either by birth, by being born on federal property, or by naturalization, i.e., the 14th Amendment. In this context, the courts were not referring to a geographical land mass. They were referring to the federal government, a political entity and its exclusive territory, separate and apart from the 50 compact States of the Union.

What does any of this have to do with banking and you? When you open a bank account, you must certify certain things under penalties of perjury. Do you know what the “Penalties for Perjury” is?

Title 26 of the U.S. Code (the Internal Revenue Code), Section 7206 states:

“Any person who willfully makes any ... statement... which he does not believe to be true and correct as to every material matter ... shall be guilty of a felony and, upon conviction thereof, shall be fined not more than \$100,000 (\$500,000 in the case of a corporation), or imprisoned not more than 3 years, or both, together with the costs of prosecution.”

Everyone who has opened a bank account, whether for checking or savings, has signed a relationship and certification statement that they may not fully have understood. By signing this agreement, one certifies to the bank under penalties of perjury a number of things. Among them; you state that you have asked the bank to open a specific type of account in you name; and, one of the following statements applies to you, but not both.

1. Either, you have been notified by the IRS that you are currently subject to backup withholding, or you state that;
2. No signer on the account is a, “citizen, resident, or doing business in the United States”.

As mentioned earlier, a “citizen”, or a “U.S. citizen” is someone who, either by virtue of being born on federal property, or having attained citizenship status through the 14th Amendment, is subject to the exclusive legislative jurisdiction of the “United States”. Other than being born in the “U.S.” or by “naturalization” through the 14th Amendment, one can ONLY become a “citizen” for tax purposes by **VOLUNTEERING**. How is this possible? By filing documents with the federal government under penalties of perjury stating such is the case. Do any documents come to mind that you have signed... on an annual basis?

The most amazing aspect to all of this is that all signers, not subject to backup withholding are considered by the bank to be, “state citizens under U.S. Tax Law.” You provide your signature, social security number and “permanent foreign address”, i.e., your homes address to the bank and do not understand the significance of this information concerning your tax status. **Your non-federal property within any state (permanent foreign address) is;**

for example,

John & Susan Doe
1234 Anywhere Street
Treasure Island (99999)
Nevada

Just as Frank Brushaber stated, as a Citizen of the State of New York, his foreign address was in Brooklyn! Moreover, the courts knew this to be true.

Now, consider that if you sign this type of agreement with the bank under penalties of perjury (you are stating for tax purposes), you are a State Citizen not doing business in the U.S. In addition, when you sign your federal tax return, i.e. Form 1040, which must be filed since you filed one in the previous year, you represent to the IRS, under penalties of perjury that you are a, U.S. citizen.

How can two opposing classifications be true? Either you are a U.S. citizen for tax purposes or you are not. It does not matter if it is for banking purposes or for dealing with the IRS. It is all about claiming your proper tax status.

How can you knowingly tell the bank one thing under penalties of perjury and tell the IRS something completely different? (Especially since the bank can, and does, provide this information to the IRS.) Now that you know this, you cannot! Do you know your proper status? It is critical that you do.

WHAT HAVE YOU TOLD THE IRS ABOUT YOUR STATUS?

You can be a State Citizen for tax purposes and be liable to pay taxes on income derived from sources not effectively connected to a “U.S. trade or business”. The way to guarantee you are liable to pay taxes on income that you otherwise would not have to pay is by **VOLUNTEERING**. On page 14 you will read a quote by Margaret Milner Richardson, former IRS Commissioner. Once you volunteer, i.e., file a Form 1040 that you were not required to file, you will need to comply with all “U.S.” tax laws, because, for tax purposes, you are telling the federal government that you are, now liable to pay, hence the term “voluntary compliance”. At least Ms. Richardson was polite enough to thank us for our contribution!

These questions should be of some help to you in determining your proper tax status. **THINK CAREFULLY!**

1. Where were you born?
2. Do you work for, or derive income from, the federal government and/or its sources within the United States?
3. Where do you live?
4. Are you a U.S. citizen?

Department of the Treasury
Internal Revenue Service
P.O. Box 8905
Bloomington, IL 61702-8905

Bulk Rate
Postage and Fees Paid
Internal Revenue Service
Permit No. G-48

Official Business
Penalty for Private Use, \$300
Forwarding and Return
Postage Guaranteed

Note: Do not send your return to the IRS address shown above; instead, see page 9.



A Note From the Commissioner

Dear Taxpayer:

Thank you for making this nation's tax system the most effective system of voluntary compliance in the world. The key to maintaining that system is ensuring that you are treated fairly and equitably, that your privacy is protected, and that our tax system is as simple and understandable as possible.

Our challenge is to consistently deliver services to meet your needs while fairly administering the tax laws. To do that, we are modernizing our technology, while making sure that taxpayer security and privacy will be fully protected. We are also offering alternative ways of filing taxes, such as electronic filing. We have increased information and education efforts to help improve compliance, but we are also using traditional compliance efforts-examination, collection and criminal enforcement-so that each person pays what he or she properly owes to support the vital functions of our government.

As Commissioner of Internal Revenue, I am personally committed to working toward developing a simple and more easily administrable tax system. We will treat you fairly, courteously, and efficiently, and we will do all we can to bring those who do not pay their fair share into full compliance with the tax laws of our nation.

Margaret Milner Richardson



1993 1040

Forms and Instructions

Cat. No. 12117M

JURISDICTION & STATUS

The reason Frank Brushaber lost his case was that he did not realize certain status and jurisdictional issues. Namely, where did he derive his dividend income? While he was correct in assuming that he was a State Citizen with respect to the federal government for tax purposes, his dividend income was from a domestic source. That is, a source within that area which Congress has exclusive jurisdiction, sometimes referred to as, the federal zone. Since his dividend income came from a domestic source, that income was taxable.

The Union Pacific Railroad Company was a domestic corporation. An act of Congress created The Union Pacific Railroad when Utah was still a territory in 1862. Had the Union Pacific Railroad Company been created after Utah was no longer a territory and Congress no longer had jurisdiction, Union Pacific would have been considered by the courts to be a foreign corporation, created in the State of Utah, outside of the “United States” and Frank Brushaber would not have owed any federal taxes on the dividends he received.

The issues of status and jurisdiction go hand in hand. Frank Brushaber’s status was that of a State Citizen. The status of the Union Pacific Railroad Company was that of a domestic corporation. Since an act of Congress created the Union Pacific, the federal government had the appropriate jurisdiction to impose a tax on the earnings Frank Brushaber received as dividend income. It is important to note that either party to Brushaber’s complaint disputed no other sources of income. That is, the government did not seek to collect tax revenues from any other sources of his. Their reason, they lacked jurisdiction and he did not volunteer to pay the federal government any more than to which they were entitled. In other words, he did not participate in voluntary compliance.

Now, Back to those questions:

1. Where were you born?
If you were born in one of the fifty States, you are a Citizen of the State in which you were born and a national of the United States of America. If you were born in another country and then became a citizen in the U.S., then you are a U.S. citizen, subject to the exclusive legislative jurisdiction of the United States federal government. (The term citizen is capitalized when used to designate a Citizen of a State, and lowercase when referring to a U.S. citizen. This is how the courts have done it for many years.)
2. Do you work for, or derive income from, the federal government and/or its sources within the United States?
Are you a federal employee? Have you made investments in federally created companies or financial instruments, such as “T-Bills”? If so, you owe taxes on the income you receive. That is the price you pay for being granted the privilege of either working for the government, or participating in their business and financial arrangements, or both. On the other hand, if your income is derived from areas outside of the exclusive jurisdiction of Congress, then chances are, you do not owe taxes on that money.
3. Where do you live?
If you live in an area under the exclusive jurisdiction of Congress, i.e., military bases, federal lands, etc., then you would be considered a resident and subject to paying taxes on your income, wherever earned. If you live outside of those exclusive areas, where two letter designations and postal codes do not apply, then you are a State Citizen and, quite possibly, not subject to owing taxes on your income, earned outside the exclusive jurisdiction of Congress. The deciding factor would be if you are considered, or consider yourself A U.S. citizen.
4. Are you a U.S. citizen?
With the knowledge you have just gained, your answer might be different from when your first began reading this material. To be sure, please continue reading.

DEFINITIONS

In this section we will come to understand the meaning of the following terms: United States (remember, there are three separate definitions for this one term); Income; State; Territory; Foreign; Domestic; Citizen (upper case “C”) and; citizen (lower case “c”). As you will see, the sources for these definitions are varied. What is even more interesting is that there is no definition for income provided by the Internal Revenue Code! These definitions are in no particular order.

The following will go a long way in clarifying the term, “ United States” as used throughout the various U.S. Codes and court cases. As stated by the U.S. Supreme Court and Black’s Law Dictionary (West Publishing Co., Sixth Edition), the term “United States” has three distinct and separate meanings:

1. It may be merely the name of a sovereign occupying the position analogous to that of other sovereigns in the family of nations.
2. It may designate territory over which the sovereignty of the United States extends.
3. It may be collective name of the states, which are united by and under the Constitution. (Hooven & Allison Co. v. Evatt, U.S. Ohio, 324 U.S. 652, 65 S.Ct. 870, 880, 89 L.Ed. 1252.)

Note: This case was decided in 1948.

We are Citizens of the United States of America, using the first definition listed above. Just as, someone else may be a Citizen of Spain. This is appropriate when identifying your own status, as a National from a Nation with regard to another Nation. Many believe this is the definition being used when the tax code refers to citizens and aliens!

NOT TRUE. The IRS is using the second meaning of the term, while you are assuming they are using the first.

If we say, I am a United States citizen (note the lowercase “c”) using the second definition, we are claiming to live where Congress has exclusive legislative jurisdiction. This is the definition that is used in the IRC, other U.S. codes, the Code of Federal Regulations, all federal courts where it concerns domestic matters, and, in various state (not State) codes for the “United States”. Remember, a “state” is a political “subdivision of the United States” (second meaning).

Now you can understand why, when opening a bank account, you could be considered a State Citizen for tax purposes. The bank cannot assume the disposition of your status. This may also provide an insight as to why certain things the federal government does, seems to be outside of the Constitution. It is because of Congress being granted the exclusive jurisdiction over federal property or districts, like the District of Columbia, Puerto Rico, Guam and certain other lands, the Constitution does not apply, only the law of contract, or “UCC”, the Uniform Commercial Code.

