MEANING OF THE WORDS "INCLUDES" AND "INCLUDING"

Last revised: December 8, 2006

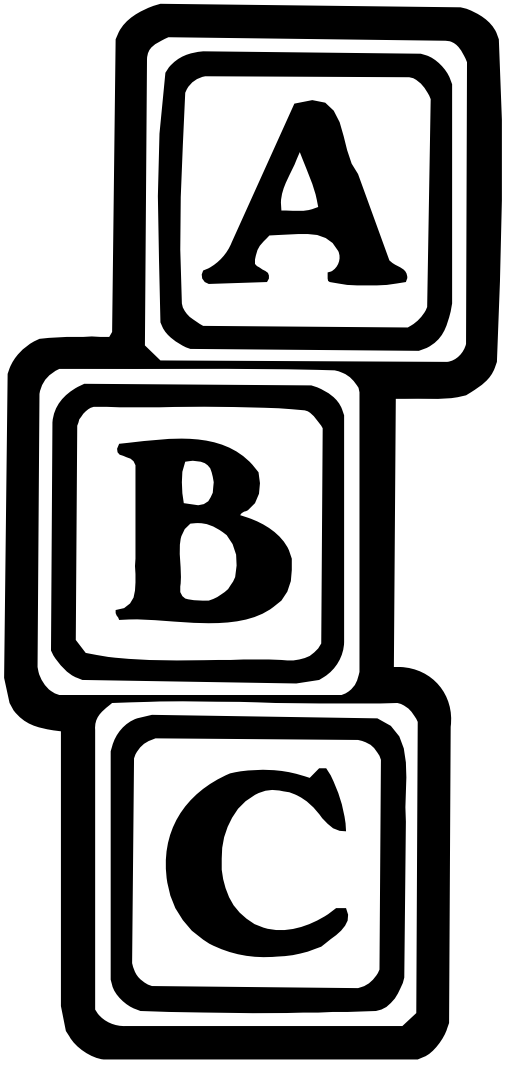

TABLE OF CONTENTS

LIST OF TABLES

TABLE OF AUTHORITIES

The authorities indicated below describe where specific cases, statutes, and regulations are cited within this book. Additional very useful and helpful authorities may be found on our website at:

http://famguardian.org/TaxFreedom/FormsInstr.htm

by clicking on AUTHORITIES or CITES BY TOPIC in the upper left hand corner of the page.

Page

CONSTITUTIONAL PROVISIONS

STATUTES

REGULATIONS

CASES

OTHER AUTHORITIES

1 Introduction

A very popular subject of argumentation is the use of the word "includes" within the Internal Revenue Code:

1. Federal District and Circuit Courts decide cases that relate to this issue frequently.
2. The IRS brings this issue up frequently in its collection notices and its telephone support.
3. Internet forums discussing the requirements of the Internal Revenue Code frequently contain arguments on this issue. See:
   - 3.1. Family Guardian forums: http://famguardian.org/forums/
   - 3.2. Sui Juris Forums: http://forum.suijuris.net/
   - 3.3. MSN Tax Board: http://moneycentral.communities.msn.com/TaxCorner/general.msnw?action=get_threads
   - 3.4. Quatloos forums: http://www.quatloos.com/Tax-Forums/viewforum.php?f=8
   - 3.5. Legality of Income Taxes forum: http://groups.yahoo.com/group/legality-of-income-tax/
4. Definitions of the following words in the Internal Revenue Code rely on the use of this word:
   - 4.1. "employee": 26 U.S.C. §3401(c)
   - 4.2. "gross income": 26 U.S.C. §872
   - 4.3. "person": 26 U.S.C. §7701(a)(1), 26 U.S.C. §7343, 26 U.S.C. §6671(b)
   - 4.4. "State": 26 U.S.C. §7701(a)(10)
   - 4.5. "trade or business": 26 U.S.C. §7701(a)(26)
   - 4.6. "United States": 26 U.S.C. §7701(a)(9)

It is therefore of extreme importance to conduct a scholarly inquiry into this subject to settle the dispute once and for all clearly and unambiguously, and to do so entirely free of any "presumption" or prejudice. We will do so only with authoritative sources such as enacted positive law and the rulings of the Supreme Court. If we quote lower courts, we will do so only to further illustrate our point but emphasize that according to the IRS' own rules (see IRM 4.10.7.2.9.8), the rulings of these lower courts cannot and should not be relied upon to sustain a reasonable belief:

> *4.10.7.2.9.8 (05-14-1999) Importance of Court Decisions*
>
> *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.*

We will start off in Section 2 with an itemized list of all of the legal definitions of the words "includes" and "including" from the most authoritative sources. Then in section 3 we will synthesize all these sources to discover the true meaning and proper application of the word. Section 4 will analyze the most commonplace government propaganda on the subject of the word "includes". Then in section 5, we include a series of legal admissions targeted at those die-hard readers who simply refuse to believe our analysis. Each question has a default answer, and failure to rebut causes them to admit the truth of our analysis. The final section, Section 6, will list further resources you are encouraged to consult in the process of further researching and rebutting our analysis.

