

**PRESUMPTION:
CHIEF WEAPON FOR UNLAWFULLY
ENLARGING FEDERAL JURISDICTION**

Last revised: 3/8/2007

TABLE OF CONTENTS

1	Introduction	7
2	Presumption defined and explained	7
2.1	Definition.....	7
2.2	Meaning of word “presumption” in the Bible.....	8
2.3	Presumption is a Biblical Sin.....	8
2.4	Rationale for making legal presumptions	9
2.5	How presumptions affect choice of law in Court	10
2.6	Presumptions in civil litigation.....	11
2.7	Rebutting presumed facts	11
2.8	Rules of Presumption.....	12
3	How Congress abuses presumption to destroy your Constitutional rights	13
3.1	“Words of Art”: Using the Law to deceive and create false presumption	13
3.2	Vague laws	20
3.3	Statutory Presumptions that Injure Rights are Unconstitutional.....	24
4	How Courts abuse presumption to Destroy Your Constitutional Rights	27
4.1	Purpose of Due Process: To completely remove “presumption” from legal proceedings	27
4.2	The Worst Presumption Of All: That “private law” is “law” for those not subject to it.....	29
4.3	Unconstitutional Judicial Presumptions Commonly Used in Federal Court.....	32
4.4	How corrupted judges encourage and reward presumptions by jurists in the courtroom	36
4.5	How Presumption turns Courts into Federal Churches in violation of the First Amendment.....	36
5	Prohibitions upon presumption in gathering court-admissible evidence	36
5.1	Rules of Evidence designed to completely remove presumption	36
5.2	Abuse of Presumption As Part of Legal Discovery	37
6	How the IRS and state revenue Agencies Abuse Presumption to Destroy Your Constitutional Rights	38
6.1	“Taxpayer” v. “Nontaxpayer”: Which One Are You?.....	38
6.2	Presumptions About Credibility of IRS Publications	48
6.3	IRS authority presumptions	50
6.4	Presumptions on IRS forms and correspondence	52
7	Using presumption to win against the government.....	54
7.1	Using Presumption in your favor in Federal court pleadings	54
7.2	Using favorable presumption to limit the adverse affect of vague definitions	54
7.3	Using Estoppel in pais to create presumptions	56
8	Resources for Further Study and Rebuttal	57
9	Questions that Readers, Grand Jurors, and Petit Jurors Should be Asking the Government	57

LIST OF TABLES

Table 1: Questions to Ask and Answer as You Read the Internal Revenue Code	15
Table 2: Things IRS is NOT responsible or accountable for.....	48
Table 3: Resources for further study and rebuttal	57

TABLE OF AUTHORITIES

Constitutional Provisions

Bill of Rights	26, 49, 66
Fifth Amendment	31, 35
First Amendment.....	36
Fourteenth Amendment.....	30
Sixteenth Amendment	32

Statutes

1 U.S.C. §204	13, 29, 30, 65
18 U.S.C. §208	53
18 U.S.C. §597	28
18 U.S.C. §641	53
18 U.S.C. §912	53
26 U.S.C. §1461	41
26 U.S.C. §162	42
26 U.S.C. §3401	14
26 U.S.C. §6012	41
26 U.S.C. §6014	46
26 U.S.C. §6041(a).....	42
26 U.S.C. §6065	41, 57, 67
26 U.S.C. §63(a).....	44
26 U.S.C. §6901	16
26 U.S.C. §7203	21
26 U.S.C. §7214	51
26 U.S.C. §7433	47, 51
26 U.S.C. §7491	31, 35
26 U.S.C. §7701(a)(14)	53
26 U.S.C. §7701(a)(16)	16
26 U.S.C. §7701(a)(26)	53
26 U.S.C. §7701(a)(30)	53
26 U.S.C. §7701(a)(41)	39
26 U.S.C. §7701(a)(9) and (a)(10)	52, 53, 55
26 U.S.C. §7701(b)(1)(A)	52
26 U.S.C. §7701(c).....	24
26 U.S.C. §864(c)(3)	53
26 U.S.C. §871(a)(3)	44
28 U.S.C. §144	35
28 U.S.C. §2201	41
31 U.S.C. 5331	42
4 U.S.C. §72	26, 45
42 U.S.C. §1983	13
5 U.S.C. §8422	51
8 U.S.C. §1101(a)(2)	44
8 U.S.C. §1101(a)(21)	53
8 U.S.C. §1401	39, 44, 52, 53
8 U.S.C. §1452	17, 53
Statute At Large	30
Title 26: Internal Revenue Code.....	13

Title 42: The Public Health and Welfare.....	13
Title 50: War and National Defense.....	13

Regulations

1 CFR §21.21(c).....	40
20 CFR §422.103(d).....	44, 52
20 CFR §422.104.....	39
26 CFR.....	52
26 CFR § 301.6671-1.....	50
26 CFR §1.1441-1(c)(3).....	16, 39
26 CFR §1.6151-1.....	46
26 CFR §301.7701-5.....	42
26 CFR §31.3401(a)-3.....	16
26 CFR §31.3401(c)-1.....	15
26 CFR §31.3402(p)-1(a).....	42
26 CFR Part 1.....	49
26 CFR Part 301.....	49
26 CFR Part 601.....	47, 48
31 CFR §103.30(d)(2).....	42

Cases

Ashton v. Cameron County Water Improvement District No. 1, 298 U.S. 513; 56 S.Ct. 892 (1936).....	45, 55
Bailey v. Alabama, 219 U.S. 219 (1911).....	13, 63
Bailey v. Alabama, 219 U.S. 219 , 238, et seq., 31 S. Ct. 145.....	27
Basso v. Utah Power and Light Company, 495 F.2d 906 (1974).....	33
Bente v. Bugbee, 137 A. 552; 103 N.J. Law. 608 (1927).....	39
Black’s Law Dictionary, Sixth Edition, pp. 1158-1159.....	20, 64
Botta v. Scanlon, 288 F.2d. 504, 508 (1961).....	39
Boulez v. C.I.R., 258 U.S.App. D.C. 90, 810 F.2d 209 (1987).....	48
Bull v. United States, 295 U.S. 247 (1935).....	51
Bullock v. Latham, 306 F.2d. 45 (1962).....	42
C.I.R. v. Trustees of L. Inv. Ass’n, 100 F.2d.18 (1939).....	41
Carter v. Carter Coal Co., 298 U.S. 238, 56 S.Ct. 855 (1936).....	45, 55
Cleveland Bd. of Ed. v. LaFleur, 414 US 632, 639-640, 94 S.Ct. 1208, 1215 (1974).....	13
Coffin v. United States, 156 U.S. 432, 453 (1895).....	31
CWT Farms Inc. v. Commissioner of Internal Revenue, 755 F.2d 790 (11th Cir. 03/19/1985).....	48
Delo v. Lashely, 507 U.S. 272 (1993).....	13
Downes v. Bidwell, 182 U.S. 244 (1901).....	26, 66
Doyle v. Mitchell Brothers Co., 247 U.S. 179, 185, 38 S.Ct. 467 (1918).....	16
Economy Plumbing & Heating v. United States, 470 F.2d 585 (1972).....	42
Einhorn v. Dewitt, 618 F.2d 347 (5th Cir. 06/04/1980).....	48
Eisner v. Macomber, 252 U.S. 189, 207, 40 S.Ct. 189, 9 A.L.R. 1570 (1920).....	16
Flora v. U.S., 362 U.S. 145 (1960).....	45
Flora v. United States.....	50
Flora v. United States, 362 U.S. 145 (1960).....	50
Hale v. Henkel, 201 U.S. 43 (1906).....	29
Heiner v. Donnan, 285 U.S. 312 (1932).....	30
Higley v. Commissioner of Internal Revenue, 69 F.2d 160 (1934).....	39
Jackson v. Metropolitan Edison Co., 419 U.S. 345, 349 (1974).....	13
License Tax Cases, 72 U.S. 462, 18 L.Ed. 497, 5 Wall. 462, 2 A.F.T.R. 2224 (1866).....	45
Loan Association v. Topeka, 20 Wall. 655 (1874).....	32
Long v. Rasmussen, 281 F. 236 (1922).....	30
Long v. Rasmussen, 281 F. 236, 238 (1922).....	42, 43
Luhring v. Glotzbach, 304 F.2d 560 (4th Cir. 05/28/1962).....	48

Luther v. Borden, 48 U.S. 1 (1849).....	22, 65
Manley v. Georgia, 279 U.S. 1 , 5-6, 49 S. Ct. 215.....	27
Marbury v. Madison, 5 U.S. 137 (1803).....	34
Marbury v. Madison, 5 U.S. 137, 1 Cranch 137, 2 L.Ed. 60 (1803).....	15
McMillan v. Pennsylvania, 477 U.S. 79 (1986).....	24
Meese v. Keene, 481 U.S. 465, 484 (1987).....	54
Miller Brothers Co. v. Maryland, 347 U.S. 340 (1954).....	21
National Collegiate Athletic Assn. v. Tarkanian, 488 U.S. 179, 193, n. 13 (1988).....	13
New York Times v. Sullivan, 376 U.S. 254 (1964).....	28
Olmstead v. United States, 277 U.S. 438, 485. (1928).....	49
Portillo v. C.I.R., 932 F.2d 1128 (5th Cir. 1991).....	33
Raffaele v. Granger, 196 F.2d. 620 (1952).....	42
Rothensis v. Ullman, 110 F.2d. 590(1940).....	42
Rutan v. Republican Party of Illinois, 497 U.S. 62 (1990).....	66
Schmitt v. U.S., 140 B.R. 571 (Bank W.D. Okl. 1992).....	43
Sewell v. Georgia, 435 U.S. 982 (1978).....	20, 64
Simms. v. Ahrens, 271 SW 720.....	16
Sloan v. Comm’r, 53 F.3d 799 (7th Cir. 1995), cert. denied, 516 U.S. 897 (1995).....	43
South Carolina v. Ragan, 465 U.S. 367 (1984).....	42
Stenberg v. Carhart, 530 U.S. 914 (2000).....	55
Stratton’s Independence v. Howbert, 231 U.S. 399, 414, 58 L.Ed. 285, 34 Sup.Ct. 136 (1913).....	16
Terry v. Bothke, 713 F.2d 1405, at 1414 (1983).....	39
U.S. v. Slater, 545 Fed. Supp. 179,182 (1982).....	35
U.S. v. Will, 671 F.2d 963 (1982).....	48
United States v. Hover, 268 F.2d 657 (1959).....	33
United States v. United Mine Workers of America, 330 U.S. 258 (1947).....	23
Vlandis v. Kline, 412 U.S. 441, 449, 93 S.Ct 2230, 2235 (1973).....	13
Weeks v. United States, 232 U.S. 383 (1914).....	50
Western and Atlantic Railroad v. Henderson, 279 U.S. 639 (1929).....	30
Yick Wo v. Hopkins, 118 U.S. 356 (1886).....	22

Other Authorities

1 John 2:15-17.....	58
1 Sam. 15:22-23.....	58
Achtemeier, P. J., Harper & Row, P., & Society of Biblical Literature. 1985. Harper's Bible dictionary. Includes index. (1st ed.). Harper & Row: San Francisco.....	58
American Jurisprudence 2d, Estoppel and Waiver, §27: Definitions and Nature.....	56
American Jurisprudence 2d, Estoppel and Waiver, §28: Basis, function, and purpose.....	56
American Jurisprudence 2d, Evidence, §181.....	7, 57
Babylon the Great is Falling.....	38
Black’s Law Dictionary, Sixth Edition, p. 1162.....	29
Black’s Law Dictionary, Sixth Edition, p. 1185.....	7
Black’s Law Dictionary, Sixth Edition, p. 1189.....	32, 65
Black’s Law Dictionary, Sixth Edition, p. 1190.....	29
Black’s Law Dictionary, Sixth Edition, p. 1407.....	59
Black’s Law Dictionary, Sixth Edition, p. 500.....	13, 32, 63
Black’s Law Dictionary, Sixth Edition, p. 97.....	33
Black’s Law Dictionary, Sixth Edition, page 1292.....	58
Black’s Law Dictionary, Sixth Edition, page 581.....	54, 63
Black's Law Dictionary, Sixth Edition, page 423.....	14
Calif.Evid.Code, §600.....	12
Colossians 2:8.....	14
Confucius, 500 B.C.....	17
Correcting Erroneous IRS Form 1042’s.....	42
Correcting Erroneous IRS Form 1098’s.....	42
Correcting Erroneous IRS form 1099’s.....	42

Correcting Erroneous IRS Form W-2's.....	42
Deut. 17:12-13.....	27
Eccl. 12:13-14.....	59
Eugene Pringle.....	38
Fed.Rule.Civ.Proc. Rule 17(b).....	26
Fed.Rule.Evid. Rule 602.....	36
Fed.Rule.Evid. Rule 610.....	36
Fed.Rule.Evid. Rule 611(c).....	36
Fed.Rule.Evid. Rule 802.....	36
Federal Rule of Civil Procedure 8(d).....	57
Federal Rule of Civil Procedure Rule 8(d).....	54
Federal Rules of Civil Procedure Rule 11.....	35
Federal Rules of Evidence.....	36
Federal Rules of Evidence, Rule 611(c).....	37
Federalist Paper # 78.....	25
Gal. 5:14.....	32
Genesis 7:17.....	8
Great IRS Hoax book, sections 5.4 through 5.4.3.6.....	36
Great IRS Hoax, Section 4.8.....	15
Great IRS Hoax, Sections 3.9.1.8 and 5.6.17.....	15
Great IRS Hoax, sections 6.5.15, 6.5.18, 6.8.2 through 6.9.12.....	28
Institutes of Biblical Law, Rousas John Rushdoony, 1973.....	63
Internal Revenue Audit Manual (1975).....	46
Internal Revenue Manual, Section 5.1.11.6.10.....	46
IRM section 4.10.7.2.8.....	47
IRM, 4.10.7.2.8.....	48
IRM, 4.10.7.2.9.8 (05/14/99).....	53
James 4:3-4.....	38
James 4:4.....	38
John 10:1-9.....	17
Numbers 14:44.....	9
Numbers 15:20.....	8
Numbers 15:29.....	8
Numbers 15:30.....	8, 9, 26
Political Jurisdiction, Form #05.004.....	20, 27
President John F. Kennedy, at Yale University on June 11, 1962.....	8
President Ronald W. Reagan.....	38
Prov. 11:18-21.....	14
Prov. 26:28.....	8
Prov. 28:9.....	35
Ps 50:18.....	38
Psalms 19.....	8
Psalms 119:122.....	8
Psalms 119:21.....	8
Psalms 119:69.....	8
Psalms 119:78.....	8
Psalms 119:85.....	8
Psalms 19:12-13.....	9
Psalms 19:13.....	26
Psalms 94:20-23.....	24
Requirement for Consent, Form #05.003.....	31, 39
Resignation of Compelled Social Security Trustee.....	44
Resignation of Compelled Social Security Trustee, Form #06.002.....	26, 42, 53
Rev. 17:5.....	38
Socialism: The New American Civil Religion, Form #05.016.....	21, 36
Tax Freedom Solutions Manual.....	16
Tax Procedure and Tax Fraud, Patricia Morgan, 1999, ISBN 0-314-06586-5, West Group.....	49

The “Trade or Business” Scam, Form #05.001 42

The Meaning of the Words “includes” and “including”, Form #05.014 15, 54

The Open Bible, New King James Version, Thomas Nelson Publishers, Copyright 1997, pp. 340-341 23

The Trade or Business Scam, Form #05.001..... 42

The Truth About Frivolous Tax Arguments..... 34, 56

Why Assessments and Substitute Returns are Illegal Under the I.R.C. Against Natural Persons, Form #05.011 40

Why domicile and income taxes are voluntary, Form #05.002 44

Why you are a ‘national’ or a ‘state national’ and not a ‘U.S. citizen’, Form #05.006 53

1 **1 Introduction**

2 This pamphlet will prove that the main weapon by which most of the injustices in our legal system are perpetuated rely on
3 “presumption” of one form or another. These false presumptions are used to unlawfully expand federal jurisdiction where
4 the Constitution does not authorize.

5 **2 Presumption defined and explained**

6 **2.1 Definition**

7 Black’s Law Dictionary, Sixth Edition, defines “presumption” as follows:

8 ***presumption.** An inference in favor of a particular fact. A presumption is a rule of law, statutory or judicial,
9 by which finding of a basic fact gives rise to existence of presumed fact, until presumption is rebutted. Van
10 Wart v. Cook, Okl.App., 557 P.2d 1161, 1163. A legal device which operates in the absence of other proof to
11 require that certain inferences be drawn from the available evidence. Port Terminal & Warehousing Co. v.
12 John S. James Co., D.C.Ga., 92 F.R.D. 100, 106.*

13 *A presumption is an assumption of fact that the law requires to be made from another fact or group of facts
14 found or otherwise established in the action. A presumption is not evidence. A presumption is either conclusive
15 or rebuttable. Every rebuttable presumption is either (a) a presumption affecting the burden of producing
16 evidence or (b) a presumption affecting the burden of proof. Calif.Evid.Code, §600.*

17 *In all civil actions and proceedings not otherwise provided for by Act of Congress or by the Federal Rules of
18 Evidence, a presumption imposes on the party against whom it is directed the burden of going forward with
19 evidence to rebut or meet the presumption, but does not shift to such party the burden of proof in the sense of
20 the risk of nonpersuasion, which remains throughout the trial upon the party on whom it was originally cast.
21 Federal Evidence Rule 301.*

22 *See also Disputable presumption; inference; Juris et de jure; Presumptive evidence; Prima facie; Raise a
23 presumption.
24 [Black’s Law Dictionary, Sixth Edition, p. 1185]*

25 American Jurisprudence Legal Encyclopedia 2d defines “presumption” as follows:

26 *American Jurisprudence 2d
27 Evidence, §181*

28 *A presumption is neither evidence nor a substitute for evidence.¹ Properly used, the term “presumption” is a
29 rule of law directing that if a party proves certain facts (the “basic facts”) at a trial or hearing, the factfinder
30 must also accept an additional fact (the “presumed fact”) as proven unless sufficient evidence is introduced
31 tending to rebut the presumed fact.² In a sense, therefore, a presumption is an inference which is mandatory
32 unless rebutted.³*

33 *The underlying purpose and impact of a presumption is to affect the burden of going forward.⁴ Depending
34 upon a variety of factors, a presumption may shift the burden of production as to the presumed fact, or may shift
35 both the burden of production and the burden of persuasion.⁵*

¹ Levasseur v Field (Me) 332 A2d 765; Hinds v John Hancock Mut. Life Ins. Co., 155 Me 349, 155 A2d 721, 85 ALR2d 703 (superseded by statute on other grounds as stated in Poitras v R. E. Glidden Body Shop, Inc. (Me) 430 A2d 1113); Connizzo v General American Life Ins. Co. (Mo App) 520 SW2d 661.

² Inferences and presumptions are a staple of our adversary system of factfinding, since it is often necessary for the trier of fact to determine the existence of an element of a crime—that is an ultimate or elemental fact—from the existence of one or more evidentiary or basic facts. County Court of Ulster County v Allen, 442 US 140, 60 L Ed 2d 777, 99 S Ct 2213.

³ Legille v Dann, 178 US App DC 78, 544 F2d 1, 191 USPQ 529; Murray v Montgomery Ward Life Ins. Co., 196 Colo 225, 584 P2d 78; Re Estate of Borom (Ind App) 562 NE2d 772; Manchester v Dugan (Me) 247 A2d 827; Ferdinand v Agricultural Ins. Co., 22 NJ 482, 126 A2d 323, 62 ALR2d 1179; Smith v Bohlen, 95 NC App 347, 382 SE2d 812, affd 328 NC 564, 402 SE2d 380; Larmay v Van Etten, 129 Vt 368, 278 A2d 736; Martin v Phillips, 235 Va 523, 369 SE2d 397.

⁴ FRE Rule 301.

⁵ §198.

1 A few states have codified some of the more common presumptions in their evidence codes.⁶3 Often a statute
2 will provide that a fact or group of facts is prima facie evidence of another fact. ⁷ Courts frequently recognize
3 this principle in the absence of an explicit legislative directive. ⁸

4 **2.2 Meaning of word “presumption” in the Bible**

5 The English word "presumption" (rum) is hard to get a handle on in the Biblical text. In Numbers 15:30, the Hebrew word
6 is a qal participle meanings "shooting with the hand" or "lifting up with the hand". It is translated "offer up" in Numbers
7 15:29 and "heave" in Numbers 15:20. Young translated it "doeth ought with a high hand." In relation to the flood, it refers
8 to the Ark being lifted above the earth by the waters (Genesis 7:17). If taken literally, it means some defiant gesture with
9 the hand (like flipping the bird). If it is taken figuratively, it refers to an action whereby the Israelite or sojourner attempts
10 to usurp the authority of God or challenge His authority or overthrow His authority. Apparently, "presumption" in the
11 Biblical sense, refers to a self-ruled person who acts outside the authority of Biblical Law and in defiance of God's
12 authority.

13 In Psalm 19, the word "presumption" is in the emphatic position in the prayer. It is consistently translated "proud" except in
14 this verse where "zed" or "zadem" is translated "presumptuous" sins. Zadem is plural and could be translated
15 "presumptions." And, it is an adjective. But what does it modify? Sins is not in the text but could be inferred from the
16 noun "transgressions", the last word in the verse. Apparently, the translator inserted "sins" from the context. Apparently,
17 the zadem were lawbreakers (Psalms 119:21) and liars (Psalms 119:69) and perverted (Psalms 119:78) involved in
18 entrapment of the innocent (Psalms 119:85) in order to oppress them (Psalms 119:122).

19 **2.3 Presumption is a Biblical Sin**

20 *"The greatest enemy of the truth is very often not the lie - deliberate, contrived and dishonest - but the myth -*
21 *persistent, persuasive and unrealistic."*
22 *[President John F. Kennedy, at Yale University on June 11, 1962]*

23 The purpose of lying is to develop in the hearts and minds of the hearers a false presumption. The more ignorant and
24 unwise and godless the hearers, the more likely they are to believe this false presumption. Those who promote such lies
25 will do so for selfish reasons but ultimately their purposes are harmful and hateful.

26 *"A lying tongue hates those who are crushed by it, and a flattering mouth works ruin."*
27 *[Prov. 26:28, Bible, NKJV]*

28 Most frequently, we also acquire false presumptions by less dishonest or more casual means. For instance, we acquire false
29 presumptions mainly from the media and our associates in our normal interactions. This method is the most popular
30 technique used by our government to brainwash the sheeple, I mean people. When our government does it, it is called
31 "propaganda". The reason more informal techniques such as this are most successful is that we just accept what people say
32 without thinking critically about it and without questioning it. We are among people and organizations that we supposedly
33 love or trust and so our intellectual defenses are down. In effect, we are intellectually lazy and don't bother to process or
34 analyze or question new ideas or look what God's word says about them before we commit them to our memory banks as
35 truth.

36 Another very popular propaganda tool for creating false presumptions are the public schools which are run by our
37 government. Good parents will take the time to counteract the myths and false presumptions that liberal teachers will try to
38 program our children with, but Satan still gets his foot in the door because many children grow up in single parent families
39 where the one parent who is present doesn't have the energy to counteract the government brainwashing on a regular basis.

⁶ California Evidence Code §§ 621 et seq.; Hawaii Rules of Evidence, Rules 303, 304; Oregon Evidence Code, Rule 311.

⁷ California Evidence Code § 602; Alaska Rule of Evidence, Rule 301(b); Hawaii Rule of Evidence, Rule 305; Maine Rule of Evidence, Rule 301(b); Oregon Rule of Evidence, Rule 311(2); Vermont Rule of Evidence, Rule 301(b); Wisconsin Rule of Evidence, Rule 301.

⁸ American Casualty Co. v Costello, 174 Mich App 1, 435 NW2d 760; Glover v Henry (Tex App Eastland) 749 SW2d 502.

1 The Bible has some very convicting things to say about presumption that every Christian ought to teach their children, and
2 which should also be part of the jury instructions that every jury hears:

3 *“Who can understand his errors? Cleanse me from secret faults. Keep back Your servant also from*
4 *presumptuous sins; Let them not have dominion over me. Then I shall be blameless, and I shall be innocent*
5 *of great transgression.”*
6 *[Psalms 19:12-13, Bible, NKJV]*

7 Evidently, being presumptuous is a sin for which God takes offense. Our King James Bible has a footnote under the above
8 passage that says: “The right response to God’s revelation is to pray for His help with errors, faults, and sins.” That same
9 passage above under the word “presumptuous” then points to Num. 15:30, which tells the rest of the very telling story on
10 this subject:

11 *“But the person who does anything presumptuously, whether he is native-born or a stranger, that one brings*
12 *reproach on the Lord, and he shall be cut off from among his people.”*
13 *[Numbers 15:30, Bible, NKJV]*

14 So evidently, we’re dealing with very serious sin here, folks. Presumption evidently is a very big offense to the Lord. If
15 you further research the meaning of “presumptuous”, you will find in Numbers 14:44 that it means defiance and
16 disobedience to God’s laws, the Bible, His commandments, and His will revealed to us by the Holy Spirit, and through His
17 prophets.

18 **2.4 Rationale for making legal presumptions**⁹

19 Most presumptions are based at least in part on the high probability that if the basic facts exist, the presumed fact also
20 exists; the presumed fact is so likely to follow from the basic fact that in the absence of rebutting evidence merely
21 permitting the factfinder to infer the presumed fact does not adequately reflect the substantial likelihood that the presumed
22 fact is true.¹⁰

23 Presumptions are sometimes created to offset one party's advantage or disadvantage with regard to availability of proof; for
24 instance, evidence that the shipper delivered the freight in good condition to the first of several carriers triggers a
25 presumption that the damage was caused by the last carrier.¹¹ Similarly, in certain securities fraud actions, once plaintiffs
26 prove omissions or misrepresentations by the defendants, a presumption exists that plaintiff relied on these omissions and
27 misrepresentations to its detriment.¹²

28 Presumptions sometimes serve the purpose of facilitating the resolution of factual disputes that otherwise might not be
29 capable of decision; for instance, the presumption that someone who has not been seen nor heard of for seven years is dead.
30¹³

31 Courts and legislatures also create statutory presumptions to implement social policy by assisting one class of litigants
32 against another.¹⁴ In all cases, these statutory presumptions, if the prejudice constitutional rights, are unconstitutional.
33 This is covered later in section 6.4.

⁹ Adapted from Am.Jur.2d, Evidence, §185.

¹⁰ Swain v Neeld, 28 NJ 60, 145 A2d 320.

¹¹ Chicago & N. R. Co. v C. C. Whitnack Produce Co., 258 US 369, 66 L Ed 665, 42 S Ct 328.

¹² Lewis v McGraw (CA2 NY) 619 F2d 192, CCH Fed Secur L Rep ¶ 97344, cert den 449 US 951, 66 L Ed 2d 214, 101 S Ct 354; Sharp v Coopers & Lybrand (CA3 Pa) 649 F2d 175, CCH Fed Secur L Rep ¶ 97971, 71 OGR 555, cert den 455 US 938, 71 L Ed 2d 648, 102 S Ct 1427 and (criticized on other grounds by Re Atlantic Financial Management, Inc. (CA1 Mass) 784 F2d 29, CCH Fed Secur L Rep ¶ 92482) and (criticized on other grounds by Kersh v General Council of the Assemblies of God (CA9 Cal) 804 F2d 546, CCH Fed Secur L Rep ¶ 93000) and (ovrld on other grounds by Re Data Access Systems Secur. Litigation (CA3 NJ) 843 F2d 1537, CCH Fed Secur L Rep ¶ 93703) as stated in McCarter v Mitcham (CA3 Pa) 883 F2d 196, CCH Fed Secur L Rep ¶ 94547.

¹³ 22A Am Jur 2d, Death §§ 551 et seq.

¹⁴ Keyes v School Dist., 413 US 189, 37 L Ed 2d 548, 93 S Ct 2686, reh den 414 US 883, 38 L Ed 2d 131, 94 S Ct 27, on remand (DC Colo) 368 F Supp 207, later proceeding (DC Colo) 380 F Supp 673, affd in part and revd in part on other grounds (CA10 Colo) 521 F2d 465, cert den 423 US 1066, 46 L Ed 2d 657, 96 S Ct 806, later proceeding (DC Colo) 439 F Supp 393, later proceeding (DC Colo) 474 F Supp 1265, later proceeding (DC Colo) 540

2.5 How presumptions affect choice of law in Court¹⁵

States have taken a variety of approaches to applying choice of law principles to burdens and presumptions. The traditional approach to choice of law issues applies the law of the forum state in all procedural matters while applying applicable foreign law as to substantive matters; because presumptions and burdens of proof are perceived as procedural rather than substantive, they are governed by the law of the forum.¹⁶

When the law of a foreign state on burdens of proof or presumptions is inseparably connected to the substantive right in question, or is intended to affect the substantive rights of the parties,¹⁷ and does not violate the public policy of the forum state, the law of the foreign state, rather than that of the forum, governs.¹⁸

The contact approach applies the law of the state which is the most interested in the outcome of the particular question of law.¹⁹

F Supp 399, later proceeding (DC Colo) 576 F Supp 1503, later proceeding (DC Colo) 609 F Supp 1491, later proceeding (DC Colo) 653 F Supp 1536, later proceeding (DC Colo) 670 F Supp 1513, affd, in part, remanded (CA10 Colo) 895 F2d 659, cert den 498 US 1082, 112 L Ed 2d 1040, 111 S Ct 951 and (disapproved on other grounds by Price v Austin Independent School Dist. (CA5 Tex) 945 F2d 1307) and (disapproved on other grounds by Daly v Hill (CA4 NC) 790 F2d 1071) and (among conflicting authorities noted in Lujan v Franklin County Bd. of Education (CA6 Tenn) 766 F2d 917, 38 BNA FEP Cas 9, 37 CCH EPD ¶ 35337).

¹⁵ Adapted from Am.Jur.2d, Evidence, §186: Choice of Law.

¹⁶ Sun Oil Co. v Wortman, 486 US 717, 100 L Ed 2d 743, 108 S Ct 2117, 101 OGR 1; Sylvania Electric Products, Inc. v Barker (CA1 Mass) 228 F2d 842, cert den 350 US 988, 100 L Ed 854, 76 S Ct 475; Re Medico Associates, Inc. (BC DC Mass) 23 BR 307; Computerized Radiological Services, Inc. v Syntex Corp. (ED NY) 595 F Supp 1495, 40 UCCRS 49, affd in part and revd in part (CA2 NY) 786 F2d 72, 42 UCCRS 1656; Jackson v Coggan (SD NY) 330 F Supp 1060; Maryland Casualty Co. v Williams (CA5 Miss) 377 F2d 389, 35 ALR3d 275; Estepp v Norfolk & W. R. Co. (CA6 Ky) 192 F2d 889; Alexander v Inland Steel Co. (CA8 Mo) 263 F2d 314; State Mut. Life Assur. Co. v Wittenberg (CA8 Ark) 239 F2d 87; United Air Lines, Inc. v Wiener (CA9 Cal) 335 F2d 379, 8 FR Serv 2d 49b.42, Case 1, cert dismd 379 US 951, 13 L Ed 2d 549, 85 S Ct 452; Weber v Continental Casualty Co. (CA10 Okla) 379 F2d 729; Amerada Hess Pipeline Corp. v Alaska Public Utilities Com. (Alaska) 711 P2d 1170; Marquis v St. Louis S. F. R. Co. (2nd Dist) 234 Cal App 2d 335, 44 Cal Rptr 367; Chasse v Albert, 147 Conn 680, 166 A2d 148; Miller & Long Co. v Shaw (Dist Col App) 204 A2d 697 (disapproved on other grounds by Myers v Gaither (Dist Col App) 232 A2d 577); Holt Service Co. v Modlin, 163 Ga App 283, 293 SE2d 741; Mudd v Goldblatt Bros., Inc. (1st Dist) 118 Ill App 3d 431, 73 Ill Dec 657, 454 NE2d 754; Tietloff v Lift-A-Loft Corp. (Ind App) 441 NE2d 986; Vernon v Aubinoe, 259 Md 159, 269 A2d 620; Joffre v Canada Dry Ginger Ale, Inc., 222 Md 1, 158 A2d 631; Finch v Hughes Aircraft Co., 57 Md App 190, 469 A2d 867, cert den 300 Md 88, 475 A2d 1200, reconsideration den 301 Md 41, 481 A2d 801 and cert den 469 US 1215, 84 L Ed 2d 336, 105 S Ct 1190, reh den 471 US 1049, 85 L Ed 2d 341, 105 S Ct 2043, later proceeding (CA FC) 926 F2d 1574, 17 USPQ2d 1914 and (criticized on other grounds by Newell v Richards, 83 Md App 371, 574 A2d 370) and (criticized on other grounds by Newell v Richards (Md App) 1990 Md App LEXIS 133); Leventhal v American Airlines, Inc., 347 Mass 766, 196 NE2d 924; Stuart v State Farm Mut. Auto. Ins. Co. (Mo App) 699 SW2d 450; Arnold v Ray Charles Enterprises, Inc., 264 NC 92, 141 SE2d 14; McDougall v Glenn Cartage Co., 169 Ohio St 522, 9 Ohio Ops 2d 12, 160 NE2d 266; Sloniger v Enterline, 400 Pa 457, 162 A2d 397; Vicars v Atlantic Discount Co., 205 Va 934, 140 SE2d 667.

¹⁷ Kabo v Summa Corp. (ED Pa) 523 F Supp 1326 (where the burden of proof has such a substantive impact as to affect the decision of the case, or is intertwined with the statutory remedy, the burden of proof is deemed substantive, and should be determined according to the otherwise applicable law).