Income: Income is not defined in the IRC (26 USC), and for good reason. Congress does not have the authority to determine what is income as it pertains to what we earn in exchange for our labor or our private property. The Supreme Court has ruled that that income is not taxable (unless of course you want to volunteer).

The Code of Federal Regulation does provide for a definition of income, but only as it relates to Social Security (and not for internal revenue purposes). It states in Section 416.1102 that, “Income is anything you receive in cash or in kind that you can use to meet your needs for food, clothing, and shelter. Sometimes income also includes more or less, than you actually receive (see sections 416.1110 and 416.1123(b)). In-kind

income is not cash, but is actually food, clothing, or shelter, or something you can use to get one of these.” Nevertheless, even here, the issue of what you receive in exchange for your labor, your private property, is not addressed.

According to Black’s Law Dictionary, Sixth Edition (West Publishing) at page 763, Income is defined as, “The return in money from one’s business, labor, or capital invested; gains, profits, salary, wages, etc. The gain derived from capital, from labor or effort, or both combined, including profit or gain through sale or conversion of capital. Income is not a gain accruing to capital or a growth in the value of the investment, but is ... something of exchangeable value, proceeding from the property... The true increase in an amount of wealth which comes to a person during a stated period of time”.

A congressional definition of income can be found in the “Corporation Tax Act of 1909” explaining why, the Internal Revenue Code, defines the term “person” to mean an individual taxpayer, trust, corporation, or other entity.

State:

There are two distinct definitions. Both are from Black’s Law Dictionary.

- 1.A geographical definition; “The section of territory occupied by one of the United States. One of the component commonwealths or States of the United States of America”.
- 2.A political definition; “Any state (note the lowercase “s”) of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States. Uniform Probate Code, Section 1-201(40).

The Internal Revenue Code’s definition of state [at 26 USCS 7701(a)(10)]: The term “State” shall be construed to include the District of Columbia, where such construction is necessary to carry out provisions of this title.

The Internal Revenue Code is intentionally vague. A completely different definition of state is used, when carrying out certain excise taxes. At 26 UCSC 4612(a)(4)(A): “In General. The term “United States” means the 50 States (note the uppercase “S”), the District of Columbia, the Commonwealth of Puerto Rico, any possession of the United States, the Commonwealth of the Northern Mariana Islands and the Trust Territory of the Pacific Islands.”

This definition is the only place where the IRC uses the word “means” in a definition of state! Why, the answer is simple:

The U.S. Code, in the Immigration and Nationality Act of 1987 [8 USC 1101(a)(36)] defines state as: “(36) The term “State” includes (except as used in section 310(a) of title III [8 USCS Section 1421(a)]) the District of Columbia, Puerto Rico, Guam, and the Virgin Islands of the United States.

Territory:

As defined by Black’s Law Dictionary, at page 1473, is, “A part of a country separated from the rest, and subject to a particular jurisdiction. Geographical area under the

jurisdiction of another country or sovereign power. A portion of the United States, not within the limits of any state, which has not yet been admitted as a state of the Union, but is organized, with a separate legislature, and with executive and judicial officers appointed by the president.

American Citizens who were born free in one of the 50 States of the Union are not required to obtain an alien registration card, because their presence in one of the 50 States is not a privilege; on the contrary, it is an unalienable right which is guaranteed to them by the Constitution for the United States of America because they were born free and Sovereign. The Constitution refers to these people as “natural born Citizens” (Article 2: Section 1: Clause 5), “free Persons” (1:2:3) and “Citizens of a State” (3:2:1 and 4:2:1). On the basis of this criterion alone, the natural born State Citizen enjoys a significant right which is not enjoyed by a person who must apply for residence as a privilege granted by government. (Throughout this booklet, the terms “native American Citizen”, “native-born American Citizen” and “American Citizen” will be synonymous with “natural born Citizens” as in 2:1:5 of the Constitution, and with “State Citizens” as in 3:2:1 and 4:2:1 of the Constitution, to avoid problems that do arise solely from terminology.)

As mentioned earlier, an individual may elect to be treated as a citizen of the United States**. The rules for making this election are in the statute (IRC Section 7701 (b)(4)) and in the regulations, which promulgate this statute (26 CFR 1.871 et seq.). Many Americans are duped into believing that electing to be treated, as a resident is a “beneficial” thing to do.

We have taken the long way around the mountain, but it is the only way around the mountain (as it turns out), to define “State Citizen”. If you were born outside the federal zone, in one of the 50 States of the Union, or as a native citizen of a foreign country like France, then you are **not** automatically a “citizen of the United States**”. You may, of course, obtain “U.S.** citizenship” by applying for this “privilege” with the Immigration and Naturalization Service, even if you are a Sovereign State Citizen. You may also relinquish U.S.** citizenship at will, through a process known as “expatriation”. If you were born inside the federal zone, then you are automatically a “citizen of the United States**”.

According to Black’s Law Dictionary, at page 244:

“Citizen: One who, [is] under the Constitution and laws of the United States (of America), or, of a particular state.

citizen: All persons born or naturalized in the United States, and subject to the jurisdiction thereof.”

Note the subtle distinction. A Citizen may choose to be under one, or another set of laws, or both. A citizen has no choice in the matter.

What choice have you made in your life, up until today?

What is your choice now?

CONCLUSION

Federal income taxes are indeed voluntary for State Citizens who derive income from sources outside of the federal zone. In addition, those who have “elected” to be “U.S. citizens” may also terminate that election as stated in [IRC Section 7701 (b) (4) (F)].

It is imperative to understand that filing your first Form 1040 can be taken as evidence that a State Citizen has elected to be treated as a U.S. citizen, for federal tax purposes. The federal government is thereby entitled to presume that you are either required to file, or that you have elected to be treated as one who is required to file, if and when your first signed Form 1040 or Form 1040A arrives in a pouch of mail destined for an IRS Service Center.

With knowledge comes power and now responsibility. However, now that you know your proper tax status, YOU CANNOT stop filing your Form 1040 or Form 1040A. That is a Tax Protest! It is not enough just to inform the IRS that you no longer desire to be considered a U.S. citizen for tax purposes. The signing of a Form 1040 puts many federal mechanisms into motion. Each area needs explicit attention. The Form 1040, once signed, establishes Congressional jurisdiction and grants a power of attorney to the IRS. This is why they can fill out and file a return on behalf of a “taxpayer”. It also allows the United States to pass laws that appear outside of the constraints of the Constitution, that it's citizens must abide.

As your tax return Preparer and Advocate, American Tax Consultants of Florida is able to file your returns and ALL other documents required by the IRS, accurately, promptly and completely. Our goal is three fold:

1. To ensure all taxes owed are paid.
2. To ensure that all taxes paid, under the false assumption they are owed, ARE STOPPED.
3. To enable you to receive any refunds to which you are entitled because of improper filings and reporting of your tax status in previous 3 years.

Thank you for your time, interest and participation.

The following pages are various excerpts from IRS publications, Code Sections and definitions from Black's Law, 3rd edition



Department of the Treasury
Internal Revenue Service

Notice 609

(Revised April 1992)

Privacy Act Notice

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

This notice applies to tax returns and any papers filed with them. It also applies to any questions we need to ask you so we can complete, correct, or process your return; figure your tax; and collect tax, interest, or penalties.

Our legal right to ask for information is Internal Revenue Code sections 6001, 6011, and 6012(a) and their regulations. They say that you must file a return or statement with us for any tax you are liable for. Your response is mandatory under these sections.

Code section 6109 and its regulations say that you must show your social security number on what you file. You must also fill in all parts of the tax form that apply to you. This is so we know who you are, and can process your return and papers. You do not have to check the boxes for the Presidential Election Campaign Fund.

We ask for tax return information to carry out the U.S. tax laws. We need it to figure and collect the right amount of tax.

We may give the information to the Department of Justice and to other Federal Agencies, as provided by law. We may also give it to cities, states, the District of Columbia, and U.S. commonwealths or possessions to carry out their tax laws. And we may give it to certain foreign governments under tax treaties they have with the United States.

Cat. No. 45963A

If you do not file a return, do not give us the information we ask for, or provide fraudulent information, the law says that we may have to charge you penalties and, in certain cases, subject you to criminal prosecution. We may also have to disallow the exemptions, exclusions, credits, deductions, or adjustments shown on your tax return. This could make your tax higher or delay any refund. Interest may also be charged.

Please keep this notice with your records. You may want to refer to it if we ask you for other information. If you have questions about the rules for filing and giving information, please call or visit any Internal Revenue Service office.

Notice 609

[*U.S. G.P.O.: 1995-405-493/20163](https://www.irs.gov/pub/irs-soi/199540549320163)

(Rev. April 1992)

DO I HAVE TO FILE? 1040 Booklet Reprint

Use **Chart A** on this page to see if you must file a return. But you must use **Chart B** on the next page if your parent (or someone else) can claim you as a dependent on his or her return. Also, see **Chart C** on the next page for other situations when you must file.

Note: *Even if you do not have to file a return, you should file one to get a refund of any Federal income tax withheld. You should also file if you can take the earned income credit. If you file for either of these reasons only, you may be able to use Form 1040A. If you file only to get a refund of tax withheld and you are single or married filing a joint return, you may be able to use Form 1040EZ.*

Exception for Children Under Age 14. If your child is required to file a return and all four of the following apply, you may elect to report your child's income on your return. But you must use **Form 8814**, Parent's Election to Report Child's Interest and Dividends, to do so. If you make this election, your child does not have to file a return.

1. Your child under age 14 on January 1, 1994.
2. Your child had income only from interest and dividends (including Alaska Permanent Fund dividends).
3. Your child's gross income was less than \$5,000.
4. Your child had no Federal income tax withheld from his or her income (backup withholding) and did not make estimated tax payments for 1993.

If you and the child's other parents are not filing a joint return, special rules apply to determine which parent may make the election. See Form 8814 for details.

Rules

The rules under **Do I Have To File?** Apply to all U.S. citizens and resident aliens. They also apply to nonresident aliens and **dual-status aliens** who were married to U.S. citizens or residents at the end of 1993 and who have elected to be treated as resident aliens.