If you would like to further investigate the matters discussed in this pamphlet beyond appears here, we refer you to the following FREE resources elsewhere on the Internet:

Table 1-1: Resources for further study and rebuttal

#	Resource Name	Source	Web address

#	Resource Name	Source	Web address
1	Presumption: Chief Means of Unlawfully Enlarging Federal Jurisdiction	SEDM	http://sedm.org/Forms/FormIndex.htm, See Form #05.017
2	Cites by Topic: "includes"	Family Guardian Website	http://famguardian.org/TaxFreedom/CitesByTopic/includes.htm
3	Family Guardian Forums: Words of Art	Family Guardian discussion forums	http://famguardian.org/forums/index.php?s=0fcf93fd62295562eebe7951732e2f88&showforum=30
4	Lost Horizons Website: "includes"	Lost Horizon Website	http://www.losthorizons.com/comment/The%20Law%20Means%20What%20It%20Says.pdf
5	Truth in Taxation Hearing, Section 9, Ambiguity of Law	Family Guardian Website	http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Section%2009.htm
6	Words and Phrases: "includes"	Words and Phrases (WAP) series	http://famguardian.org/TaxFreedom/CitesByTopic/Include-WP.pdf
7	Great IRS Hoax, section 2.8.2: Presumption	Family Guardian Website	http://famguardian.org/Publications/GreatIRSHoax/GreatIRSHoax.htm
8	Statutory Interpretation: General Principles and Recent Trends	Family Guardian Website	http://famguardian.org/PublishedAuthors/Govt/CRS/Statutory%20Interpretation.General.Principles.MARCH.30.2006.CRS97-589.pdf

2 Legal Definitions of "includes"

2.1 Internal Revenue Code

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

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

You may examine the original text of the above statute on the Internet at the address below:

http://caselaw.lp.findlaw.com/scripts/ts_search.pl?title=26&sec=7701

2.2 Federal Register

The Department of the Treasury has defined the word "includes" as follows:

Treasury Decision 3980, Vol. 29, January-December, 1927, pgs 64 and 65

*"(1) **To comprise, comprehend, or embrace**…**(2) To enclose within; contain; confine**…But granting that the word '**including**' is a term of enlargement, it is clear that it **only** performs that office by introducing the **specific elements** constituting the enlargement. It thus, and thus **only**, enlarges the otherwise more **limited, preceding general language**…The word 'including' is obviously used in the sense of its **synonyms**, comprising; comprehending; embracing."*

You may look at the original document within which the above definition appears on the internet at:

http://famguardian.org/TaxFreedom/CitesByTopic/includes-TD3980.pdf

2.3 Black's Law Dictionary Definition

*"**Include**. (Lat. Inclaudere, to shut in. keep within.) To confine within, hold as an inclosure. Take in, attain, shut up, contain, inclose, comprise, comprehend, embrace, involve. Term may, according to context, express an enlargement and have the meaning of and or in addition to, or merely specify a particular thing already included within general words theretofore used. "Including" within statute is interpreted as a word of*

enlargement or of illustrative application as well as a word of limitation. Premier Products Co. v. Cameron, 240 Or. 123, 400 P.2d 227, 228."
[Black's Law Dictionary, Sixth Edition, p. 763]

You may examine the original text of the above statute on the Internet at the address below:

http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Evidence/Q09.006.pdf

2.4 Bouvier's Law Dictionary Definition

"INCLUDE (Lat. in claudere to shut in, keep within). In a legacy of 'one hundred dollars including money trusted' at a bank, it was held that the word `including' extended only to a gift of one hundred dollars; 132 Mass. 218..."

"INCLUDING. The words `and including' following a description do not necessarily mean `in addition to,' but may refer to a part of the thing described. 221 U.S. 425."