¹⁸ Cardell v Morrison (DC Mass) 138 F Supp 817; New York C. R. Co. v Monroe (SD NY) 188 F Supp 826, 15 Ohio Ops 2d 31; Melville v American Home Assur. Co. (CA3 Pa) 584 F2d 1306, 3 Fed Rules Evid Serv 756; Sanders v Glenshaw Glass Co. (CA3 Pa) 204 F2d 436, cert den 346 US 916, 98 L Ed 411, 74 S Ct 278; Lachman v Pennsylvania Greyhound Lines, Inc. (CA4 Va) 160 F2d 496; Maryland Casualty Co. v Williams (CA5 Miss) 377 F2d 389, 35 ALR3d 275; Pilot Life Ins. Co. v Boone (CA5 Ala) 236 F2d 457; Jupiter v United States (ED La) 181 F Supp 294, affd (CA5 La) 287 F2d 388; Thompson v Boswell (CA6 Tenn) 166 F2d 106; Maurer v United States (ED Wis) 219 F Supp 253; Keeshin Motor Express Co. v Park Davis Lines, Inc. (DC Mo) 119 F Supp 561; Knight v Handley Motor Co. (Dist Col App) 198 A2d 747 (disapproved on other grounds by Myers v Gaither (Dist Col App) 232 A2d 577); Valleroy v Southern R. Co. (Mo) 403 SW2d 553; Gordon's Transports, Inc. v Bailey, 41 Tenn App 365, 294 SW2d 313; De Santis v Wackenhut Corp. (Tex App Houston (14th Dist)) 732 SW2d 29, writ granted (Tex) 31 Tex Sup Ct Jour 137 and affd in part and revd in part on other grounds (Tex) 31 Tex Sup Ct Jour 616, op withdrawn, substituted op, on reh (Tex) 793 SW2d 670, 5 BNA IER Cas 739, 1990-2 CCH Trade Cases ¶ 69147, reh overr (Sep 12, 1990) and cert den 498 US 1048, 112 L Ed 2d 775, 111 S Ct 755, 6 BNA IER Cas 128; Buhler v Maddison, 109 Utah 267, 176 P2d 118, 168 ALR 177; Goldman v Beaudry, 122 Vt 299, 170 A2d 636.

¹⁹ Melville v American Home Assur. Co. (CA3 Pa) 584 F2d 1306, 3 Fed Rules Evid Serv 756 (in a diversity action brought in Pennsylvania by insured against insurance company located in New York, the court applied Delaware law regarding the presumption with respect to suicide, because insured was a Delaware resident and had purchased the policy in Delaware, and the accident occurred in Delaware); Headen v Pope & Talbot, Inc. (CA3 Pa) 252 F2d 739 (law of the state where parties were married did not control as to presumptions concerning validity of marriage); Patten v General Motors Corp., Chevrolet Motor Div. (WD Okla) 699 F Supp 1500 (in a wrongful death and products liability action brought in Oklahoma against businesses located in Michigan, Ohio, and Florida concerning an accident in Colorado, Oklahoma's interest in compensating the survivors justified application of Oklahoma law on burden of persuasion, because the van was put into the stream of commerce in Oklahoma, plaintiffs and decedents were Oklahoma residents, and defendants did business in Oklahoma); Sadberry v Griffiths (4th Dist) 191 Cal App 2d 610, 12 Cal Rptr 773 (in holding that California law applied as to a presumption of motor vehicle ownership, the court gave some consideration to the fact that California was the state in which plaintiffs were injured as well as the state in which the forum was located); Myers v Gaither (Dist Col App) 232 A2d 577, remanded 131 US App DC 216, 404 F2d 216 (contacts with the District of Columbia were superior to those of any other jurisdiction such that District of Columbia law governed).

1 A third approach provides that the forum will apply its own local law in determining which party has the burden of
2 persuading the trier of fact on a particular issue unless the primary purpose of the relevant rule of the state of the otherwise
3 applicable law is to affect the decision of the issue rather than to regulate the conduct of the trial.²⁰

4 Regardless of a state's approach to choice of law, courts as a rule recognize that conclusive presumptions affect the
5 substantive rights of the parties; thus, where the substantive law is supplied by a foreign state, the forum state will apply the
6 former's conclusive presumptions.²¹

7 **2.6 Presumptions in civil litigation**²²

8 Because a presumption is a procedural rule that, at most, imposes the burden of persuasion, presumptions in civil litigation
9 generally do not raise constitutional issues; accordingly, whenever a legislature may enact legislation directly imposing
10 liability on proof of certain facts, it may instead provide that those facts create a presumption which shifts the burden of
11 persuasion on the ultimate issue.²³

12 Where a presumption intrudes upon a significant liberty interest, however, it may violate due process of law.²⁴ Barring
13 special circumstances, however, all that is required is that there be some rational connection between the basic fact and the
14 presumed fact.²⁵

15 A court assessing a constitutional challenge to a conclusive presumption assesses the adequacy of the fit between the
16 classification and the policy that the classification serves. Thus, its constitutionality is measured by the same standards as
17 are substantive rules of law generally.²⁶

18 **2.7 Rebutting presumed facts**²⁷

19 Courts have expressed the burden of proof that the adversely affected party must satisfy in order to avoid an instruction that
20 if the jury finds the basic fact it must also find the presumed fact, in a variety of ways: the evidence rebutting a presumption
21 must be substantial,²⁸ credible,²⁹ positive,³⁰ or must be sufficient to raise an issue of fact for the jury³¹ or put the issue

²⁰ Computerized Radiological Services, Inc. v Syntex Corp. (ED NY) 595 F Supp 1495, 40 UCCRS 49, affd in part and revd in part (CA2 NY) 786 F2d 72, 42 UCCRS 1656; Melville v American Home Assur. Co. (CA3 Pa) 584 F2d 1306, 3 Fed Rules Evid Serv 756; Amerada Hess Pipeline Corp. v Alaska Public Utilities Com. (Alaska) 711 P2d 1170; Holt Service Co. v Modlin, 163 Ga App 283, 293 SE2d 741; Babcock v Chesapeake & O. R. Co. (1st Dist) 83 Ill App 3d 919, 38 Ill Dec 841, 404 NE2d 265; Tietloff v Lift-A-Loft Corp. (Ind App) 441 NE2d 986; Finch v Hughes Aircraft Co., 57 Md App 190, 469 A2d 867, cert den 300 Md 88, 475 A2d 1200, reconsideration den 301 Md 41, 481 A2d 801 and cert den 469 US 1215, 84 L Ed 2d 336, 105 S Ct 1190, reh den 471 US 1049, 85 L Ed 2d 341, 105 S Ct 2043, later proceeding (CA FC) 926 F2d 1574, 17 USPQ2d 1914 and (criticized on other grounds by Newell v Richards, 83 Md App 371, 574 A2d 370) and (criticized on other grounds by Newell v Richards (Md App) 1990 Md App LEXIS 133).

²¹ Maryland Casualty Co. v Williams (CA5 Miss) 377 F2d 389, 35 ALR3d 275; Kowalski v Wojtkowski, 19 NJ 247, 116 A2d 6, 53 ALR2d 556 (disapproved on other grounds by B. v O., 50 NJ 93, 232 A2d 401); Buhler v Maddison, 109 Utah 267, 176 P2d 118, 168 ALR 177.

²² Adapted from Am.Jur.2d, Evidence, §190: Civil litigation

²³ Usery v Turner Elkhorn Mining Co., 428 US 1, 49 L Ed 2d 752, 96 S Ct 2882, 1 Fed Rules Evid Serv 243 (superseded on other grounds by statute as stated in Freeman United Coal Mining Co. v Office of Workers' Compensation Program (CA7) 999 F2d 291); Ferry v Ramsey, 277 US 88, 72 L Ed 796, 48 S Ct 443.

²⁴ Stanley v Illinois, 405 US 645, 31 L Ed 2d 551, 92 S Ct 1208, holding unconstitutional violation of the due process clause of the Fourteenth Amendment a statutory presumption that unmarried fathers are unsuitable and neglectful parents.

²⁵ Usery v Turner Elkhorn Mining Co., 428 US 1, 49 L Ed 2d 752, 96 S Ct 2882, 1 Fed Rules Evid Serv 243 (superseded on other grounds by statute as stated in Freeman United Coal Mining Co. v Office of Workers' Compensation Program (CA7) 999 F2d 291); Dick v New York Life Ins. Co., 359 US 437, 3 L Ed 2d 935, 79 S Ct 921; Mobile, J. & K. C. R. Co. v Turnipseed, 219 US 35, 55 L Ed 78, 31 S Ct 136; Pizza v Wolf Creek Ski Dev. Corp. (Colo) 711 P2d 671, 55 ALR4th 607 (criticized on other grounds by Tri-Aspen Constr. Co. v Johnson (Colo) 714 P2d 484).

²⁶ Michael H. v Gerald D., 491 US 110, 105 L Ed 2d 91, 109 S Ct 2333, reh den 492 US 937, 106 L Ed 2d 634, 110 S Ct 22 and reh den 499 US 984, 113 L Ed 2d 739, 111 S Ct 1645 and motion den (US) 118 L Ed 2d 538, 112 S Ct 1931, later proceeding (App Div, 2d Dept) 604 NYS2d 573.

²⁷ Am.Jur.2d, Evidence, §199.

²⁸ New York Life Ins. Co. v Gamer, 303 US 161, 82 L Ed 726, 58 S Ct 500, 114 ALR 1218; O'Brien v Equitable Life Assur. Soc. (CA8 Mo) 212 F2d 383, cert den 348 US 835, 99 L Ed 658, 75 S Ct 57; Harlem Taxicab Ass'n v Nemes, 89 US App DC 123, 191 F2d 459; Union Cent. Life Ins. Co. v Sims, 208 Ark 1069, 189 SW2d 193; Carroll v Carroll (Ky) 251 SW2d 989; Anderson v Minneapolis, 258 Minn 221, 103 NW2d 397; Shell Oil Co. v Kapler, 235 Minn 292, 50 NW2d 707; Halloway v Halloway, 189 Miss 723, 198 So 738; Di Paoli v Prudential Ins. Co. (Mo App) 384 SW2d 861; Re Will of Blake, 21 NJ 50, 120 A2d 745; People v Richetti, 302 NY 290, 97 NE2d 908; Carson v Metropolitan Life Ins. Co., 165 Ohio St 238, 59 Ohio Ops 310,

1 in equilibrium.³² Other courts have held that any evidence having a tendency to support the nonexistence of the presumed
2 fact will suffice.³³ With regard to a typical presumption, therefore, to avoid a directed verdict as to the presumed fact, the
3 party adversely affected by the presumption must offer sufficient evidence to permit a rational factfinder to find the
4 nonexistence of the presumed fact by a preponderance of the evidence.³⁴

5 Once the party adversely affected by the presumption offers sufficient evidence rebutting the presumption to avoid a
6 directed verdict as to the presumed fact, the presumption drops out of the case and the burden of persuasion as to the
7 presumed fact remains with the party who had that burden at the outset of the trial.³⁵

8 **2.8 Rules of Presumption**

9 A number of rules govern the use of “presumptions”, some of which are described above. These “laws or rules of
10 presumption” will be further explained throughout the rest of this document:

- 11 1. In any legal proceeding, the moving party has the burden of proving, with evidence, the truth of his claim. It may not
12 be presumed that his allegations are true unless and until he presents evidence in support of the claim.
- 13 2. Presumptions may not be used as evidence or as a substitute for evidence. A corollary to this rule is that a presumption
14 may act only temporarily as a substitute evidence, until the party who is making it can introduce evidence that proves
15 the point they are presuming.
- 16 3. There are two types of presumptions: Conclusive and rebuttable. Every rebuttable presumption is either:
17 3.1. A presumption affecting the burden of producing evidence or
18 3.2. A presumption affecting the burden of proof. Calif.Evid.Code, §600.

135 NE2d 259; *Shepherd v Midland Mut. Life Ins. Co.*, 152 Ohio St 6, 39 Ohio Ops 352, 87 NE2d 156, 12 ALR2d 1250; *Mulroy v Co-operative Transit Co.*, 142 W Va 165, 95 SE2d 63.

²⁹ *Schenck v Minolta Office Sys., Inc.* (Colo App) 802 P2d 1131, cert den (Colo) 1990 Colo LEXIS 889, later proceeding (Colo App) 17 Brief Times Rep 1613, reh den (Nov 26, 1993); *Greene v Willey*, 147 Me 227, 86 A2d 82; *Johnson v White*, 154 Mich App 425, 397 NW2d 555, app gr 428 Mich 857, 399 NW2d 396, reh gr, in part 428 Mich 871, 401 NW2d 615 and revd on other grounds 430 Mich 47, 420 NW2d 87; *Carson v Metropolitan Life Ins. Co.*, 165 Ohio St 238, 59 Ohio Ops 310, 135 NE2d 259; *Waters v New Amsterdam Casualty Co.*, 393 Pa 247, 144 A2d 354; *Johnson v Atlantic C. L. R. Co.*, 217 SC 190, 60 SE2d 226; *Mulroy v Co-operative Transit Co.*, 142 W Va 165, 95 SE2d 63; *McNamer v American Ins. Co.*, 267 Wis 494, 66 NW2d 342 (ovrld on other grounds by *Wells v Dairyland Mut. Ins. Co.*, 274 Wis 505, 80 NW2d 380).

³⁰ *Johnson v White*, 154 Mich App 425, 397 NW2d 555, app gr 428 Mich 857, 399 NW2d 396, reh gr, in part 428 Mich 871, 401 NW2d 615 and revd on other grounds 430 Mich 47, 420 NW2d 87; *Empire Gas & Fuel Co. v Muegge*, 135 Tex 520, 143 SW2d 763.

³¹ *Callahan v Van Galder*, 3 Wis 2d 654, 89 NW2d 210.

³² *Employers' Liability Assur. Corp. v Maes* (CA10 NM) 235 F2d 918; *Hinds v John Hancock Mut. Life Ins. Co.*, 155 Me 349, 155 A2d 721, 85 ALR2d 703 (superseded on other grounds by statute as stated in *Poitras v R. E. Glidden Body Shop, Inc. (Me)* 430 A2d 1113) (adopting the formulation that a presumption persists until the contrary evidence persuades the factfinder that the balance of probability is in equilibrium or, stated otherwise, until the evidence satisfies the jury or factfinder that it is as probable that the presumed fact does not exist as that it does exist); *Re Guardianship of Breece*, 173 Ohio St 542, 20 Ohio Ops 2d 155, 184 NE2d 386 (the production of evidence disputing or contrary to the presumption causes the presumption to disappear where such evidence to the contrary either counterbalances the presumption or even when it is only sufficient to leave the case in equipoise); *Carson v Metropolitan Life Ins. Co.*, 156 Ohio St 104, 45 Ohio Ops 103, 100 NE2d 197, 28 ALR2d 344.

³³ *Re O'Connor's Estate*, 74 Ariz 248, 246 P2d 1063; *Jodoin v Baroody*, 95 NH 154, 59 A2d 343 (a presumption is not evidence and its sole function is to take the place of evidence, so that when the latter appears if only to the extent that an inference may be drawn from it, the presumption vanishes); *Schlichting v Schlichting*, 15 Wis 2d 147, 112 NW2d 149 (the presumption of decedent's due care disappears from the case when any evidence is introduced tending to establish negligence).

³⁴ *Henderick v Uptown Safe Deposit Co. (1st Dist)* 21 Ill App 2d 515, 159 NE2d 58; *Firkus v Murphy*, 311 Minn 85, 246 NW2d 864; *Re Estate of Swan*, 4 Utah 2d 277, 293 P2d 682; *Bates v Bowles White & Co.*, 56 Wash 2d 374, 353 P2d 663.

³⁵ *Texas Dept. of Community Affairs v Burdine*, 450 US 248, 67 L Ed 2d 207, 101 S Ct 1089, 25 BNA FEP Cas 113, 25 CCH EPD ¶ 31544, 9 Fed Rules Evid Serv 1, on remand (CA5 Tex) 647 F2d 513, 25 BNA FEP Cas 1746, 26 CCH EPD ¶ 31898 and (not followed on other grounds by *Burton v Ohio, Adult Parole Authority* (CA6 Ohio) 798 F2d 164, 41 BNA FEP Cas 1799, 41 CCH EPD ¶ 36544) and (criticized on other grounds by *Saint Mary's Honor Ctr. v Hicks* (US) 125 L Ed 2d 407, 113 S Ct 2742, 93 CDOS 4747, 93 Daily Journal DAR 8057, 62 BNA FEP Cas 96, 61 CCH EPD ¶ 42322, 37 Fed Rules Evid Serv 581, 7 FLW Fed S 553); *Panduit Corp. v All States Plastic Mfg. Co.* (CA FC) 744 F2d 1564, 223 USPQ 465 (disapproved on other grounds by *Richardson-Merrell, Inc. v Koller*, 472 US 424, 86 L Ed 2d 340, 105 S Ct 2757); *Pennsylvania, Dept. of Transp. v United States*, 226 Ct Cl 444, 643 F2d 758, 7 Fed Rules Evid Serv 1157, cert den 454 US 826, 70 L Ed 2d 101, 102 S Ct 117; *Lynn v Cepurneek*, 352 Pa Super 379, 508 A2d 308, later proceeding 373 Pa Super 479, 541 A2d 771; *Martin v Phillips*, 235 Va 523, 369 SE2d 397.

- 1 4. Presumptions which prejudice Constitutionally guaranteed rights are unconstitutional and may not be employed.
- 2 *Vlandis v. Kline*, [412 U.S. 441](#), 449, 93 S.Ct 2230, 2235 (1973); *Cleveland Bd. of Ed. v. LaFleur*, [414 US 632](#), 639-
- 3 640, 94 S.Ct. 1208, 1215 (1974).
- 4 5. A Court is abusing its discretion if it employs, rewards, or encourages presumption to relieve either party to a suit from
- 5 having to actually prove the truth of the fact being presumed.
- 6 6. If the party who prejudiced rights using presumptions was a government or state actor or entity, there is standing to sue
- 7 the offender personally under 42 U.S.C. §1983 for “deprivation of rights under the color of law”. The burden of proof
- 8 rests on the person filing the suit to prove that the discrimination results from “state action”. See *National Collegiate*
- 9 *Athletic Assn. v. Tarkanian*, 488 U.S. 179, 193, n. 13 (1988); *Jackson v. Metropolitan Edison Co.*, 419 U.S. 345, 349
- 10 (1974).
- 11 7. The purpose of due process is to completely eliminate all presumptions from any legal proceeding which might impair
- 12 or injure Constitutionally guaranteed rights. See Black’s Law Dictionary definition of “due process”, which says:

13 *“If any question of fact or liability be conclusively be presumed [rather than proven] against him, this is not*

14 *due process of law.”*

15 *[Black’s Law Dictionary, Sixth Edition, p. 500]*

- 17 8. In the field of criminal law, a defendant must be “presumed” to be innocent until proven guilty beyond a reasonable
- 18 doubt. [Delo v. Lashely](#), 507 U.S. 272 (1993)
- 19 9. A common way to hide one’s presumptions is to cite a case as authority to act within a legal pleading and to choose a
- 20 case which does not match the circumstances of your case. This is a way of imposing presumptions against a party
- 21 without having to justify or prove them with evidence. This is a common tactic used by the government against those
- 22 not educated in the law who are litigating “pro per” or “pro se”. We call this “encrypting” or “concealing”
- 23 presumptions by abusing caselaw. Every case cited as authority must exactly replicate the circumstances that it is
- 24 being applied to or it is useless as authority. It is a reckless and irresponsible abuse of caselaw as “propaganda” to cite
- 25 a case as authority or “stare decisis” without at least explaining why it fits the circumstances that it is being applied to.
- 26 10. Under [1 U.S.C. §204](#), those titles of the U.S. Code which are not enacted into positive law are considered “prima facie
- 27 evidence” of the enacted positive law. “Prima facie” is a fancy way to say that they are simply “presumed” to be law
- 28 until challenged or proven otherwise. It is presumptuous, irresponsible, and a violation of due process of law to cite a
- 29 section from a code that is not enacted into positive law. Examples of Titles of the U.S. Code that are enacted into
- 30 positive law include:
- 31 10.1. Title 26: Internal Revenue Code. Subtitle A of the Internal Revenue Code imposes no obligation on anyone
- 32 unless and until the section of code being cited as authority is definitively proven with evidence that it is positive
- 33 law.
- 34 10.2. Title 42: The Public Health and Welfare. Social Security is in this title. It is not positive law and therefore
- 35 imposes no obligation upon anyone who does not volunteer to be subject to it.
- 36 10.3. Title 50: War and National Defense. The draft laws we have are not positive law and therefore are not
- 37 enforceable in states of the Union.
- 38 11. A statute which imposes a presumption that prejudices constitutionally guaranteed rights is unconstitutional.

39 *“It is apparent that a constitutional prohibition cannot be transgressed indirectly by the creation of a statutory*

40 *presumption any more than it can be violated by direct enactment. The power to create presumptions is not a*

41 *means of escape from constitutional restrictions.”*

42 *[Bailey v. Alabama, 219 U.S. 219 (1911)]*

43 If you would like to read more authorities on the subject of “presumption”, see:

44 <http://famguardian.org/TaxFreedom/CitesByTopic/presumption.htm>

45 **3 How Congress abuses presumption to destroy your Constitutional rights**

46 **3.1 “Words of Art”: Using the Law to deceive and create false presumption**

47 *“The wicked man does deceptive work,*

48 *But to him who sows righteousness will be a sure reward.*

49 *As righteousness leads to life,*

50 *So he who pursues evil pursues his own death.*

51 *Those who are of a perverse heart are an abomination to the Lord,*

52 *But such as are blameless in their ways are a delight.*

1 *Though they join forces, the wicked will not go unpunished;*
2 *But the posterity of the righteous will be delivered.”*
3 *[Prov. 11:18-21, Bible, NKJV]*

4
5 *“Integrity without knowledge is weak and useless, and knowledge without integrity is dangerous and dreadful.”*
6 *[Samuel Johnson Rasselas, 1759]*

7
8 *“Beware lest anyone cheat you through philosophy and empty deceit, according to the tradition of men,*
9 *according to the basic principles of the world, and not according to Christ.”*
10 *[Colossians 2:8, Bible, NKJV]*

11 Does anyone like politicians of the lawyers who write deceptive laws for them? After you read this section, you’ll have
12 even less reason to like them! The Internal Revenue Code ("IRC", also called 26 U.S.C.) is a masterpiece of deception
13 designed by greedy and unscrupulous IRS lawyers to mislead Citizens into believing that they are subject to federal income
14 tax. Most of the deception is perpetrated using specialized definitions of words. The Code contains a series of directory
15 statutes using the word "shall", with provisions that are requirements for corporations, trusts, and other “legal fictions” but
16 not for natural persons (you and I). Even members of Congress are generally unaware of the deceptive legal meanings of
17 certain terms that are consistently used in the IRC. These terms have legal definitions for use in the IRC that are very
18 different from the general understanding of the meaning of the words. Such terms are called “words of art”. This situation
19 is quite deliberate, and no accident at all.

20 Let’s start this section by defining the term “definition”:

21 ***definition:** A description of a thing by its properties; an explanation of the meaning of a word or term. The*
22 *process of stating the **exact** meaning of a word by means of other words. Such a description of the thing*
23 *defined, including all essential elements and excluding all nonessential, as to distinguish it from all other things*
24 *and classes.”*
25 *[Black’s Law Dictionary, Sixth Edition, page 423]*

26 Lack of knowledge of legal definitions used in the Internal Revenue Code causes false presumption by uninformed
27 Americans who are confused as to the correct interpretation of both the IRC and the true meaning of the tricky wording in
28 IRS instructional publications and news articles. *However, when you understand the legal definitions of these terms, the*
29 *deception and false presumption is easily recognized and the limited application of the Code becomes very clear.* This
30 understanding will help you to see that filing income tax forms and paying income taxes must be voluntary acts for most
31 Americans domiciled in states of the Union because the United States Constitution forbids the federal government to
32 impose any tax directly upon individuals.

33 Most terms used within 26 U.S.C, which is the Internal Revenue Code, appear in Chapter 79, Section 7701. Anything
34 having to do with employer withholding is defined in 26 U.S.C. §3401.

35 ***WARNING!: It is extremely important that you read and understand these definitions before you***
36 ***begin interpreting the tax codes! Deceiving definitions are the NUMBER ONE way that lawyers***
37 ***use to trick and enslave us so we should always question the meaning of words before we start trying***
38 ***to interpret the laws they write!***

39 ***Another popular lawyering technique is to use words which are undefined. This has the effect of***
40 ***encouraging uncertainty, conflict, and false presumption in the application of the law, which***
41 ***increases litigation, which in turn makes the legal profession more profitable for the lawyers who***
42 ***write the laws and judges who enforce the laws after they leave public office and go back into***
43 ***private practice. Doesn’t that seem like a conflict of interest and an abuse of the public trust for***
44 ***private gain? It sure does to us!***

45 For your edification, Family Guardian has prepared a library of definitions on their website in the [Sovereignty Forms and](#)
46 [Instructions area](#) that you can and should refer to frequently at:

47 <http://famguardian.org/TaxFreedom/FormsInstr-Cites.htm>

1 Click on “Cites by Topic” in the upper left corner to see a library of carefully researched definitions. This will allow you to
 2 see clearly for yourself how the conniving lawyers inhabiting the District of Criminals (Washington, D.C.) enticed us into
 3 slavery in violation of the [Thirteenth Amendment](#) and [18 U.S.C. §1581](#) by using deceiving definitions. Then these evil
 4 lawyers tried to cover-up their trick by violating our [Fifth Amendment](#) right of due process by adding the word “includes”
 5 to those definitions that were most suspect, like the following:

- 6 • Definition of the term “State” found in [26 U.S.C. §7701\(a\)\(10\)](#) and [4 U.S.C. §110](#)
- 7 • Definition of the term “United States” found in [26 U.S.C. §7701\(a\)\(9\)](#)
- 8 • Definition of the term “employee” found in [26 U.S.C. §3401\(c\)](#) and [26 CFR §31.3401\(c\)-1](#) Employee
- 9 • Definition of the term “person” found in [26 CFR § 301.6671-1](#) (which governs who is liable for penalties under
 10 Internal Revenue Code)

11 What Congress did by defining the word “includes” the way they did was give the federal courts so much “wiggle” room
 12 and license that they could define the IRC and federal tax jurisdiction any way they want, which transformed our
 13 government from a society of laws to a society of men, in stark violation of the intent of our founding fathers and of the
 14 Fifth and Sixth Amendment, and the “void for vagueness” doctrine:

15 *“The government of the United States has been emphatically termed a government of laws, and not of men.
 16 It will certainly cease to deserve this high appellation, if the laws furnish no remedy for the violation of a vested
 17 legal right.”*
 18 *[Marbury v. Madison, 5 U.S. 137; 1 Cranch 137, 2 L.Ed. 60 (1803)]*

19 See the following resources if you would like to learn more about how they perpetrated this fraud and hoax with the word
 20 “includes”:

- 21 1. [The Meaning of the Words “includes” and “including”](#), Form #05.014
 22 <http://sedm.org/Forms/FormIndex.htm>
- 23 2. [Great IRS Hoax](#), Sections 3.9.1.8 and 5.6.17:
 24 <http://famguardian.org/Publications/GreatIRSHoax/GreatIRSHoax.htm>

25 The definitions found in the U.S. Code apply NOT ONLY to the U.S. Code, but also to the Code of Federal Regulations
 26 (CFR's), which are the implementing regulations for the U.S. Code, and the IRS Publications, which are guidelines to
 27 Americans that implement these regulations. The definitions in the U.S. Code in effect supercede and in some cases are
 28 repeated or are modified and expanded by the Code of Federal Regulations and the IRS Publications. Incidentally, doesn't
 29 it seem strange that the DEFINITIONS, which describe what all of the Code means, are almost at the END of the code,
 30 instead of the beginning? Most other contracts and legal documents always START with the definitions first, and usually
 31 define ALL words open to confusion to prevent misinterpretation. Not so with the I.R.C. They leave the word "individual"
 32 undefined, for instance, because they don't want you knowing what "individual" is, since it appears on your 1040 income
 33 tax form. Wonder why they do this instead of just calling you a “Citizen”? Could it possibly be that the slick lawyers in the
 34 congress hope you won't wade through 9,500 pages of Code to get to the definitions and that you will run out of energy and
 35 interest before you read them? Are they trying to HIDE something? It is important to note that proper and clear definitions
 36 of these deceptive words never appear in any of the IRS publications, and this is part of the Great Deception we have talked
 37 about throughout this document.