Exception. Different rules apply to other nonresident aliens and dual-status aliens. They may have to file Form 1040NR, U.S. Nonresident Alien Income Tax Return. Specific rules apply to determine if you are a resident or nonresident alien. Get Pub. 519, U.S. Tax Guide for Aliens, for details, including the rules for students and scholars. Different rules apply to U.S. citizens who lived in a U.S. possession or had income from a U.S. possession. Get Pub. 570, Tax Guide for Individuals With Income From U.S. Possessions. Residents of Puerto Rico can call Tele-Tax (see page 30) and listen to topic 901 to see if they must file a return.

Determination of Tax Liability Tax on Individuals

§ 1.1-1 Income tax on individuals.

General Rule. (1) Section 1 of the Code imposes an income tax on the income of every individual who is a citizen or resident of the United States and, to the extent provided by section 871(b) or 877(b), on the income of a non-resident alien individual. For optional tax in the case of taxpayers with adjusted allowable deductions from gross income. Gross income of less than \$10,000 (less than \$5,000 for taxable years beginning before January 1, 1970) see sections 871 and 877.

(a) **Citizens or residents of the United**

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

(b) **Who is a citizen?**

Every person born or naturalized in the United States and subject to its jurisdiction is a citizen. For other rules governing the acquisition of citizenship, see chapters 1 and 2 of title III of the Immigration and Nationality Act (8 U.S.C. 1401-1459). For rules governing loss of citizenship, see sections 349 to 357, inclusive, of such Act (8

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

TITLES OF UNITED STATES OF AMERICA CODE

- | | |
|--|--|
| <ol style="list-style-type: none"> 1. General Provisions* 2. The Congress 3. The President* 4. Flag and Seal, Seat of Government and the States* 5. Government Organization and Employees* 6. [Surety Bonds] †† 7. Agriculture 8. Aliens and Nationality 9. Arbitration* 10. Armed Forces* 11. Bankruptcy* 12. Banks and Banking 13. Census* 14. Coast Guard* 15. Commerce and Trade 16. Conversation 17. Copyrights* 18. Crimes and Criminal Process* 19. Customs Duties 20. Education 21. Food and Drug 22. Foreign Relations and Intercourse 23. Highways* 24. Hospitals and Asylums 25. Indians | <ol style="list-style-type: none"> 26. Internal Revenue Code [This binder contains Secs. 1-1000] 27. Intoxicating Liquors 28. Judiciary and Judicial Process* 29. Labor 30. Mineral Lands and Mining 31. Money and Finance* 32. National Guard* 33. Navigation and Navigable Waters 34. [Navy]† 35. Patents* 36. Patriotic Societies and Observances 37. Pay and Allowances of the Uniformed Services* 38. Veterans Benefits* 39. Post Service* 40. Public Buildings, Property, and Works 41. Public Contracts 42. The Public Health and Welfare 43. Public Lands 44. Public Printing and Documents* 45. Railroads 46. Shipping*** 47. Telegraphs, Telephones, and Radiotelegraphs 48. Territories and Insular Possessions 49. Transportation** 50. War and National Defense and Appendix |
|--|--|

* - This title has been enacted as positive law.

** - Subtitles I, II, and IV of this title have been enacted as positive law.

† - This title has been superseded by the enactment of Title 10 as positive law.

†† - This title has been superseded by the enactment of Title 31 as positive law.

Titles of the United States Code which have been enacted into positive law are legal evidence of the general and permanent laws, while non-positive law titles only establish **prima facie** the laws of the United States (I USCS § 204(a)).

Definition of prima facie taken from Black's Law Dictionary (6th Edition):

Prima Facie / Lat. At first sight; on the first appearance; on the face of it; so far as can be judged from the first disclosure; presumably; a fact presumed to be true unless disproved by some evidence to the contrary.

GLOSSARY

In rem – Latin: “against the thing” – This technical term is used to designate proceedings or actions instituted *against the thing*. In contradistinction to personal actions which are said to be *in personam*. Proceedings in rem include not only judgments of property as forfeited, or as prize in the admiralty, or the English exchequer, but also the decisions of other courts upon the personal *status*, or relations of the party, such as marriage, divorce, bastardy, settlement, or the like. Reference: Bouvler’s 8th – 1859

Insurrection – A rebellion of citizens or subjects of a country against its government. Reference: Bouvler’s 8th – 1859 [Note as organized and widespread as a rebellion]

Interlocutory – a. 2. In law, intermediate, not final or definitive. An order, sentence, degree or judgment, given in an intermediate stage of cause, or on some intermediate question before the final decision, is called interlocutory: as a degree in chancery referring a question of fact to a court of law, or a judgment on default in a court of law. Reference: Webster’s –1828

Internal revenue – Philippine trust fund Reference: Title 31 USC § 1321(2)

Internal Revenue – Guam venue tax Reference: Title 31

Internal Revenue – Puerto Rico trust fund Reference: Title 31 USC § 1321(62)

Internal Revenue Code of 1954 – The Guam Tax Treaty of 1954

Internal Revenue Service – The current name of the “Bureau of Internal Revenue” (BIR) of Puerto Rico. The “Federal Alcohol Administration” created on 8-29-1935, 49 Stat. 977; 27 USC § 201, was abolished and absorbed in the BIR on 4-2-1940 by Reorganization Plan No. III of 1940, 5 F.R. (Federal Register) 2107, 54 Stat. 1232, set out in the Appendix to Title 5, Government Organization and Employees. Department of the Treasury Order (TDO) 221 of July 1, 1972, established the BATF and transferred to it the alcohol and functions of the Internal Revenue Service. Public law 97-258 §5(b), Sept 13, 1982, 96 Stat. 1068, 1085 repealed §2 of the 1940 Reorganization Plan No III and the first section of which enacted Title 31, Money and Finance. Reference: US Statues at Large and 27 USC §201

In toto – Latin: “In the whole; wholly; completely” - ... as the award is void *in toto* Reference: Bouvler’s 8th- 1859

Invasion – The entry of a country by a public enemy, making war. Reference: Bouvler’s 8th- 1859

Involuntary – An involuntary act is that which is performed with constraint, (q.v.) or with repugnance, or without the will to do it. An action is involuntary then, which is performed under duress. Reference: Bouvler’s 8th- 1859

U.S. citizen – A citizen of the U.S. Virgin Islands.

U.S. constitution – The constitution for the U.S. Virgin Islands.

U.S. Constitution – The constitution for Puerto Rico.

U.S. v. – Plaintiff pleading in a case having the venue and jurisdiction originating in the Virgin Islands. Reference: Title 48 (1441 1)

Ultra vires – Latin: “beyond its power”

unalienable – The state of a thing or right which cannot be sold. **2.** The natural rights of life and liberty are unalienable. [See the Declaration of Independence] Reference: Bouvler’s 8th- 1859

unconstitutional – That which is contrary to the constitution. Reference: Bouvler’s 8th- 1859

uniform – a. Having always the same form or manner; not variable. Reference: Webster’s – 1828

UNITED STATES – The term may be used in any one of several senses. **1.** It may be merely the name of a sovereign occupying the position analogous to that of other sovereigns in the family of nations [i.e., Japan, England, France, Africa, etc] **2.** It may designate the territory over which the sovereignty of the United States extends [i.e., Washington, D.C., Guam, Puerto Rico, U.S. Virgin Islands, etc.] or **3.** It may be the collective names of the states which are united by and under the Constitution [i.e., the 50 sovereign sates of the Union]. *Hoover & Allison, Co. v. Evatt.* 324 U.S. 652; 89 L. Ed. 1252; 65 S. Ct. 870 [1944] Reference: Bouvler’s 6th- 1990

United States – The federal entity defined by Article I, Section 8, Clause 17 [1.8.17]

united States – One of the fifty sovereign states.

United States citizen – District of Columbia citizens

United States of America – The federal entity define in Article I, Sections 8, Clause 17 [1.8.17]

united States of America – One of the fifty sovereign states.

UNITED STATES OF AMERICA v. – Plaintiff pleading in a case having the venue and jurisdiction originating in the Philippines. Reference: Title 48 (1441 1)

United States V. – Plaintiff pleading in a case having the venue and jurisdiction originating in the District of Columbia. Reference: Title 48 (1441 1)

unlawful – That which is contrary to law. Reference: Bouvler’s 8th- 1859

usurpation – n. The act of seizing or occupying and enjoying the property of another, without right; as the *usurpation* of a throne; the usurpation of the supreme power. Usurpation, in a peculiar sense, denotes the absolute ouster and dispossession of the patron of a church, by presenting a clerk to a vacant benellee, who is thereupon admitted and instituted. Reference: Webster’s - 1828

§ 1-206 UNIFORM COMMERCIAL CODE

“Signed”. Section 1-201.

“Writing”. Section 1-201.

U.C.C. – Article 1 – General Provisions ...Part 2

§ 1-207 Performance Or Acceptance Under Reservation Of Rights

- (1) A party who, with explicit reservation of rights performs or promises performance or assents to performance in a manner demanded or offered by the other party does not thereby prejudice the rights reserved. Such words as “without prejudice”, “under protest” or the like are sufficient.
- (2) Subsection (1) does not apply to an accord and satisfaction. As amended in 1990.

See Appendix VIII for material relating to changes made in text in 1990.

INTERNAL REVENUE CODE 1939

Definitions — Sec. 3797

22,529

Definitions

[¶ 1837] Sec. 3797 [Internal Revenue Code]. (a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof-

- (1) **Person.** The term "person" shall be construed to mean and include an individual, a trust, estate, partnership, company, or corporation.
- (2) **Partnership And Partner.** The term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this title, a trust or estate or a corporation; and the term "partner" includes a member in such a syndicate, group, pool, joint venture, or organization. A person shall be recognized as a partner for income tax purposes if he owns a capital interest in a partnership in which capital is a material income-producing factor, whether or not such interest was derived by purchase or gift from any other person.
- (3) **Corporation.** The term "corporation" includes associations, joint-stock companies, and insurance companies.
- (4) **Domestic.** The term "domestic" when applied to a corporation or a partnership means created or organized in the United States or under the law of the United States or of any State or Territory.
- (5) **Foreign.** The term "foreign" when applied to a corporation or partnership means a corporation or partnership which is not domestic.
- (6) **Fiduciary.** The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.
- (7) **Stock.** The term "stock" includes the share in an association, joint-stock company, or insurance company.
- (8) **Shareholder.** The term "shareholder" includes a member in an association, joint-stock company, or insurance company.
- (9) **United States.** The term "United States" when used in a geographical sense includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.
- (10) **State.** The word "State" shall be construed to include the Territories and the District of Columbia, where such construction is necessary to carry out provisions of this title.
- (11) **Secretary.** The term "Secretary" means the Secretary of the Treasury.
- (12) **Commissioner.** The term "Commissioner" means the Commissioner of Internal Revenue.
- (13) **Collector.** The term "collector" means collector of internal revenue.
- (14) **Taxpayer.** The term "taxpayer" means any person subject to a tax imposed by this title.
- (15) **Military Or Naval Forces Of The United States.** The term "military or naval forces of the United States" includes the Marine Corps, the Coast Guard, the Army Nurse Corps, Female, the Women's Army Auxiliary Corps, the Navy Nurse Corps, Female, and the Women's Reserve branch of the Naval Reserve.
- (16) **Withholding Agent.** The term "withholding agent" means any person required to deduct and withhold any tax under the provisions of section 143 or 144.

- Sec. 7701. Definitions.
- Sec. 7702. Life insurance contract defined.
- Sec. 7702A. Modified endowment contract defined.
- Sec. 7704. Certain publicly traded partnerships treated as corporations.

[Sec. 7701]

Sec. 7701. Definitions

[Sec. 7701(a)]

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

- (1) **Person.** The term "person" shall be construed to mean and include an individual, a trust, estate, partnership, -association, company or corporation.
- (2) **Partnership and Partner.** The term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this title, a trust or estate or a corporation; and the term "partner" includes a member in such a syndicate, group, pool, joint venture, or organization.
- (3) **Corporation.** The term "corporation" includes associations, joint-stock companies, and insurance companies.
- (4) **Domestic.** The term "domestic" when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State.

Amendments

P.L. 94-455, § 1906(c)(3):

Amended Code Sec. 7701(a)(4) by deleting "or Territory" after "State". Effective on 2-1-77.

- (5) **Foreign.** The term "foreign" when applied to a corporation or partnership means a corporation or partnership, which is not domestic.
- (6) **Fiduciary.** The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.
- (7) **Stock.** The term "stock" includes shares in an association, joint-stock company, or insurance company.
- (8) **Shareholder.** The term "shareholder" includes a member in an association, joint-stock company, or insurance company.
- (9) **United States.** The term "United States" when used in a geographical sense includes only the States and the District of Columbia.

Amendments

P. L. 86-624, § 18(i):

Amended 1954 Code Sec. 7701(a)(9) by striking out ". the Territory of Hawaii," immediately after the word "States" Effective on 8-21-59.

P. L. 86-70, § 22(a):

Amended 1954 Code Sec. 7701(a)(9) by striking out "Territories of Alaska and", and by substituting "Territory of. Effective on 1-3 59.

- (10) **State.** The term "State" shall be construed to include the District of Columbia, where such construction is necessary to carry out provisions of this title.

Amendments

P. L. 86-624, § 18(j):

Amended 1954 Code Sec. 7701(a)(10) by striking out ". the Territory of Hawaii," immediately after the word "include". Effective on 8-21-59.

P. L. 86-70, § 22(a):

Amended 1954 Code Sec. 7701(a)(10) by striking out "Territories of Alaska and", and by substituting "Territory of Effective on 1-3 59.

SEC. 7701. DEFINITIONS

TITLE 26, Subtitle F, CHAPTER 79, Sec. 7701

Statute

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

(1) Person

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

(2) Partnership and partner

The term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this title, a trust or estate or a corporation; and the term "partner" includes a member in such a syndicate, group, pool, joint venture, or organization.

(3) Corporation

The term "corporation" includes associations, joint-stock companies, and insurance companies.

(4) Domestic

The term "domestic" when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State.

(5) Foreign

The term "foreign" when applied to a corporation or partnership means a corporation or partnership, which is not domestic.

(6) Fiduciary

The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

(7) Stock

The term "stock" includes shares in an association, joint-stock company, or insurance company.

(8) Shareholder

The term "shareholder" includes a member in an association, joint-stock company, or insurance company.

(9) United States

The term "United States" when used in a geographical sense includes only the States and the District of Columbia.

(10) State

The term "State" shall be construed to include the District of Columbia, where such construction is necessary to carry out provisions of this title.

EMPLOYMENT TAX GENERAL PROVISION

Revisions of section 218(ex2) of the Social Security Act prior to the date of the enactment of this Act, except that in cases where, in accordance with the currently applicable schedule, deposits of taxes due under an agreement entered into pursuant to section 218 of the Social Security Act would be required within 3 days after the close of an eighth-monthly period, such 3 day requirement shall be changed to a 7-day requirement for wages paid prior to October 1, 1987 and to a 5-day requirement for wages paid after September 30, 1987, and prior to October 1, 1988. For wages paid prior to October 1, 1998, the deposit schedule for taxes imposed under sections 3101 and 3111 shall be determined separately from the deposit schedule for taxes withheld under section 3402 if the taxes imposed under section 3101 and 3111 are due with respect to service included under an agreement entered into pursuant to section 218 of the Social Security Act.

P.L. 761, 83rd Cong., § 206(a):

Amended subparagraph (C) by deleting “if the performance of such services is subject to licensing requirements under the laws of the State in which such services are performed” following “designated by him” Effective 1-1-55.

[Sec. 3121(e)]

(e) STATE, UNITED STATES, AND CITIZEN – For purposes of this chapter –

- (1) STATE. – The term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam and American Samoa.
- (2) UNITED STATES – The term “United States” when used in a geographical sense includes the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

An individual who is a citizen of the Commonwealth of Puerto Rico (but not otherwise a citizen of the United States) shall be considered, for purposes of this section, as a citizen of the United States.

Amendments

P. L. 86-778, § 103(p):

Amended Code Sec. 3121(c) to read as above, effective for service performed after 1960 prior to amendment it read as follows:

“(e) State, United States, and Citizen – For purposes of the chapter –

“(1) State, The term ‘State’ includes Hawaii, the District of Columbia, Puerto Rico, and the Virgin Islands.

“(2) United States – The term ‘United States’ when used in a geographical sense includes Puerto Rico and the Virgin Islands.

An individual who is a citizen of Puerto Rico (but not otherwise a citizen of the United States) shall be considered for purposes of this section, as a citizen of the United States.”

P. L. 86-624, § 18(c):

Amended 1954 Code Sec. 3121(c)(1), as it appears in the amendment note for P.L. 86-778, by striking out “Hawaii” where it appeared following “includes” Effective 8-21-59.

P. L. 86-70, § 22(a):

Amended 1954 Code Sec. 3121(c)(1), as it appears in the amendment note for P.L. 86-778, by striking out “Alaska” where it appeared following “includes” Effective 1-3-59.

SEC. 3121. DEFINITIONS

TITLE 26, Subtitle C, CHAPTER 21, Subchapter C, Sec. 3121

Statute

(a) Wages

For purposes of this chapter, the term "wages" means all remuneration for employment, including the cash value of all remuneration (including benefits) paid in any medium other than cash; except that such term shall not include –

(e) State, United States, and citizen for purposes of this chapter -

(1) State

The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(2) United States

The term "United States" when used in a geographical sense includes the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa. An individual who is a citizen of the Commonwealth of Puerto Rico (but not otherwise a citizen of the United States) shall be considered, for purposes of this section, as a citizen of the United States.

Sec. 871. Tax on Nonresident Alien Individuals

TITLE 26, Subtitle A, CHAPTER 1, Subchapter N, PART II, Subpart A, Sec. 871

(b) Income connected with United States business - graduated rate of tax

(1) Imposition of tax

A nonresident alien individual engaged in trade or business within the United States during the taxable year shall be taxable as provided in section 1, 55, or 402(d)(1) on his taxable income which is effectively connected with the conduct of a trade or business within the United States.

(2) Determination of taxable income

In determining taxable income for purposes of paragraph (1), gross income includes only gross income, which is effectively connected with the conduct of a trade or business within the United States.

Sec. 7201. Attempt to evade or defeat tax

TITLE 26, Subtitle F, CHAPTER 75, Subchapter A, PART I, Sec. 7201

Statute

Any person who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, shall be fined not more than \$100,000 (\$500,000 in the case of a corporation), or imprisoned not more than 5 years, or both, together with the costs of prosecution.

Sec. 7202. Willful Failure To Collect Or Pay Over Tax

TITLE 26, Subtitle F, CHAPTER 75, Subchapter A, PART I, Sec. 7202
Statute

Any person required under this title to collect, account for, and pay over any tax imposed by this title who willfully fails to collect or truthfully account for and pay over such tax shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both, together with the costs of prosecution.

Sec. 6109. Identifying Numbers

TITLE 26, Subtitle F, CHAPTER 61, Subchapter B, Sec. 6109
Statute

(a) Supplying of identifying numbers

When required by regulations prescribed by the Secretary:

(1) Inclusion in returns

Any person required under the authority of this title to make a return, statement, or other document shall include in such return, statement, or other document such identifying number as may be prescribed for securing proper identification of such person.

(2) Furnishing number to other persons

Any person with respect to whom a return, statement, or other document is required under the authority of this title to be made by another person or whose identifying number is required to be shown on a return of another person shall furnish to such other person such identifying number as may be prescribed for securing his proper identification.

(3) Furnishing number of another person

Any person required under the authority of this title to make a return, statement, or other document with respect to another person shall request from such other person, and shall include in any such return, statement, or other document, such identifying number as may be prescribed for securing proper identification of such other person.