38 As you read through these masterfully crafty deceits and definitions of IRS lawyers listed below and appearing in the
 39 Infernal (written by Satan directly from hell?), I mean Internal Revenue Code (I.R.C. , 26 U.S.C), ask yourself the
 40 following questions and critically consider the most truthful answers according the I.R.C. We compare the various
 41 definitions for each word to show you how it has been abused to cause deceit. You are probably going to be mad as hell
 42 (like I was) when you find out the trick these crafty IRS lawyers have played on you. Below are just a few examples of
 43 how these depraved, corrupt, arrogant, and power-hungry lawyers have used “legalese” to deceive you. The answers we
 44 give in the third column assume you are the average American domiciled in one of the 50 Union states and not one of the
 45 federal territories that are part of the “federal zone”, which is subsequently explained in section 4.8 of the [Great IRS Hoax](#):

46 **Table 1: Questions to Ask and Answer as You Read the Internal Revenue Code**

#	Question (using legal definitions)	Translation to everyday language ("non-legalese")	Answer (in most cases)
---	---------------------------------------	--	---------------------------

#	Question (using legal definitions)	Translation to everyday language ("non-legalese")	Answer (in most cases)
1	Am I an "employee"?	Do I hold a privileged federal "public office" that depends exclusively on rights and privileges granted to me by the citizens who elected or appointed me?	NO. Under the case of <i>Simms v. Ahrens</i> , 271 SW 720, people with everyday skills, trades, or professions or who do not work for the federal government are not considered to be employees as per the I.R.C., and therefore are not subject to "withholding".
2	Do I have "gross income" or "taxable income"?	Do I as a corporation have profit subject to indirect excise ?	NO. See: 1. <i>Eisner v. Macomber</i> , 252 U.S. 189, 207, 40 S.Ct. 189, 9 A.L.R. 1570 (1920); 2. <i>Doyle v. Mitchell Brothers Co.</i> , 247 U.S. 179, 185, 38 S.Ct. 467 (1918); 3. <i>Stratton's Independence v. Howbert</i> , 231 U.S. 399, 414, 58 L.Ed. 285, 34 Sup.Ct. 136 (1913);
3	What is an "individual" as indicated on my "1040 Individual Income Tax Return"?	What is an "individual" as indicated on my "1040 Individual Income Tax Return"?	One of the following: 1. A corporation, an association, a trust, etc. chartered in the District of Columbia with income subject to excise taxes . 2. A nonresident alien or alien as identified in 26 CFR §1.1441-1(c)(3).
4	Am I a "taxpayer" under Subtitle A of the Internal Revenue Code?	Am I a person who is "liable" for paying income taxes as per the I.R.C Subtitle A?	NO. The only persons liable (under Section 1461) of Subtitle A of the I.R.C. for <u>anything</u> are withholding agents as defined in 26 U.S.C. §7701(a)(16). These withholding agents are transferees for U.S. government property under 26 U.S.C. §6901 and they are "returning" (hence the name "tax return") monies <u>already owned</u> by the U.S. Government and being paid out to nonresident aliens who are elected or appointed officers of the United States Government as part of a pre-negotiated and implied employment agreement. Because the monies they are withholding <u>already</u> belong to the U.S. government even after they are paid out, the withholding agent is liable to return these monies. For private individuals who are not nonresident aliens in receipt of pay as an elected or appointed officer of the U.S. government, all "taxes" falling under Subtitle A are voluntary, which is to say that they are <u>donations</u> and not taxes. However, if you "volunteer" by submitting a tax return or instituting voluntary withholding using a W-4 form, you are referred to as a "taxpayer" because you made yourself "subject to" the tax code voluntarily and therefore are "presumed" to be liable under 26 CFR §31.3401(a)-3. This artificial liability is then created in your IRS Individual Master File (IMF) by IRS agents committing deliberate fraud during data entry into their IDRS computer system. See Section 3.4.5 of the <i>Tax Freedom Solutions Manual</i> for further details on how to expose this IMF fraud.
5	Am I a "tax payer"?	Have I unwittingly deceived the I.R.S. and the U.S. government, by my own ignorance and unknowing falsification on my 1040 income tax return, into thinking that I am a "taxpayer"?	YES. In most cases, people file and pay income taxes and erroneously label themselves as being "taxpayers" because of their own ignorance and the total lack of sources for truth about who are "taxpayers".
6	Am I an "employer"?	Am I someone who pays the salary and wages of an elected or appointed federal political officer?	NO
7	"Must" I pay income taxes.	1. Do I have the "IRS" permission to "volunteer" to pay income taxes, even though I don't have to. 2. "May" I pay income taxes I'm not obligated to pay, please?	Definitely!
8	Do I live in a "State" or the "United States"?	Do I live in the District of Columbia, Puerto Rico, Guam, the Virgin Islands, or any other U.S. federal territory or enclave within the boundaries of a state which the residents do NOT have constitutional	NO

#	Question (using legal definitions)	Translation to everyday language ("non-legal")	Answer (in most cases)
		protections of their rights (see <i>Downes v. Bidwell</i> , 182 U.S. 244 (1901)) and are therefore subject to federal income taxes?	
9	Do I make "wages" as an "employee"?	Do I receive compensation for "personal services" from the U.S. government as an elected or appointed political officer NOT practicing an occupation of common right?	NO
10	Am I a "withholding agent" per the tax code?	Do I pay income to an elected or appointed officer of the U.S. government who has requested withholding on their pay or to a nonresident alien or corporation with U.S (federal zone) . Source income?	NO
11	Am I a "citizen of the United States" or a resident of the United States?	Was I born or naturalized in the District of Columbia or other federal territory or enclave or do I live there now?	NO
12	Am I a national but not citizen of the United States under 8 U.S.C. §1452?	Was I born in one of the 50 Union states outside of federal lands within those states?	YES
13	Do I conduct a "trade or business" in the "United States"?	Do I hold elected or appointed public office for the U.S. government in the federal United States or federal zone and thereby receive excise taxable privileges from the U.S. government?	NO
14	Do I make "gross income" derived from a "taxable source" as defined in 26 U.S.C. §§861 or 862?	Do I derive income from a privileged corporation that is registered and resident in the "federal zone" or from the U.S.** government as an elected or appointed political official or officer of a U.S.** Corporation?	NO
15	Do I perform "personal services"?	Am I an elected or appointed official of the U.S. government who receives a salary for my job?	NO

1 Jesus warned us that a thief would come to kill and hurt and destroy us by devious means, and this thief is our own
2 government and the legal profession!:

3 *"Most assuredly, I say to you, **he who does not enter the sheepfold by the door, but climbs up some other way,***
4 ***the same is a thief and a robber.** But he who enters the door is the shepherd of the sheep..... **The thief does***
5 ***not come except to steal, and to kill, and to destroy.** I have come that they may have life, and that they may*
6 *have it more abundantly."
7 [John 10:1-9, Bible, NKJV]*

8 James Madison, one of our Founding Fathers, also warned us of the above fraud in the Federalist Papers, when he wrote:

9 *"The internal effects of a mutable policy are still more calamitous. **It poisons the blessing of liberty itself. It***
10 ***will be of little avail to the people, that the laws are made by men of their own choice, if the laws be so***
11 ***voluminous that they cannot be read, or so incoherent that they cannot be understood; if they be repealed or***
12 ***revised before they are promulgated, or undergo such incessant changes that no man, who knows what the***
13 ***law is to-day, can guess what it will be to-morrow. Law is defined to be a rule of action; but how can that be***
14 ***a rule, which is little known, and less fixed?***

15 ***Another effect of public instability is the unreasonable advantage it gives to the sagacious, the enterprising,***
16 ***and the moneyed few over the industrious and unformed mass of the people. Every new regulation***
17 ***concerning commerce or revenue, or in any way affecting the value of the different species of property,***
18 ***presents a new harvest to those who watch the change, and can trace its consequences; a harvest, reared not***
19 ***by themselves, but by the toils and cares of the great body of their fellow-citizens. This is a state of things in***
20 ***which it may be said with some truth that laws are made for the FEW, not for the MANY.***

21 ***In another point of view, great injury results from an unstable government. The want of confidence in the***
22 ***public councils damps every useful undertaking, the success and profit of which may depend on a***
23 ***continuance of existing arrangements. What prudent merchant will hazard his fortunes in any new branch***
24 ***of commerce when he knows not but that his plans may be rendered unlawful before they can be executed?***
25 ***What farmer or manufacturer will lay himself out for the encouragement given to any particular cultivation or***
26 ***establishment, when he can have no assurance that his preparatory labors and advances will not render him a***
27 ***victim to an inconstant government? In a word, no great improvement or laudable enterprise can go forward***
28 ***which requires the auspices of a steady system of national policy."***

29 *But the most deplorable effect of all is that diminution of attachment and reverence which steals into the hearts*
30 *of the people, towards a political system which betrays so many marks of infirmity, and disappoints so many of*

1 *their flattering hopes. No government, any more than an individual, will long be respected without being truly*
2 *respectable; nor be truly respectable, without possessing a certain portion of order and stability.*
3 *[Federalist Paper #62, James Madison]*

4 We hope that one of the lessons you will walk away with after you discover the kind of deceit above is that educating our
5 young people to make them smart without giving them a moral or character or religious education causes major problems in
6 our society like that above. Cheating in our schools is now rampant, and once these dishonest students enter the job market
7 and become lawyers, politicians, and judges, their deceit is only magnified because of greed. It's no wonder that during the
8 first half century of this country, you needed to just about have a divinity degree before you could think about studying to
9 be a lawyer! No one with any sense of morality or decency or integrity would try to deceive the way the IRS lawyers have
10 deceived us all with the tax code shown above. This also explains bible verses in which Jesus condemned lawyers. He did
11 this for a reason and now we know why! Let me repeat His very words again for your benefit:

12 *"Woe to you lawyers! for **you have taken away the keys of knowledge**; you did not enter yourselves, and you*
13 *hindered those who were entering."*
14 *[Luke 11:52, Bible, NKJV]*

15 How did lawyers take away the keys to knowledge? They did it by destroying or undermining the meaning of words, and
16 thereby robbing us of our liberty and our right of due process under the law. Because the law has been obfuscated, custody
17 of our liberty has been transferred from the law and our own understanding of the law to the arbitrary whims of judges, the
18 legal profession, and the courts, who we then are forced to rely upon to "interpret" the law and thereby tell us what our
19 rights are. These tactics have transformed us from a society of laws to a society of men, which eventually will be our
20 downfall and the means of totally corrupting our legal system if we don't correct it soon. Confucius said it best:

21 *"When words lose their meaning, people will lose their liberty."*
22 *[Confucius, 500 B.C.]*

23 Lastly, we'd like to offer you a funny anecdote to illustrate just what the affect has been in courtrooms all over the country
24 of the law profession's "theft" of our words and distortion of our language. Playwright Jim Sherman wrote the script below
25 just after Hu Jintao was named chief of the Communist Party in China in 2002. The dialog was patterned after a similar
26 comedic exchange in the 1920's between the Abbott and Costello called "Who's On First?" The conversation depicted
27 below is between George Bush and his Assistant for National Security Affairs, Condoleeza Rice. To apply this metaphor to
28 a tax trial, imagine that George Bush is the jury and Condi is you, who are the accused person litigating to defend your
29 rights. Notice how much confusion there is over words in this interchange. You will then understand just how difficult it is
30 to explain to jurists that the most important words in the tax code don't conform to our everyday understanding of the
31 human language in most cases.

HU'S ON FIRST

By James Sherman

(We take you now to the Oval Office.)

George: Condi! Nice to see you. What's happening?

Condi: Sir, I have the report here about the new leader of China.

George: Great. Lay it on me.

Condi: Hu is the new leader of China.

George: That's what I want to know.

Condi: That's what I'm telling you.

George: That's what I'm asking you. Who is the new leader of China?

Condi: Yes.

1 George: I mean the fellow's name.

2 Condi: Hu.

3 George: The guy in China.

4 Condi: Hu.

5 George: The new leader of China.

6 Condi: Hu.

7 George: The Chinaman!

8 Condi: Hu is leading China.

9 George: Now whaddya' asking me for?

10 Condi: I'm telling you Hu is leading China.

11 George: Well, I'm asking you. Who is leading China?

12 Condi: That's the man's name.

13 George: That's who's name?

14 Condi: Yes.

15 George: Will you or will you not tell me the name of the new leader of China?

16 Condi: Yes, sir.

17 George: Yassir? Yassir Arafat is in China? I thought he was in the Middle East.

18 Condi: That's correct.

19 George: Then who is in China?

20 Condi: Yes, sir.

21 George: Yassir is in China?

22 Condi: No, sir.

23 George: Then who is?

24 Condi: Yes, sir.

25 George: Yassir?

26 Condi: No, sir.

27 George: Look, Condi. I need to know the name of the new leader of China. Get me the Secretary General of the
28 U.N. on the phone.

29 Condi: Kofi?

30 George: No, thanks.

31 Condi: You want Kofi?

32 George: No.

1 Condi: You don't want Kofi.
2 George: No. But now that you mention it, I could use a glass of milk. And then get me the U.N.
3 Condi: Yes, sir.
4 George: Not Yassir! The guy at the U.N.
5 Condi: Kofi?
6 George: Milk! Will you please make the call?
7 Condi: And call who?
8 George: Who is the guy at the U.N?
9 Condi: Hu is the guy in China.
10 George: Will you stay out of China?!
11 Condi: Yes, sir.
12 George: And stay out of the Middle East! Just get me the guy at the U.N.
13 Condi: Kofi.
14 George: All right! With cream and two sugars. Now get on the phone.
15 (Condi picks up the phone.)
16 Condi: Rice, here.
17 George: Rice? Good idea. And a couple of egg rolls, too. Maybe we should send some to the guy in China. And
18 the Middle East. Can you get Chinese food in the Middle East?

19 **3.2 Vague laws**

20 Another popular technique used by corrupted politicians and lawyers for encouraging false presumption is the writing of
21 vague laws. The U.S. Supreme Court explained the affect of vague laws using its “Void for Vagueness Doctrine”:

22 *As we said in Grayned v. City of Rockford, [408 U.S. 104, 108](#) (1972):*

23 *"It is a basic principle of due process that an enactment is void for vagueness if its prohibitions are not clearly*
24 *defined. Vague laws offend several important values. First, because we assume that man is free to steer between*
25 *lawful and unlawful conduct, we insist that laws give the person of ordinary intelligence a reasonable*
26 *opportunity to know what is prohibited, so that he may act accordingly. Vague laws may trap the innocent by*
27 *not providing fair warning. Second, if arbitrary and discriminatory enforcement is to be prevented, laws must*
28 *provide explicit standards for those who apply them. A vague law impermissibly delegates basic policy matters*
29 *to policemen, judges, and juries for resolution on an ad hoc and subjective basis, with the attendant dangers of*
30 *arbitrary and discriminatory application." (Footnotes omitted.)*

31 *See al Papachristou v. City of Jacksonville, [405 U.S. 156](#) (1972); Cline v. Frink Dairy Co., [274 U.S. 445, 47 S.](#)
32 *Ct. 681* (1927); *Connally v. General Construction Co., [269 U.S. 385](#) (1926).*
33 *[[Sewell v. Georgia, 435 U.S. 982](#) (1978)]**

34 When politicians and legislators know they lack jurisdiction to implement a particular law, they typically will write in such
35 a vague manner that the courts will have to decide what it means. This, in effect, amounts to a license to the Judicial
36 Branch to expand federal jurisdiction. The two branches of government are supposed to be sovereign and separate and act
37 as checks on each other, but when they want to collude against the rights of Americans, vague laws are the method of
38 choice. The U.S. Supreme Court said the effect of vague laws is to turn judges and juries essentially into “policy boards”
39 and political, rather than judicial or legal, tribunals. Note the phrase above from the U.S. Supreme Court again:

1 "A vague law impermissibly delegates basic policy matters [political rather than legal choices] to policemen,
2 judges, and juries for resolution on an ad hoc and subjective basis, with the attendant dangers of arbitrary and
3 discriminatory application."

4 You will note that Black's law dictionary says that such "political questions" are completely outside of the jurisdiction of
5 any court:

6 "Political questions. Questions of which courts will refuse to take cognizance, or to decide, on account of their
7 purely political character, or because their determination would involve an encroachment upon the executive or
8 legislative powers."

9 "Political questions doctrine" holds that certain issues should not be decided by courts because their resolution
10 is committed to another branch of government and/or because those issues are not capable, for one reason or
11 another, of judicial resolution. *Islamic Republic of Iran v. Pahlavi*, 116 Misc.2d 590, 455 N.Y.S.2d 987, 990.

12 A matter of dispute which can be handled more appropriately by another branch of the government is not a
13 "justiciable" matter for the courts. However, a state apportionment statute is not such a political question as to
14 render it nonjusticiable. *Baker v. Carr*, 369 U.S. 186, 208-210, 82 S.Ct. 691, 705-706, 7 L.Ed.2d 663.
15 [Black's Law Dictionary, Sixth Edition, pp. 1158-1159]

16 Therefore, codes or laws that are deliberately written in a vague manner, such as the Internal Revenue Code, have the affect
17 of compelling Courts into the role of a political panel or policy board, rather than their legitimate, Constitutional role.
18 Their de jure role is as a fact finder and judge, but vague laws compel them into a de facto role of being a political
19 organization. See the article below for an exhaustive analysis of why they are not authorized to act in this role.

20 [Political Jurisdiction](http://sedm.org/Forms/MemLaw/PoliticalJurisdiction.pdf), Form #05.004
21 <http://sedm.org/Forms/MemLaw/PoliticalJurisdiction.pdf>

22 Judges in most Courts know that when it comes to "taxes", they are really unlawfully acting in a de facto "political" rather
23 than de jure "legal" capacity. That is why:

- 24 1. Federal judges will not allow "law" to be discussed in the Courtroom in the context of income taxes. See section 4.4
25 later.
- 26 2. Federal judges will insist, along with their buddy the U.S. Attorney, that all jurists are "taxpayers" and therefore federal
27 "employees" who are subject to their jurisdiction.
- 28 3. Federal judges will not address the requirements of the law in their rulings, but instead simply state "policy" and use
29 other Court rulings instead of the law itself as their authority.
- 30 4. Federal judges will not insist that the sections of the I.R.C. cited by the U.S. Attorney must be proven to be "positive
31 law", and therefore "law". See: <http://sedm.org/Forms/MemLaw/Consent.pdf>

32 The U.S. Supreme Court admitted that income taxation is largely a "political matter" rather than "legal matter" which is
33 therefore beyond the jurisdiction of any court, when it said the following:

34 "Thus, the Court has frequently held that domicile or residence, more substantial than mere presence in transit
35 or sojourn, is an adequate basis for taxation, including income, property, and death taxes. Since the Fourteenth
36 Amendment makes one a citizen of the state wherein he resides, the fact of residence creates universally
37 reciprocal duties of protection by the state and of allegiance and support by the citizen. The latter obviously
38 includes a duty to pay taxes, and their nature and measure is largely a political matter. Of course, the situs of
39 property may tax it regardless of the citizenship, domicile, or residence of the owner, the most obvious
40 illustration being a tax on realty laid by the state in which the realty is located."
41 [Miller Brothers Co. v. Maryland, [347 U.S. 340](#) (1954)]

42 Notice the phrase "The latter obviously includes a duty to pay taxes, and their nature and measure is largely a political
43 matter". Well, the way our courts handle liability in a "Willful Failure to File" (under 26 U.S.C. §7203) trial, in fact, is
44 also handled as a "political matter" or "political question". The Constitution reserves all such "political questions" to the
45 jurisdiction of the Executive, and not Judicial Branch. Therefore, our courts have become nothing less than angry lynch
46 mobs of "taxpayers" who insist that others "pay their fair share", rather than objective assemblies of impartial persons who
47 have read, understand, and will apply the law consistent with what the Constitution says. This abuse of "democracy" to
48 prejudice and injure rights is the heart of socialism, which has become "The New American Civil Religion" that is quickly
49 supplanting the influence of Christianity in our culture. Please read our Memorandum of law entitled "Socialism: The

1 New American Civil Religion” for exhaustive proof that the “state” has become the new pagan false god, and replaced the
2 true God as the sovereign who rules from above, rather than serves from below, as our Constitution ordains.

3 *Socialism: The New American Civil Religion*, Form #05.016
4 <http://sedm.org/Forms/FormIndex.htm>

5 The U.S. Supreme Court also warned about the evil affects of allowing judges to become involved in “political matters”
6 when it said the following prophetic words that exactly describe how tax matters are held in federal courts all around the
7 country, every day, and all day:

8 *Another evil, alarming and little foreseen, involved in regarding these as questions for the final arbitrament*
9 *of judges would be that, in such an event, all political privileges and rights would, in a dispute among the*
10 *people, depend on our decision finally. We would possess the power to decide against, as well as for, them,*
11 *and, under a prejudiced or arbitrary judiciary, the public liberties and popular privileges might thus be much*
12 *perverted, if not entirely prostrated.* But, allowing the people to make constitutions and unmake them, allowing
13 their representatives to make laws and unmake them, and without our interference as to their principles or
14 policy in doing it, yet, when constitutions and laws are made and put in force by others, then the courts, as
15 empowered by the State or the Union, commence their functions and may decide on the rights which conflicting
16 parties can legally set up under them, rather than about their formation itself. *Our power begins after theirs*
17 *[the Sovereign People] ends. Constitutions and laws precede the judiciary, and we act only under and after*
18 *them, and as to disputed rights beneath them, rather than disputed points in making them. We speak what is*
19 *the law, jus dicere, we speak or construe what is the constitution, after both are made, but we make, or revise,*
20 *or control neither. The disputed rights beneath constitutions already made are to be governed by precedents,*
21 *by sound legal principles, by positive legislation [e.g. "positive law"], clear contracts, moral duties, and fixed*
22 *rules; they are per se questions of law, and are well suited to the education and habits of the bench.* But the
23 other disputed points in making constitutions, depending often, as before shown, on policy, inclination, popular
24 resolves and popular will and arising not in respect to private rights, not what is meum and tuum, but in
25 relation to politics, they belong to politics, and they are settled by political tribunals, and are too dear to a
26 people bred in the school of Sydney and Russel for them ever to intrust their final decision, when disputed, to a
27 class of men who are so far removed from them as the judiciary, a class also who might decide them
28 erroneously, as well as right, and if in the former way, *the consequences might not be able to be averted except*
29 *by a revolution, while a wrong decision by a political forum can often be peacefully corrected by new*
30 *elections or instructions in a single month; and if the people, in the distribution of powers under the*
31 *constitution, should ever think of making judges supreme arbiters in political controversies when not selected*
32 *by nor, frequently, amenable to them nor at liberty to follow such various considerations in their judgments,*
33 *as [48 U.S. 53] belong to mere political questions, they will dethrone themselves and lose one of their own*
34 *invaluable birthrights; building up in this way -- slowly, but surely -- a new sovereign power in the republic,*
35 *in most respects irresponsible and unchangeable for life, and one more dangerous, in theory at least, than*
36 *the worst elective oligarchy in the worst of times. Again, instead of controlling the people in political affairs,*
37 *the judiciary in our system was designed rather to control individuals, on the one hand, when encroaching,*
38 *or to defend them, on the other, under the Constitution and the laws, when they are encroached upon.* And if
39 the judiciary at times seems to fill the important station of a check in the government, it is rather a check on the
40 legislature, who may attempt to pass laws contrary to the Constitution, or on the executive, who may violate
41 both the laws and Constitution, than on the people themselves in their primary capacity as makers and
42 amenders of constitutions."
43 [Luther v. Borden, *48 U.S. 1* (1849)]

44 When you remove law from its central role in the Courtroom and put people individually in charge of deciding cases based
45 on “what feels good”, the only thing left to decide with are the following evil forces:

- 46 1. Ignorance
47 2. Prejudice
48 3. Conflict of interest
49 4. Bias on the part of the judge
50 5. The opinions of biased “experts” who are subject to IRS and judicial extortion.

51 The U.S. Supreme Court described the above travesty of justice by saying that when the liberty of someone is subject to the
52 purely arbitrary will of another, then this is the very essence of slavery itself, when it said:

53 *"When we consider the nature and the theory of our institutions of government, the principles on which they are*
54 *supposed to rest, and review the history of their development, we are constrained to conclude that they do not*
55 *mean to leave room for the play and action of purely personal and arbitrary power. Sovereignty itself is, of*
56 *course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are*

1 delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all
2 government exists and acts. And the law is the definition and limitation of power. It is, indeed, quite true that
3 there must always be lodged somewhere, and in some person or body, the authority of final decision; and in
4 many cases of mere administration, the responsibility is purely political, no appeal lying except to the ultimate
5 tribunal of the public judgment, exercised either in the pressure of opinion, or by means of the suffrage. But the
6 fundamental rights to life, liberty, and the pursuit of happiness, considered as individual possessions, are
7 secured by those maxims of constitutional law which are the monuments showing the victorious progress of the
8 race in securing to men the blessings of civilization under the reign of just and equal laws, so that, in the
9 famous language of the Massachusetts bill of rights, the government of the commonwealth 'may be a
10 government of laws and not of men.' **For the very idea that one man may be
11 compelled to hold his life, or the means of living, or any material right
12 essential to the enjoyment of life, at the mere will of another, seems to be
13 intolerable in any country where freedom prevails, as being the essence
14 of slavery itself.**"

15 [Yick Wo v. Hopkins, 118 U.S. 356 (1886)]

16 Our founding fathers bequeathed to us a "society of law and not of men":

17 **"The historic phrase 'a government of laws and not of men' epitomized the distinguishing character of our
18 political society.** When John Adams put that phrase into the Massachusetts Declaration of Rights, pt. 1, art. 30,
19 he was not indulging in a rhetorical flourish. **He was expressing the aim [330 U.S. 258, 308] of those
20 who, with him, framed the Declaration of Independence and founded the Republic. 'A government of laws
21 and not of men' was the rejection in positive terms of rule by fiat, whether by the fiat of governmental or
22 private power.]** or a judge or an arbitrary jury of ignorant Americans unjustly manipulated by a judge]. Every
23 act of government may be challenged by an appeal to law, as finally pronounced by this Court. Even this Court
24 has the last say only for a time. Being composed of fallible men, it may err. But revision of its errors must be by
25 orderly process of law. The Court may be asked to reconsider its decisions, and this has been done successfully
26 again and again throughout our history. Or, what this Court has deemed its duty to decide may be changed by
27 legislation, as it often has been, and, on occasion, by constitutional amendment.

28 **"But from their own experience and their deep reading in history, the Founders knew that Law alone saves a
29 society from being rent by internecine strife or ruled by mere brute power however disguised. 'Civilization
30 involves subjection of force to reason, and the agency of this subjection is law.' 1** The conception of a
31 government by laws dominated the thoughts of those who founded this Nation and designed its Constitution,
32 although they knew as well as the belittlers of the conception that laws have to be made, interpreted and
33 enforced by men. To that end, they set apart a body of men, who were to be the depositories of law, who by their
34 disciplined training and character and by withdrawal from the usual temptations of private interest may
35 reasonably be expected to be 'as free, impartial, and independent as the lot of humanity will admit'. So strongly
36 were the framers of the Constitution bent on securing a reign of law that they endowed the judicial office with
37 extraordinary safeguards and prestige. **No one, no matter how exalted his public office or how righteous
38 [330 U.S. 258, 309] his private motive, can be judge in his own case. That is what courts are for. And
39 no type of controversy is more peculiarly fit for judicial determination than a controversy that calls into
40 question the power of a court to decide.** Controversies over 'jurisdiction' are apt to raise difficult technical
41 problems. They usually involve judicial presuppositions, textual doubts, confused legislative history, and like
42 factors hardly fit for final determination by the self-interest of a party.
43 [United States v. United Mine Workers of America, 330 U.S. 258 (1947)]

44 The Bible also described the travesty of justice that occurs when we throw out this "society of laws" and replace it with a
45 "society of men", which is chaos and injustice. Below is a direct quote from the Open Bible on this very subject:

46 *The Book of Judges stands in stark contrast to Joshua. In Joshua an obedient people conquered the land
47 through trust in the power of God. In Judges, however, a disobedient and idolatrous people are defeated time
48 and time again because of their rebellion against God.*

49 *In seven distinct cycles of sin to salvation, Judges shows how Israel had set aside God's law and in its place
50 substituted "what was right in his own eyes" (21:25). The recurring result of abandonment from God's law is
51 corruption from within and oppression from without. During the nearly four centuries spanned by this book,
52 God raises up military champions to throw off the yoke of bondage and to restore the nation to pure worship.
53 But all too soon the "sin cycle" begins again as the nation's spiritual temperance grows steadily colder.*

54 ...

55 *The Book of Judges could also appropriately be titled "The Book of Failure."*

1 **Deterioration** (1:1-3:4). Judges begins with short-lived military successes after Joshua's death, but quickly
2 turns to the repeated failure of all the tribes to drive out their enemies. The people feel the lack of a unified
3 central leader, but the primary reasons for their failure are a lack of faith in God and lack of obedience to Him
4 (2:1-2). Compromise leads to conflict and chaos. Israel does not drive out the inhabitants (1:21, 27, 29, 30);
5 instead of removing the moral cancer [IRS, Federal Reserve?] spread by the inhabitants of Canaan, they
6 contract the disease. The Canaanite gods [money, sex, covetousness] literally become a snare to them (2:3).
7 Judges 2:11-23 is a microcosm of the pattern found in Judges 3-16.

8 **Deliverance** (3:5-16:31). In verses 3:5 through 16:31 of the Book of Judges, seven apostasies (fallings away
9 from God) are described, seven servitudes, and seven deliverances. **Each of the seven cycles has five steps:**
10 **sin, servitude, supplication, salvation, and silence.** These also can be described by the words **rebellion,**
11 **retribution, repentance, restoration, and rest.** The seven cycles connect together as a **descending spiral of sin**
12 **(2:19).** Israel vacillates between obedience and apostasy as the people continually fail to learn from their
13 mistakes. Apostasy grows, but the rebellion is not continual. The times of rest and peace are longer than the
14 times of bondage. The monotony of Israel's sins can be contrasted with the creativity of God's methods of
15 deliverance.

16 **Depravity** (17:1-21:25). Judges 17:1 through 21:25 illustrate (1) religious apostasy (17 and 18) and (2) social
17 and moral depravity (19-21) during the period of the judges. Chapters 19-21 contain one of the worst tales of
18 degradation in the Bible. **Judges closes with a key to understanding the period: "everyone did what was right**
19 **in his own eyes" (21:25) [a.k.a. "what FEELS good"].** The people are not doing what is wrong in their own
20 eyes, but what is "evil in the sight of the Lord" (2:11).
21 [*The Open Bible*, New King James Version, Thomas Nelson Publishers, Copyright 1997, pp. 340-341]

22 So the question then becomes:

23 "Why are we allowing the Congress to compel the Courts to be used to effect slavery, and isn't this a violation
24 of the Thirteenth Amendment prohibition against involuntary servitude? Why are we allowing Congress to use
25 ambiguity of law to turn our Courts essentially into perpetual 'Constitutional conventions', and placing the
26 decision makers at the mercy of the very source of injustice that the courts are supposed to be protecting us
27 from, which is the IRS? Isn't this a violation of 28 U.S.C. §455 and a conflict of interest?"

28 The Bible also says that Christians cannot associate with or be part of this type of evil, when it said:

29 "**Shall the throne of iniquity, which devises evil by law, have fellowship with You?** They gather
30 together against the life of the righteous, and condemn innocent blood. But the Lord has been my defense, and
31 my God the rock of my refuge. He has brought on them their own iniquity, and shall cut them off in their own
32 wickedness; **the Lord our God shall cut them off.**"
33 [*Psalms 94:20-23, Bible, NKJV*]

34 Who else but legislators and lawyers could "devise evil by law" as described above by using vague laws and "words of art"
35 to deceive and entrap people? The "throne of iniquity" they are talking about is our political rulers and any judiciary that
36 allows itself to rule on "political questions".

37 **3.3 Statutory Presumptions that Injure Rights are Unconstitutional**

38 A statutory presumption is a presumption which is mandated by a statute. Below is an example of such a presumption:

39 **26 U.S.C. Sec. 7701(c) INCLUDES AND INCLUDING.**

40 *The terms 'include' and 'including' when used in a definition contained in this title shall not be deemed to*
41 *exclude other things otherwise within the meaning of the term defined."*

42 What Congress is attempting to create in the above is the following false presumption:

43 "Any definition which uses the word 'includes' shall be construed to imply not only what is shown in the statute
44 and the code itself, but also what is commonly understood for the term to mean or whatever any government
45 employee deems is necessary to fulfill what he believes is the intent of the code."

46 We know that the above presumption is unconstitutional and if applied as intended, would violate the Void for Vagueness
47 Doctrine described. It would also violate the rules of statutory construction that say:

- 1 3. The purpose for defining a word within a statute is so that its ordinary (dictionary) meaning is not implied or assumed
2 by the reader.
3 4. When a term is defined within a statute, that definition is provided usually to supersede and not enlarge other
4 definitions of the word found elsewhere, such as in other Titles or Codes.

5 The U.S. Supreme Court has ruled many times that statutory presumptions which prejudice or threaten constitutional rights
6 are unconstitutional. Below are a few of its rulings on this subject to make the meaning perfectly clear:

7 “Legislation declaring that proof of one fact or group of facts shall constitute prima facie evidence of an
8 ultimate fact in issue is valid if there is a rational connection between what is proved and what is to be
9 inferred. A prima facie presumption casts upon the person against whom it is applied the duty of going
10 forward with his evidence on the particular point to which the presumption relates. A statute creating a
11 presumption that is arbitrary, or that operates to deny a fair opportunity to repel it, violates the due process
12 clause of the Fourteenth Amendment. Legislative fiat may not take the place of fact in the judicial
13 determination of issues involving life, liberty, or property. *Manley v. Georgia*, [279 U.S. 1](#), 49 S. Ct. 215, 73 L.
14 Ed. -, and cases cited.”
15 [\[Western and Atlantic Railroad v. Henderson, 279 U.S. 639 \(1929\)\]](#)

16
17 “[I]t is unconstitutional for a legislature to remove from the jury the assessment of facts that increase the
18 prescribed range of penalties to which a criminal defendant is exposed. It is equally clear that such facts must
19 be established by proof beyond a reasonable doubt.”
20 [McMillan v. Pennsylvania, 477 U.S. 79 (1986)]

21
22 It has always been recognized that the guaranty of trial by jury in criminal cases means that the jury is to be the
23 factfinder. This is the only way in which a jury can perform its basic constitutional function of determining the
24 guilt or innocence of a defendant. See, e. g., United States ex rel. Toth v. Quarles, [350 U.S. 11, 15](#) -19; Reid v.
25 Covert, [354 U.S. 1, 5](#) -10 (opinion announcing judgment). And of course this constitutionally established power
26 of a jury to determine guilt or innocence of a defendant charged with crime cannot be taken away by Congress,
27 directly or indirectly, in whole or in part. Obviously, a necessary part of this power, vested by the Constitution
28 in juries (or in judges when juries are waived), is the exclusive right to decide whether evidence presented at
29 trial is sufficient to convict. I think it flaunts the constitutional power of courts and juries for Congress to tell
30 them what “shall be deemed sufficient evidence to authorize conviction.” And if Congress could not thus directly
31 encroach upon the judge’s or jury’s exclusive right to declare what evidence is sufficient to prove the facts
32 necessary for conviction, it should not be allowed to do so merely by labeling its encroachment a
33 “presumption.” Neither Tot v. United States, [319 U.S. 463](#), relied [[380 U.S. 63, 78](#)] on by the Court as
34 supporting this presumption, nor any case cited in Tot approved such an encroachment on the power of judges
35 or juries. **In fact, so far as I can tell, the problem of whether Congress can so restrict the power of court and**
36 **jury in a criminal case in a federal court has never been squarely presented to or considered by this Court,**
37 **perhaps because challenges to presumptions have arisen in many crucially different contexts but**
38 **nevertheless have generally failed to distinguish between presumptions used in different ways, treating them**
39 **as if they are either all valid or all invalid, regardless of the rights on which their use may impinge.** Because
40 the Court also fails to differentiate among the different circumstances in which presumptions may be utilized
41 and the different consequences which will follow, I feel it necessary to say a few words on that subject before
42 considering specifically the validity of the use of these presumptions in the light of the circumstances and
43 consequences of their use.