SEC. 7206. FRAUD AND FALSE STATEMENTS

TITLE 26, Subtitle F, CHAPTER 75, Subchapter A, PART I, Sec. 7206

Statute

Any person who -

(1) Declaration under penalties of perjury

Willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter; or

(2) Aid or assistance

Willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under, the internal revenue laws, of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document; or

(3) Fraudulent bonds, permits, and entries

Simulates or falsely or fraudulently executes or signs any bond, permit, entry, or other document required by the provisions of the internal revenue laws, or by any regulation made in pursuance thereof, or procures the same to be falsely or fraudulently executed, or advises, aids in, or connives at such execution thereof; or

(4) Removal or concealment with intent to defraud

Removes, deposits, or conceals, or is concerned in removing, depositing, or concealing, any goods or commodities for or

in respect whereof any tax is or shall be imposed, or any property upon which levy is authorized by section 6331, with intent to evade or defeat the assessment or collection of any tax imposed by this title; or

(5) **Compromises and closing agreements**

In connection with any compromise under section 7122, or offer of such compromise, or in connection with any closing agreement under section 7121, or offer to enter into any such agreement, willfully -

A) *Concealment of property*

Conceals from any officer or employee of the United States any property belonging to the estate of a taxpayer or other person liable in respect of the tax, or

B) *Withholding, falsifying, and destroying records*

Receives, withholds, destroys, mutilates, or falsifies any book, document, or record, or makes any false statement, relating to the estate or financial condition of the taxpayer or other person liable in respect of the tax; shall be guilty of a felony and, upon conviction thereof, shall be fined not more than \$100,000 (\$500,000 in the case of a corporation), or imprisoned not more than 3 years, or both, together with the costs of prosecution.



Publication 586A
(Rev. April 91)

The Collection Process (Income Tax Accounts)

Introduction

This pamphlet explains your rights and duties as a taxpayer owing a bill for taxes. It also explains the legal obligation of the Internal Revenue Service to collect overdue taxes, and how we fulfill this obligation. It is not intended as a precise and technical analysis of the law.

By law, the Internal Revenue Service is empowered to collect certified child support obligations.- The collection and payment of these liabilities, with certain exceptions, is the same as for unpaid taxes.

Liability for Unpaid Taxes

Notice and Demand. Each tax return filed with the Internal Revenue Service is checked for mathematical accuracy and to see if appropriate payment has been made. If all the tax has not been paid, we will send you a bill (including tax, interest and penalties), which is a notice of tax due and demand for payment. In most cases you are given 10 days from the date of the notice of tax due before we may take enforced collection action. However, if we have reason to believe that collection is endangered, we may give notice and demand immediate payment. If immediate payment is not made, enforced collection action may be taken without regard to the 10-day period normally provided. See information under Levy regarding Final Notice (Notice of Intent to Levy) 30-day period.

Corrective Action. If you owe taxes because not enough tax was withheld from your wages, you should file a new Form W-4, Employee's Withholding Allowance Certificate, with your, employer(s) claiming a lower number of withholding allowances. For assistance in computing the correct number of withholding allowances see Publication 919, "is My Withholding Correct?"

Payment Procedure

Tax Bill Contains Error. If you believe your bill contains an error, you should immediately reply in writing to the office, which sent the bill. You should send copies of any records with your reply, which would help in correcting the error. If we determine you are correct, we will adjust your account after you pay any tax, interest, and penalty still due.

Unable to Make Full Payment. If you cannot pay your bill, you should pay as much as you can and write us immediately, explaining your circumstances. We may ask you to complete a Collection Information Statement so that we can review your financial condition to determine how you can pay the amount due. If you have assets we can identify which could readily be sold, mortgaged, or used to secure funds to pay the taxes, we will ask you to do so. Or we may ask you to secure a commercial loan if we determine that you are able to do so. If you neglect or refuse to pay in full, we may take enforced collection action.

Installment Payments. If we determine that you can only pay the tax liability through installments, we will help you prepare a form itemizing your monthly income and expenses to determine the maximum amount you can pay. In certain cases we can arrange, through a payroll agreement, for your employer to withhold and regularly pay to us amounts deducted from your pay, or allow you to pay by other means such as electronic transfers from your bank account. During the time you are making payments, we may file a Notice of Federal Tax Lien to secure the Government's interest until the final payment is made. We may require you to give us current information regarding your financial condition to see if your payments can be increased. If you fail to meet the terms of the agreement, or fail to provide financial information when requested, the agreement may be defaulted and we may take enforced collection action without an additional Final Notice (Notice of Intent to Levy).

You have the right, unless collection is endangered, to a 30-day notification of the termination, alteration, or modification of an agreement based on an IRS determination of change in financial condition.

Delayed Collection. If we determine that you cannot make any payment towards your liability, we may temporarily delay collection until your financial condition improves. This does not mean your debt is forgiven, or that the penalty for late payment and interest stop accruing. We may file a Notice of Federal Tax Lien to protect the Government's interest during this period.

Refund Offset. If you become entitled to a refund during the time you owe unpaid taxes, we **will** apply the refund to the unpaid tax liability and refund the balance, if any, to you.

Bankruptcy Proceedings. If you are a debtor in an ongoing bankruptcy, do not pay the bill without immediately contacting your IRS office. While the bankruptcy proceeding will not necessarily relieve your obligation to pay, a temporary stay of collection may be in effect.

ENFORCED COLLECTION POLICY

Enforced collection action includes the filing of a Notice I Federal Fax Lien, the serving of a Notice of Levy and/or the seize and sale of your property (personal, real and/or business). We normally take these actions only after we try to contact you and give you the opportunity to pay voluntarily.

Notice of Federal Tax Lien. Once notice and demand for payment is sent and you neglect or refuse to pay the tax, a lien attaches to all your property (e.g., house, automobile) and rights to property (e.g., accounts receivable). This lien is not valid against claims of certain types of creditors until a Notice of Federal Tax Lien (lien) has been filed as a matter of public record. The filing of a notice of lien is often necessary to protect the Government's interest. It is a public notice to your creditors that the Government has a claim against all your property, including property, which is acquired after the lien came into existence.

Once filed, a lien may harm your credit rating.

A Release of the Notice of Federal Tax Lien will be issued within 30 days after the tax due (including interest and other additions to the tax) if:

- 1) satisfied by payment or adjustment; or
- 2) within 30 days after acceptance of a bond guaranteeing payment of the liability.

All fees charged by the state or other jurisdiction for both filing and releasing the lien will be added to the balance you owe.

If the time during which the tax can be legally collected has expired, the notice of lien will act as an automatic Certificate of Release unless a lien refilling occurs.

You may sue the Federal Government but not IRS employees, for damages if the IRS knowingly or negligently fails to release a Notice of Federal Tax Lien when a release is warranted. If civil action is successful, you may be compensated for direct losses incurred by the IRS's inaction and the cost of litigation. The award will be reduced by the amount that you could have reasonably mitigated. All administrative appeals must be exhausted before a suit may be instituted. You have two years from the date of the action which gives rise to the claim to file a suit.

Publication 1450, Request for Release of Federal Tax Lien, describes the required contents of your request.

Property subject to a Federal tax lien may be released from the effect of the lien under the following circumstances:

- 1) Other property subject to the lien is worth at least twice the amount of the tax and additions to tax you owe as well as other prior debts owed on the property (e.g., mortgages).
- 2) The IRS receives the value of the Government's lien interest in the property and the taxpayer is giving up ownership (e.g., sale of a residence).
- 3) The IRS determines that the Government's interest in the property is valueless and the taxpayer is giving up ownership (e.g., sale of a residence).
- 4) The property is being sold and there is a dispute as to who is entitled to the sale proceeds, and the sale proceeds are placed in escrow while dispute is being resolved.

The IRS may also subordinate its lien to a junior lie nor if we receive the dollar value of the interest in the property being acquired by the junior lie nor (e.g., a second mortgage). We may also subordinate our lien if we believe that doing so would speed collection of the tax (e.g., a loan to harvest crop).

Subrogation. This is the substitution of one person in the place of another with respect to a lawful claim of right.

There are two kinds of subrogation, conventional and legal. Conventional subrogation arises by contract, and legal subrogation arises by operation law.

An example is where a taxpayer's property is encumbered by a prior mortgage, a subordinate Federal Tax Lien, and another encumbrance in third position, and the person holding the third ranking claims pays off the prior mortgage on the property. That party would then be subrogated to the rights of the prior mortgagee and be entitled to the same right of priority, (but only with respect to the claim they satisfied, not their original third ranking claim).

For assistance in requesting a discharge or subordination Federal Tax Lien, or Publication 783, Instructions on How to Apply for Certificate of Discharge of Property from Federal Tax Lien, or Publication 784, How to Prepare Application for Certificate of Subordination of Federal Tax Lien. You should submit a written application in duplicate to the District Director in who district the property is located.

You should contact the IRS Office where the property is located for information concerning discharge, subordination, or subrogation of Federal Tax Lien and instructions on how to post a bond.

Administrative Appeal of The Erroneous Filing of a Notice of Lien. You may appeal the filing of a notice of federal tax lien if you believe the filing was erroneous. A filing is erroneous when one of the following conditions applies:

- 1) The liability was satisfied before the notice of lien was filed;
- 2) You were in bankruptcy and subject to the automatic stay when the lien was filed.
- 3) An examination assessment was improperly made; or
- 4) The statute of limitations for collection expired prior to the filing of the notice of lien.

You may not use the administrative appeal provisions to challenge the underlying liability, which generated the filing of the notice of the lien. If we determine a notice of federal tax lien was erroneously filed, it will generally be released within 14 days after the determination that the lien was erroneously filed. A certificate of release if an erroneously filed noticed of lien contains a statement that the notice of lien was in fact erroneously filed.

Levy. A levy is the taking of property to satisfy a tax liability. Levies can be made on property in the hands of third parties (employers, banks, etc.), or in your possession (automobile, real property, etc.).

Once served, a levy on salary or wages continues in effect until it is released, or your tax liability is satisfied or becomes unenforceable due to lapse of time.

Generally court authorization is not required before levy is taken unless Collection personnel must enter into private premises to accomplish their action (actual seizure of property). Generally, there are three legal requirements before levy action can be taken;

- 1) The tax must be owed,
- 2) A notice and demand for payment must have been sent to your last know address; and
- 3) If payment is not made, a Final Notice (Notice of Intent to Levy) must be given to you at least 30 days in advance, Such notice may be given to you in person, left at your dwelling or usual place of business, or sent by certified or registered mail to your last known address.

If collection is endangered, we may have to take immediate collection action.

Jeopardy levies may occur when we waive the 10-day Notice and Demand period and/or Final Notice (Notice of Intent to Levy) 30-period, because delay would endanger collection of the tax. You may seek administrative and/or judicial review when a decision is made that collection is endangered. After administrative review, you may, if the underlying liability is an issue in a Tax Court case, secure its review, or the review of the United States District Court. All other cases will be heard in United States District Court.

If your bank account is levied, your bank is required to hold funds you have on deposit, up to the amount you owe for 21 days. The bank is required to send the money, plus interest in certain cases, to the Service.

We must release a levy if:

- 1) You pay the tax, penalty, and interest for which the levy was made;
- 2) The statute of limitations for collection has expired prior to service of the levy;
- 3) The IRS determines the release will help collect the tax;
- 4) You have an approved, current installment agreement for the tax on the levy, unless you and the IRS have any agreement that a current levy should continue or future levies should be made;
- 5) The IRS determines the levy is creating an economic hardship, or
- 6) The fair market value of the property exceeds the levy and its release would not hinder the collection of tax.

If your bank account is levied, you should contact the specific name and/or telephone number listed on the Notice of Levy to discuss your account. You may also refer to the information under **Taxpayer Assistance and Problem Resolution Program (PRP)**, if necessary.

Certain types of property are exempt from levy by Federal law. They are:

- 1) wearing apparel and school books. (However, expensive items of wearing apparel, such as furs, are luxuries and are not exempt from levy.);
- 2) fuel, provisions, furniture, and personal effects, not to exceed \$1,550 in value (for head of household) for 1989 and \$1,650 for 1990 and later;
- 3) certain service-connected disability payments;
- 4) workmen's compensation;
- 5) salary, wages or other income subject to a prior judgment for court-ordered child support payments;
- 6) certain public assistance payments;
- 7) assistance under the job training partnership act;
- 8) principal residence, unless prior written approval of the district director or assistant district director is secured, or jeopardy exists.
- 9) deposits to the special Treasury fund made by members of the armed forces and Public Health Service employees on permanent duty assigned outside the United States or its possessions; and
- 10) a minimum weekly exemption for wages, salary, and other income based on the standard deduction plus the number of allowable personal exemptions divided by 52. In the case of no response, the exempt amount will be computed as if you were married filing separately with one exemption.

If you receive a levy on salary or wages, contact the specific name and/or telephone number listed on the Notice of Levy for assistance.

If you disagree with the value placed on the property by the employee making the levy, you can request a valuation by three disinterested individuals.

Seizures and Sales. Any type of real or personal property you own or in which you have interest (including residential and business property) may be seized, at the time of the seizure.

A seizure may not be made on any of your property if the estimated cost of the seizure and sale exceed the fair market value of the property to be seized, at the time of the seizure.

No seizure or levy may be made on the date you appear in response to an administrative summons, which is issued to collect unpaid tax unless jeopardy exists.

You have the right to administrative review of our seizure action when we have taken personal property that you own which is necessary to the maintenance of your business.

If your property is seized or levied, you should contact the IRS employee who made the seizure or levy for assistance. After seizure we will give notice to you and the public about the proposed sale. Unless the property is perishable and must be sold immediately, we will wait at least 10 days before conducting the sale. Prior to the sale, we will compute a minimum price that we will accept for the property, and advise you of the amount. If you are in disagreement, you may request a Service valuation engineer or a private appraiser to assist the Internal Revenue Service employee in recomputing the minimum price.

Before the date of sale, we may release the property to you if you pay the amount equal to the amount of the Government's interest in the property, enter into an escrow arrangement, furnish acceptable bond or make an acceptable agreement for payment of the tax.

You also have the right to redeem your property at any time prior to the sale. Redemption consists of paying the tax due, including interest and penalties, together with the expenses of seizure.

You may request that the seized property be sold within 60 days. You should contact the IRS employee who made the seizure to assist you with your request. The request will be honored unless it is in the government's best interest to retain the property. You will be advised if your request is not honored.

After the sale, proceeds are applied first to the expenses of the levy and sale. The remaining amount is then applied against the tax bill. If the sale proceeds are less than the tax bill and the expenses of levy and sale, you will be liable for the remaining unpaid tax. When sale proceeds exceed the tax bill and expenses of levy and sale, we will hold the surplus money pending your request for distribution. Unless a person, such as a mortgagee or other lien holder, submits a claim superior to yours, these excess funds will be credited or refunded to you upon request.

Real estate may be redeemed at any time within 180 days after the sale by paying the purchaser the amount he/she paid for the property plus interest of 20% per annum.

Backup Withholding on Interest and Dividend Income. Interest, dividend, or patronage dividend income must be reported on your individual income tax returns. All taxable amounts must be correctly reported and match

amounts reported to IRS by the payers. If you do not report this income as required, we may notify all those paying interest or dividends to you to begin withholding income tax at a rate of 20% on these payments. Before notifying your payers to withhold, we will send you at least four notices over a period of at least 120 days so you may correct the underreporting and pay any additional tax to avoid withholding. Once begun, the withholding will continue until the income is properly reported, the income tax is paid in full, and the IRS notifies the payer to stop withholding. Generally, notification will be given to payers to stop withholding at the end of the year if full payment is received by October 15. If full payment is made after October 15, withholding will continue through the following year. During the period of time that you are subject to backup withholding, you may not certify to any new payers that you are not subject to backup withholding. Should you do so, you will be liable for a penalty of \$1,000 and/or imprisonment for up to one year.

Your Rights

AS A TAXPAYER

As a taxpayer, you have the right to be treated fairly, professionally, promptly, and courteously by Internal Revenue Service employees. Our goal at the IRS is to protect your rights so that you will have the highest confidence in the integrity, efficiency, and fairness of our tax system. To ensure that you always receive such treatment, you should know about the many rights you have at each step of the tax process.

Free Information and Help in Preparing Returns

You have the right to information and help in complying with the tax laws. In addition to the basic instructions we provide with the tax forms, we make available a great deal of other information.

Taxpayer publications. We publish over 100 free taxpayer information publications on various subjects. One of these, Publication 910, *Guide to Free Tax Services*, is a catalog of the free services and publications we offer. You can order all publications and any tax forms or instructions you need by calling us toll-free at 1-800-TAX-FORM (829-3676).

Other assistance. We provide walk-in tax help at many IRS offices and recorded telephone information on many topics through our *Tele-Tax* system. The telephone numbers for *Tele-Tax*, and the topics covered, are in certain tax forms' instructions and publications. Many of our materials are available in Braille (at regional libraries for the handicapped) and in Spanish. We provide help for the hearing-impaired via special telephone equipment.

We have informational videotapes that you can borrow. In addition, you may want to attend our education programs for specific groups of taxpayers, such as farmers and those with small businesses.

In cooperation with local volunteers, we offer free help in preparing tax returns for low-income and elderly taxpayers through the Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) Programs. You can get information on these programs by calling the toll-free telephone number for your area.

Copies of Tax returns. If you need a copy of your tax return for an earlier year, you can get one by filling out Form 4506, *Request for Copy of Tax Form*, and paying a small fee. However, you often only need certain information, such as the amount of your reported income, the number of your exemptions, and the tax shown on the return. You can get this information free if you write or visit an IRS office or call the toll-free number for your area.

Privacy and Confidentiality

You have the right to have your personal and financial information kept confidential. People who prepare your return or represent you must keep your information confidential.

You also have the right to know why we are asking you for information, exactly how we will use any information you give, and what might happen if you do not give the information.

Information sharing. Under the law, we can share your tax information with State tax agencies and, under strict legal guidelines, the Department of Justice and other federal agencies. We can also share it with certain foreign governments under tax treaty provisions.

Courtesy and Consideration

You are always entitled to courteous and considerate treatment from IRS employees. If you ever feel that an IRS employee is not treating you with fairness, courtesy, and consideration, you should tell the employee's supervisor.

Protection of Your Rights

The employees of the Internal Revenue Service will explain and protect your rights as a taxpayer at all times. If you feel that this is not the case, you should discuss the problem with the employee's supervisor.

Complaints

If for any reason you have a complaint about the IRS, you may write to the District Director or Service Center Director for your area. We will give you the name and address if you call our toll-free phone number listed later.

Representation and Recordings

Throughout your dealings with us, you can represent yourself, or, generally with proper written authorization, have someone represent you in your absence. During an interview, you can have someone accompany you.



Department of the Treasury
Internal Revenue Service
Publication 1 (Rev. 10-90)

Cat. No. 64731W

If you want to consult an attorney, a certified public accountant, an enrolled agent, or any other person permitted to represent a taxpayer during an interview for examining a tax return or collecting Tax. We cannot suspend and reschedule the interview. We cannot suspend the interview if you are there because of an administrative summons. You can generally make an audio recording of an interview with an IRS Collection or Examination officer. Your request to record the interview should be made in writing, and must be received 10 days before the interview. You must bring your own recording equipment. We also can record an interview. If we do so, we will notify you 10 days before the meeting and you can get a copy of the recording at your expense.

Payment of Only the Required Tax

You have the right to plan your business and personal finances so that you will pay the least tax that is due under the law. You are liable only for the correct amount of tax. Our purpose is to apply the law consistently and fairly to all taxpayers.

If Your Return is Questioned

We accept most taxpayers' returns as filed. If we inquire about your return or select it for examination, it does not suggest that you are dishonest. The inquiry or examination may or may not result in more tax. We may close your case without change. Or, you may receive a refund.

Examination and inquiries by mail. We handle many examinations and inquiries entirely by mail. We will send you a letter with either a request for more information or a reason why we believe a change needs to be made to your return. If you give us the requested information or provide an explanation, we may or may not agree with you and we will explain the reasons for any changes. You should not hesitate to write to us about anything you do not understand. If you cannot resolve any questions through the mail, you can request a personal interview. You can appeal through the IRS and the courts. You will find instructions with each inquiry or in Publication 1383, *Correspondence Process*.

Examination by interview. If we notify you that we will conduct your examination through a personal interview, or you request such an interview, you have the right to ask that the examination take place at a reasonable time and place that is convenient for both you and the IRS. If the time or place we suggest is not convenient, the examiner will try to work out something more suitable. However, the IRS makes the final determination of how, when, and where the examination will take place. You will receive an explanation of your rights and of the examination process either before or at the interview.

If you do not agree with the examiner's report, you may meet with the examiner's supervisor to discuss your case further.