44 In its simplest form a presumption is an inference permitted or required by law of the existence of one fact,
45 which is unknown or which cannot be proved, from another fact which has been proved. The fact presumed
46 may be based on a very strong probability, a weak supposition or an arbitrary assumption. The burden on the
47 party seeking to prove the fact may be slight, as in a civil suit, or very heavy - proof beyond a reasonable doubt
48 - as in a criminal prosecution. **This points up the fact that statutes creating presumptions cannot be treated as**
49 **fungible, that is, as interchangeable for all uses and all purposes. The validity of each presumption must be**
50 **determined in the light of the particular consequences that flow from its use. When matters of trifling**
51 **moment are involved, presumptions may be more freely accepted, but when consequences of vital importance**
52 **to litigants and to the administration of justice are at stake, a more careful scrutiny is necessary.** [[380 U.S.](#)
53 [63, 79](#)]

54 In judging the constitutionality of legislatively created presumptions this Court has evolved an initial
55 criterion which applies alike to all kinds of presumptions: that before a presumption may be relied on, there
56 must be a rational connection between the facts inferred and the facts which have been proved by competent
57 evidence, that is, the facts proved must be evidence which is relevant, tending to prove (though not
58 necessarily conclusively) the existence of the fact presumed. And courts have undoubtedly shown an
59 inclination to be less strict about the logical strength of presumptive inferences they will permit in civil cases

1 than about those which affect the trial of crimes. The stricter scrutiny in the latter situation follows from the
2 fact that the burden of proof in a civil lawsuit is ordinarily merely a preponderance of the evidence, while in
3 a criminal case where a man's life, liberty, or property is at stake, the prosecution must prove his guilt
4 beyond a reasonable doubt. See Morrison v. California, 291 U.S. 82, 96 -97. The case of Bailey v. Alabama,
5 219 U.S. 219, is a good illustration of this principle. There Bailey was accused of violating an Alabama statute
6 which made it a crime to fail to perform personal services after obtaining money by contracting to perform
7 them, with an intent to defraud the employer. The statute also provided that refusal or failure to perform the
8 services, or to refund money paid for them, without just cause, constituted "prima facie evidence" (i. e., gave
9 rise to a presumption) of the intent to injure or defraud. This Court, after calling attention to prior cases
10 dealing with the requirement of rationality, passed over the test of rationality and held the statute invalid on
11 another ground. Looking beyond the rational-relationship doctrine the Court held that the use of this
12 presumption by Alabama against a man accused of crime would amount to a violation of the Thirteenth
13 Amendment to the Constitution, which forbids "involuntary [380 U.S. 63, 80] servitude, except as a
14 punishment for crime." In so deciding the Court made it crystal clear that rationality is only the first hurdle
15 which a legislatively created presumption must clear - that a presumption, even if rational, cannot be used to
16 convict a man of crime if the effect of using the presumption is to deprive the accused of a constitutional
17 right.
18 [\[United States v. Gainly, 380 U.S. 63 \(1965\)\]](#)

19 The reason a statutory presumption that injures rights is unconstitutional was also revealed in the Federalist Papers, which
20 say on the subject:

21 "No legislative act [including a statutory presumption] contrary to the Constitution can be valid. To deny this
22 would be to affirm that the deputy (agent) is greater than his principal; that the servant is above the master;
23 that the representatives of the people are superior to the people; that men, acting by virtue of powers may do
24 not only what their powers do not authorize, but what they forbid...[text omitted] It is not otherwise to be
25 supposed that the Constitution could intend to enable the representatives of the people to substitute their will
26 to that of their constituents. It is far more rational to suppose, that the courts were designed to be an
27 intermediate body between the people and the legislature, in order, among other things, to keep the latter within
28 the limits assigned to their authority. The interpretation of the laws is the proper and peculiar province of the
29 courts. A Constitution is, in fact, and must be regarded by judges, as fundamental law. If there should
30 happen to be an irreconcilable variance between the two, the Constitution is to be preferred to the statute."
31 [Alexander Hamilton, Federalist Paper # 78]

32 The implication of the prohibition against statutory presumptions is that:

- 33 1. No natural person who is domiciled within a state of the Union and protected by the Bill of Rights may be victimized
34 or injured in any way by any kind of statutory presumption.
- 35 2. Statutory presumptions may only lawfully be applied against legal "persons" who do not have Constitutional rights,
36 which means corporations or those natural persons who are domiciled in the federal zone, meaning on land within
37 exclusive federal jurisdiction that is not protected by the First Ten Amendments to the United States Constitution. See
38 *Downes v. Bidwell*, 182 U.S. 244 (1901).
- 39 3. Any court which uses "judge made law" to do any of the following in the case of a natural person protected by the Bill
40 of Rights is involved in a conspiracy against rights:
 - 41 3.1. Imposes a statutory or judicial presumption.
 - 42 3.2. Extends or enlarges any definition in the Internal Revenue Code based on any arbitrary criteria.
 - 43 3.3. Invokes an interpretation of a definition within a code which may not be deduced directly from language in the
44 code itself.

45 The above inferences help establish who the only proper audience for the Internal Revenue Code is, which is federal
46 corporations, agents, and employees and those domiciled within the federal zone, and excluding those within states of the
47 Union. The reason is that those domiciled in the federal zone are not protected by the Bill of Rights. The only exception to
48 this rule is that any natural person who is domiciled in a state of the Union but who is exercising agency of a federal
49 corporation or legal "person" which has a domicile within the federal zone also may become the lawful subject of statutory
50 presumptions, but only in the context of the agency he is exercising. For instance, this is demonstrated in the document
51 below:

52 [Resignation of Compelled Social Security Trustee](http://sedm.org/Forms/FormIndex.htm), Form #06.002
53 <http://sedm.org/Forms/FormIndex.htm>

54 that those participating in the Social Security program are deemed to be "agents", "employees", and "fiduciaries" of the
55 federal corporation called the United States, which has a "domicile" in the federal zone (District of Columbia) under 4

1 U.S.C. §72. Therefore, unless and until they eliminate said agency using the above document, statutory presumptions may
2 be used against them without an unconstitutional result, but only in the context of the agency they are exercising.

3 **4 How Courts abuse presumption to Destroy Your Constitutional Rights**

4 **4.1 Purpose of Due Process: To completely remove “presumption” from legal proceedings**

5 All presumption which prejudices a right guaranteed by the Constitution represents a violation of Constitutional Due
6 Process. The only exception to this rule is if the Defendant is not covered by the Constitution because:

- 7 1. Domiciled in areas not covered by the Bill of Rights, such as federal territories, possessions, and the federal areas
8 within the states. These areas are called the “federal zone” in this memorandum.
- 9 2. Exercising agency of a corporation that is domiciled in the federal zone.

10 The above is also confirmed by reading Federal Rule of Civil Procedure Rule 17(b) , which says that the law to be applied
11 in a civil case must derive either from the law of the parties’ domicile or from the domicile of the corporation they are
12 acting as an agent for.

13 According to the Bible, “presumption” also happens to be a Biblical sin in violation of God’s law as well, which should
14 result in the banishment of a person from his society, which in today’s terms would mean a prison sentence:

15 *“But the person who does anything presumptuously, whether he is native-born or a stranger, that one brings*
16 *reproach on the LORD, and he shall be cut off from among his people.”*
17 *[Numbers 15:30, Bible, NKJV]*
18

19 *“Keep back Your servant also from **presumptuous** sins; Let them not have dominion over me. Then I shall be*
20 *blameless, And I shall be innocent of great transgression.”*
21 *[Psalms 19:13, Bible, NKJV]*
22

23 *“Now the man who acts presumptuously and will not heed the priest who stands to minister there before the*
24 *LORD your God, or the judge, that man shall die. So you shall put away the evil from Israel. 13 And all the*
25 *people shall hear and fear, and no longer act presumptuously.”*
26 *[Deut. 17:12-13, Bible, NKJV]*

27 We have therefore established that “presumption” which can injure others is something we should try very hard to avoid,
28 because it is a violation of both man’s law AND God’s law. The chief purpose of Constitutional “due process” is therefore
29 to completely remove injurious bias and the presumption that produces it from every legal proceeding in a court of law.
30 This is done by:

- 31 1. Preventing the application of any “statutory presumptions” that might prejudice the rights of the Defendant.
- 32 2. Insisting that every conclusion is based on physical and non-presumptive (not “prima facie”) evidence.
- 33 3. To apply the same rules of evidence equally against both parties.
- 34 4. Choosing jurists who are free from bias or prejudice during the voir dire (jury selection) process.
- 35 5. Choosing judges who are free from bias or prejudice during the voir dire process.
- 36 6. Counsel on both sides ensuring that all presumptions made by the opposing party are challenged in a timely manner at
37 all phases of the litigation.

38 You can tell when presumptions are being prejudicially used in a legal proceeding in federal court, for instance, when:

- 39 1. The judge or either party uses any of the following phrases:
 - 40 1.1. “Everyone knows. . .”
 - 41 1.2. “You knew or should have known...”
 - 42 1.3. “A reasonable [presumptuous] person would have concluded otherwise...”
- 43 2. The judge does not exclude the I.R.C. from evidence in the case involving a person who:
 - 44 2.1. Is not domiciled in the federal zone.

- 1 2.2. Has no employment, contracts, or agency with the federal government.
- 2 2.3. Who has provided evidence of the same above.
- 3 3. The judge allows the Prosecutor to throw accusations at the Defendant in front of the jury without insisting on evidence
- 4 to back it up.
- 5 4. The judge admits into evidence or cites a statutory presumption that prejudices your rights.

6 *"It is apparent,' this court said in the Bailey Case (219 U.S. 239, 31 S. Ct. 145, 151) 'that a constitutional*
 7 *prohibition cannot be transgressed indirectly by the creation of a statutory presumption any more than it can be*
 8 *violated by direct enactment. The power to create presumptions is not a means of escape from constitutional*
 9 *restrictions."*
 10 *[Heiner v. Donnan, 285 U.S. 312 (1932); Bailey v. Alabama, 219 U.S. 219, 238, et seq., 31 S. Ct. 145; Manley*
 11 *v. Georgia, 279 U.S. 1, 5-6, 49 S. Ct. 215.]*

- 12 5. A judge challenges your choice of domicile and/or citizenship. In such a case, the court is illegally involving itself in
- 13 what actually are strictly political matters and what is called "political questions". One's choice of domicile is a
- 14 political matter that may not be coerced or presumed to be anything other than what the subject himself has clearly and
- 15 unambiguously stated, both orally and on government forms. See our free memorandum of law below:

[Political Jurisdiction](http://sedm.org/Forms/FormIndex.htm), Form #05.004
<http://sedm.org/Forms/FormIndex.htm>

16 Unscrupulous government prosecutors will frequently make use of false presumption as their chief means of winning a tax
 17 case as follows:

- 18 1. They will choose a jury that is misinformed or under-informed about the law and legal process. This makes them into
- 19 sheep who will follow anyone.
- 20 2. They will use the ignorance and prejudices and the presumptions of the jury as a weapon to manipulate them into
- 21 becoming an angry "lynch mob" with a vendetta against the Defendant. This was the same thing that they did to Jesus.
- 22 See the free [Great IRS Hoax](#) book, section 5.4.3.5 entitled "Modern Tax Trials are religious 'inquisitions' and not valid
- 23 legal processes" available at: <http://famguardian.org/Publications/GreatIRSHoax/GreatIRSHoax.htm>.
- 24 3. They will make frequent use of "words of art" to deceive the jury into making false presumptions that will prejudice
- 25 the rights of the defendant.

26 *"The power to create presumptions is not a means of escape from constitutional restrictions,"*
 27 *[New York Times v. Sullivan, 376 U.S. 254 (1964)]*
 28

29 Most of these Some of these "words of art" are identified in the free [Great IRS Hoax](#), section 3.9.1 through 3.9.1.27
 30 available at: <http://famguardian.org/Publications/GreatIRSHoax/GreatIRSHoax.htm>.

- 31 4. They will:
- 32 4.1. Avoid defining the words they are using.
- 33 4.2. Prevent evidence of the meaning of the words they are using from entering the court record or the deliberations.
- 34 Federal judges will help them with this process by insisting that "law" may not be discussed in the courtroom.

35 A good judge will ensure that the above prejudice does not happen, because it is his primary duty to defend and protect the
 36 Constitutional rights of the parties consistent with his oath of office, which is as follows for federal judges:

37 *"I, _____, do solemnly swear and affirm that I will administer justice without regard to persons and do equal*
 38 *right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all of the duties*
 39 *incumbent upon me as _____ under the Constitution and laws of the United States, and that I will*
 40 *support and defend the Constitution of the United States against all enemies foreign and domestic, that I will*
 41 *bear true faith and allegiance to the same, and that I take this obligation freely without any mental reservation*
 42 *or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about*
 43 *to enter. So help me God."*

44 Judges must be especially vigilant of the requirements of the Constitution where the matter involves taxation and where
 45 there is no jury or where any one in the jury is either a "taxpayer" or a recipient of government benefits. He must do so in
 46 order to avoid violation of 18 U.S.C. §597, which forbids bribing of voters, since jurists are a type of voter. However, as a
 47 practical matter, we have observed that there are not have many good judges who will be this honorable in the context of a
 48 tax trial because their pay and retirement, they think, depends on a vigorous illegal enforcement of the Internal Revenue
 49 Code in violation of 28 U.S.C. §455.

1 [TITLE 28 > PART I > CHAPTER 21 > § 455](#)
2 [§ 455. Disqualification of justice, judge, or magistrate judge](#)

3 (a) Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in
4 which his impartiality might reasonably be questioned.

5 (b) He shall also disqualify himself in the following circumstances:

6 [. . .]

7 (4) He knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has
8 a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest
9 that could be substantially affected by the outcome of the proceeding;

10 Most of the injustice that occurs in federal courtrooms across the country relating to income taxation occurs primarily
11 because the above statute is violated. This statute wasn't always violated. It was only in the 1930's that federal judges
12 became "taxpayers". Before that, they were completely independent, which is why most people were not "taxpayers"
13 before that. For details on this corruption of our judiciary, see the free book [Great IRS Hoax](#), sections 6.5.15, 6.5.18, 6.8.2
14 through 6.9.12:

15 <http://famguardian.org/Publications/GreatIRSHoax/GreatIRSHoax.htm>

16 The U.S. Supreme Court has declared that judges must be alert to prevent such unconstitutional encroachments upon the
17 sacred Constitutional Rights of those domiciled in the states of the Union, when it gave the following warning, which has
18 gone largely unheeded by federal circuit and district courts since then:

19 *"It may be that it...is the obnoxious thing in its mildest and least repulsive form; but illegitimate and*
20 *unconstitutional practices get their first footing in that way; namely, by silent approaches and slight*
21 *deviations from legal modes of procedure. This can only be obviated by adhering to the rule that*
22 *constitutional provisions for the security of person and property should be liberally construed. A close and*
23 *literal construction deprives them of half their efficacy, and leads to gradual depreciation of the right, as if it*
24 *consisted more in sound than in substance. It is the duty of the courts to be watchful for the constitutional*
25 *rights of the citizens, and against any stealthy encroachments thereon. Their motto should be obsta*
26 *principalis," [Mr. Justice Brewer, dissenting, quoting Mr. Justice Bradley in Boyd v. United States, 116 U.S.*
27 *616, 29 L.Ed. 746, 6 Sup.Ct.Rep. 524]*
28 *[Hale v. Henkel, 201 U.S. 43 (1906)]*

29 **4.2 The Worst Presumption Of All: That "private law" is "law" for those not subject to it**

30 Among the types of evidence that may be introduced in a court setting to establish guilt include quoting the enacted law
31 itself. Evidence based upon "law" only becomes admissible when the law cited is "positive law".

32 *"Positive law. Law actually and specifically enacted or adopted by proper authority for the government of an*
33 *organized jural society. See also Legislation."*
34 *[Black's Law Dictionary, Sixth Edition, p. 1162]*

35 Evidence that is NOT positive law, becomes "prima facie" evidence, which means that it is "presumed" to be evidence
36 unless challenged or rebutted:

37 [TITLE 1 > CHAPTER 3 > § 204](#)
38 [§ 204. Codes and Supplements as evidence of the laws of United States and District of Columbia: citation of](#)
39 [Codes and Supplements](#)

40 *In all courts, tribunals, and public offices of the United States, at home or abroad, of the District of Columbia,*
41 *and of each State, Territory, or insular possession of the United States—*

42 *(a) United States Code.— The matter set forth in the edition of the Code of Laws of the United*
43 *States current at any time shall, together with the then current supplement, if any,*
44 *establish prima facie the laws of the United States, general and permanent in their*
45 *nature, in force on the day preceding the commencement of the session following the last*
46 *session the legislation of which is included: **Provided, however, That whenever titles of***

1 such Code shall have been enacted into positive law the text thereof shall be legal
2 evidence of the laws therein contained, in all the courts of the United States, the several
3 States, and the Territories and insular possessions of the United States.

4 The above statute, which is “positive law”, establishes what is called a “statutory presumption” that courts are obligated to
5 observe. The statute above creates the notion of “prima facie” evidence. “Prima facie evidence” is defined below:

6 *“Prima facie evidence. Evidence good and sufficient on its face. Such evidence as, in the judgment of the law,*
7 *is sufficient to establish a given fact, or the group or chain of facts constituting the party’s claim or defense, and*
8 *which if not rebutted or contradicted, will remain sufficient. Evidence which, if unexplained or uncontradicted,*
9 *is sufficient to sustain a judgment in favor of the issue which it supports, but which may be contradicted by*
10 *other evidence. State v. Haremza, 213 Kan. 201, 515 P.2d 1217, 1222.*

11 *That quantum of evidence that suffices for proof of a particular fact until the fact is contradicted by other*
12 *evidence; once a trier of fact is faced with conflicting evidence, it must weigh the prima facie evidence with all*
13 *the other probative evidence presented. Godesky v. Provo City Corp., Utah, 690 P.2d 541, 547. Evidence*
14 *which, standing alone and unexplained, would maintain the proposition and warrant the conclusion to support*
15 *which it is introduced. An inference or presumption of law, affirmative or negative of a fact, in the absence of*
16 *proof, or until proof can be obtained or produced to overcome the inference. See also Presumptive evidence.”*
17 *[Black’s Law Dictionary, Sixth Edition, p. 1190]*

18 A “statutory presumption” is one that occurs in a court of law because it is mandated by a positive law statute. The U.S.
19 Supreme Court has ruled that “statutory presumptions”, such as [1 U.S.C. §204](#) above, which prejudice constitution rights
20 are forbidden:

21 *“A rebuttable presumption clearly is a rule of evidence which has the effect of shifting the burden of proof,*
22 *Mobile, J. & K. C. R. Co. v. Turnipseed, 219 U.S. 35, 43, 31 S. Ct. 136, 32 L. R. A. (N. S.) 226, Ann. Cas.*
23 *1912A, 463; and it is hard to see how a statutory rebuttable presumptions is turned from a rule of evidence*
24 *into a rule of substantive law as the result of a later statute making it conclusive. In both cases it is a*
25 *substitute for proof; in the one open to challenge and disproof, and in the other conclusive. However,*
26 *whether the latter presumption be treated as a rule of evidence or of substantive law, it constitutes an*
27 *attempt, by legislative fiat, to enact into existence a fact which here does not, and cannot be made to, exist in*
28 *actuality, and the result is the same, unless we are ready to overrule the Schlesinger Case, as we are not; for*
29 *that case dealt with a conclusive presumption, and the court held it invalid without regard to the question of its*
30 *technical characterization. This court has held more than once that a statute creating a presumption which*
31 *operates to deny a fair opportunity to rebut it violates the due process clause of the Fourteenth Amendment.*
32 *For example, Bailey v. Alabama, 219 U.S. 219, 238, et seq., 31 S. Ct. 145; Manley v. Georgia, 279 U.S. 1, 5-6,*
33 *49 S. Ct. 215.*

34 *‘It is apparent,’ this court said in the Bailey Case (219 U.S. 239, 31 S. Ct. 145, 151) ‘that a*
35 *constitutional prohibition cannot be transgressed indirectly by the creation of a statutory*
36 *presumption any more than it can be violated by direct enactment. The power to create*
37 *presumptions is not a means of escape from constitutional restrictions.’*

38 *“If a legislative body is without power to enact as a rule of evidence a statute denying a litigant the right to*
39 *prove the facts of his case, certainly the power cannot be made to emerge by putting the enactment in the guise*
40 *of a rule of substantive law.”*
41 *[Heiner v. Donnan, 285 U.S. 312 (1932)]*

42 The U.S. Supreme Court has also ruled that statutes like [1 U.S.C. §204](#) impose the burden of proof upon the party who cites
43 that which is not “positive law” or which is “prima facie” evidence of law as authority in a case, in cases where
44 constitutional rights are at issue. To wit:

45 *“Legislation declaring that proof of one fact of group of facts shall constitute prima facie evidence of an*
46 *ultimate fact in issue is valid if there is a rational connection between what is proved and what is to be*
47 *inferred. A prima facie presumption casts upon the person against whom it is applied the duty of going*
48 *forward with his evidence on the particular point to which the presumption relates. A statute creating a*
49 *presumption that is arbitrary, or that operates to deny a fair opportunity to repel it, violates the due process*
50 *clause of the Fourteenth Amendment.* *Legislative fiat may not take the place of fact in the judicial*
51 *determination of issues involving life, liberty, or property. Manley v. Georgia, 279 U.S. 1, 49 S. Ct. 215, 73 L.*
52 *Ed. -, and cases cited.”*
53 *[Western and Atlantic Railroad v. Henderson, 279 U.S. 639 (1929).]*

54 [1 U.S.C. §204](#) lists the Titles of the U.S. Code that are positive law. The Internal Revenue Code (I.R.C.) is not listed, and
55 therefore, it is simply “presumed” to be law until challenged or proven otherwise. That challenge has to come from you,

1 because it will NEVER come from the government. Who would look a gift horse in the mouth? The statutory
2 “presumption” that the I.R.C. is “law” may not be used to prejudice or undermine the Constitutional rights of a person, as
3 shown above. Therefore, it may only be cited in the case of persons who are “taxpayers”, which means persons who are
4 subject to it. Those who are not subject to it because “nontaxpayers” may not have it cited against them without proof on
5 the record that:

- 6 1. Proof appears on the record that the affected party performed some act that made them subject to it.
- 7 2. The section cited is “positive law”. This would require going back to the Statute At Large from which the section
8 derives and showing that this section is “positive law”.

9 Most people who are challenged by the government using a section of the I.R.C. as authority wrongfully “presume” that it
10 is “law” or “positive law” without even challenging this fact. This has the effect of relieving the government from the
11 burden of proving that the section they are citing is “positive law”, thereby prejudicing and destroying their Constitutional
12 rights. We must remember that the I.R.C. is:

- 13 1. “Private law” and “special law” that only applies to parties who consent individually to it, either in writing or based on
14 their behavior. In that sense, it behaves as a contract, and not a public law.
- 15 2. NOT “law” for a “nontaxpayer” and may not be cited against a “nontaxpayer”. See section 6.1 later for details.

16 The I.R.C. is as “foreign” as the laws of China are to an American if the subject is a “nontaxpayer”. It is just like the
17 Criminal Laws in fact, which a party can only become subject to by committing a “crime” defined therein.

18 *“The revenue laws are a code or system in regulation of tax assessment and collection. They relate to taxpayers,
19 and not to nontaxpayers. The latter are without their scope. No procedure is prescribed for nontaxpayers, and
20 no attempt is made to annul any of their rights and remedies in due course of law. With them Congress does not
21 assume to deal, and they are neither of the subject nor of the object of the revenue laws...”*
22 *[Long v. Rasmussen, 281 F. 236 (1922)]*

23 The Internal Revenue Code contains several statutory presumptions. Below is an example:

24 [TITLE 26](#) > [Subtitle F](#) > [CHAPTER 76](#) > [Subchapter E](#) > § 7491
25 [§ 7491. Burden of proof](#)

26 **(a)** *Burden shifts where taxpayer produces credible evidence*

27 **(1)** *General rule*

28 *If, in any court proceeding, a taxpayer introduces credible evidence with respect to any factual issue relevant to*
29 *ascertaining the liability of the taxpayer for any tax imposed by subtitle A or B, the Secretary shall have the*
30 *burden of proof with respect to such issue.*

31 **(2)** *Limitations*

32 *Paragraph (1) shall apply with respect to an issue only if—*

33 **(A)** *the taxpayer has complied with the requirements under this title to substantiate any*
34 *item;*

35 **(B)** *the taxpayer has maintained all records required under this title and has cooperated*
36 *with reasonable requests by the Secretary for witnesses, information, documents,*
37 *meetings, and interviews; and*

38 **(C)** *in the case of a partnership, corporation, or trust, the taxpayer is described in section*
39 [7430 \(c\)\(4\)\(A\)\(ii\).](#)

40 *Subparagraph (C) shall not apply to any qualified revocable trust (as defined in section 645 (b)(1)) with respect*
41 *to liability for tax for any taxable year ending after the date of the decedent’s death and before the applicable*
42 *date (as defined in section 645 (b)(2)).*

1 (3) Coordination

2 Paragraph (1) shall not apply to any issue if any other provision of this title provides for a specific burden of
3 proof with respect to such issue.

4 If you would like to learn more about the subjects in this section, please refer to our free memorandum of law below:

Requirement for Consent, Form #05.003
<http://sedm.org/Forms/MemLaw/Consent.pdf>.

5 **4.3 Unconstitutional Judicial Presumptions Commonly Used in Federal Court**

6 The bedrock of our system of jurisprudence is the fundamental presumption of “innocent until proven guilty beyond a
7 reasonable doubt”.

8 *The presumption of innocence, although not articulated in the Constitution, is a basic component of a fair trial*
9 *under our system of criminal justice. Long ago this Court stated:*

10 *The principle that there is a presumption of innocence in favor of the accused is the undoubted law, axiomatic*
11 *and elementary, and its enforcement lies at the foundation of the administration of our criminal law.*
12 *[Coffin v. United States, 156 U.S. 432, 453 (1895).]*

13 The Fifth Amendment to the U.S. Constitution then guarantees us a right of due process of law. Fundamental to the notion
14 of due process of law is the absence of presumption of fact or law. Absolutely everything that is offered as proof or
15 evidence of guilt must be demonstrated and revealed with evidence, and nothing can or should be based on presumption, or
16 especially false presumption. The extent to which presumption is used to establish guilt absent evidence or as a
17 substitute for evidence is therefore the extent to which our due process rights have been violated. Black’s Law
18 Dictionary, Sixth Edition, on page 500 under the term “due process” confirms these conclusions:

19 *“If any question of fact or liability be conclusively be presumed [rather than proven] against him, this is not*
20 *due process of law.”*
21 *[Black’s Law Dictionary, Sixth Edition, p. 500 under “due process”]*

22 In our legal system, our Courts and judges go out of their way to create and perpetuate false presumptions to bias the legal
23 system in their favor, and in so doing, based on the above, they commit a grave sin and violation of God’s laws and stare
24 decisis on the matter. The only reason they get away with this tyranny in most cases is because of our own legal ignorance
25 along with corrupted government judges and lawyers who allow and encourage and facilitate this kind of abuse of our due
26 process rights. Below are some examples of how they do this:

27 1. False presumptions that the Internal Revenue Code is law. The Internal Revenue Code has not been enacted into
28 positive law. It says that at the beginning of the Title. Any title not enacted into “positive law” is described as “prima
29 facie evidence” of law. That means it is “presumptive” evidence that is rebuttable:

30 *“Prima facie. Lat. At first sight on the first appearance; on the face of it; so far as can be judged from the first*
31 *disclosure; presumably; a fact presumed to be true unless disproved by some evidence to the contrary. State*
32 *ex rel. Herbert v. Whims, 68 Ohio App. 39, 38 N.E.2d 596, 499, 22 O.O. 110. See also Presumption.”*
33 *[Black’s Law Dictionary, Sixth Edition, p. 1189]*

34 Since Christians are not allowed to presume anything, then they can’t be allowed to presume that the Internal Revenue
35 Code is “law” or that it even applies to them. Technically, the Internal Revenue Code can only be described as a
36 “statute” or “code”, but not as “law”. Here is the way the Supreme Court describes it:

37 *“To lay, with one hand, the power of the government on the property of the citizen, and with the other to bestow*
38 *it upon favored individuals to aid private enterprises and build up private fortunes, is none the less a robbery*
39 *because it is done under the forms of law and is called taxation. This is not legislation. It is a decree under*
40 *legislative forms.*

41 *Nor is it taxation. ‘A tax,’ says Webster’s Dictionary, ‘is a rate or sum of money assessed on the person or*
42 *property of a citizen by government for the use of the nation or State.’ ‘Taxes are burdens or charges*

1 imposed by the Legislature upon persons or property to raise money for public purposes.’ Cooley, Const.
2 Lim., 479.”
3 [Loan Association v. Topeka, 20 Wall. 655 (1874)]

4 Law is evidence of explicit consent by the people. For a statute to be enacted into positive law, a majority of the
5 people or their representatives must consent to it by voting in favor of it. When a statute is not enacted into positive
6 law, this simply means that the people never collectively and explicitly consented to the enforcement of it.
7 Consequently, they cannot be expected to accept any adverse impact on their rights that such legislation but not “law”
8 might have on them. In a system of government based only on consent of the governed such as we have, such
9 “legislation” and “presumptive evidence of law” is unenforceable and becomes mainly a political statement of public
10 policy but *not* law. This is a polite way of saying that the Internal Revenue Code is simply an unenforceable, state-
11 sponsored federal voluntary religion that has no force on the average American. Like the Bible itself, the Internal
12 Revenue Code therefore only applies to people who volunteer or choose to “believe” in or accept its terms. To treat the
13 I.R.C. any other way is essentially to hurt your neighbor and disrespect his sovereignty and his rights. Christians don’t
14 force things upon others who never consented. People in the legal profession and the tax profession will readily and
15 frequently sin all the time by making false presumptions about the liability of people under Internal Revenue Code and
16 they will falsely assume that the I.R.C. is “law”. Indirectly, they are falsely “presuming” that the target of the IRS
17 enforcement action “consented”, which is a complete lie in most cases. This type of presumptuous behavior is
18 forbidden to Christians under God’s law because it violates the second great commandment to love our neighbor and
19 not hurt him (see Bible, Gal. 5:14). Consequently, the Internal Revenue Code cannot be treated as “law” by Christians
20 and shouldn’t be treated as “law” by the courts either. To do so would constitute sin and idolatry toward any judge that
21 might try to coerce either jurists or the accused to make such “presumptions”. Since the I.R.C. is “presumptive
22 evidence” of law, the easy way to disprove that it is law is to demand evidence that the people consented to it. The
23 Supreme Court said the Sixteenth Amendment didn’t constitute evidence of consent. The Congress cannot enact a law
24 that applies in states of the Union without explicit evidence of consent found in the Constitution, and there is none
25 according to the Supreme Court. If you would like to know more about the subject of the Internal Revenue Code not
26 being “law”, see sections 5.4.1 through 5.4.1.4 later.

- 27 2. Court jurisdiction presumptions. If you appear in front of a federal court that has no jurisdiction over you and you
28 make a “general appearance” and do not challenge jurisdiction, you are “presumed” to voluntarily consent to the
29 jurisdiction of the court, even though that court in most cases doesn’t have any jurisdiction whatsoever over you,
30 including in personam or subject matter jurisdiction.

31 appearance. *A coming into court as a party to a suit, either in person or by attorney, whether as plaintiff or*
32 *defendant. The formal proceeding by which a defendant submits himself to the jurisdiction of the court. The*
33 *voluntary submission to a court's jurisdiction.*

34 *In civil actions the parties do not normally actually appear in person, but rather through their attorneys (who*
35 *enter their appearance by filing written pleadings, or a formal written entry of appearance). Also, at many*
36 *stages of criminal proceedings, particularly involving minor offenses, the defendant's attorney appears on his*
37 *behalf. See e.g., Fed.R.Crim.P. 43.*

38 *An appearance may be either **general** or **special**; the former is a simple and unqualified or unrestricted*
39 *submission to the jurisdiction of the court, the latter is a submission to the jurisdiction for some specific*
40 *purpose only, not for all the purposes of the suit. A special appearance is for the purpose of testing or objecting*
41 *to the sufficiency of service or the jurisdiction of the court over defendant without submitting to such*
42 *jurisdiction; a general appearance is made where the defendant waives defects of service and submits to the*
43 *jurisdiction of court. Insurance Co. of North America v. Kunin, 175 Neb. 260, 121 N.W.2d 372, 375, 376.*
44 *[Black’s Law Dictionary, Sixth Edition, p. 97]*

45 Your ignorant and/or greedy attorney won’t even tell you that you have the option to make a *special* appearance
46 instead of a general appearance or to challenge jurisdiction because it would threaten his profits and maybe even his
47 license to practice law. You have to know this, and what you don’t know will *definitely* hurt you! However, even
48 some federal courts admit the real truth of this matter:

49 *“There is a presumption against existence of federal jurisdiction; thus, party invoking federal court’s*
50 *jurisdiction bears the burden of proof. 28 U.S.C.A. §§ 1332, 1332(c); Fed.Rules.Civ.Proc. rule 12(h)(3), 28*
51 *U.S.C.A.”*

1 "If parties do not raise question of lack of jurisdiction, it is the duty of the federal court to determine the matter
2 sua sponte. 28 U.S.C.A. §1332."

3 "Lack of jurisdiction cannot be waived and jurisdiction cannot be conferred upon a federal court by consent,
4 inaction, or stipulation. 28 U.S.C.A. §1332."

5 "Although defendant did not present evidence to support dismissal for lack of jurisdiction, burden rested with
6 plaintiffs to prove affirmatively that jurisdiction did exist. 28 U.S.C.A. §1332."
7 [Basso v. Utah Power and Light Company, 495 F.2d 906 (1974)]

- 8 3. Presumption of correctness of IRS assessments. The federal courts assume that the IRS' assessments are correct, but
9 the IRS must provide facts to support the assessment and it must appear on a 23C assessment form that is signed and
10 certified by an assessment officer.