Repeat examinations. We try to avoid repeat examinations of the same items, but this sometimes happens. If we examined your tax return for the same items in either of the 2 previous years and proposed no change to your tax liability, please contact us as soon as possible so we can see if we should discontinue the repeat examination.

Explanation of changes. If we propose any changes to your return, we will explain the reasons for the changes. It is important that you understand these reasons. You should not hesitate to ask about anything that is unclear to you.

Interest. You must pay interest on additional tax that you owe. The interest is generally figured from the due date of the return. But if our error caused a delay in your case, and this was grossly unfair, we may reduce the interest. Only delays caused by procedural or mechanical acts not involving the exercise of judgment or discretion qualify. If you think we caused such a delay, please discuss it with the examiner and file a claim for refund.

Business taxpayers. If you are in an individual business, the rights covered in this publication generally apply to you. If you are a member of a partnership or a shareholder in a small business corporation, special rules may apply to the examination of your partnership or corporation items. The examination of partnership items is discussed in Publication 556, *Examination of Returns, Appeal Rights, and Claims for Refund*. The rights covered in this publication generally apply to exempt organizations and sponsors of employee plans.

An Appeal of the Examination Findings

If you don't agree with the examiner's findings, you have the right to appeal them. During the examination process, you will be given information about your appeal rights. Publication 5, *Appeal Rights and Preparation of Protests for Unagreed Cases*, explains your appeal rights in detail and tells you exactly what to do if you want to appeal.

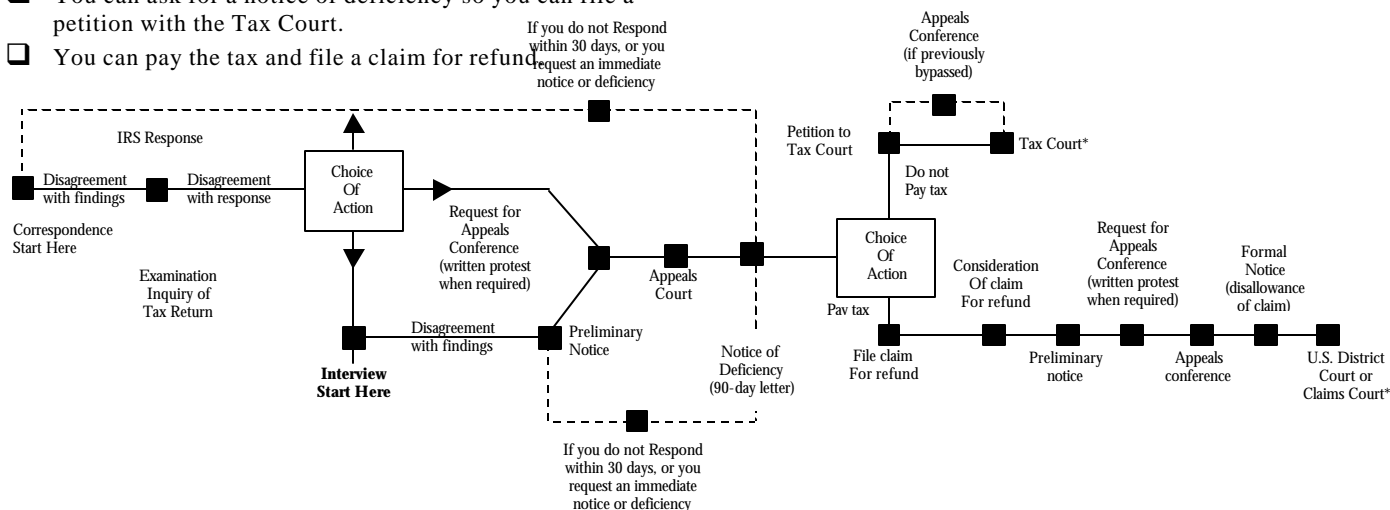
Appeals Office. You can appeal the findings of an examination within the IRS through our Appeals Office. Most differences can be settled through this appeals system without expensive and time consuming court trials. If the matter cannot be settled to your satisfaction in Appeals, you can take your case to court.

Income Tax Appeal Procedures

At any stage

- You can agree and arrange to pay.
- You can ask for a notice of deficiency so you can file a petition with the Tax Court.
- You can pay the tax and file a claim for refund.

* Further appeals to the courts may be possible, except there is no appeal under the Tax Court's small tax case procedure.



Appeals to the courts. Depending on whether you first pay the disputed tax, you can take your case to the U.S. Tax Court, the U.S. Claims Court, or your U.S. District Court. These courts are entirely independent of the IRS. As always, you can represent yourself or have someone admitted to practice before the court represent you.

If you disagree about whether you owe additional tax, you generally have the right to take your case to the U.S. Tax Court if you have not yet paid the tax. Ordinarily, you have 90 days from the time we mail you a formal notice (called a “notice of deficiency”) telling you that you owe additional tax, to file a petition with the U.S. Tax Court. You can request simplified small tax case procedures if your case is \$10,000 or less for any period or year. A case settled under these procedures cannot be appealed.

If you have already paid the disputed tax in full, you may file a claim for refund. If we disallow the claim, you can appeal the findings through our Appeals Office. If you do not accept their decision or we have not acted on your claim within 6 months, then you may take your case to the U.S. Claims Court or your U.S. District Court.

Recovering litigation expenses. If the court agrees with you on most issues in your case, and finds that our position was largely unjustified, you may be able to recover some of your administrative and litigation costs. To do this, you must have used all the administrative remedies available to you within the IRS. This includes going through our Appeals system and giving us all the information necessary to resolve the case.

Publication 556, *Examination of Returns, Appeal Rights, and Claims for Refund*, will help you more fully understand your appeal rights.

Fair Collection of Tax

Whenever you owe tax, we will send you a bill describing the tax and stating the amounts you owe in tax interest, and penalties. Be sure to check any bill you receive to make sure it is correct. You have the right to have your bill adjusted if it is incorrect, so you should let us know about an incorrect bill right away.

If we tell you that you owe tax because of a math or clerical error on your return, you have the right to ask us to send you a formal notice (a “notice of deficiency”) so that you can dispute the tax, as discussed earlier. You do not have to pay the additional tax at the same time that you ask us for the formal notice. If you ask for it within 60 days of the time we tell you of the error.

If the tax is correct, we will give you a specific period of time to pay the bill in full. If you pay the bill within the time allowed, we will not have to take any further action.

We may request that you attend an interview for the collection of tax. You will receive an explanation of your rights and of the collection process either before or at the interview. Your rights are further protected because we are not allowed to use tax enforcement results to evaluate our employees.

Payment arrangements. You should make every effort to pay your bill in full. If you can't, you should pay as much as you can and contact us right away. We may ask you for a complete financial statement to determine how you can pay the amount due. Based on your financial condition, you may qualify for an installment agreement. We can arrange for these payments to be made through payroll deduction. We will give you copies of all agreements you make with us. If we approve a payment agreement, the agreement will stay in effect only if: You give correct and complete financial information, You pay each installment on time, You satisfy other tax liabilities on time; You provide current financial information when asked, and We determine that collecting the tax is not at risk.

Following a review of your current finances, we may change your payment agreement. We will notify you 30 days before any change to your payment agreement and tell you why we are making the change.

We will not take any enforcement action (such as recording a tax lien or levy on or seizing property), until after we have tried to contact you and given you the chance to voluntarily pay any tax due. Therefore, it is very important for you to respond right away to our attempts to contact you (by mail, telephone, or personal visit). If you do not respond, we may have no choice but to deem enforcement action.

Release of liens. If we have to place a lien on your property (to secure the amount of tax due), we must release the lien no later than 30 days after finding that you have paid the entire tax and certain charges, the assessment has become legally unenforceable, or we have accepted a bond to cover the tax and certain charges.

Recovery of damages. If we knowingly or negligently fail to release a lien under the circumstances described above, and you suffer economic damages because of our failure, you can recover your actual economic damages and certain costs. If we recklessly or intentionally fail to follow guidelines and regulations for the collection of tax, you can recover actual economic damages and claim costs.

In each of the two situations above, damages and costs will be allowed within the following limits. You must exhaust all administrative remedies available to you. The damages will be reduced by the amount which you could have reasonably presented. You must bring suit within 2 years of the action.

Incorrect lien. You have the right to appeal our filing of a Notice of Federal Tax Lien if you believe we filed the lien in error. If we agree, we will issue a certificate of release, including a statement that we filed the lien in error. A lien is incorrect if: you paid the entire amount due before we filed the lien; the time to collect the tax expired before we filed the lien, we made a procedural error in a efficiency assessment, or we assessed a tax in violation of the automatic stay provisions in a bankruptcy case.

Levy. We will generally give you 30 days notice before we levy on any property. The notice may be given to you in person, mailed to you, or left at your home or workplace. On the day you attend a collection interview because of a summons, we cannot levy your property until the collection of tax is in jeopardy.

Property that is exempt from levy. If we seize your property, you have the legal right to keep: necessary clothing and schoolbooks, limited amount of personal belongs, furniture, and business or professional books and tools. Unemployment and job training benefits, workers' compensation, welfare, certain disability payments, and certain pension benefits and the income you need to pay court ordered child support. If the of weekly income equals your standard deduction and allowable personal exemptions divided by 52, and your main home, unless collection is in jeopardy or the district director (or assistant) approves this in writing. If your bank account is levied after July, 1989, the bank will hold your account up to the amount of the levy for 21 days. This gives you time to settle any disputes concerning ownership of the funding in the account. We generally must release a levy issued after June 30, 1989. If, you pay the tax, penalty, and interest which the levy was made, the IRS determines the release will help collect the tax, you have an approved installment agreement for the tax on the levy. The IRS determines the levy is creating an economic hardship, or the fair market value of the property exceeds the amount of the levy and release would not hinder the collection of tax. If at any time during the collection process you do not agree with the collection officer, you can discuss your case with his or her supervisor. If we seize your property, you have the right to request that it be sold within 60 days after your request. You can request a time period greater than 60 days. We will comply with your request unless it is not in the best interest of the government.

Access to your private premises. A court order is not generally needed for a collection officer to seize your property. However, you don't have to allow the employee access to your private premises, such as your home or the non-public areas of your business, if the employee does not have court authorization to be there.