11 "The tax collector's presumption of correctness has a Herculean masculinity of Goliathlike reach, but
12 we strike an Achilles' heel when we find no muscles, no tendons, no ligaments of fact." [Portillo v. C.I.R., 932
13 F.2d 1128 (5th Cir. 1991)]

14 "Presumption of correctness which attends determination of Commissioner of Internal Revenue may be
15 rebutted by showing that such determination is arbitrary or erroneous."
16 [United States v. Hover, 268 F.2d 657 (1959)]

17 However, the presumption of correctness is easily overcome by looking at the government's own audits of the IRS.
18 There are several documents on the Family Guardian website from the General Accounting Office (GAO) showing
19 that the IRS is unable to properly account for its revenues or protect the security of its taxpayer records. Presenting
20 these reports in court is a sure way to derail the presumption of correctness of any alleged assessment the IRS may say
21 they have on you. You can examine these reports for yourself on the website at:

22 <http://famguardian.org/PublishedAuthors/Govt/GAO/GAO.htm>

- 23 4. U.S. Supreme Court "cert denied" presumptions. When a case is lost at the federal district or circuit court level,
24 frequently it is appealed to the U.S. Supreme Court on what is called a "writ of certiorari". When the Supreme Court
25 doesn't want to hear the case, they will "deny the cert", which is often abbreviated "cert denied". A famous and evil
26 and unethical tactic by the IRS and DOJ is to cite as an authority a "cert denied" and then "presume" or "assume" that
27 because the Supreme Court wouldn't hear the appeal, then they agree with the findings of the lower court. An example
28 of that tactic is found in the IRS' famous document on their website entitled The Truth About Frivolous Tax
29 Arguments, for instance, which is rebutted on the website at:
30 http://famguardian.org/PublishedAuthors/Govt/IRS/friv_tax_rebuts.pdf. However, this fallacious logic simply is *not* a
31 valid presumption or inference to make absent a detailed explanation from the Supreme Court *itself* of why they denied
32 the cert, and frequently they won't explain why they denied the appeal because it would be a public embarrassment for
33 the government to do so! For instance, if a person declares themselves to be a "nontaxpayer" and a "nonresident
34 alien", does not file a return, and challenges the authority of the IRS and litigates his case all the way up to the
35 Supreme Court to prove that the IRS has no assessment authority on him, do you think the Supreme Court is going to
36 want most Americans to hear the truth by ruling in his favor and causing our income tax system to self-destruct? Rule
37 10 of the U.S. Supreme Court reveals *some*, but not *all* of the reasons why they might deny a cert., but there are a lot
38 more reasons they don't list, and the rule even admits that the reasons listed are incomplete. The bold-faced type
39 emphasizes the point we are trying to make here:

40 **Rule 10. Considerations Governing Review on Writ of Certiorari**

41 *Review on a writ of certiorari is not a matter of right, but of judicial discretion. A petition for a writ of*
42 *certiorari will be granted only for compelling reasons. The following, **although neither controlling nor fully***
43 *measuring the Court's discretion, indicate the character of the reasons the Court considers:*

44 (a) *a United States court of appeals has entered a decision in conflict with the decision of another*
45 *United States court of appeals on the same important matter; has decided an important federal*
46 *question in a way that conflicts with a decision by a state court of last resort; or has so far departed*
47 *from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a*
48 *lower court, as to call for an exercise of this Court's supervisory power;*

1 (b) a state court of last resort has decided an important federal question in a way that conflicts with
2 the decision of another state court of last resort or of a United States court of appeals;

3 (c) a state court or a United States court of appeals has decided an important question of federal law
4 that has not been, but should be, settled by this Court, or has decided an important federal question
5 in a way that conflicts with relevant decisions of this Court.

6 **A petition for a writ of certiorari is rarely granted when the asserted error consists of erroneous factual**
7 **findings or the misapplication of a properly stated rule of law.**

8 In the above, DISCRETION=REASON. The above list of reasons, by the court's own admission, is *incomplete*.
9 Furthermore, there is no Supreme Court rule that says they have to list ALL their reasons for not granting a writ. This
10 very defect, in fact, is how the government has transformed us into a society of men and no laws, in conflict with the
11 intent of the founding fathers expressed in *Marbury v. Madison*, 5 U.S. 137 (1803):

12 *"The Government of the United States has been emphatically termed a government of laws, and not of men.*
13 *It will certainly cease to deserve this high appellation if the laws furnish no remedy for the violation of a vested*
14 *legal right."*
15 [*Marbury v. Madison*, 5 U.S. 137 (1803)]

16 So don't let the IRS trick you into "assuming" that the supreme court agreed with them if an appeal was denied to it
17 from a lower court that was ruled in the IRS' favor. The lower courts are obligated to follow the precedents
18 established by the Supreme Court but frequently they don't. Rulings against gun ownership and the pledge of
19 allegiance in 2002 coming from the radical and socialist Ninth Circuit Court of Appeals are good examples that
20 contradict such a conclusion.

- 21 5. "U.S. citizen" presumptions. There is a very common misconception that we are all "U.S. citizens". In most cases,
22 judges will insist that the only way that you cannot be one is if you meet the burden of proving that you *aren't*. This
23 presumption is *completely false* and is undertaken to illegally pull you inside the corrupt jurisdiction of the federal
24 courts in order to rape and pillage your liberty and your property.

25 *"Unless the defendant can prove he is **not** a citizen of the United States, the IRS has the right to inquire and*
26 *determine a tax liability."*
27 [*U.S. v. Slater*, 545 Fed. Supp. 179,182 (1982)]

- 28 6. Burden of proof presumptions. Internal Revenue Code section 7491 places the burden of proving nonliability on the
29 "taxpayer". Note that this section of the code never requires the government to first prove that a natural person is a
30 "taxpayer" BEFORE the burden of proof is shifted to the taxpayer. Here is the content of that section:

31 *"If, in any court proceeding, a taxpayer introduces credible evidence with respect to any factual issue relevant*
32 *to ascertaining the liability of the taxpayer for any tax imposed by subtitle A or B, the Secretary shall have the*
33 *burden of proof with respect to such issue."*
34 [*26 U.S.C. §7491*]

35 There are many other similar "presumptions" like those above that we haven't documented. We include these here only as
36 examples so you can see how the scandal and violation of your rights and liberties is perpetrated by evil tyrants in our
37 government who have transformed it into a socialist beast. Whatever the case, the Bible is very explicit about what we
38 should do with those who act presumptuously: *Rebuke and banish them from society*. What does this mean in the case of
39 juries and during court trials? It means that during the voir dire process of interviewing the jurors and the judges, they must
40 both be asked about their presumptions and biases, and those who have such biases and presumptions should be banished
41 from the jury and the case. If the judge has a bias or presumption in favor of the government's position, such as those listed
42 above, then he too should be removed for conflict of interest under [28 U.S.C. §455](#) and bias and prejudice under [28 U.S.C.](#)
43 [§144](#). Likewise, if you ever hear a government prosecutor use the phrase "everyone knows", then a BIG red flag should go
44 up in your mind's eye because you are dealing with a presumption. When this happens in a courtroom, you ought to stand
45 up and object to such nonsense immediately because your WICKED opponent is trying to frame you with presumptions and
46 thereby violate your due process rights under the Fifth Amendment!

47 The reason this memorandum of law is so large and extensive in its research and authorities is because we have made a
48 disciplined effort to avoid presumptions. We have, in fact, used evidence derived from the government's own laws,

1 spokespersons, and courts to prove nearly every point we make in this book. This ensures that you don't have to "assume"
2 anything and can examine the facts and evidence for yourself and reach your own independent conclusions about the truth
3 of what we are saying. In effect, we have pretended that we are the prosecuting attorney and you are the jury and the
4 "court" is the "court of public opinion". This provides excellent practice and preparation for a real trial, because we assume
5 these materials will also be used in a real court to prosecute specific government servants for wrongdoing.

6 **4.4 How corrupted judges encourage and reward presumptions by jurists in the courtroom**

7 Federal judges have developed some rather effective and prevalent techniques for encouraging and rewarding the use of
8 prejudicial presumption in federal courtrooms in the context of taxation so as to turn a legal proceeding essentially into a
9 political proceeding, whereby the jury does the illegal lynching for him. Below are a few of the more common techniques:

- 10 1. Refusing to allow "law" to be discussed in the courtroom in front of a jury.
- 11 2. Refusing to allow jurists serving on jury duty to read the law.
- 12 3. Sanctioning and penalizing counsel who discuss the law during trials, under Federal Rules of Civil Procedure Rule 11.

13 If you would like to read a real-life trial transcript whereby a judge did exactly the above, see:

14 <http://famguardian.org/Subjects/Taxes/CaseStudies/PhilRoberts/PhilRoberts.htm>

15 After law is removed from tax trials, the only thing that remains is presumption and ignorance as the means of decision,
16 which will always produce injustice, prejudice, and unlawful decisions from jurists.

17 *"One who turns his ear from hearing the law [God's law or man's law], even his prayer is an abomination."*
18 *[Prov. 28:9, Bible, NKJV]*

19 **4.5 How Presumption turns Courts into Federal Churches in violation of the First Amendment**

20 "Presumption", when it is left to operate unchecked in a federal court proceeding:

- 21 1. Has all the attributes of religious "faith". Religious faith is simply a belief in anything that can't be demonstrated with
22 physical evidence absent presumption.
- 23 2. Turns the courtroom into a federal "church", and the judge into a "priest".
- 24 3. Produces a "political religion" when exercised in the courtroom.
- 25 4. Corrupts the court and makes it essentially into a political, and not a legal tribunal.
- 26 5. Violates the separation of powers doctrine, which was put in place to protect our rights from such encroachments.

27 If you would like to investigate the fascinating matter further of how the abuse of presumption in federal courtrooms has
28 the affect of creating a state-sponsored religion in violation of the First Amendment Establishment Clause, please consult:

- 29 1. Our free memorandum of law below:
30 [Socialism: The New American Civil Religion](http://sedm.org/Forms/FormIndex.htm), Form #05.016
<http://sedm.org/Forms/FormIndex.htm>
- 31 2. The free *Great IRS Hoax* book, sections 5.4 through 5.4.3.6 below:
<http://famguardian.org/Publications/GreatIRSHoax/GreatIRSHoax.htm>

32 We strongly encourage you to rebut the evidence contained in the above references and send us the rebuttal along with
33 court-admissible evidence upon which it is based.

34 **5 Prohibitions upon presumption in gathering court-admissible evidence**

35 **5.1 Rules of Evidence designed to completely remove presumption**

36 The chief purpose of the Federal Rules of Evidence (Fed.Rule.Evid.) is to completely remove presumption from legal due
37 process so as to remove bias or prejudice from the finders of fact and witnesses.

3 The Federal Rules of Evidence indirectly agree with these conclusions when they explain their purpose:

4 Federal Rules of Evidence
5 Rule 102. Purpose and Construction

6 *These rules shall be construed to secure fairness in administration, elimination of unjustifiable expense and*
7 *delay, and promotion of growth and development of the law of evidence to the end that the truth may be*
8 *ascertained and proceedings justly determined.*

9 The statement above doesn't define "fairness", but the implication is that nothing can be fair which is based on an
10 unsubstantiated assumption or presumption. They don't tie "presumption" to the concept of fairness because they don't
11 want you to notice when the judge and U.S. attorney are abusing it to prejudice your Constitutional rights, which is most of
12 the time.

13 This purpose of eliminating presumption from legal proceedings explains why the Federal Rules of Evidence:

- 14 1. Require all witnesses to have a personal knowledge of the facts that they are testifying about. Fed.Rule.Evid. Rule
15 602. Absence of personal knowledge would simply encourage and reward false or unsubstantiated presumption.
- 16 2. Prohibit "leading questions" to witnesses. Fed.Rule.Evid. Rule 611(c).
- 17 3. Do not allow religious beliefs to be used to discredit or enhance the credibility of witnesses. Fed.Rule.Evid. Rule 610.
18 Since religious beliefs cannot be substantiated with evidence, then they are themselves in effect "presumptions" on the
19 part of the believer.
- 20 4. Statements of third parties, which is called "hearsay", are excluded under the "Hearsay Rule". Fed.Rule.Evid. Rule
21 802. Such statements essentially amount to unsubstantiated opinions or presumptions that may not be used as
22 evidence.

23 **5.2 Abuse of Presumption As Part of Legal Discovery**

24 Presumption is a favorite technique used by less than scrupulous attorneys in order to get answers or establish facts that
25 they wish to establish during legal discovery. The presumptions a packaged essentially as "loaded questions" that presume
26 a fact and, if not challenged but rather answered, establish the fact. For instance, below are a few such questions.

- 27 1. "**Have you stopped beating your wife yet?**". Whether you answer "Yes" or "No" to the question, you still admit the
28 premise of the question, which is that you are beating your wife. The only way to avoid admitting the premise is to
29 respond by directly challenging the premise, such as by saying "I never have and never will beat my wife, ever."
- 30 2. "**Have you always violated the law?**". Whether you answer "Yes" or "No" to the question, you still admit the
31 premise of the question, which is that you violated the law. The only way to avoid admitting the premise is to respond
32 by directly challenging the premise, such as by saying "I never have and never will violate the law, ever."
- 33 3. "**Do you _____ (verb)?**". The blank part of this question contains a verb which the questioner refuses to define,
34 and leaves it to you to presume the meaning of. If you do not ask for a definition, then you are essentially presuming
35 or assuming that you agree with the questioner's presumptions about what he thinks the word means, or that you know
36 what he means, which in fact is rarely the case.
- 37 4. "**Isn't this _____ (adjective)?**" When an adjective is used to describe a behavior whose definition is not
38 established at the time of the question, then the witness essentially consents to accept or presume the truth of whatever
39 definition the deposing counsel places upon the word later in the litigation. This gives a license to the deposing
40 counsel to define the word prejudicially later, or to associate the admission with something that is prejudicial or
41 presumptuously prejudicial.

42 Whenever the above tactics are employed, if the witness either refuses to answer the question or does not deny the question
43 or does not ask for a definition of the presumptuous word or words that are being used, then he has created or at least
44 rewarded and encouraged any one of the following types of presumptions"

- 45 1. If the witness refuses to answer the question, then it the questioner will assume that the answer is incriminating.

- 1 2. If the witness does not challenge the premise of the question, then he has admitted it and created a presumption that it
2 is true.
3 3. If the witness does not ask for the definition of the adjective or verb used by the deposing counsel, he has essentially
4 agreed to presume the definition of the word used by the deposing counsel later in the proceeding. You never want to
5 hand to an opposing counsel an unrestricted license to control the definition of any word used in the proceeding and
6 you never want to admit to anything that would be prejudicial to your interest because a negative adjective or verb is
7 used to describe your behavior as a defendant.

8 A clue that “presumption” is being abused to establish the above types of bias and prejudice are the use of any of the
9 following words in the question:

- 10 1. “Always”
11 2. “Never”
12 3. “Should”/”Ought”/”Must”
13 4. “Everyone”
14 5. “No one”
15 6. “You” or “your”
16 7. Cuss words

17 All of the above types of words have in common that they are dogmatic, bossy, and judgmental, and therefore abusive. A
18 lawyer who is attempting to discover the objective truth and facts about a situation cannot and should not project their own
19 interpretation or judgment upon a witness using any of the above types of words. In the legal field, this is called “Leading
20 questions”, which violate the Federal Rules of Evidence, Rule 611(c) available at:

21 <http://www.law.cornell.edu/rules/fre/index.html><http://www.law.cornell.edu/rules/fre/index.html>

22 **6 How the IRS and state revenue Agencies Abuse Presumption to Destroy Your** 23 **Constitutional Rights**

24 **6.1 “Taxpayer” v. “Nontaxpayer”: Which One Are You?**

25 *“The taxpayer-- that's someone who works for the federal government but doesn't have to take the civil service*
26 *examination.”*
27 *[President Ronald W. Reagan]*

28 As section 3.12.1.21 of the *Great IRS Hoax* says, the word “taxpayer” is defined as someone who is “liable for” and
29 “subject to” the income tax in Internal Revenue Code Subtitle A and the IRS refers to everyone as “taxpayers” because that
30 is what they want everyone to be. Here is the way one of our readers describes how he reacts to being habitually called
31 “taxpayer” by the IRS:

32 *I refuse to allow any IRS or State revenue officer to call me or any client a "taxpayer". Just because I may look*
33 *like one or have the attributes of one does not necessarily make me one. To one IRS lady, and I have no reason*
34 *to doubt that she fits this category, I use the following example. "Miss you have all of the equipment to be a*
35 *whore, but that does not make you one by presumption." Until it is proven by a preponderance of evidence I*
36 *must assume you are a lady and you will be treated as such. Please have the same respect for me, and don't*
37 *slander my reputation and defame my character by calling me a whore for the government, which is what a*
38 *"taxpayer" is.*
39 *[Eugene Pringle]*

40 Funny! But guess what? This is not a new idea. We refer you to the Bible book of Revelations, Chapter 17, which
41 describes precisely who this whore or harlot is: Babylon the Great! Check out that chapter, keeping in mind that “Babylon
42 the Great” is symbolic of the city full of all the ignorant and idolatrous people who have unwittingly made themselves into
43 government whores by becoming surety for government debts in the pursuit of taxable government privileges and benefits
44 they didn’t need to begin with. The Bible describes these harlots and adulterers below:

1 "Adulterers and **adulteresses!** Do you not know that friendship [and citizenship] with the world [and the
2 governments/states of the world] is enmity with God? Whoever therefore wants to be a friend of the world
3 makes himself an enemy of God."
4 [James 4:4, Bible, NKJV]

5 "When thou sawest a thief [the IRS] then thou consentedst with him, and hast been **partaker with adulterers.**"
6 [Ps 50:18]

7 "Where do wars and fights [and tyranny and oppression] come from among you? Do they not come from your
8 desires for pleasure [pursuit of government "privileges"] that war in your members?...You ask [from your
9 government and its THIEF the IRS] and do not receive, because you ask amiss, that you may spend it on your
10 own pleasures. **Adulterers and adulteresses [and HARLOTS]! Do you not know that friendship with the**
11 **world is enmity with God?** Whoever therefore wants to be a friend of the world makes himself an enemy of
12 God."
13 [James 4:3-4, Bible, NKJV]

14 These "taxpayer" and citizen government idolaters have made government their new god (neo-god), their friend, and their
15 source of false man-made security. That is what the "Security" means in "Social Security". The bible mentions that there
16 is something "mysterious" about "Babylon the Great Harlot":

17 "And on her forehead a name was written: MYSTERY, BABYLON THE GREAT, THE MOTHER OF HARLOTS
18 AND OF THE ABOMINATIONS OF THE EARTH."
19 [Rev. 17:5, Bible, NKJV]

20 The mystery about this harlot/adulterous woman described in Rev. 17:5 is symbolic of the ignorance and apathy that these
21 people have about the law and their government. For a fascinating read into this subject, we refer you to the free book on
22 the internet below:

23 [Babylon the Great is Falling](http://www.babylonthegreatisfalling.net/)
24 <http://www.babylonthegreatisfalling.net/>

25 The IRS **DOES NOT** have the authority conferred by law under Subtitle A of the Internal Revenue Code to bestow the
26 status of "taxpayer" on any natural person who doesn't first volunteer for that "distinctive" title. Below are some facts
27 confirming this:

- 28 1. There is no statute making anyone liable for the income tax. Therefore, the only way you can become subject is by
29 volunteering. Subtitle A of the Internal Revenue Code is therefore "private law" and "special law" that only applies to
30 those who individually consent by connecting their earnings to a "trade or business", which is a "public office" in the
31 United States government. These people are referred to in the Treasury Regulations as "effectively connected with a
32 trade or business". BEFORE they consent, they are called "nontaxpayers". AFTER they consent, they are called
33 "taxpayers".

34 "To the extent that regulations implement the statute, they have the force and effect of law...The regulation
35 implements the statute and cannot vitiate or change the statute..."
36 [Spreckles v. C.I.R., 119 F.2d, 667]

37 "...liability for taxation must clearly appear[from statute imposing tax]."
38 [Higley v. Commissioner of Internal Revenue, 69 F.2d 160 (1934)]

39 "While Congress might have the power to place such a personal liability upon trust beneficiaries who did not
40 renounce the trust, yet it would require clear expression of such intent, and it cannot be spelled out from
41 language (as that here) which can be given an entirely natural and useful meaning and application excluding
42 such intent."
43 [Higley v. Commissioner of Internal Revenue, 69 F.2d 160 (1934)]

44 "A tax is a legal imposition, exclusively of statutory origin (37 Cyc. 724, 725), and, naturally, liability to
45 taxation must be read in statute, or it does not exist."
46 [Bente v. Bugbee, 137 A. 552; 103 N.J. Law. 608 (1927)]

47 "...the taxpayer must be liable for the tax. Tax liability is a condition precedent to the demand. Merely
48 demanding payment, even repeatedly, does not cause liability."
49 [Terry v. Bothke, 713 F.2d 1405, at 1414 (1983)]

If you want to know more about this subject see:

1.1. Section 5.6.1 of the *Great IRS Hoax*, which covers the subject of no liability in excruciating detail

<http://famguardian.org/Publications/GreatIRSHoax/GreatIRSHoax.htm>

1.2. The following link:

<http://famguardian.org/Subjects/Taxes/Articles/NoStatuteLiable.htm>

1.3. Our memorandum of law *Requirement for Consent*, Form #05.003 proves that the Internal Revenue Code is “private law” and a private contract/agreement. Those who have consented are called “taxpayers” and those who haven’t are called “nontaxpayers”. This memorandum is available at:

<http://sedm.org/Forms/FormIndex.htm>

2. The federal courts agree that the IRS cannot involuntarily make you inot a “taxpayer” when they said the following:

“A reasonable construction of the taxing statutes does not include vesting any tax official with absolute power of assessment against individuals not specified in the statutes as a person liable for the tax without an opportunity for judicial review of this status before the appellation of ‘taxpayer’ is bestowed upon them and their property is seized...”

[Botta v. Scanlon, 288 F.2d. 504, 508 (1961)]

3. IRS has no statutory authority to convert a Social Security Number into a “Taxpayer Identification Number”. By the authority of 20 CFR §422.104, Social Security Numbers (SSN) can ONLY be issued to either statutory “U.S. citizens” under 8 U.S.C. §1401 or “permanent residents”. Taxpayer Identification Numbers, on the other hand, can ONLY be issued to aliens under the authority of 26 U.S.C. §6109. “Aliens” and “citizens” are NOT interchangeable groups and all “taxpayers” under I.R.C. Subtitle A are “aliens”:

3.1. 26 U.S.C. §7701(a)(41) defines the phrase “TIN” to mean a number assigned under the authority of 26 U.S.C. §6109, but nowhere are the terms “TIN” and Taxpayer Identification Number” made equivalent in the I.R.C.

3.2. 26 CFR §1.1-1(a)(2)(ii) defines a “married individual” and an “unmarried individual” as an “alien” engaged in a “trade or business”.

3.3. 26 CFR §1.1441-1(c)(3) defines an “individual” as an “alien” or “nonresident alien”. Nowhere in the entire Internal Revenue Code or the Treasury Regulations for I.R.C. Subtitle A is the term “individual” ever defined to include “U.S. citizens”.

[Code of Federal Regulations]

[Title 26, Volume 12]

[Revised as of April 1, 2006]

From the U.S. Government Printing Office via GPO Access

[CITE: 26CFR1.1441-1]

[Page 62-107]

TITLE 26--INTERNAL REVENUE

CHAPTER 1--INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

PART 1_INCOME TAXES--Table of Contents

Sec. 1.1441-1 Requirement for the deduction and withholding of tax on payments to foreign persons.

(c) Definitions--(1) Withholding. The term withholding means the deduction and withholding of tax at the applicable rate from the payment.

[. . .]

(3) Individual--(i) Alien individual. The term alien individual means an individual who is not a citizen or a national of the United States. See Sec. 1.1-1(c).

(ii) Nonresident alien individual. The term nonresident alien individual means a person described in section 7701(b)(1)(B), an alien individual who is a resident of a foreign country under the residence article of an income tax treaty and Sec. 301.7701(b)-7(a)(1) of this chapter, or an alien individual who is a resident of Puerto Rico, Guam, the Commonwealth of Northern Mariana Islands, the U.S. Virgin Islands, or American Samoa as determined under Sec. 301.7701(b)-1(d) of this chapter. An alien individual who has made an election under section 6013 (g) or (h) to be treated as a resident of the United States is nevertheless treated as a nonresident alien individual for purposes of withholding under chapter 3 of the Code and the regulations thereunder.

3.4. 1 CFR §21.21(c) says that agencies of the federal government may NOT use the regulations (and by implication the numbers of) other agencies.

4. IRS has no statutory authority to convert employment withholding taxes under I.R.C. Subtitle C into “income taxes” under I.R.C. Subtitle A. We show in section 5.6.8 of the *Great IRS Hoax* that employment withholding taxes deducted

1 under the authority of Subtitle C of the Internal Revenue Code using a W-4 voluntary withholding agreement and that
2 the IRS classifies them in IRS document 6209 as “Tax Class 5”, which is “Estate and gift taxes”. Therefore, they are
3 gifts to the U.S. government, not taxes that may not be enforced. We also show in section 5.6.8 of the Great IRS Hoax
4 that taxes paid under the authority of Subtitle A of the Internal Revenue Code are classified as Tax Class 2, “Individual
5 Income Tax”. We also exhaustively prove with evidence in section 5.6.16 of the Great IRS Hoax that IRS has no
6 statutory or regulatory authority to convert what essentially amounts to a voluntary “gift” paid through withholding to a
7 “tax”. Only you can do that by assessing yourself. That is why the 1040 form requires that you attach the information
8 returns to it, such as the W-2: So that the gift and the tax are reconciled and so that the accuracy of the W-2, which is
9 unsigned hearsay evidence, is guaranteed by the penalty of perjury signature on the 1040 form itself.

10 The consequence of the IRS not having any lawful authority to make anyone into a “taxpayer” is that they cannot do a
11 lawful Substitute For Return (SFR) or penalty assessment under I.R.C. Subtitle A, as you will learn later. This is also
12 confirmed by the following document:

[Why Assessments and Substitute Returns are Illegal Under the I.R.C. Against Natural Persons](http://sedm.org/Forms/FormIndex.htm), Form #05.011
<http://sedm.org/Forms/FormIndex.htm>

13 If you have been the victim of an involuntary IRS assessment and do a Freedom of Information Act (FOIA) request for
14 assessment documents as we have, and you examine all of the documents returned, you will not see even one document
15 signed by any IRS employee that purports to be an assessment and which has your name on it as the only subject of the
16 assessment. The reason they won’t sign the assessment document, such as the 23C or the RACS 006 report, under penalty
17 of perjury is that no one is STUPID enough to accept legal liability for violating the Constitution and the rights of those
18 they have done wrongful assessments against. The IRS knows these people are involved in wrongdoing, which is why they
19 assign “pseudo names” (false names) to their employees: To protect them from lawsuits against them for their habitual
20 violation of the law. The documents you will get back from the IRS in response to your FOIA include the following
21 forms, none of which are signed by the IRS employee:

- 22 1. [Form 886-A: Explanation of Terms](#)
- 23 2. [Form 1040: Substitute For Return \(SFR\)](#)
- 24 3. [Form 3198: Special Handling Notice](#)
- 25 4. [Form 4549: Income Tax Examination Changes](#)
- 26 5. [Form 4700: Examination Work Papers](#)
- 27 6. [Form 5344: Examination Closing Record](#)
- 28 7. [Form 5546: Examination Return Charge-Out](#)
- 29 8. [Form 5564: Notice of Deficiency Waiver](#)
- 30 9. [Form 5600: Statutory Notice Worksheet](#)
- 31 10. [Form 12616: Correspondence Examination History Sheet](#)
- 32 11. [Form 13496: IRC Section 6020\(b\) Certification](#)

33 If you want to look at samples of the above forms, see section 6 of the link below, under the column "Examples":

<http://famguardian.org/TaxFreedom/Forms/IRS/IRSFormsPubs.htm>

35 We have looked at hundreds of these assessment documents and every one of them is required by 26 U.S.C. §6065 to be
36 signed under penalty of perjury by the IRS employee who prepared them but none are. As a matter of fact, the examination
37 documents prepared by the IRS Examination Branch to do the illegal Substitute for Returns (involuntary assessments)
38 purport to be a “proposal” rather than an involuntary assessment, have no signature of an IRS employee, and the only
39 signature is from the “taxpayer”, who must consent to the assessment in order to make it lawful. See, for instance, IRS
40 Forms 4549 and 5564. What they do is procure the consent invisibly using a commercial default process by ignoring your
41 responsive correspondence, and therefore “assume” that you consented. This, ladies and gentlemen, is constructive
42 FRAUD, not justice. It is THEFT! The Form 12616 above is the vehicle by which they show that the “taxpayer”
43 consented to the involuntary assessment, because they can’t do ANYTHING without his consent.

44 Furthermore, 28 U.S.C. §2201 also removes the authority of federal courts to declare the status of “taxpayer” on a
45 sovereign American also!:

1 United States Code
2 TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
3 PART VI - PARTICULAR PROCEEDINGS
4 CHAPTER 151 - DECLARATORY JUDGMENTS
5 Sec. 2201. Creation of remedy

6 (a) In a case of actual controversy within its jurisdiction, **EXCEPT** with respect to Federal taxes other than
7 actions brought under section 7428 of the Internal Revenue Code of 1986, a proceeding under section 505 or
8 1146 of title 11, or in any civil action involving an antidumping or countervailing duty proceeding regarding a
9 class or kind of merchandise of a free trade area country (as defined in section 516A(f)(10) of the Tariff Act of
10 1930), as determined by the administering authority, **any court of the United States, upon the filing of an**
11 appropriate pleading, may declare the rights and other legal relations of any interested party seeking such
12 declaration, whether or not further relief is or could be sought. Any such declaration shall have the force and
13 effect of a final judgment or decree and shall be reviewable as such.

14 (b) For limitations on actions brought with respect to drug patents see section 505 or 512 of the Federal Food,
15 Drug, and Cosmetic Act.

16 The federal courts themselves agree that they do not have the jurisdiction to bestow the status of “taxpayer” upon someone
17 who is a “nontaxpayer”:

18 *“And by statutory definition the term “taxpayer” includes any person, trust or estate **subject to** a tax imposed by*
19 *the revenue act. ...Since the statutory definition of taxpayer is exclusive, the federal [and state] courts do not*
20 *have the power to create nonstatutory taxpayers for the purpose of applying the provisions of the Revenue*
21 *Acts...”*

22 [*C.I.R. v. Trustees of L. Inv. Ass'n, 100 F.2d.18 (1939)*]

23 26 U.S.C. §1461 is the only statute within the Internal Revenue Code Subtitle A which creates an explicit liability or “legal
24 duty”. That duty is enforceable only against those subject to the I.R.C., who are “taxpayers” with “gross income” above the
25 exemption amount identified in 26 U.S.C. §6012. All amounts reported by third parties on Information Returns, such as the
26 W-2, 1042-S, 1098, and 1099, document receipt of “trade or business” earnings. All “trade or business” earnings, as
27 defined in 26 U.S.C. §7701(a)(26), are classified as “gross income”. A nonresident alien who has these information returns
28 filed against him or her becomes his or her own “withholding agent”, and must reconcile their account with the federal
29 government annually by filing a tax return. This is a requirement of all those who are engaged in a “public office”, which is
30 a type of business partnership with the federal government. That business relationship is created through the operation of
31 private contract and private law between you, the natural person, and the federal government. The method of consenting to
32 that contract is any one of the following means:

- 33 1. Assessing ourselves with a liability shown on a tax return.
- 34 2. Voluntarily signing a W-4, which is identified in the regulations as an “agreement” to include all earnings in the
35 context of that agreement as “gross income” on a 1040 tax return. See 26 CFR §31.3402(p)-1(a). For a person who is
36 not a “public official” or engaged in a “public office”, the signing of the W-4 essentially amounts to an agreement to
37 procure “social services” and “social insurance”. You must bribe the Beast with over half of your earnings in order to
38 convince it to take care of you in your old age.
- 39 3. Completing, signing, and submitting an IRS form 1040 or 1040NR and indicating a nonzero amount of “gross
40 income”. Nearly all “gross income” and all information returns is connected with an excise taxable activity called a
41 “trade or business” pursuant to [26 U.S.C. §871\(b\)](#) and [26 U.S.C. §6041](#), which activity then makes you into a
42 “resident”. See older versions of 26 CFR §301.7701-5:
43 <http://famguardian.org/TaxFreedom/CitesByTopic/Resident-26cfr301.7701-5.pdf>
- 44 4. Filing information returns on ourself or not rebutting information returns improperly filed against us, such as the W-2,
45 1042-S, 1098, and 1099. Pursuant to [26 U.S.C. §6041\(a\)](#), all of these federal forms associate all funds documented on
46 them with the taxable activity called a “trade or business”. If you are not a federal “employee” or a “public officer”,
47 then you can’t lawfully earn “trade or business” income. See the following for details:
48 4.1. [26 U.S.C. §6041](#).
49 4.2. *The “Trade or Business” Scam*, Form #05.001
50 <http://sedm.org/Forms/MemLaw/TradeOrBusScam.pdf>
51 4.3. Correcting Erroneous IRS Form W-2’s:
52 <http://sedm.org/Forms/Tax/FormW2/CorrectingIRSFormW2.htm>
53 4.4. Correcting Erroneous IRS Form 1042’s:
54 <http://sedm.org/Forms/Tax/Form1042/CorrectingIRSForm1042.htm>

4.5. Correcting Erroneous IRS Form 1098's:
<http://sedm.org/ItemInfo/RespLtrs/Form1098/CorrectingIRSForm1098.htm>

4.6. Correcting Erroneous IRS form 1099's:
<http://sedm.org/ItemInfo/RespLtrs/Form1099/CorrectingIRSForm1099.htm>

5. Allowing Currency Transaction Reports (CTR's), IRS Form 8300, to be filed against us when we withdraw 10,000 or more in cash from a financial institution. The statutes at 31 U.S.C. 5331 and the regulation at 31 CFR §103.30(d)(2) only require these reports to be filed in connection with a "trade or business", and this "trade or business" is the same "trade or business" referenced in the Internal Revenue Code at 26 U.S.C. §7701(a)(26) and 26 U.S.C. §162. If you are not a "public official" or if you do not consent to be treated as one in order to procure "social insurance", then banks and financial institutions are violating the law to file these forms against you. See:

The Trade or Business Scam, Form #05.001

<http://sedm.org/Forms/FormIndex.htm>

6. Completing and submitting the Social Security Trust document, which is the SS-5 form. This is an agreement that imposes the "duty" or "fiduciary duty" upon the natural person and makes him into a "trustee" and an officer of a the federal corporation called the "United States". The definition of "person" for the purposes of the criminal provisions of the Internal Revenue Code, codified in [26 U.S.C. §7343](#), incidentally is EXACTLY the same as the above. Therefore, all tax crimes require that the violator must be acting in a fiduciary capacity as a Trustee of some kind or another, whether it be as an Executor over the estate of a deceased "taxpayer", or over the Social Security Trust maintained for the benefit of a living trustee/employee of the federal corporation called the "United States Government". See the following for details:

Resignation of Compelled Social Security Trustee, Form #06.002

<http://sedm.org/Forms/FormIndex.htm>

Unless and until we do any of the above, our proper title is "nontaxpayer". For cases dealing with the term "nontaxpayer" see: *Long v. Rasmussen*, 281 F. 236, 238 (1922); *Rothensis v. Ullman*, 110 F.2d. 590(1940); *Raffaele v. Granger*, 196 F.2d. 620 (1952); *Bullock v. Latham*, 306 F.2d. 45 (1962); *Economy Plumbing & Heating v. United States*, 470 F.2d 585 (1972); and *South Carolina v. Ragan*, 465 U.S. 367 (1984).

"The revenue laws are a code or system in regulation of tax assessment and collection. They relate to taxpayers, and not to nontaxpayers. The latter are without their scope. No procedure is prescribed for nontaxpayers, and no attempt is made to annul any of their rights and remedies in due course of law. With them Congress does not assume to deal, and they are neither of the subject nor of the object of the revenue laws..."

"The distinction between persons and things within the scope of the revenue laws and those without is vital."
[*Long v. Rasmussen*, 281 F. 236, 238 (1922)]

The behavior of the IRS confirms the above conclusions. See the following IRS internal memo proving that a return that is signed under penalty of perjury and saying "not liable" or words to that effect is treated as a non-return:

<http://famguardian.org/TaxFreedom/Evidence/Refunds/1998-053IRSMemoZeroRet.pdf>

Look what the above internal top secret IRS memo says (are they trying to hide something?.. cover-up and obstruction of justice!). Pay particular attention to the use of the word "taxpayer" in this excerpt, by the way, which doesn't include most people:

"A taxpayer can also negate the penalties of perjury statement with an addition. In Schmitt v. U.S., 140 B.R. 571 (Bank W.D. Okl. 1992), the taxpayers filed a return with the following statement at the end of the penalties of perjury statement, "SIGNED UNDER DURESS, SEE STATEMENT ATTACHED." In the addition, the taxpayers denied liability for tax on wages. The Service argued that the statement, added to the "return", qualified the penalties of perjury statement, thus making the penalties of perjury statement ineffective and the return a nullity. Id. at 572.

In agreeing with the Service, the court pointed out that the voluntary nature of our tax system requires the Service to rely on a taxpayer's self-assessment and on a taxpayer's assurance that the figures supplied are true to the best of his or her knowledge. Id. Accordingly, the penalties of perjury statement has important significance in our tax system. The statement connects the taxpayer's attestation of tax liability (by the signing of the statement) with the Service's statutory ability to summarily assess the tax.

Similarly, in Sloan v. Comm'r, 53 F.3d 799 (7th Cir. 1995), cert. denied, 516 U.S. 897 (1995), the taxpayers submitted a return containing the words "Denial & Disclaimer attached as part of this form" above their

1 signatures. **In the addition, the taxpayers denied liability for any individual income tax.** In determining the
2 effect of the addition on the penalties of perjury statement, the court reasoned that it is a close question whether
3 the addition negates the penalties of perjury statement or not. The addition, according to the court, could be
4 read just to mean that the taxpayers reserve their right to renew their constitutional challenge to the federal
5 income tax law. However, the court concluded that the addition negated the penalties of perjury statement. *Id.*
6 at 800.

7 In both *Schmitt and Sloan* the court questioned the purpose of the addition. Both courts found that the addition
8 of qualifying language was intended to deny tax liability. Accordingly, this effect rendered the purported
9 returns invalid.”

10 The reason is clear: If you are a “nontaxpayer” who is “not liable”, then you essentially are outside their jurisdiction and
11 can’t even ask for a refund of the money you paid in. All of your property is consequently classified as a “foreign estate”,
12 as defined in 26 U.S.C. §7701(a)(31):

13 [TITLE 26](#) > [Subtitle F](#) > [CHAPTER 79](#) > *Sec. 7701.*
14 [Sec. 7701. - Definitions](#)

15 (a)(31) Foreign estate or trust

16 (A) Foreign estate

17 The term “foreign estate” means an estate the income of which, from sources without the United States which is
18 not effectively connected with the conduct of a trade or business within the United States, is not includible in
19 gross income under subtitle A.

20 If you indeed are a “nontaxpayer” and act like one, the IRS will pretend like you don’t even exist, that is, until in their
21 ignorance and greed they try years later to go after you wrongfully and unlawfully for willful failure to file, notice of
22 deficiency, or some other contrived nonsense to terrorize you into paying and filing again. That’s how they make
23 “nontaxpayers” “volunteer” into becoming “taxpayers”: with terrorism and treason against the rights of sovereign
24 Americans, starting with “mailing threatening, false, and harassing communications” in violation of 18 U.S.C. §876.
25 Lawyer hypocrites! Jesus was right!

26 **“Woe to you, scribes and Pharisees, hypocrites! For you pay tithe of mint and anise and cummin, and *have***
27 ***neglected the weightier matters of the law: justice and mercy and faith. These you ought to have done,***
28 ***without leaving the others undone.***
29 [Matt. 23:23, Bible]

30 Now that we understand the difference between “taxpayer” and a “nontaxpayer”, allow us to make a very critical
31 distinction that is the Achilles Heel of the IRS fraud. Ponder for a moment in your mind the following very insightful
32 question:

33 “Is a person in law always either a ‘taxpayer’ or a ‘nontaxpayer’ as a whole? Can a person simultaneously be
34 BOTH?”

35 Once you understand the answer to this crucial question, you will understand how to get your money back in an IRS refund
36 claim without litigating! The answer, by the way, is YES! Let us now explain why this is the case.

37 We said above that if you are a “nontaxpayer”, the IRS will basically try to completely ignore your refund claim and you
38 are lucky if they even respond. At worst, they will illegally try to penalize you and at best, they will ignore you. We must
39 remember, however, that it is “taxable income” that makes you a “taxpayer”. “Taxable income” is “gross income” minus
40 “deductions”, as described in 26 U.S.C. §63(a). Therefore, we must earn “gross income” as legally defined in order to have
41 “taxable income”. One cannot earn “gross income” unless they fit into one of the following categories:

- 42 1. **Domestic taxable activities:** Activities within the “United States”, which is defined in 26 U.S.C. §7701(a)(9) and
43 (a)(10) as the District of Columbia.
 - 44 1.1. **Federal “Employees”, Agencies, and “Public Officials”** – meaning those who are federal “public officers”, federal
45 “employees”, and elected officials of the national government. This is one reason why 26 U.S.C. §6331(a) lists
46 only federal officers, federal employees, federal instrumentalities, and elected officials as ones who can be served
47 with a levy upon their compensation, which is actually a payment from the federal government.

1 1.2. Federal benefit recipients. These people are receiving “social insurance” payments such as Medicare, Social
2 Security, or Unemployment. These benefits are described as “gross income” in 26 U.S.C. §871(a)(3). When they
3 signed up for these programs, they became “trustees”, “employees”, and instrumentalities of the U.S. government.
4 They are described as “federal personnel” in the Privacy Act, 5 U.S.C. §552a(a)(13). Neither the Constitution nor
5 the Social Security Act authorize these benefits to be offered to anyone domiciled outside of federal territories
6 and possessions. For details on this scam, see:

Resignation of Compelled Social Security Trustee
<http://famguardian.org/TaxFreedom/Forms/Emancipation/SSTrustIndenture.pdf>

7 1.3. Those who operate in a representative capacity in behalf of the federal government via contract. This includes
8 those who have a valid Taxpayer Identification Number, which constitutes a constructive trust contract with the
9 federal government and use that federal property [number] as per 20 CFR §422.103(d). They are identified as
10 federal trustees and/or federal employees as referenced in 20 CFR “Employee Benefits”. For details on this scam,
11 see:

Resignation of Compelled Social Security Trustee
<http://famguardian.org/TaxFreedom/Forms/Emancipation/SSTrustIndenture.pdf>

12 2. **Foreign taxable activities:** Activities in the states of the Union or abroad.

13 2.1. Domiciliaries of the federal zone abroad and in a foreign country pursuant to 26 U.S.C. §911 who are engaged in
14 a “trade or business”:

15 2.1.1. Statutory “U.S. citizens” - those are federal statutory creations of Congress and defined specifically at 8
16 U.S.C. §1401 to be those who were born in a U.S. territory or possession AND who have a legal domicile
17 there.

18 2.1.2. Statutory “Residents” (aliens). These are foreign nationals who have a legal domicile within the District of
19 Columbia or a federal territory or possession. They are defined in 26 U.S.C. §7701(b)(1)(A) and 8 U.S.C.
20 §1101(a)(2).

21 If you would like to know more about why the above are the only foreign subjects of taxation, see:

Why domicile and income taxes are voluntary, Form #05.002
<http://sedm.org/Forms/FormIndex.htm>

22 2.2. States of the Union. Neither the IRS nor the Social Security Administration may lawfully operate outside of the
23 federal zone. See:

24 2.2.1. 4 U.S.C. §72 limits all “public offices” to the District of Columbia. It says that the “public offices” that are
25 the subject of the tax upon a “trade or business” must be exercised ONLY in the District of Columbia and
26 not elsewhere, except as expressly provided by law.

27 2.2.2. 26 U.S.C. §7601 limits IRS enforcement to internal revenue districts. The President is authorized to
28 establish internal revenue districts pursuant to 26 U.S.C. §7621, but he delegated that authority to the
29 Secretary of the Treasury pursuant to Executive Order 10289. Treasury Order 150-02, signed by the
30 Secretary of the Treasury, says that the only remaining internal revenue district is in the District of
31 Columbia. It eliminated all the other internal revenue districts.

32 2.2.3. 26 U.S.C. §7701(a)(9) and (a)(10) define the term “United States” as the District of Columbia. Nowhere
33 anyplace else is the tax described in Subtitle A expanded to include anyplace BUT the “United States”.

34 2.2.4. The U.S. Supreme Court said Congress enjoys NO LEGISLATIVE JURISDICTION within states of the
35 Union and the Internal Revenue Code is “legislation”.

36 *“It is no longer open to question that **the general government, unlike the states**, Hammer v. Dagenhart, 247
37 U.S. 251, 275, 38 S.Ct. 529, 3 A.L.R. 649, Ann.Cas.1918E 724, **possesses no inherent power in respect of the**
38 **internal affairs of the states; and emphatically not with regard to legislation.**”
39 [Carter v. Carter Coal Co., 298 U.S. 238, 56 S.Ct. 855 (1936)]*

40 *“The difficulties arising out of our dual form of government and the opportunities for differing opinions
41 concerning the relative rights of state and national governments are many; **but for a very long time this court**
42 **has steadfastly adhered to the doctrine that the taxing power of Congress does not extend to the states or**
43 **their political subdivisions.** The same basic reasoning which leads to that conclusion, we think, requires like
44 limitation upon the power which springs from the bankruptcy clause. United States v. Butler, supra.”
45 [Ashton v. Cameron County Water Improvement District No. 1, 298 U.S. 513; 56 S.Ct. 892 (1936)]*

46 2.2.5. The U.S. Supreme Court said Congress Cannot establish a “trade or business’ in a state and tax it. A “trade
47 or business” is the main subject of Subtitle A of the Internal Revenue Code. See the following court cite:

48 *“Thus, Congress having power to regulate commerce with foreign nations, and among the several States, and
49 with the Indian tribes, may, without doubt, provide for **granting** coasting **licenses**, licenses to pilots, licenses to*

1 trade with the Indians, and any other **licenses** necessary or proper for the exercise of that great and extensive
2 power; and the same observation is applicable to every other power of Congress, to the exercise of which the
3 granting of licenses may be incident. All such licenses confer authority, and give rights to the licensee.

4 But very different considerations apply to the **internal commerce** or **domestic trade** of the States. Over this
5 commerce and trade Congress has **no power of regulation nor any direct control**. This power belongs
6 exclusively to the States. **No interference by Congress with the business of citizens transacted within a State is**
7 **warranted by the Constitution, except such as is strictly incidental to the exercise of powers clearly granted to**
8 **the legislature**. The power to authorize a business within a State is plainly repugnant to the exclusive power of
9 the State over the same subject. It is true that the power of Congress to tax is a very extensive power. It is given
10 in the Constitution, with only one exception and only two qualifications. Congress cannot tax exports, and it
11 must impose direct taxes by the rule of apportionment, and indirect taxes by the rule of uniformity. Thus limited,
12 and thus only, it reaches every subject, and may be exercised at discretion. But, it reaches only existing
13 subjects. **Congress cannot authorize a trade or business within a State in**
14 **order to tax it.**"

15 [*License Tax Cases*, [72 U.S. 462](#), 18 L.Ed. 497, 5 Wall. 462, 2 A.F.T.R. 2224 (1866)]

16 Based on options above, most people *do not* have "gross income" as legally defined, and they are actually deceiving the
17 government if they put anything but zero on their income tax return. Because none of the earnings of the typical person
18 who is employed in the private sector can legally be classified as either "income" or "gross income", what you put down for
19 "gross income" on your tax return boils down to the question of:

20 "How much of my receipts do I want to 'volunteer' or 'elect' or 'choose' to call 'income' or 'gross income' for
21 the purposes of federal taxes?"

22 How you choose to answer that question then determines the net "donation" (not "tax", but "donation") you are making to
23 the federal government based on the tax rate schedule that your fictitious and fabricated "gross income" falls into. As the
24 Great IRS Hoax said at the beginning of chapter 5 section 5.1.5, the income tax is "voluntary" and it really meant it! Not
25 only that, but the U.S. Supreme Court agrees with us!

26 "Our system of taxation is based upon voluntary assessment and payment, not distraint."
27 [*Flora v. U.S.*, [362 U.S. 145](#) (1960)]

28 Returning to our original question, then, "Can a person be simultaneously BOTH a 'taxpayer' and a 'nontaxpayer'?", the
29 answer is **YES**. Why? Because so long as we as biological people aren't "employees" (synonymous with elected or
30 appointed officers of the U.S. government) any amount we put down for "gross income" on our tax return is a *voluntary*
31 *choice* and not REAL "gross income" as legally defined. That amount, and ONLY that amount, which we volunteer to
32 define as "gross income" on our tax return makes us into a "taxpayer", but only for the specific *sources* of revenue we
33 voluntarily identified as "gross income"! All other monies that we earned are, by definition and implication, *not taxable*
34 and *not "gross income"*, which means that for those "sources" of revenue that are not "gross income", we are a
35 "nontaxpayer" and NOT a "taxpayer".

36 So when someone asks you if you are a "taxpayer", both the question and your answer must be put in the context of a
37 *specific* source of income. You should respond by first asking: "for which revenue *source*?" The answer can seldom be a
38 general "yes" or "no" for ALL RECEIPTS. Consequently, if we put down one cent for "gross income" on our tax return,
39 then ONLY for *that source* of revenue do we become "taxpayers". All other sources of revenue for us are, by implication,
40 NOT either "gross income" or "taxable income", which means that for *those revenues and receipts*, we are a
41 "nontaxpayer". Furthermore, once we make the determination of "gross income" and self-assessment on the tax return that
42 only *we* can do on ourselves, the IRS has NO AUTHORITY to make us into a "taxpayer" or assess us an involuntary
43 liability associated with any receipts other than those that we specifically identify as "gross income":

44 "Our tax system is based on individual **self-assessment** and voluntary compliance".
45 [*Mortimer Caplin*, *Internal Revenue Audit Manual* (1975)]

46 Remember, the only amount we are responsible for paying is the amount *we assess ourselves* that appears on a tax return
47 that ONLY WE FILL OUT. The Internal Revenue Manual, Section 5.1.11.6.10 confirms that the IRS is NOT
48 AUTHORIZED to do a Substitute For Return (SFR) on our behalf for the IRS Form 1040 or any of its derivatives (e.g.
49 1040X, 1040EZ, 1040NR, etc). Furthermore, [26 CFR §1.6151-1](#) confirms that you are *only* responsible for paying the
50 amount shown on a *return* (because it says "shall pay").

1 [Code of Federal Regulations]
2 [Title 26, Volume 12]
3 [Revised as of April 1, 2002]
4 From the U.S. Government Printing Office via GPO Access
5 [CITE: 26CFR1.6151-1]

6
7 [Page 980]

8
9 TITLE 26--INTERNAL REVENUE
10 CHAPTER I--INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY
11 (CONTINUED)
12 Procedure and Administration--Table of Contents
13 [Sec. 1.6151-1 Time and place for paying tax shown on returns.](#)

14
15 (a) In general. Except as provided in section 6152 and paragraph (b)
16 of this section, **the tax shown on any income tax return shall, without**
17 **assessment or notice and demand, be paid to the internal revenue officer**
18 **with whom the return is filed at the time fixed for filing the return**
19 (determined without regard to any extension of time for filing the
20 return). For provisions relating to the time for filing income tax
21 returns, see section 6072 and Secs. 1.6072-1 to 1.6072-4, inclusive. For
22 provisions relating to the place for filing income tax returns, see
23 section 6091 and Secs. 1.6091-1 to 1.6091-4, inclusive.

24 (b)(1) Returns on which tax is not shown. If a taxpayer files a
25 return and in accordance with section 6014 and the regulations
26 thereunder, elects not to show the tax on the return, the amount of tax
27 determined to be due shall be paid within 30 days after the date of
28 mailing to the taxpayer a notice stating the amount payable and making
29 demand upon the taxpayer therefor. However, if the notice is mailed to
30 the taxpayer more than 30 days before the due date of the return,
31 payment of the tax shall not be required prior to such due date.

32 [26 U.S.C. §6020](#)(b) does *not authorize* the IRS to do an assessment on you because *only you* (as the “sovereign”) can do an
33 assessment on *yourself* for a voluntary donation program called the Internal Revenue Code Subtitle A. The only exception
34 to this rule is under [26 U.S.C. §6014](#), where you can delegate to the IRS the authority to do a return on your behalf, which
35 we don’t recommend. Are you beginning to see through the fog? It took us four years of diligent study to figure this scam
36 out and we are trying to save you some time.

37 We wish to conclude this section by revealing some *very* important implications of being a "nontaxpayer" that we need to
38 be *very* aware of in order to avoid jeopardizing our status and creating a false presumption that we are a "taxpayer", which
39 are summarized below:

- 40 1. You cannot quote any section of the Internal Revenue Code that requires you to be a "taxpayer" in order to claim its
41 benefit. For instance, 26 U.S.C. §7433, which purports to allow anyone to file a suit against an IRS agent for wrongful
42 collection actions, says the following:

43 [TITLE 26 > Subtitle F > CHAPTER 76 > Subchapter B > § 7433](#)
44 [§ 7433. Civil damages for certain unauthorized collection actions](#)

45 (a) In general If, **in connection with any collection of Federal tax with respect to a taxpayer**, any officer or
46 employee of the Internal Revenue Service recklessly or intentionally, or by reason of negligence, disregards any
47 provision of this title, or any regulation promulgated under this title, such taxpayer may bring a civil action for
48 damages against the United States in a district court of the United States. Except as provided in section [7432](#),
49 such civil action shall be the exclusive remedy for recovering damages resulting from such actions.

50 Note the phrase above “with respect to a taxpayer”, which are no accident. If you are a “nontaxpayer”, then you have
51 no recourse under the above statute. HOWEVER, you still have recourse under the constitution for deprivation of
52 property without due process of law under the Fifth Amendment. If you filed a lawsuit against an IRS agent, your
53 remedy would then have come from citing the Constitution and possibly also cite the criminal code, which is also
54 positive law, but NOT any part of the I.R.C.

- 55 2. You cannot call the Internal Revenue Code "law" or a "statute", but only a "code" or a "title". It can only be "law" if
56 you are a "taxpayer". What makes anything "law" is your consent, according to the Declaration of Independence, and
57 calling the IRC "law" is an admission that you consent to its provisions and are subject to them. See section 5.4.1
58 through 5.4.3.6 the [Great IRS Hoax](#) for details on this scam.

- 1 3. You cannot fill out and submit any form that can only be used by “taxpayers” nor can you sign any form that uses the
 2 word “taxpayer” to identify you. Family Guardian has gone through and created substitute versions of most major IRS
 3 forms to remove such false presumptions from the forms at:
 4 <http://famguardian.org/TaxFreedom/Forms/IRS/IRSFoRmsPubs.htm>
 5 4. When you get an IRS notice that either calls you a “taxpayer” or uses a “Taxpayer Identification Number” (TIN), then
 6 the notice is in error and you have a duty to bring this to the attention of the IRS. Only “taxpayers” can have a TIN.
 7 5. Any IRS publication addressed to “taxpayers” isn’t meant for you and you cannot rely upon it. For instance, [IRS](#)
 8 [Publication 1 is entitled *Your Rights as a Taxpayer*](#). The title of this publication is an oxymoron: Taxpayers don’t
 9 have rights! A “nontaxpayer” cannot cite this pamphlet as authority for defending his rights. We called the IRS and
 10 asked them if they have an equivalent pamphlet for “nontaxpayers” and they said no. Then we asked whether the
 11 rights mentioned in the pamphlet also apply to “nontaxpayers” and they reluctantly said “yes”. Someone wrote an
 12 “improved” version of this pamphlet entitled *Your Rights as a Nontaxpayer* which you may wish to read at:
 13 <http://sedm.org/LibertyU/NontaxpayerBOR.pdf>

14 **6.2 Presumptions About Credibility of IRS Publications**

15 Many people falsely “presume” that what appears in the IRS Publications is truthful and accurate, and that the IRS is just as
 16 accountable for what they put in those publications as what a person would put on their tax return. After all, isn’t this the
 17 very essence of “equal protection of the law”? Well, we have news for you: Everyone who believes this is making yet
 18 another false presumption. In fact, the federal courts and the IRS’ own Internal Revenue Manual address this issue quite
 19 forcefully, by saying that you not only cannot and should not trust ANYTHING THAT APPEARS IN ANY IRS
 20 PUBLICATION OR ON THE IRS WEBSITE, but that you can also be PENALIZED for relying on these sources. Ditto
 21 for anything an IRS or government representative individually says or writes. This may sound hard to believe, but our
 22 corrupt federal courts refuse to hold the IRS accountable for any of the following:

- 23 1. The content of their publications or even their forms. See IRM section 4.10.7.2.8.
 24 2. Following its own written procedures found in the [Internal Revenue Manual \(IRM\)](#)
 25 3. Following the procedural regulations developed by the Secretary of the Treasury under [26 CFR Part 601](#).
 26 4. The oral agreements or statements that its representatives make, even when their delegation order authorizes them to
 27 make such agreements. Instead, most settlements and agreements must be reduced to writing or they are
 28 unenforceable.

29 For this determination, we rely on the following cases, downloaded from the VersusLaw website
 30 (<http://www.versuslaw.com>) and posted prominently on our website. Read the authorities for yourself. We have
 31 highlighted the most pertinent parts of these authorities:

32 **Table 2:** Things IRS is NOT responsible or accountable for

<i>Not responsible for:</i>	<i>Controlling Case(s):</i>
Following revenue rulings, handbooks, etc	CWT Farms Inc. v. Commissioner of Internal Revenue, 755 F.2d 790 (11th Cir. 03/19/1985)
Following procedures in the Internal Revenue Manual (IRM)	U.S. v. Will, 671 F.2d 963 (1982)
Following procedural regulations found in 26 CFR Part 601	1. Einhorn v. Dewitt, 618 F.2d 347 (5th Cir. 06/04/1980) 2. Luhring v. Glotzbach, 304 F.2d 560 (4th Cir. 05/28/1962)
Oral agreements or statements	Boulez v. C.I.R., 258 U.S.App. D.C. 90, 810 F.2d 209 (1987)

33 The most blatant and clear statement was made in the case of *CWT Farms, Inc.*, above, which ruled:

34 *"It is unfortunately all too common for government manuals, handbooks, and in-house publications to contain*
 35 *statements that were not meant or are not wholly reliable. If they go counter to governing statutes and*
 36 *regulations of the highest or higher dignity, e.g. regulations published in the Federal Register, they do not bind*
 37 *the government, and persons relying on them do so at their peril, Caterpillar Tractor Co. v. United States, 589*
 38 *F.2d 1040, 1043, 218 Ct. Cl. 517 (1978) (A Handbook for Exporters, a Treasury publication). Dunphy v. United*
 39 *States [529 F.2d 532, 208 Ct. Cl. 986 (1975)], supra (Navy publication entitled All Hands). In such cases it is*
 40 *necessary to examine any informal publication to see if it was really written to fasten legal consequences on the*

1 government. *Dunphy*, *supra*. See also *Donovan v. United States*, 139 U.S. App. D.C. 364, 433 F.2d 522
2 (D.C.Cir.), *cert. denied*, 401 U.S. 944, 91 S. Ct. 955, 28 L. Ed. 2d 225 (1971). (*Employees Performance*
3 *Improvement Handbook*, an FAA publication)(merely advisory and directory publications do not have
4 mandatory consequences). *Bartholomew v. United States*, 740 F.2d 526, 532 n. 3 (7th Cir. 1984)(quoting
5 *Fiorentino v. United States*, 607 F.2d 963, 968, 221 Ct. Cl. 545 (1979), *cert. denied*, 444 U.S. 1083, 100
6 S. Ct. 1039, 62 L. Ed. 2d 768 (1980).

7 *Lecroy*'s proposition that the statements in the handbook were binding is inapposite to the accepted law among
8 the circuits that publications are not binding.*fn15 We find that the Commissioner did not abuse his discretion
9 in promulgating the challenged regulations. First, *Farms and International* did not justifiably rely on the
10 Handbook. Taxpayers who rely on Treasury publications, which are mere guidelines, do so at their peril.
11 *Caterpillar Tractor v. United States*, 589 F.2d 1040, 1043, 218 Ct. Cl. 517 (1978). Further, the Treasury's
12 position on the sixty-day rule was made public through proposed section 1.993-2(d)(2) in 1972, before the
13 taxable years at issue. *Charbonnet v. United States*, 455 F.2d 1195, 1199- 1200 (5th Cir.1972). See also
14 *Wendland v. Commissioner of Internal Revenue*, 739 F.2d 580, 581 (11th Cir.1984). Second, whatever harm
15 has been suffered by *Farms and International* resulted from a lack of prudence. As even the *Lecroy* 751 F.2d at
16 127. See also 79 T.C. at 1069. "
17 [*CWT Farms Inc. v. Commissioner of Internal Revenue*, 755 F.2d 790 (11th Cir. 03/19/1985)]

18 Even the IRS' own [Internal Revenue Manual \(IRM\)](#) warns you that you **can't** depend on their publications, which include
19 all of their forms!:

20 "IRS Publications, issued by the National Office, explain the law in plain language for taxpayers and their
21 advisors... While a good source of general information, publications should not be cited to sustain a position."
22 [[IRM, 4.10.7.2.8](#) (05-14-1999)]

23 After reading the above, additional conclusions and inferences can safely and soundly be drawn by implication:

- 24 1. If the IRS is not responsible for following its own internal regulations found in [26 CFR Part 601](#), then it couldn't
25 possibly be held liable for what it puts in its publications to the public EITHER. They could literally lie through their
26 teeth and fool everyone into thinking they were "taxpayers" and not be held liable.
- 27 2. In the *Boulez* case above, an IRS representative who had explicit authority to make an agreement with the "taxpayer"
28 still could not be held accountable for an oral agreement. This implies that all the phone advice given by IRS agents on
29 their national 800 number cannot be relied upon as a basis for "good faith belief".
- 30 3. ONLY the Statutes at Large, as well as the regulations written by the Secretary of the Treasury found in [26 CFR Part 1](#)
31 and [26 CFR Part 301](#), may be relied upon as having the "force of law", as the courts above described. Since [26 U.S.C.](#)
32 (also called the Internal Revenue Code) was never enacted as positive law, it stands only as "prima facie evidence of
33 law" which may be rebutted by citing the sections of the Statutes at Large from which it was compiled.

34 To put one last nail in the coffin of this issue, below is a quote from a book entitled *Tax Procedure and Tax Fraud*, Patricia
35 Morgan, 1999, ISBN 0-314-06586-5, West Group:

36 p. 21: "As discussed in §2.3.3, the IRS is not bound by its statements or positions in unofficial pamphlets and
37 publications."

38 p. 34: "6. IRS Pamphlets and Booklets. The IRS is not bound by statements or positions in its unofficial
39 publications, such as handbooks and pamphlets."

40 p. 34: "7. Other Written and Oral Advice. Most taxpayers' requests for advice from the IRS are made orally.
41 Unfortunately, the IRS is not bound by answers or positions stated by its employees orally, whether in person or
42 by telephone. According to the procedural regulations, 'oral advice is advisory only and the Service is not
43 bound to recognize it in the examination of the taxpayer's return.' 26 CFR §601.201(k)(2). In rare cases,
44 however, the IRS has been held to be equitably estopped to take a position different from that stated orally to,
45 and justifiably relied on by, the taxpayer. The Omnibus Taxpayer Bill of Rights Act, enacted as part of the
46 Technical and Miscellaneous Revenue Act of 1988, gives taxpayers some comfort, however. It amended section
47 6404 to require the Service to abate any penalty or addition to tax that is attributable to advice furnished in
48 writing by any IRS agent or employee acting within the scope of his official capacity. Section 6404 as amended
49 protects the taxpayer only if the following conditions are satisfied: the written advice from the IRS was issued
50 in response to a written request from the taxpayer; reliance on the advice was reasonable; and the error in the
51 advice did not result from inaccurate or incomplete information having been furnished by the taxpayer. Thus, it
52 will still be difficult to bind the IRS even to written statements made by its employees. As was true before,
53 taxpayers may be penalized for following oral advice from the IRS."

1 If the IRS isn't held accountable in a court of law for what they say or even what they write, then they are, by implication,
2 totally unaccountable to the public that they were put into existence to "serve". The Internal Revenue SERVICE, therefore,
3 only SERVES the interests of itself and not the public at large. Furthermore, we believe the same rules should apply to
4 Americans submitting their tax returns as those that apply to the IRS: not liable or responsible for what is written on the
5 return. For instance, the "I declare under penalty of perjury" should be replaced with "I declare that this return as accurate
6 and trustworthy as the advice and writings of the IRS". That is equivalent to saying that it is untrue and NOT trustworthy,
7 and that will get you off the hook and also point out the hypocrisy and lawlessness of the IRS! What is good for the goose
8 is good for the gander. Any other approach would be to condone hypocrisy and lawlessness and tyranny on the part of our
9 government. Why aren't IRS agents required to sign their correspondence under penalty of perjury like all of the
10 communication coming from the "taxpayer" so they CAN be held accountable? Here is what the U.S. Supreme Court had
11 to say about this kind of hypocrisy and lawlessness. You be the judge!:

12 *"Our government is the potent, the omnipresent teacher. For good or ill, it teaches the whole people by its*
13 *example. Crime is contagious. If the government becomes a lawbreaker [or a hypocrite with double*
14 *standards], it breeds contempt for the law; it invites every man to become a law unto himself; it invites anarchy.*
15 *To declare that in the administration of the criminal law the end justifies the means...would bring terrible*
16 *retribution. Against that pernicious doctrine this Court should resolutely set its face."*
17 *[Justice Brandeis, Olmstead v. United States, 277 U.S. 438, 485. (1928)]*

18 If you would like to know more about what constitutes a "reasonable basis for belief" about one's tax liability, a free
19 memorandum of law is available on the subject at the address below:

20 <http://sedm.org/Forms/MemLaw/ReasonableBelief.pdf>

21 The exhaustive analysis of all sources of law in the article above concludes that the only sources of information you can use
22 in forming a reasonable belief about tax liability are:

- 23 1. The Constitution.
- 24 2. Rulings of the Supreme Court and not lower Courts.
- 25 3. The Statutes at large after January 2, 1939.

26 The above article also concludes that no other resource of information, including the advice of a tax professional or the
27 Internal Revenue Code, are reasonable sources of authoritative belief that are useful in forming a reasonable belief that can
28 stand court scrutiny and survive a criminal prosecution.