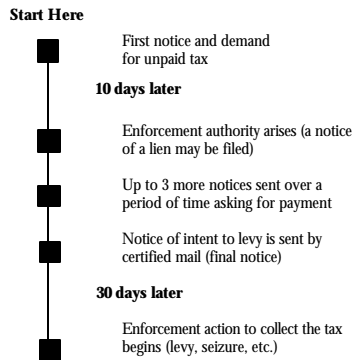
Withheld taxes. If we believe that you were responsible for seeing that a corporation paid us income and social security taxes withheld from its employees, and the taxes were not paid, we may look to you to pay an amount based on the unpaid taxes. If you feel that you don't owe this, you have the right to discuss the case with the collection officer's supervisor. You may also request an appeals hearing within 30 days of our proposed assessment of employment taxes. You generally have the same IRS appeal rights as other taxpayers. Because the U.S. Tax Court has no jurisdiction in this situation, you must pay at least part of the withheld taxes and file a claim for refund in order to take the matter to the U.S. District Court or U.S. Claims Court.

The amount of tax withheld from your wages is determined by the W4. *Employees Withholding Allowance Certificate* you give your employer. If your certificate is incorrect, the IRS may instruct your employer to increase the amount. We may also assess it penalty. You have the right to appeal the decision or you can file a claim for refund and go to the U.S. Claims Court or U.S. District Court.

Publications 586A, *The Collection Process (Income Tax Accounts)*, and 594, *The Collection Process (Employment Tax Accounts)*, will help you understand your rights during the collection process.

The Collection Process

To stop the process at any stage, you should pay the tax in full. If you cannot pay the tax in full, contact us right away to discuss possible ways to pay the tax.



Refund of Overpaid Tax

Once you have paid all your tax, you have the right to file a claim for a refund if you think the tax is incorrect. Generally, you have 3 years from the date you filed the return or 2 years from the date you paid the tax (whichever is later) to file a claim. If we examine your claim for any reason you have the same rights that you would have during an examination of your return.

Interest on refunds. You will receive interest on any income tax refund delayed more than 45 days after the later of either the date you filed your return or the date your return was due.

Checking on your refund. Normally, you will receive your refund about 6 weeks after you file your return. If you have not received your refund within 8 weeks after mailing your return, you may check on it by calling the toll-free Tele-Tax number in the tax forms' instructions.

If we reduce your refund because you owe a debt to another Federal agency or because you owe child support, we must notify you of this action. However, if you have a question about the debt that caused the reduction, you should contact the other agency.

Cancellation of Penalties

You have the right to ask that certain penalties (but not interest) be cancelled (abated) if you can show reasonable cause for the failure that led to the penalty (or can show that you exercised due diligence, if that is the applicable standard for that penalty).

If you relied on wrong advice you received from IRS employees on the toll-free telephone system, we will cancel certain penalties that may result. But you have to show that your reliance on the advice was reasonable.

If you relied on incorrect written advice from the IRS in response to a written request you made after January 1, 1989, we will cancel any penalties that may result. You must show that you gave sufficient and correct information and filed your return after you received the advice.

Special Help to Resolve Your Problems

We have a Problem Resolution Program for taxpayers who have been unable to resolve their problems with the IRS. If you have a tax problem that you cannot clear up through normal channels, write to the Problem Resolution Office in the district or Service Center with which you have the problem. You may also reach the Problem Resolution Office by calling the IRS taxpayer assistance number for your area. If you are hearing impaired with TV/Telephone (TTY) access, you may call 1-800-829-4059.

If your tax problem causes (or will cause) you to suffer a significant hardship, additional assistance is available. A

significant hardship may occur if you cannot maintain necessities such as food, clothing, shelter, transportation, and medical treatment.

There are two ways you can apply for relief. You can submit Form 911, *Application for Taxpayer Assistance Order to Relieve Hardship*, which you can order by calling 1-800-TAX-FORM (8293676). You can choose instead to call 1-800-829-1040, to request relief from your hardship. The Taxpayer Ombudsman, Problem Resolution Officer, or other official will then review your case and may issue a Taxpayer Assistance Order (TAO), to suspend IRS action.

Taxpayer Assistance Numbers

You should use the telephone number shown in the white pages of your local telephone directory under U.S. Government, Internal Revenue Service, Federal Tax Assistance. If there is not a specific number listed, call toll-free 1-900-829-1040.

You can also find these phone numbers in the instructions for Form 1040. You may also use these numbers to reach the Problem Resolution Office. Ask for the Problem Resolution Office when you call U. S. taxpayers abroad may write for information to:

Internal Revenue Service

Attn: IN:C:TPS

950 L'Enfant Plaza South. S.W.

Washington. D.C. 20024

You can also contact your nearest U.S. Embassy for information about what services and forms are available in your location.

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SUBCHAPTER D – SEIZURE OF PROPERTY FOR COLLECTION OF TAXES

- Sec. 6331. Levy and distraint.
- Sec. 6332. Surrender of property subject to levy.
- Sec. 6333. Production of books.
- Sec. 6334. Property exempt from levy.
- Sec. 6335. Sale of seized property.
- Sec. 6336. Sale of perishable goods.
- Sec. 6337. Redemption of property.
- Sec. 6338. Certificate of sale; deed of real property.
- Sec. 6339. Legal effect of certificate of sale of personal property and deed of real property.
- Sec. 6340. Records of Sale.
- Sec. 6341. Expense of levy and sale.
- Sec. 6342. Application of proceeds of levy.
- Sec. 6343. Authority to release levy and return property.
- Sec. 6344. Cross References.

Excerpts from the Internal Revenue Code

Sec. 6331. Levy and Distraint

- (a) Authority of Secretary. If any person liable to pay any tax neglects or refuses to pay the same within 10 days after notice and demand, it shall be lawful for the Secretary to collect such tax (and such further sum as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under section 6334) belonging to such person or on which there is a lien provided in this chapter for the payment of such tax. Levy may be upon the accrued salary or wages of any officer, employee, or elected official of the United States, the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401 (d)) of such officer, employee, or elected official. If the Secretary makes a finding that the collection of such tax is in jeopardy, notice and demand for immediate payment of such tax may be made by the Secretary and, upon failure or refusal to pay such collection thereof by levy shall be lawful without regard to the 10-day period provided in this section.
- (b) **Seizure and Sale of Property.** The term "levy" as used in this title includes the power of distraint and seizure by any means. Except as otherwise provided in subsection (e), a levy shall extend only to property possessed and obligations existing at the time thereof. In any case in which the Secretary may levy upon property or rights to property, he may seize and sell such property or rights to property (whether real or personal, tangible or intangible).
- (c) **Successive Seizures.** Whenever any property or right to property upon which levy has been made by virtue of subsection (a) is not sufficient to satisfy the claim of the United States for which levy is made. The Secretary may, thereafter, and as often as may be necessary, proceed to levy in like manner upon any other property liable to levy of the person against whom such claim exists, until the amount due from him, together with all expenses, is fully paid.

Sec. 6332. Surrender of Property Subject to Levy

- (a) **Requirement.** Except as otherwise provided in subsection (b), any person in possession of (or obligated with respect to) property or rights to property subject to levy upon which a levy has been made shall, upon demand of the Secretary, surrender such property or rights (or discharge such obligation) to the Secretary, except such part of the property or rights as is, at the time of such demand, subject to an attachment or execution under any judicial process.
- (b) Special Rule for Life Insurance and Endowment Contracts.

- (1) **In general.** A levy on an organization with respect to a life insurance or endowment contract issued by such organization shall, without necessity for the surrender of the contract document, constitute a demand by the Secretary for payment of the amount described in paragraph (2) and the exercise of the right of the person against whom the tax is assessed to the advance of such amount. Such organization shall pay over such amount 90 days after service of notice of levy. Such notice shall include a certification by the Secretary that a copy of such notice has been mailed to the person against whom the tax is assessed at his last known address.
- (2) **Satisfaction of levy.**-Such levy shall be deemed to be satisfied if such organization pays over to the Secretary the amount which the person against whom the tax is assessed could have had advanced to him by such organization on the date prescribed in paragraph (1) for the satisfaction of such levy. Increased by the amount of any advance (including contractual interest thereon) made to such person on or after the date such organization had actual notice or knowledge (within the meaning of section 6323 (1)(1)) of the existence of the lien with respect to which such levy is made, other than an advance (including contractual interest thereon) made automatically to maintain such contract in force.

Sec. 6334. Property Exempt From Levy

- (a) **Enumeration.**- There shall be exempt from levy--
 - (1) **Wearing apparel and school books.** Such items of wearing apparel and such schoolbooks as are necessary for the taxpayer or for members of his family;
 - (2) **Fuel, provisions, furniture, and personal effects.** If the taxpayer is the head of a family, so much of the fuel, provisions, furniture, and personal effects in his household, and of the arms for personal use, livestock, and poultry of the taxpayer, and does not exceed \$1,500 in value;
 - (3) **Books and tools of a trade, business or profession.**-So many of the books and tools necessary for the trade, business, or profession of the taxpayer as do not exceed in the aggregate \$1,000 in value.
 - (4) **Unemployment benefits.**-Any amount payable to an individual with respect to lost employment (including any portion thereof payable with respect to dependents) under an unemployment Compensation law of the United States. Of any State, or of the District of Columbia or of the commonwealth of Puerto Rico.
 - (5) **Undelivered mail.**-Mail addressed to any person, which has not been delivered to the addressee.
 - (6) **Certain annuity and pension payments.** -Annuity or pension payments under the Railroad Retirement Act, benefits under the Railroad Unemployment Insurance Act, special pension payments received by a person whose name has been entered on the Army, Navy, Air Force, and Coast Guard Medal of Honor roll (38 U.S.C. 562), and annuities based on retired or retainer pay under chapter 73 of title 10 of the United States Code.
 - (7) **Workmen's compensation.** -Any amount payable to an individual as workmen's compensation (including any portion thereof payable with respect to dependents) under a workmen's compensation law of the United States, any State, the District of Columbia, or the Commonwealth of Puerto Rico.
 - (8) **Judgments for support of minor children.**-If the taxpayer is required by judgment of a court of competent jurisdiction, entered prior to the date of levy, to contribute to the support of his minor children, so much of his salary, wages, or other income as is necessary to Comply with Such judgment.