29 **6.3 IRS authority presumptions**

30 The Judicial Branch of the government isn't the only one that makes extensive use of presumption in its favor. The IRS
31 and state revenue agencies are notorious for this abusive and illegal tactic as well. Below are some examples of how they
32 do this:

- 33 1. IRS authority to make assessments or to change your self-assessment presumptions. Because our income tax system is
34 based on voluntary self assessment and payment, according to the Supreme Court in *Flora v. United States*, [362 U.S.](#)
35 [145](#) (1960) , then the only person who can assess you, a natural person, with a liability under Subtitle A of the Internal
36 Revenue Code is YOU and only YOU and the only person who can file a return with your name on it is you. The IRS'
37 own Internal Revenue Manual, in section [5.1.11.6.10](#) clearly shows that Substitute For Returns (SFRs), which are
38 returns filed in place of those which "taxpayers" refuse to file, cannot be filed for any specie of 1040 forms (1040,
39 1040A, 1040EZ, etc) and the reason is because the tax is voluntary, which is to say more properly that it is a
40 DONATION and not a TAX. Once you make this "assessment" as authorized by [26 U.S.C. §6201\(a\)\(1\)](#) and send it in,
41 the IRS has no lawful authority to change or adjust the assessment, even if they believe you made an error, without
42 your permission! You can search for implementing regulations under 26 CFR 1.X until the cows come home and you
43 won't find a regulation that authorizes them to change your self assessment! Your average misinformed American,
44 however, naturally "assumes" that the IRS has the authority to change it whether you want to or not. If the IRS then
45 finds that you did make an error, they will "presume" that they have the lawful authority to change it by typically
46 sending back a revised assessment and give you a certain amount of time to respond or protest it before it becomes cast
47 in stone. When they do this, they are basically asking you for permission to make the change, and your silence or
48 acquiescence constitutes implied consent to the change. This whole scheme works in the IRS' favor because of the

1 ignorance of the average American about what the law really says. It seems that too many people have been relying on
2 IRS publications rather than reading the law for themselves. BUT, you can shift this contemptible situation completely
3 around the other way in your favor by knowing the law! All you have to do is attach to your return specific
4 instructions stating specifically and clearly that the IRS:

- 5 1.1. May NOT change or especially increase the amount of “income” on the return without invalidating
6 EVERYTHING on the return and causing you to withdraw your consent. This makes the return to be filed under
7 duress and inadmissible as evidence in court according to the Supreme Court in *Weeks v. United States*, 232 U.S.
8 383 (1914).
- 9 1.2. May not rely on hearsay evidence of receipt of funds from employers in the form of W-2 or 1099 forms, because
10 they are not authenticated with a notary affidavit.
- 11 1.3. May not file a Substitute for Return (SFR) in place of your return because there is no statute or implementing
12 regulation authorizing it and section [5.1.11.6.10](#) of the Internal Revenue Manual does not allow it either.
- 13 1.4. Should not assume that the form or ANY information on it is *accurate* if the form IN TOTAL is not accurate and
14 acceptable AS SUBMITTED.
- 15 1.5. Is not authorized to “propose” any changes, only to file the return IN TOTAL in your administrative record and
16 send you a letter explaining what they disagree with and the authorities (statutes and regulations and IRM
17 sections and Supreme Court rulings) their determination is based on.
- 18 1.6. If they protest the amount of “income” on the return, must provide a definition of “income” that is consistent with
19 the following web address and with the Constitutional definition made by the Supreme Court:
20 <http://famguardian.org/TaxFreedom/CitesByTopic/income.htm>
- 21 1.7. Any protests or disagreements they make **must** include a cite of the specific statutes AND implementing
22 regulations AND the section from the Internal Revenue Manual which document and authorize their position or
23 their position will be will presumed in the absence of evidence to the contrary to be illegal, unlawful, not
24 authorized by law, null and void, and *frivolous*.
- 25 1.8. May not cite any court case below the Supreme Court as justification for their position, based on the content of
26 their own [Internal Revenue Manual, section 4.10.7.2.9.8](#).
- 27 1.9. May not institute penalties because they violate the prohibition on Bills of Attainder under Article 1, Section 9,
28 Clause 3 of the Constitution and because such penalties can only apply to employees of a corporation per 26 CFR
29 § 301.6671-1(b), which you are not until proven otherwise, with EVIDENCE.

30 If you use the above tactics and file a return with a 1 cent “income” and ask for *all* your money back, that along with
31 the above tactics will drive the average IRS agent bonkers and he simply won’t know what to do and he will have no
32 choice but to give you your ALL your withheld tax back!

- 33 2. Legitimate authority presumptions: When an IRS agent or investigator contacts someone to investigate a tax matter,
34 the average Joe sixpack citizen “presumes” that they have authority to do what they are doing. After all, the agent will
35 pull out a rather official looking “pocket commission” that makes it look like they are official. However, in most cases
36 this pocket commission is an “Administrative” commission issued to administrative IRS employees who have no
37 authority whatsoever to be doing any kind of enforcement actions such as investigations, seizures, liens, and levies.
38 Administrative pocket commissions are easily recognizable because they have a serial number that begins with the
39 letter “A”, indicating that they are Administrative rather than “E”, which means Enforcement. Enforcement Pocket
40 Commissions are black instead of Red in color. This is also covered in section 5.4.9 of the *Great IRS Hoax*. Whenever
41 you talk with an IRS agent in person or on the phone, demand to see their pocket commission and get the serial number
42 of their pocket commission for your records so you can sue the bastard if he illegally institutes collection actions in
43 violation of 26 U.S.C. §7433 and 26 U.S.C. §7214. When they appear or call for questions, tell them you are really
44 glad to see them and say that you will be cooperating fully with them AFTER they answer your questions first which
45 will prove they have authority to be doing what they are doing. This amounts to a conditional acceptance and it will be
46 very hard for them to argue with you. This is the way that you can “question authority” if you have an IRS agent
47 breathing down your neck. Then when they start answering your questions about their authority to investigate, grill
48 them on camera or using a tape recorder with witnesses present in the room using the IRS Deposition questions on the
49 website at:

50 <http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Deposition.htm>

- 51
- 52 3. Consent for withholding of Social Security Insurance Premiums presumption. If one is hired on to work for the
53 government, then under [5 U.S.C. §8422](#), they are “deemed” to consent to the withholding of Social Security and
54 Medicare and are never even asked whether they want to do so. Use of the word “deemed” is legalese for “presumed”.

1 Below is the content of that section. Refer to section 5.9.7 of the Great IRS Hoax for further details on this conspiracy
2 against your property rights:

3 [5 U.S.C. §8422](#) Deductions of OASDI for Federal Employees

4 (b) Each employee or Member is deemed to consent and agree to the deductions under subsection (a).
5 Notwithstanding any law or regulation affecting the pay of an employee or Member, payment less such
6 deductions is a full and complete discharge and acquittance of all claims and demands for regular services
7 during the period covered by the payment, except the right to any benefits under this subchapter, or under
8 subchapter IV or V of this chapter, based on the service of the employee or Member.

9 **6.4 Presumptions on IRS forms and correspondence**

10 We need to be very careful when corresponding with the government, and especially when filling out their forms.

- 11 1. “Taxpayer” presumptions. The IRS refers to everyone as “taxpayers”, creating a false presumption on everyone’s part
12 that we indeed are. As you may also learn from reading Great IRS Hoax section 5.6.1, there is no statute making
13 anyone liable for paying Subtitle A income taxes and without a liability statute, then no one is “subject to” that part of
14 the Internal Revenue Code unless they volunteer to be. Great IRS Hoax section 5.3.1 also shows that the only person
15 who can lawfully identify you as a “taxpayer” is you, and that the government has no authority to use this word to
16 describe you without your consent. In most tax trials, the judges or juries will seldom question the determinations of
17 the IRS. Instead, the burden falls on the “taxpayer” to prove that the IRS’ determinations were incorrect. Then the
18 IRS will refuse to provide evidence to this alleged “taxpayer” that is needed for him to prove that they are wrong. Here
19 is how the Supreme Court describes this scandal in *Bull v. United States*, 295 U.S. 247 (1935):

20 *Thus, the usual procedure for the recovery of debts is reversed in the field of taxation. Payment precedes*
21 *defense, and the burden of proof, normally on the claimant, is shifted to the taxpayer.*

22 *The [tax] assessment supersedes the pleading, proof, and judgment necessary in an action at law, and has the*
23 *force of such a judgment. The ordinary defendant stands in judgment only after a hearing. The taxpayer often is*
24 *afforded his hearing after judgment and after payment, and his only redress for unjust administrative action is*
25 *the right to claim restitution.*³⁶

- 26 2. Government form presumptions. Filling out of most government forms is in most cases completely voluntary and
27 unnecessary. Whenever you submit a government form, you are “presumed” to be in pursuit of a government
28 “privilege” and consent to be bound by all laws of the government that produced that form, even if you would not
29 otherwise be so! For instance:
- 30 2.1. If you submit an IRS form 1040, you are “presumed” to be a “taxpayer” who is “subject to” the Internal Revenue
31 Code, even though if you had not done so, you would not be.
- 32 2.2. The Department of State DS-11 form used for obtaining a U.S. passport has only one block for indicating your
33 citizenship, which contains “U.S. citizen” and NO blocks for specifying that you are a “national”, creating a
34 presumption that the only thing you can be in order to get a passport is a “U.S. citizen”.
- 35 2.3. The IRS W-8BEN creates a presumption that you are a “beneficial owner”, which is then defined as someone
36 who has to include ALL income as gross income on their tax return, even though the law says this is not required.
37 All of these are major, very serious, and FALSE presumptions that significantly prejudice and abuse your rights.
38 The government only gets away with this type of fraud and abuse because the people filling out the forms don’t
39 question authority or challenge the presumptions on the form. We have successfully overcome most of these
40 presumptions by modifying or redesigning the forms in original print to shift the presumption in our favor before we
41 submit it. The modified forms then slip by inattentive and underpaid government clerks and we can then use this as
42 evidence in our favor. Fight fire with fire!
- 43 3. “residence” or “permanent residence” block on government forms presumption: If you fill in any federal form that has
44 a block named any of the following, you are declaring a legal “domicile” and agreeing to become a “taxpayer” within
45 that jurisdiction:
- 46 4.1. “residence”: “Residence” is equivalent to “domicile” for legal purposes. According to 26 CFR §1.871-2, the
47 only people who can have a “residence” are “aliens” and not “U.S. citizens” as defined under 8 U.S.C. §1401,
48 “nonresident aliens” as defined under 26 U.S.C. §7701(b)(1)(B), or “nationals” but not “citizens” under 8 U.S.C.
49 §1101(a)(21). When you declare a “residence” on a government tax form, you are declaring TWO things, not

³⁶ U.S. v. Bull, 295 U.S. 247, 26 (1935), emphasis added.

one: (1) That you are an “alien”; (2) That you have a domicile in the place indicated. You don’t want to declare EITHER of these things on any government form, folks!

4.2. “permanent address”: This is equivalent to “domicile”.

4.3. “domicile”. A person’s domicile establishes where they are a “taxpayer”.

For details, see the article entitled “Why ‘domicile’ and income taxes are voluntary” available at:

<http://sedm.org/Forms/MemLaw/Domicile.pdf>

4. Social Security Number presumptions.

4.1. The Treasury Regulations in 26 CFR contain a presumption that if you have a Socialist Security Number, then you must be a “U.S. person” with a domicile in the District of Columbia:

26 CFR § 301.6109-1(g)

(g) Special rules for taxpayer identifying numbers issued to foreign persons--(1) General rule--(i) Social security number. A social security number is generally identified in the records and database of the Internal Revenue Service as a number belonging to a U.S. citizen or resident alien individual. A person may establish a different status for the number by providing proof of foreign status with the Internal Revenue Service under such procedures as the Internal Revenue Service shall prescribe, including the use of a form as the Internal Revenue Service may specify. Upon accepting an individual as a nonresident alien individual, the Internal Revenue Service will assign this status to the individual's social security number.

You will note that “citizens” (under 8 U.S.C. §1401) and “residents” (under 26 U.S.C. §7701(b)(1)(A)) have in common a legal “domicile” in the “United States”, which is defined in 26 U.S.C. §7701(a)(9) and (a)(10) as the District of Columbia.

4.2. Those who put a Social Security Number on any government form also create a presumption that they are federal “employees” or “public officers” on official federal government business in the context of whatever they attach the Social Security Number to. 20 CFR §422.104 describes the conditions under which SSNs may be issued. You will note that Title 20 of the CFR says “EMPLOYEE BENEFITS”, which means *federal* employees and not *private* employees. This means that the number can only be issued to and therefore used by federal “employees” on official business. 20 CFR §422.103(d) furthermore says that “Social Security Numbers” are government property. Government property can only be issued to government employees on official business. It is a crime to use “public property” for a “private use”:

4.3.1. 18 U.S.C. §641 makes it a crime to embezzle public property, including the SSN, and use it for private use.

4.3.2. 18 U.S.C. §912 makes it a crime to impersonate a federal officer or employee.

4.3.3. 18 U.S.C. §208 makes it a crime to perform any act with government property that affects a “private interest”.

5. Use of the word “resident” presumptions. There is a presumption that if you use the word “resident” on any government form, then you are an alien with a domicile in the District of Columbia. This is confirmed by the definition of “resident” found in 26 U.S.C. §7701(b)(1)(A). This subject is exhaustively covered in the free article entitled “You’re Not a ‘resident’ under the Internal Revenue Code” available at:

<http://famguardian.org/Subjects/Taxes/Citizenship/Resident.htm>

6. Use of the word “U.S. citizen” presumptions: There is a presumption that if you describe yourself as “U.S. citizen”, then you are a statutory “U.S. citizen” defined under 8 U.S.C. §1401 who maintains a domicile in a federal territory, possession, or area within a state and NOT within a state of the Union. Persons domiciled in a state of the Union are not “U.S. citizens”, but rather “nationals but not citizens” defined in 8 U.S.C. §1101(a)(21) and 8 U.S.C. §1452. See the article below:

Why you are a ‘national’ or a ‘state national’ and not a ‘U.S. citizen’, Form #05.006

<http://sedm.org/Forms/MemLaw/WhyANational.pdf>

7. Tax Return Presumptions: If you fill out a federal tax return, the IRS will make the following often false presumptions:

7.1. That you are a “U.S. person” as defined in 26 U.S.C. §7701(a)(30) and who maintains a domicile in the District of Columbia under 26 U.S.C. §7701(a)(9) and (a)(10). This is also confirmed by IRS Document 7130, which identifies the IRS form 1040 for use only by “citizens” and “residents” of the “United States”, both of whom have in common a domicile in the District of Columbia.

7.2. That you are a “taxpayer” subject to the I.R.C. as defined in 26 U.S.C. §7701(a)(14). After all, a “nontaxpayer” is not required to file tax returns and should at least theoretically have no reason to send in a form.

7.3. That the submitter has excise taxable earnings called “gross income” (defined under 26 U.S.C. §61) which are “effectively connected with a trade or business” as defined in 26 U.S.C. §7701(a)(26). In fact, the ONLY type of “income” that can go on the IRS form 1040 is “trade or business” income from sources within the District of

Columbia. This is confirmed by [26 U.S.C. §864\(c\)\(3\)](#). See the article entitled “The Trade or Business Scam” available free at:

<http://sedm.org/Forms/MemLaw/TradeOrBusScam.pdf>

7.4. That if a Social Security Number appears on the form, then the submitter is acting as a Social Security Trustee, who is a federal “employee” on official business managing the Social Security Trust for the benefit of its Beneficiary, which is not the Trustee but the United States Government. See the following for proof of this scam:

[Resignation of Compelled Social Security Trustee](#), Form #06.002

<http://sedm.org/Forms/Emancipation/SSTrustIndenture.pdf>

8. Authority of federal courts presumptions. The IRS will commonly cite irrelevant caselaw in its correspondence from the Circuit, District, and Tax Courts which its own Internal Revenue Manual says may NOT be cited. What this amounts to is a “presumption” of authority where none actually exists. This results in an abuse of due process if done against a “nontaxpayer”. Below is the IRS’ own guidance on this subject to prove that they are violating their own rules:

[IRM, 4.10.7.2.9.8 \(05/14/99\)](#)

1 “Decisions made at various levels of the court system are considered to be interpretations of tax laws and may be used by either examiners or taxpayers to support a position.

2. Certain court cases lend more weight to a position than others. A case decided by the U.S. Supreme Court becomes the law of the land and takes precedence over decisions of lower courts. The Internal Revenue Service must follow Supreme Court decisions. For examiners, Supreme Court decisions have the same weight as the Code.

3. Decisions made by lower courts, such as Tax Court, District Courts, or Claims Court, are binding on the Service only for the particular taxpayer and the years litigated. Adverse decisions of lower courts do not require the Service to alter its position for other taxpayers.”
[SOURCE: <http://www.irs.gov/irm/part4/ch10s11.html>]

7 Using presumption to win against the government

7.1 Using Presumption in your favor in Federal court pleadings

Federal Rule of Civil Procedure Rule 8(d) indicates that anything not specifically denied in any pleading requiring a response is automatically admitted:

[Rule 8. General Rules of Pleading](#)

(d) Effect of Failure To Deny.

Averments in a pleading to which a responsive pleading is required, other than those as to the amount of damage, are admitted when not denied in the responsive pleading. Averments in a pleading to which no responsive pleading is required or permitted shall be taken as denied or avoided.

[SOURCE: <http://www.law.cornell.edu/rules/frcp/Rule8.htm>]

This means that if you fill your legal pleadings with lots of affidavits and facts, and make them long, you impose an enormous burden of proof upon the responding party to rebut these facts, and if they don’t, they have admitted them and created a presumption that what you said is true.

7.2 Using favorable presumption to limit the adverse affect of vague definitions

As we said earlier in section 3.2, vague laws are the method of choice for the Legislative Branch of the government to unlawfully compel courts into a political or policymaking role. Most of the vagueness within the Internal Revenue Code surrounds the definitions of words. This is covered in the free pamphlet below:

[The Meaning of the Words “includes” and “including”](#), Form #05.014

<http://sedm.org/Forms/MemLaw/Includes.pdf>

1 In order to limit the adverse affect of presumptions relating to the meaning of words, we can not only cite the above
2 pamphlet as authority, but we can also cite what are called the “Rules of Statutory Construction”, which govern the
3 methods that judges and lawyers must abide by in interpreting the meaning of vague laws. Below is one important rule of
4 statutory construction that works in our favor to limit government jurisdiction:

5 **“Expressio unius est exclusio alterius.** A maxim of statutory interpretation meaning that **the expression of one**
6 **thing is the exclusion of another.** *Burgin v. Forbes*, 293 Ky. 456, 169 S.W.2d 321, 325; *Newblock v. Bowles*,
7 170 Okl. 487, 40 P.2d 1097, 1100. **Mention of one thing implies exclusion of another. When certain persons**
8 **or things are specified in a law, contract, or will, an intention to exclude all others from its operation may be**
9 **inferred.** Under this maxim, if statute specifies one exception to a general rule or assumes to specify the effects
10 of a certain provision, other exceptions or effects are excluded.”
11 [*Black’s Law Dictionary, Sixth Edition, page 581*]

12 The U.S. Supreme Court repeated and reinforced this same rule of statutory construction and interpretation when it said:

13 *“It is axiomatic that the statutory definition of the term excludes unstated meanings of that term. Colautti v.*
14 *Franklin, 439 U.S. 379, 392, and n. 10 (1979). Congress’ use of the term “propaganda” in this statute, as indeed*
15 *in other legislation, has no pejorative connotation.[19] As judges, it is our duty to [481 U.S. 485] construe*
16 *legislation as it is written, not as it might be read by a layman, or as it might be understood by someone who*
17 *has not even read it.”*
18 [*Meese v. Keene, 481 U.S. 465, 484 (1987)*]

19 **“When a statute includes an explicit definition, we must follow that definition, even if it varies from that**
20 **term’s ordinary meaning.** *Meese v. Keene, 481 U.S. 465, 484-485 (1987)* (“It is axiomatic that the statutory
21 definition of the term excludes unstated meanings of that term”); *Colautti v. Franklin, 439 U.S. at 392-393, n.*
22 *10 (“As a rule, `a definition which declares what a term “means” . . . excludes any meaning that is not stated”);*
23 *Western Union Telegraph Co. v. Lenroot, 323 U.S. 490, 502 (1945); Fox v. Standard Oil Co. of N.J., 294 U.S.*
24 *87, 95-96 (1935) (Cardozo, J.); see also 2A N. Singer, Sutherland on Statutes and Statutory Construction §*
25 *47.07, p. 152, and n. 10 (5th ed. 1992) (collecting cases). That is to say, the statute, read “as a whole,” post at*
26 *998 [530 U.S. 943] (THOMAS, J., dissenting), leads the reader to a definition. That definition does not include*
27 *the Attorney General’s restriction -- “the child up to the head.” Its words, “substantial portion,” indicate the*
28 *contrary.”*
29 [*Stenberg v. Carhart, 530 U.S. 914 (2000)*]

30 The above rule of statutory construction creates a “presumption” that a law doesn’t apply to you unless you are specifically
31 spelled out SOMEWHERE in the law as a person subject. For instance, the definition of “United States” for the purpose of
32 the Internal Revenue Code, Subtitle A, is as follows:

33 [TITLE 26 > Subtitle F > CHAPTER 79 > Sec. 7701.](#) [*Internal Revenue Code*]
34 [Sec. 7701. - Definitions](#)

35 (a)(9) United States

36 The term "United States" when used in a geographical sense includes only the [States](#) and the District of
37 Columbia.

38 (a)(10): State

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

41 Under the rules of statutory construction, that which is not explicitly included may safely be presumed to be excluded by
42 implication. There is no definition of the term “United States” above anywhere in Subtitle A of the Internal Revenue Code
43 which would expand upon the above definition or apply it to states of the Union. Therefore, it does not apply there and the
44 U.S. Supreme Court even admitted that it does not apply there, when it said:

45 *“The difficulties arising out of our dual form of government and the opportunities for differing opinions*
46 *concerning the relative rights of state and national governments are many; **but for a very long time this court***
47 ***has steadfastly adhered to the doctrine that the taxing power of Congress does not extend to the states or***
48 ***their political subdivisions.*** The same basic reasoning which leads to that conclusion, we think, requires like
49 limitation upon the power which springs from the bankruptcy clause. *United States v. Butler, supra.*”
50 [*Ashton v. Cameron County Water Improvement District No. 1, 298 U.S. 513; 56 S.Ct. 892 (1936)*]

1 “It is no longer open to question that the general government, unlike the states, Hammer v. Dagenhart, 247
2 U.S. 251, 275, 38 S.Ct. 529, 3 A.L.R. 649, Ann.Cas.1918E 724, possesses no inherent power in respect of the
3 internal affairs of the states; and emphatically not with regard to legislation.“
4 [Carter v. Carter Coal Co., 298 U.S. 238, 56 S.Ct. 855 (1936)]

5 **7.3 Using Estoppel in pais to create presumptions**

6 All is not lost for those fighting for the protection of their Constitutional rights. Just like the government uses
7 “presumption” to prejudice and destroy our constitutional rights, we too can use “presumption” to destroy their jurisdiction
8 and legal standing in court. We call the technique for doing this the “Notary Certificate of Default”. In the legal field, it is
9 also called by any of the following names:

- 10 1. Estoppel in pais.
- 11 2. Equitable estoppel.
- 12 3. Default judgment

13 Below is a description of the principle from the American Jurisprudence 2d legal encyclopedia:

14 *“Equitable estoppel, or estoppel in pais, is a term applied usually to a situation where, because of something*
15 *which he has done or omitted to do, a party is denied the right to plead or prove an otherwise important fact. 2*
16 *The term has also been variously defined, frequently by pointing out one or more of the elements of, or*
17 *prerequisites to, 3 the application of the doctrine or the situations in which the doctrine is urged. 4 The most*
18 *comprehensive definition of equitable estoppel or estoppel in pais is that it is the principle by which a party who*
19 *knows or should know the truth is absolutely precluded, both at law and in equity, from denying, or asserting*
20 *the contrary of, any material fact which, by his words or conduct, affirmative or negative, intentionally or*
21 *through culpable negligence, he has induced another, who was excusably ignorant of the true facts and who*
22 *had a right to rely upon such words or conduct, to believe and act upon them thereby, as a consequence*
23 *reasonably to be anticipated, changing his position in such a way that he would suffer injury if such denial or*
24 *contrary assertion was allowed. 5 In the final analysis, however, an equitable estoppel rests upon the facts and*
25 *circumstances of the particular case in which it is urged, 6 considered in the framework of the elements,*
26 *requisites, and grounds of equitable estoppel, 7 and consequently, any attempted definition usually amounts to*
27 *no more than a declaration of an estoppel under those facts and circumstances. 8 The cases themselves must*
28 *be looked to and applied by way of analogy rather than rule. 9“*
29 [American Jurisprudence 2d, Estoppel and Waiver, §27: Definitions and Nature]

30
31 *“The doctrine of estoppel is based upon the grounds of public policy, fair dealing, good faith, and justice, and*
32 *its purpose is to forbid one to speak against his own act, representations, or commitments to the injury of one to*
33 *whom they were directed and who reasonably relied thereon. 11 The doctrine of estoppel springs from*
34 *equitable principles and the equities in the case. 12 It is designed to aid the law in the administration of justice*
35 *where without its aid injustice might result. 13 Thus, the doctrine of equitable estoppel or estoppel in pais is*
36 *founded upon principles of morality and fair dealing and is intended to subserve the ends of justice. 14*
37 *It always presupposes error on one side and fault or fraud upon the other and some defect of which it would be*
38 *inequitable for the party against whom the doctrine is asserted to take advantage. 15 It concludes the truth in*
39 *order to prevent fraud and falsehood and imposes silence on a party only when in conscience and honesty he*
40 *should not be allowed to speak. 16*

41 *The proper function of equitable estoppel is the prevention of fraud, actual or constructive, 17 and the*
42 *doctrine should always be so applied as to promote the ends of justice and accomplish that which ought to be*
43 *done between man and man. 18 Such an estoppel cannot arise against a party except when justice to the rights*
44 *of others demands it 19 and when to refuse it would be inequitable. 20 The doctrine of estoppel should be*
45 *applied cautiously and only when equity clearly requires it to be done. 1 Hence, in determining the application*
46 *of the doctrine, the counterequities of the parties are entitled to due consideration. 2 It is available only in*
47 *defense of a legal or equitable right or claim made in good faith and can never be asserted to uphold crime,*
48 *fraud, injustice, or wrong of any character. 3 Estoppel is to be applied against wrongdoers, not against the*
49 *victim of a wrong, 4 although estoppel is never employed as a means of inflicting punishment for an unlawful*
50 *or wrongful act. 5”*
51 [American Jurisprudence 2d, Estoppel and Waiver, §28: Basis, function, and purpose]

52 In short, the method creates presumptions based on omission by the responding party. These presumptions are used to
53 establish fact. For instance, you send the government a correspondence directly addressing why they have no lawful
54 authority or standing to do what they are doing, you give them a time limit to respond, and you ask them for the help that
55 the Internal Revenue Manual section 1.1.1.1 says they HAVE to provide in resolving the conflict. If they fail to respond by
56 the time limit specified, you send them a “Notice of Default” letter identifying what they agreed to by their omission, and

1 you do it certified mail with a Proof of Mailing so you have legally admissible proof that they agreed to your conclusions.
2 This, by the way, is EXACTLY the same technique they use against you in collecting taxes, so we are in effect fighting fire
3 with fire.

4 The detailed method for applying the Notary Certificate of Default technique is documented in a free article at the address
5 below:

6 <http://famguardian.org/TaxFreedom/Instructions/0.5CommercialLaw.htm>

7 **8 Resources for Further Study and Rebuttal**

8 If you would like to study the subjects covered in this short pamphlet in further detail, may we recommend the following
9 authoritative sources, and also welcome you to rebut any part of this pamphlet after your have read it and studied the
10 subject carefully yourself just as we have:

11 **Table 3: Resources for further study and rebuttal**

<i>Reference</i>	<i>Type</i>	<i>Available at:</i>
Assumption of Liability	Free downloadable book	http://famguardian.org/Publications/AssumptOfLiability/AssumptionOfLiability.htm
The Meaning of the Words “Includes” and “Including”	Free downloadable pamphlet	http://sedm.org/Forms/FormIndex.htm (see item 5.014)
Rebutted version of the IRS pamphlet: “The Truth About Frivolous Tax Arguments”	Free downloadable pamphlet	http://famguardian.org/PublishedAuthors/Govt/IRS/friv_tax_rebuts.pdf
Reasonable Belief About Income Tax Liability	Free memorandum of law	http://sedm.org/Forms/MemLaw/ReasonableBelief.pdf
Liberty University	Free educational materials for regaining your sovereignty as an entrepreneur or private person	http://sedm.org/LibertyU/LibertyU.htm
Family Guardian Website, Taxes page	Free website	http://famguardian.org/Subjects/Taxes/taxes.htm
<i>Great IRS Hoax</i> book, and especially sections 5.6.11 and 5.6.13 through 5.6.13.12.	Free downloadable electronic book	http://famguardian.org/Publications/GreatIRSHoax/GreatIRSHoax.htm
Sovereignty Forms and Instructions	Free references and tools to help those who want to escape federal slavery	http://famguardian.org/TaxFreedom/FormsInstr.htm

12 **9 Questions that Readers, Grand Jurors, and Petit Jurors Should be Asking the** 13 **Government**

14 These questions are provided for readers, Grand Jurors, and Petit Jurors to present to the government or anyone else who
15 would challenge the facts and law appearing in this pamphlet, most of whom work for the government or stand to gain
16 financially from perpetuating the fraud. If you find yourself in receipt of this pamphlet, you are demanded to answer the
17 questions within 10 days. Pursuant to [Federal Rule of Civil Procedure 8\(d\)](#), failure to deny within 10 days constitutes an
18 admission to each question. Pursuant to [26 U.S.C. §6065](#), all of your answers must be signed under penalty of perjury. We
19 are not interested in agency policy, but only sources of reasonable belief identified in the pamphlet below:

Reasonable Belief About Income Tax Liability, Form #05.007
<http://sedm.org/Forms/FormIndex.htm>

20 Your answers will become evidence in future litigation, should that be necessary in order to protect the rights of the person
21 against whom you are attempting to unlawfully enforce federal law.

- 22 1. Admit that “presumptions” may not be used as evidence or as a substitute for evidence.

23 *American Jurisprudence 2d*
24 *Evidence, §181*

A presumption is neither evidence nor a substitute for evidence.³⁷ Properly used, the term "presumption" is a rule of law directing that if a party proves certain facts (the "basic facts") at a trial or hearing, the factfinder must also accept an additional fact (the "presumed fact") as proven unless sufficient evidence is introduced tending to rebut the presumed fact.³⁸ In a sense, therefore, a presumption is an inference which is mandatory unless rebutted.³⁹
[American Jurisprudence 2d, Evidence, §181]

YOUR ANSWER: ___Admit ___Deny

CLARIFICATION:_____

2. Admit that "presumption" which is not supported by authoritative evidence is the equivalent of "religious faith", which is also based in most cases on belief that cannot be supported by evidence.

Religion. Man's relation to Divinity, to reverence, **worship**, obedience, and **submission to mandates and precepts** of supernatural or **superior beings**. In its broadest sense includes all forms of **belief in the existence of superior beings exercising power over human beings by volition, imposing rules of conduct, with future rewards and punishments**. Bond uniting man to God, and a virtue whose purpose is to render God worship due him as source of all being and principle of all government of things. *Nikulnikoff v. Archbishop, etc., of Russian Orthodox Greek Catholic Church*, 142 Misc. 894, 255 N.Y.S. 653, 663."
[Black's Law Dictionary, Sixth Edition, page 1292]

YOUR ANSWER: ___Admit ___Deny

CLARIFICATION:_____

3. Admit that "presumption" which prejudices Constitutional rights to create unequal protection, has the affect of making the government into a "superior being" relative to the object of the presumption:

YOUR ANSWER: ___Admit ___Deny

CLARIFICATION:_____

4. Admit that "worship" is defined as follows:

worship, the attitude and acts of reverence to a deity. The term 'worship' in the OT translates the Hebrew word meaning 'to bow down, prostrate oneself,' a posture indicating reverence and homage given to a lord, whether human or divine. **The concept of worship is expressed by the term 'serve.'** In general, the worship given to God was modeled after the service given to human sovereigns [government rulers]; this was especially prominent in pagan religions. In these the deity's image inhabited a palace (temple) and had servants (priests) who supplied food (offered sacrifices), washed and anointed and clothed it, scented the air with incenses, lit lamps at night, and guarded the doors to the house. Worshipers brought offerings and tithes to the deity, said prayers and bowed down, as one might bring tribute and present petitions to a king. Indeed the very purpose of human existence, in Mesopotamian thought, was to provide the gods with the necessities of life.

Although Israelite worship shared many of these external forms, even to calling sacrifices 'the food of God' (e.g., Lev. 21:6), its essence was quite different. As the prophets pointed out, **God could not be worshiped only externally. To truly honor God, it was necessary to obey his laws, the moral and ethical ones as well as ritual laws. To appear before God with sacrifices while flouting his demands for justice was to insult him** (cf. Isa. 1:11-17; Amos 5:21-22). God certainly did not need the sacrifices for food (Ps. 50:12-13); rather sacrifice and other forms of worship were offered to honor God as king.

³⁷ Levasseur v Field (Me) 332 A2d 765; Hinds v John Hancock Mut. Life Ins. Co., 155 Me 349, 155 A2d 721, 85 ALR2d 703 (superseded by statute on other grounds as stated in Poitras v R. E. Glidden Body Shop, Inc. (Me) 430 A2d 1113); Connizzo v General American Life Ins. Co. (Mo App) 520 SW2d 661.

³⁸ Inferences and presumptions are a staple of our adversary system of factfinding, since it is often necessary for the trier of fact to determine the existence of an element of a crime—that is an ultimate or elemental fact—from the existence of one or more evidentiary or basic facts. County Court of Ulster County v Allen, 442 US 140, 60 L Ed 2d 777, 99 S Ct 2213.

³⁹ Legille v Dann, 178 US App DC 78, 544 F2d 1, 191 USPQ 529; Murray v Montgomery Ward Life Ins. Co., 196 Colo 225, 584 P2d 78; Re Estate of Borom (Ind App) 562 NE2d 772; Manchester v Dugan (Me) 247 A2d 827; Ferdinand v Agricultural Ins. Co., 22 NJ 482, 126 A2d 323, 62 ALR2d 1179; Smith v Bohlen, 95 NC App 347, 382 SE2d 812, affd 328 NC 564, 402 SE2d 380; Larmay v Van Etten, 129 Vt 368, 278 A2d 736; Martin v Phillips, 235 Va 523, 369 SE2d 397.

[Achteimer, P. J., Harper & Row, P., & Society of Biblical Literature. 1985. Harper's Bible dictionary. Includes index. (1st ed.). Harper & Row: San Francisco]

YOUR ANSWER: ___ Admit ___ Deny

CLARIFICATION: _____

5. Admit that "obedience" is the essence of "worship", according to the Bible:

*"Has the LORD as great delight in burnt offerings and sacrifices,
As in obeying the voice of the LORD?
**Behold, to obey is better than sacrifice,
And to heed than the fat of rams.
For rebellion is as the sin of witchcraft,
And stubbornness is as iniquity and idolatry.
Because you have rejected the word of the LORD,
He also has rejected you from being king**[and sovereign over your government]."
[1 Sam. 15:22-23, Bible, NKJV]*

*"Do not love the world or the things in the world. If anyone loves [is a citizen of] the world, the love of the Father is not in Him. For all that is in the world--the lust of the flesh, the lust of the eyes, and the pride of life-- is not of the Father but is of the world. And the world is passing away, and the lust of it; but he who does the will of God abides forever."
[1 John 2:15-17, Bible, NKJV]*

*"Let us hear the conclusion of this whole matter: Fear [respect] God and **keep [obey] His commandments, for this is man's all.** For God will bring every work into judgment, including every secret thing, whether good or evil."
[Eccl. 12:13-14, Bible, NKJV]*

YOUR ANSWER: ___ Admit ___ Deny

CLARIFICATION: _____

6. Admit that the purpose of Court is to compel "obedience", and therefore to compel "worship" toward a higher being called the "State" or the "Judge".

***State.** A people permanently occupying a fixed territory bound together by common-law habits and custom into one body politic exercising, through the medium of an organized government, independent sovereignty and control over all persons and things within its boundaries, capable of making war and peace and of entering into international relations with other communities of the globe. *United States v. Kusche*, D.C.Cal., 56 F.Supp. 201 207, 208. The organization of social life which exercises sovereign power in behalf of the people. *Delany v. Moralitis*, C.C.A.Md., 136 F.2d 129, 130. In its largest sense, a "state" is a body politic or a society of men. *Beagle v. Motor Vehicle Acc. Indemnification Corp.*, 44 Misc.2d 636, 254 N.Y.S.2d 763, 765. A body of people occupying a definite territory and politically organized under one government. *State ex re. Maisano v. Mitchell*, 155 Conn. 256, 231 A.2d 539, 542. A territorial unit with a distinct general body of law. *Restatement, Second, Conflicts*, §3. Term may refer either to body politic of a nation (e.g. United States) or to an individual government unit of such nation (e.g. California).*

[...]

*The people of a state, in their collective capacity, considered as the party wronged by a criminal deed; the public; as in the title of a cause, "The State vs. A.B."
[Black's Law Dictionary, Sixth Edition, p. 1407]*

YOUR ANSWER: ___ Admit ___ Deny

CLARIFICATION: _____

7. Admit that the worship of the "State" as the supreme Sovereign, instead of the Individual, is the essence of socialism as a political philosophy

1 Law is in every culture religious in origin. Because law governs man and society, because it establishes and
2 declares the meaning of justice and righteousness, law is inescapably religious, in that it establishes in
3 practical fashion the ultimate concerns of a culture. Accordingly, a fundamental and necessary premise in
4 any and every study of law must be, first, a recognition of this religious nature of law.

5 Second, it must be recognized that in any culture the source of law is the god of that society. If law has its
6 source in man's reason, then reason is the god of that society. If the source is an oligarchy, or in a court,
7 senate, or ruler, then that source is the god of that system. Thus, in Greek culture law was essentially a
8 religiously humanistic concept,

9 *In contrast to every law derived from revelation, nomos for the Greeks originated in the*
10 *mind (nous). So the genuine nomos is no mere obligatory law, but something in which an*
11 *entity valid in itself is discovered and appropriated...It is "the order which exists (from*
12 *time immemorial), is valid and is put into operation."⁴⁰*

13 *Because for the Greeks mind was one being with the ultimate order of things, man's mind was thus able to*
14 *discover ultimate law (nomos) out of its own resources, by penetrating through the maze of accident and matter*
15 *to the fundamental ideas of being. As a result, Greek culture became both humanistic, because man's mind was*
16 *one with ultimacy, and also neoplatonic, ascetic, and hostile to the world of matter, because mind, to be truly*
17 *itself, had to separate itself from non-mind.*

18 Modern humanism, the religion of the state, locates law in the state and thus makes the state, or the people
19 as they find expression in the state, the god of the system. As Mao Tse-Tung has said, "Our God is none other
20 than the masses of the Chinese people."⁴¹ In Western culture, law has steadily moved away from God to the
21 people (or the state) as its source, although the historic power and vitality of the West has been in Biblical faith
22 and law.

23 Third, in any society, any change of law is an explicit or implicit change of religion. Nothing more clearly
24 reveals, in fact, the religious change in a society than a legal revolution. When the legal foundations shift
25 from Biblical law to humanism, it means that the society now draws its vitality and power from humanism,
26 not from Christian theism.

27 Fourth, no disestablishment of religion as such is possible in any society. A church can be disestablished, and a
28 particular religion can be supplanted by another, but the change is simply to another religion. Since the
29 foundations of law are inescapably religious, no society exists without a religious foundation or without a law-
30 system which codifies the morality of its religion.

31 Fifth, there can be no tolerance in a law-system for another religion. Toleration is a device used to introduce
32 a new law-system as a prelude to a new intolerance. Legal positivism, a humanistic faith, has been savage in
33 its hostility to the Biblical law-system and has claimed to be an "open" system. But Cohen, by no means a
34 Christian, has aptly described the logical positivists as "nihilists" and their faith as "nihilistic absolutism."⁴²
35 Every law-system must maintain its existence by hostility to every other law-system and to alien religious
36 foundations or else it commits suicide.

37 *In analyzing now the nature of Biblical law, it is important to note first that, for the Bible, law is revelation. The*
38 *Hebrew word for law is torah which means instruction, authoritative direction.⁴³ The Biblical concept of law is*
39 *broader than the legal codes of the Mosaic formulation. It applies to the divine word and instruction in its*
40 *totality:*

41 *...the earlier prophets also use torah for the divine word proclaimed through them (Is.*
42 *viii. 16, cf. also v. 20; Isa. xxx. 9 f.; perhaps also Isa. i. 10). Besides this, certain*
43 *passages in the earlier prophets use the word torah also for the commandment of Yahweh*
44 *which was written down: thus Hos. viii. 12. Moreover there are clearly examples not only*
45 *of ritual matters, but also of ethics.*

46 *Hence it follows that at any rate in this period torah had the meaning of a divine*
47 *instruction, whether it had been written down long ago as a law and was preserved and*
48 *pronounced by a priest, or whether the priest was delivering it at that time (Lam. ii. 9;*

⁴⁰ Hermann Kleinknecht and W. Gutbrod, *Law* (London: Adam and Charles Black, 1962), p. 21

⁴¹ Mao Tse-Tung, *The foolish Old Man Who Removed Mountains* (Peking: Foreign Languages Press, 1966), p. 3.

⁴² Morris Raphael Cohen, *Reason and Law* (New York: Collier Books, 1961), p. 84 f.

⁴³ Ernest F. Kevan, *The Moral Law* (Jenkintown, Penna.: Sovereign Grace Publishers, 1963) p. 5 f. S.R. Driver, "Law (In Old Testament)," in James Hastings, ed., *A Dictionary of the Bible*, vol. III (New York: Charles Scribner's Sons, 1919), p. 64.

Ezek. vii. 26; Mal. ii. 4 ff.), or the prophet is commissioned by God to pronounce it for a definite situation (so perhaps Isa. xxx. 9).

Thus what is objectively essential in torah is not the form but the divine authority.⁴⁴

The law is the revelation of God and His righteousness. There is no ground in Scripture for despising the law. Neither can the law be relegated to the Old Testament and grace to the New:

The time-honored distinction between the OT as a book of law and the NT as a book of divine grace is without grounds or justification. Divine grace and mercy are the presupposition of law in the OT; and the grace and love of God displayed in the NT events issue in the legal obligations of the New Covenant. Furthermore, the OT contains evidence of a long history of legal developments which must be assessed before the place of law is adequately understood. Paul's polemics against the law in Galatians and Romans are directed against an understanding of law which is by no means characteristic of the OT as a whole.⁴⁵

There is no contradiction between law and grace. The question in James's Epistle is faith and works, not faith and law.⁴⁶ Judaism had made law the mediator between God and man, and between God and the world. It was this view of law, not the law itself, which Jesus attacked. As Himself the Mediator, Jesus rejected the law as mediator in order to re-establish the law in its God-appointed role as law, the way of holiness. He established the law by dispensing forgiveness as the law-giver in full support of the law as the convicting word which makes men sinners.⁴⁷ The law was rejected only as mediator and as the source of justification.⁴⁸ Jesus fully recognized the law, and obeyed the law. It was only the absurd interpretations of the law He rejected. Moreover,

We are not entitled to gather from the teaching of Jesus in the Gospels that He made any formal distinction between the Law of Moses and the Law of God. His mission being not to destroy but to fulfil the Law and the Prophets (Mt. 5:17), so far from saying anything in disparagement of the Law of Moses or from encouraging His disciples to assume an attitude of independence with regard to it, He expressly recognized the authority of the Law of Moses as such, and of the Pharisees as its official interpreters. (Mt. 23:1-3).⁴⁹

With the completion of Christ's work, the role of the Pharisees as interpreters ended, but not the authority of the Law. In the New Testament era, only apostolically received revelation was ground for any alteration in the law. The authority of the law remained unchanged.

St. Peter, e.g. required a special revelation before he would enter the house of the uncircumcised Cornelius and admit the first Gentile convert into the Church by baptism (acts 10:1-48) --a step which did not fail to arouse opposition on the part of those who "were of the circumcision" (cf. 11:1-18).⁵⁰

The second characteristic of Biblical law is that it is a treaty or covenant. Kline has shown that the form of the giving of the law, the language of the text, the historical prologue, the requirement of imprecations and benedictions, and much more, all point to the fact that the law is a treaty established by God with His people. Indeed, "the revelation committed to the two tables was rather a suzerainty treaty or covenant than a legal code."⁵¹ The full covenant summary, the Ten Commandments, was inscribed on each of the two tables of stone, one table or copy of the treaty for each party in the treaty, God and Israel.⁵²

⁴⁴ Keleinknecht and Gutbrod, *Law*, p. 44

⁴⁵ W.J. Harrelson, "Law in the OT," in *The Interpreter's Dictionary of the Bible*, (New York: Abingdon Press, 1962), III, 77.

⁴⁶ Keleinknecht and Gutbrod, *Law*, p. 125.

⁴⁷ *Ibid.*, pp. 74, 81-91.

⁴⁸ *Ibid.*, p. 95.

⁴⁹ Hugh H. Currie, "Law of God," in James Hastings, ed., *A Dictionary of Christ and the Gospels* (New York: Charles Scribner's Sons, 1919), I, 685.

⁵⁰ Olaf Moe, "Law," in James Hastings, ed., *Dictionary of the Apostolic Church* (New York: Charles Scribner's Sons, 1919), I, 685.

⁵¹ Meredith G. Line, *Treaty of the Great King, The Covenant Structure of Deuteronomy: Studies and Commentary* (Grand Rapids: William B. Eerdmans, 1963), p. 16. See also J.A. Thompson: *The Ancient Near Eastern Treaties and the Old Testament* (London: The Tyndale Press, 1964).

⁵² Kline, *op. cit.*, p. 19.

1 The two stone tables are not, therefore, to be likened to a stele containing one of the half-
2 dozen or so known legal codes earlier than or roughly contemporary with Moses as
3 though God had engraved on these tables a corpus of law. The revelation they contain is
4 nothing less than an epitome of the covenant granted by Yahweh, the sovereign Lord of
5 heaven and earth, to his elect and redeemed servant, Israel.

6 Not law, but covenant. That must be affirmed when we are seeking a category
7 comprehensive enough to do justice to this revelation in its totality. At the same time, the
8 prominence of the stipulations, reflect in the fact that "the ten words" are the element
9 used as pars pro toto, signifies the centrality of law in this type of covenant. There is
10 probably no clearer direction afforded the biblical theologian for defining with biblical
11 emphasis the type of covenant God adopted to formalize his relationship to his people
12 than that given in the covenant he gave Israel to perform, even "the ten commandments."
13 Such a covenant is a declaration of God's lordship, consecrating a people to himself in a
14 sovereignly dictated order of life.⁵³

15 This latter phrase needs re-emphasis: the covenant is "a sovereignly dictated order of life." God as the
16 sovereign Lord and Creator gives His law to man as an act of sovereign grace. It is an act of election, of
17 electing grace (Deut. 7:7 f.; 8:17; 9:4-6, etc.).

18 The God to whom the earth belongs will have Israel for His own property, Ex. xix. 5. It is
19 only on the ground of the gracious election and guidance of God that the divine
20 commands to the people are given, and therefore the Decalogue, Ex. xx. 2, places at its
21 forefront the fact of election.⁵⁴

22 In the law, the total life of man is ordered: "there is no primary distinction between the inner and the outer life;
23 the holy calling of the people must be realized in both."⁵⁵

24 The third characteristic of the Biblical law or covenant is that it constitutes a plan for dominion under God.
25 God called Adam to exercise dominion in terms of God's revelation, God's law (Gen. 1:26 ff.; 2:15-17). This
26 same calling, after the fall, was required of the godly line, and in Noah it was formally renewed (Gen. 9:1-17).
27 It was again renewed with Abraham, with Jacob, with Israel in the person of Moses, with Joshua, David,
28 Solomon (whose Proverbs echo the law), with Hezekiah and Josiah, and finally with Jesus Christ. The
29 sacrament of the Lord's Supper is the renewal of the covenant: "this is my blood of the new testament" (or
30 covenant), so that the sacrament itself re-establishes the law, this time with a new elect group (Matt. 26:28;
31 Mark 14:24; Luke 22:20; 1 Cor. 11:25). The people of the law are now the people of Christ, the believers
32 redeemed by His atoning blood and called by His sovereign election. Kline, in analyzing Hebrews 9:16, 17, in
33 relation to the covenant administration, observes:

34 ...the picture suggested would be that of Christ's children (cf. 2:13) inheriting his
35 universal dominion as their eternal portion (note 9:15b; cf. also 1:14; 2:5 ff.; 6:17; 11:7
36 ff.). And such is the wonder of the messianic Mediator-Testator that the royal inheritance
37 of his sons, which becomes of force only through his death, is nevertheless one of co-
38 regency with the living Testator! For (to follow the typographical direction provided by
39 Heb. 9:16,17 according to the present interpretation) Jesus is both dying Moses and
40 succeeding Joshua. Not merely after a figure but in truth a royal Mediator redivivus, he
41 secures the divine dynasty by succeeding himself in resurrection power and ascension
42 glory.⁵⁶

43 The purpose of God in requiring Adam to exercise dominion over the earth remains His continuing covenant
44 word: man, created in God's image and commanded to subdue the earth and exercise dominion over it in God's
45 name, is recalled to this task and privilege by his redemption and regeneration.

46 The law is therefore the law for Christian man and Christian society. Nothing is more deadly or more derelict
47 than the notion that the Christian is at liberty with respect to the kind of law he can have. Calvin whose
48 classical humanism gained ascendancy at this point, said of the laws of states, of civil governments:

49 I will briefly remark, however, by the way, what laws it (the state) may piously use before
50 God, and be rightly governed by among men. And even this I would have preferred
51 passing over in silence, if I did not know that it is a point on which many persons run into

⁵³ Ibid., p. 17.

⁵⁴ Gustave Friedrich Oehler, *Theology of the Old Testament* (Grand Rapids: Zondervan, 1883), p. 177.

⁵⁵ Ibid., p. 182.

⁵⁶ Kline, *Treaty of the Great King*, p. 41.

1 dangerous errors. For some deny that a state is well constituted, which neglects the
2 polity of Moses, and is governed by the common laws of nations. The dangerous and
3 seditious nature of this opinion I leave to the examination of others; it will be sufficient
4 for me to have evinced it to be false and foolish.⁵⁷

5 Such ideas, common in Calvinist and Lutheran circles, and in virtually all churches, are still heretical
6 nonsense.⁵⁸ Calvin favored "the common law of nations." But the common law of nations in his day was
7 Biblical law, although extensively denatured by Roman law. And this "common law of nations" was
8 increasingly evidencing a new religion, humanism. Calvin wanted the establishment of the Christian religion;
9 he could not have it, nor could it last long in Geneva, without Biblical law.

10 Two Reformed scholars, in writing of the state, declare, "It is to be God's servant, for our welfare. It must
11 exercise justice, and it has the power of the sword."⁵⁹ Yet these men follow Calvin in rejecting Biblical law for
12 "the common law of nations." But can the state be God's servant and by-pass God's law? And if the state "must
13 exercise justice," how is justice defined, by the nations, or by God? There are as many ideas of justice as there
14 are religions.

15 The question then is, what law is for the state? Shall it be positive law, after calling for "justice" in the state,
16 declare, "A static legislation valid for all times is an impossibility." Indeed!⁶⁰ Then what about the
17 commandment, Biblical legislation, if you please, "Thou shalt not kill," and "Thou shalt not steal"? **Are they not**
18 **intended to valid for all time and in every civil order? By abandoning Biblical law, these Protestant**
19 **theologians end up in moral and legal relativism.**

20 Roman Catholic scholars offer natural law. The origins of this concept are in Roman law and religion. For the
21 Bible, there is no law in nature, because nature is fallen and cannot be normative. Moreover the source of law
22 is not nature but God. There is no law in nature but a law over nature, God's law.⁶¹

23 **Neither positive law [man's law] nor natural law can reflect more than the sin and apostasy of man: revealed**
24 **law [e.g. ONLY THE BIBLE] is the need and privilege of Christian society. It is the only means whereby**
25 **man can fulfill his creation mandate of exercising dominion under God. Apart from revealed law [the**
26 **BIBLE!], man cannot claim to be under God but only in rebellion against God.**
27 [*Institutes of Biblical Law*, Rousas John Rushdoony, 1973, The Craig Press, Library of Congress Catalog Card
28 Number 72-79485, pp. 4-5, Emphasis added]

29 See: *Socialism: The New American Political Religion*, <http://sedm.org/Forms/MemLaw/SocialismCivilReligion.pdf>

30 YOUR ANSWER: ___ Admit ___ Deny

31 CLARIFICATION: _____

32
33 8. Admit that an important purpose of "due process" is to remove presumption and the prejudice to rights that it effects,
34 from the legal process.

35 "If any question of fact or liability be conclusively be presumed [rather than proven] against him, this is not
36 due process of law."
37 [*Black's Law Dictionary, Sixth Edition, p. 500*]

38 YOUR ANSWER: ___ Admit ___ Deny

39 CLARIFICATION: _____

40
41 9. Admit that statutory presumptions which might prejudice Constitutional rights are not permissible.

⁵⁷ John Calvin, *Institutes of the Christian Religion*, bk. IV, chap. XX, para. Xiv. In the John Allen translation (Philadelphia: Presbyterian Board of Christina Education, 1936), II, 787 f.

⁵⁸ See H. de Jongste and J.M. van Krimpen, *The Bible and the Life of the Christian*, for similar opinions (Philadelphia: Presbyterian and Reformed Publishing Co., 1968), p. 66 ff.

⁵⁹ *Ibid.*, p. 73.

⁶⁰ *Ibid.*, p. 75.

⁶¹ The very term "nature" is mythical. See R.J. Rushdoony, "The Myth of Nature," in *The Mythology of Science* (Nutley, N.J.: The Craig Press, 1967), pp. 96-98.

1 "It is apparent that a constitutional prohibition cannot be transgressed indirectly by the creation of a statutory
2 presumption any more than it can be violated by direct enactment. The power to create presumptions is not a
3 means of escape from constitutional restrictions."
4 [Bailey v. Alabama, 219 U.S. 219 (1911)]

5 YOUR ANSWER: ___ Admit ___ Deny

6
7 CLARIFICATION: _____

- 8 10. Admit that misinterpretation of the use of the word "includes" as defined in 26 U.S.C. §7701(c) has the effect of
9 compelling a presumption that cannot be supported by the rules of statutory construction:

10 "Expressio unius est exclusio alterius. A maxim of statutory interpretation meaning that **the expression of one**
11 **thing is the exclusion of another**. *Burgin v. Forbes*, 293 Ky. 456, 169 S.W.2d 321, 325; *Newblock v. Bowles*,
12 *170 Okl. 487, 40 P.2d 1097, 1100*. Mention of one thing implies exclusion of another. **When certain persons**
13 **or things are specified in a law, contract, or will, an intention to exclude all others from its operation may be**
14 **inferred**. Under this maxim, if statute specifies one exception to a general rule or assumes to specify the effects
15 of a certain provision, other exceptions or effects are excluded."
16 [Black's Law Dictionary, Sixth Edition, page 581]

17 See also: Meaning of the words "includes" and "including", <http://sedm.org/Forms/MemLaw/Includes.pdf>

18 YOUR ANSWER: ___ Admit ___ Deny

19
20 CLARIFICATION: _____

- 21 11. Admit that vague laws have the effect of compelling the Courts to make presumptions about the meaning of the law in
22 question.

23 "It is a basic principle of due process that an enactment is void for vagueness if its prohibitions are not clearly
24 defined. Vague laws offend several important values. First, because we assume that man is free to steer between
25 lawful and unlawful conduct, we insist that laws give the person of ordinary intelligence a reasonable
26 opportunity to know what is prohibited, so that he may act accordingly. Vague laws may trap the innocent by
27 not providing fair warning. Second, if arbitrary and discriminatory enforcement is to be prevented, laws must
28 provide explicit standards for those who apply them. A vague law impermissibly delegates basic policy matters
29 to policemen, judges, and juries for resolution on an ad hoc and subjective basis, with the attendant dangers
30 of arbitrary and discriminatory application."
31 [Sewell v. Georgia, 435 U.S. 982 (1978)]

32 YOUR ANSWER: ___ Admit ___ Deny

33
34 CLARIFICATION: _____

- 35 12. Admit that vague laws written by the Legislative Branch of the government have the affect of compelling Courts to
36 engage in "political matters" and make policy decisions:

37 A vague law impermissibly delegates basic policy matters [also called "political questions"] to policemen,
38 judges, and juries for resolution on an ad hoc and subjective basis, with the attendant dangers of arbitrary
39 and discriminatory application."
40 [Sewell v. Georgia, 435 U.S. 982 (1978)]
41 _____

42 "Political questions. Questions of which courts will refuse to take cognizance, or to decide, on account of their
43 purely political character, or because their determination would involve an encroachment upon the executive or
44 legislative powers.

45 "Political questions doctrine" holds that certain issues should not be decided by courts because their resolution
46 is committed to another branch of government and/or because those issues are not capable, for one reason or
47 another, of judicial resolution. *Islamic Republic of Iran v. Pahlavi*, 116 Misc.2d 590, 455 N.Y.S.2d 987, 990.

48 A matter of dispute which can be handled more appropriately by another branch of the government is not a
49 "justiciable" matter for the courts. However, a state apportionment statute is not such a political question as to
50 render it nonjusticiable. *Baker v. Carr*, 369 U.S. 186, 208-210, 82 S.Ct. 691, 705-706, 7 L.Ed.2d 663.

YOUR ANSWER: ___Admit ___Deny

CLARIFICATION:_____

- 13. Admit that Courts are constitutionally barred from engaged in “political questions” because this violates the separation of powers doctrine, which requires that all “political questions” be handled by the political branches of government, which includes the Executive and the Legislative branches and excludes the Juridical branch.

Another evil, alarming and little foreseen, involved in regarding these as questions for the final arbitrament of judges would be that, in such an event, all political privileges and rights would, in a dispute among the people, depend on our decision finally. We would possess the power to decide against, as well as for, them, and, under a prejudiced or arbitrary judiciary, the public liberties and popular privileges might thus be much perverted, if not entirely prostrated. But, allowing the people to make constitutions and unmake them, allowing their representatives to make laws and unmake them, and without our interference as to their principles or policy in doing it, yet, when constitutions and laws are made and put in force by others, then the courts, as empowered by the State or the Union, commence their functions and may decide on the rights which conflicting parties can legally set up under them, rather than about their formation itself. Our power begins after theirs [the Sovereign People] ends. Constitutions and laws precede the judiciary, and we act only under and after them, and as to disputed rights beneath them, rather than disputed points in making them. We speak what is the law, jus dicere, we speak or construe what is the constitution, after both are made, but we make, or revise, or control neither. The disputed rights beneath constitutions already made are to be governed by precedents, by sound legal principles, by positive legislation [e.g. "positive law"], clear contracts, moral duties, and fixed rules; they are per se questions of law, and are well suited to the education and habits of the bench. But the other disputed points in making constitutions, depending often, as before shown, on policy, inclination, popular resolves and popular will and arising not in respect to private rights, not what is meum and tuum, but in relation to politics, they belong to politics, and they are settled by political tribunals, and are too dear to a people bred in the school of Sydney and Russel for them ever to intrust their final decision, when disputed, to a class of men who are so far removed from them as the judiciary, a class also who might decide them erroneously, as well as right, and if in the former way, the consequences might not be able to be averted except by a revolution, while a wrong decision by a political forum can often be peacefully corrected by new elections or instructions in a single month; and if the people, in the distribution of powers under the constitution, should ever think of making judges supreme arbiters in political controversies when not selected by nor, frequently, amenable to them nor at liberty to follow such various considerations in their judgments as [48 U.S. 53] belong to mere political questions, they will dethrone themselves and lose one of their own invaluable birthrights; building up in this way -- slowly, but surely -- a new sovereign power in the republic, in most respects irresponsible and unchangeable for life, and one more dangerous, in theory at least, than the worst elective oligarchy in the worst of times. Again, instead of controlling the people in political affairs, the judiciary in our system was designed rather to control individuals, on the one hand, when encroaching, or to defend them, on the other, under the Constitution and the laws, when they are encroached upon. And if the judiciary at times seems to fill the important station of a check in the government, it is rather a check on the legislature, who may attempt to pass laws contrary to the Constitution, or on the executive, who may violate both the laws and Constitution, than on the people themselves in their primary capacity as makers and amenders of constitutions."

[Luther v. Borden, 48 U.S. 1 (1849)]

YOUR ANSWER: ___Admit ___Deny

CLARIFICATION:_____

- 14. Admit that “prima facie” evidence is simply “presumed” to be evidence until challenged or rebutted:

“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. State ex Re. Herbert v. Whims, 68 Ohio.App. 39, 38 N.E.2d 596, 599, 22 O.O. 110. See also Presumption”

[Black's Law Dictionary, Sixth Edition, p. 1189]

YOUR ANSWER: ___Admit ___Deny

CLARIFICATION:_____

- 15. Admit that “prima facie” evidence that might otherwise prejudice Constitutional rights may only be used against a party who either has no Constitutional rights or who has surrendered them through his right to contract.

1 YOUR ANSWER: ___Admit ___Deny

2
3 CLARIFICATION:_____

4 16. Admit that 1 U.S.C. §204, which is positive law, identifies the Internal Revenue Code as “prima facie” evidence of
5 law, which means that it is only “presumed” to be law but is not actually proven to be law.

6 1 U.S.C. §204: Codes and Supplements as evidence of the laws of United States and District of Columbia:
7 citation of Codes and Supplements

8 *Sec. 204. - Codes and Supplements as evidence of the laws of United States and District of Columbia; citation*
9 *of Codes and Supplements*

10 *In all courts, tribunals, and public offices of the United States, at home or abroad, of the District of Columbia,*
11 *and of each*

12 *State, Territory, or insular possession of the United States -*

13 *(a) United States Code. -*

14 **[1] The matter set forth in the edition of the Code of Laws of the United States current at any time shall**
15 **together with the then current supplement, if any, establish prima facie [by presumption] the laws of the**
16 **United States, general and permanent in their nature, in force on the day preceding the commencement of the**
17 **session following the last session the legislation of which is included:**

18 **[2] Provided, however, That whenever titles of such Code shall have been enacted into positive law the text**
19 **thereof shall be legal evidence of the laws therein contained, in all the courts of the United States, the several**
20 **States, and the Territories and insular possessions of the United States.**

21 YOUR ANSWER: ___Admit ___Deny

22
23 CLARIFICATION:_____

24 17. Admit that federal employees have no constitutional rights in relation to their “employer”, the federal government
25 “corporation”, while on official duty:

26 *“The restrictions that the Constitution places upon the government in its capacity as lawmaker, i.e., as the*
27 *regulator of private conduct, are not the same as the restrictions that it places upon the government in its*
28 *capacity as employer. We have recognized this in many contexts, with respect to many different constitutional*
29 *guarantees. Private citizens perhaps cannot be prevented from wearing long hair, but policemen can. Kelley v.*
30 *Johnson, 425 U.S. 238, 247 (1976). Private citizens cannot have their property searched without probable*
31 *cause, but in many circumstances government employees can. O’Connor v. Ortega, 480 U.S. 709, 723 (1987)*
32 *(plurality opinion); id., at 732 (SCALIA, J., concurring in judgment). Private citizens cannot be punished for*
33 *refusing to provide the government information that may incriminate them, but government employees can be*
34 *dismissed when the incriminating information that they refuse to provide relates to the performance of their job.*
35 *Gardner v. Broderick, [497 U.S. 62, 95] 392 U.S. 273, 277 -278 (1968). With regard to freedom of speech*
36 *in particular: Private citizens cannot be punished for speech of merely private concern, but government*
37 *employees can be fired for that reason. Connick v. Myers, 461 U.S. 138, 147 (1983). Private citizens cannot be*
38 *punished for partisan political activity, but federal and state employees can be dismissed and otherwise*
39 *punished for that reason. Public Workers v. Mitchell, 330 U.S. 75, 101 (1947); Civil Service Comm’n v. Letter*
40 *Carriers, 413 U.S. 548, 556 (1973); Broadrick v. Oklahoma, 413 U.S. 601, 616 -617 (1973).”*
41 *[Rutan v. Republican Party of Illinois, 497 U.S. 62 (1990)]*

42 YOUR ANSWER: ___Admit ___Deny

43
44 CLARIFICATION:_____

45 18. Admit that persons resident on federal territory or in federal areas are not protected by the Constitution or the Bill of
46 Rights, but instead are completely subject to the totalitarian legislative jurisdiction of Congress under Article 1, Section
47 8, Clause 17 of the Constitution.

1 **"CONSTITUTIONAL RESTRICTIONS AND LIMITATIONS [Bill of Rights] WERE NOT APPLICABLE**
2 **to the areas of lands, enclaves, territories, and possessions over which Congress had EXCLUSIVE**
3 **LEGISLATIVE JURISDICTION"**
4 *[Downes v. Bidwell, 182 U.S. 244 (1901)]*

5 YOUR ANSWER: ___ Admit ___ Deny

6
7 CLARIFICATION: _____

- 8 19. Based on the foregoing four questions, admit that the federal "employees" and persons domiciled on federal territory
9 are among those against whom "presumptions" may be openly employed in federal court without violating
10 Constitutionally guaranteed rights.

11 YOUR ANSWER: ___ Admit ___ Deny

12
13 CLARIFICATION: _____

- 14 20. Admit that persons domiciled in a state of the Union who have no contracts, employment, or agency with the federal
15 government and who are litigating in a federal court may NOT lawfully become the subject of any presumptions by the
16 Court or the jury which might prejudice rights guaranteed by the Constitution of the United States of America.

17 YOUR ANSWER: ___ Admit ___ Deny

18
19 CLARIFICATION: _____

- 20 21. Admit that a Court which "presumes" that a person is domiciled on federal territory or that he or she is an "employee"
21 without insisting that there is evidence on the record of same is making an impermissible presumption which injures
22 Constitutional rights if the person instead is domiciled in a state of the Union and has not agency, fiduciary duty, or
23 employment with the federal government.

24 YOUR ANSWER: ___ Admit ___ Deny

25
26 CLARIFICATION: _____

- 27 22. Admit that a population of jurists who are not educated in the law are far more likely to engage in prejudicial or
28 unconstitutional "presumptions" than one that is.

29 YOUR ANSWER: ___ Admit ___ Deny

30
31 CLARIFICATION: _____

- 32 23. Admit that a majority of Americans receive NO LEGAL EDUCATION whatsoever in PUBLIC (meaning
33 GOVERNMENT) grammar school, grade school, or high school.

34 YOUR ANSWER: ___ Admit ___ Deny

35
36 CLARIFICATION: _____

- 37 24. Admit that legal ignorance on the part of the average jurist makes them putty in the hands of a judge who wants to
38 employ "presumption" as a means to prejudice the rights of a litigant who is fighting illegal actions by the government.

39 YOUR ANSWER: ___ Admit ___ Deny

40
41 CLARIFICATION: _____

1 25. Admit that a trial where litigants are forbidden from discussing the law makes that proceeding into primarily a
2 political, rather than a legal, proceeding subject to the whims, prejudices, ignorance, and bias instead of focused on
3 strict adherence to the law and correct application of it to the circumstances of the Respondent or Defendant.

4 YOUR ANSWER: ___ Admit ___ Deny

5
6 CLARIFICATION: _____

7 **Affirmation:**

8 I declare under penalty of perjury as required under [26 U.S.C. §6065](#) that the answers provided by me to the foregoing
9 questions are true, correct, and complete to the best of my knowledge and ability, so help me God. I also declare that these
10 answers are completely consistent with each other and with my understanding of both the Constitution of the United States,
11 Internal Revenue Code, Treasury Regulations, the Internal Revenue Manual, and the rulings of the Supreme Court but not
12 necessarily lower federal courts.

13 Name (print): _____

14 Signature: _____

15 Date: _____

16 Witness name (print): _____

17 Witness Signature: _____

18 Witness Date: _____