You may examine the original text of the above statute on the Internet at the address below:

http://famguardian.org/Publications/Bouviers/bouvieri.txt

2.5 Supreme Court Interpretation of "includes"

2.5.1 Montello Salt Co. v. Utah, 221 U.S. 452 (1911)

The determining word is, of course the word 'including.' It may have the sense of addition, [221 U.S. 452, 465] as we have seen, and of 'also;' but, we have also seen, 'may merely specify particularly that which belongs to the genus.' Hiller v. United States, 45 C. C. A. 229, 106 Fed. 73, 74. It is the participle of the word 'include,' which means, according to the definition of the Century Dictionary, (1) 'to confine within something; hold as in an inclosure; inclose; contain.' (2) 'To comprise as a part, or as something incident or pertinent; comprehend; take in; as the greater includes the less; . . . the Roman Empire included many nations.' 'Including,' being a participle, is in the nature of an adjective and is a modifier."

...

*"...**The court also considered that the word 'including' was used as a word of enlargement, the learned court being of opinion that such was its ordinary sense. With this we cannot concur. It is its exceptional sense, as the dictionaries and cases indicate.** We may concede to 'and' the additive power attributed to it. It gives in connection with 'including' a quality to the grant of 110,000 acres which it would not have had,-the quality of selection from the saline lands of the state. And that such quality would not exist unless expressly conferred we do not understand is controverted. Indeed, it cannot be controverted...."*
[Montello Salt Co. v. Utah, 221 U.S. 452 (1911)]

2.5.2 American Surety Co. of New York v. Marotta, 287 U.S. 513 (1933)

*"**In definitive provisions of statutes and other writings, 'include' is frequently, if not generally, used as a word of extension or enlargement [meaning "in addition to"] rather than as one of limitation or enumeration.** Fraser v. Bentel, 161 Cal. 390, 394, 119 P. 509, Ann. Cas. 1913B, 1062; People ex rel. Estate of Woolworth v. S.T. Comm., 200 App.Div. 287, 289, 192 N.Y.S. 772; Matter of Goetz, 71 App.Div. 272, 275, 75 N.Y.S. 750; Calhoun v. Memphis & P.R. Co., Fed. Cas. No. 2,309; Cooper v. Stinson, 5 Minn. 522 (Gil. 416). Subject to the effect properly to be given to context, section 1 (11 USCA 1) prescribes the constructions to be put upon various words and phrases used in the act. Some of the definitive clauses commence with 'shall include,' others with 'shall mean.' The former is used in eighteen instances and the latter in nine instances, and in two both are used. When the section as a whole is regarded, it is evident that these verbs are not used synonymously or loosely, but with discrimination and a purpose to give to each a meaning not attributable to the other. It is obvious that, in some instances at least, 'shall include' is used without implication that any exclusion is intended. Subsections (6) and (7), in each of which both verbs are employed, illustrate the use of 'shall mean' to enumerate and restrict and of 'shall include' to enlarge and extend. Subsection (17) declares 'oath' shall include affirmation, Subsection (19) declares 'persons' shall include corporations, officers, partnerships, and women. Men are not mentioned. In these instances the verb is used to expand, not to restrict. It is plain that 'shall include,' as used in subsection (9) when taken in connection with other parts of the section, cannot reasonably be read to be the equivalent of 'shall mean' or 'shall include only.' [287 U.S. 513, 518] There being nothing to indicate any other purpose, Congress must be deemed to have intended that in section 3a(1) 'creditors' should be given the meaning usually attributed to it when used in the common-law definition of fraudulent conveyances. See Coder v. Arts, 213 U.S. 223, 242 , 29 S.Ct. 436, 16 Ann.Cas. 1008; Lansing Boiler*

& Engine Works v. Joseph T. Ryerson & Son (C.C.A.) 128 F. 701, 703; Githens v. Shiffler (D.C.) 112 F. 505. Under the common-law rule a creditor having only a contingent claim, such as was that of the petitioner at the time respondent made the transfer in question, is protected against fraudulent conveyance. And petitioner, from the time that it became surety on Mogliani's bond, was entitled as a creditor under the agreement to invoke that rule. Yeend v. Weeks, 104 Ala. 331, 341, 16 So. 165, 53 Am.St.Rep. 50; Whitehouse v. Bolster, 95 Me. 458, 50 A. 240; Mowry v. Reed, 187 Mass. 174, 177, 72 N.E. 936; Stone v. Myers, 9 Minn. 303 (Gil. 287, 294), 86 Am.Dec. 104; Cook v. Johnson, 12 N.J.Eq. 51, 72 Am.Dec. 381; American Surety Co. v. Hattrem, 138 Or. 358, 364, 3 P.(2d) 1109, 6 P.(2d) 1087; U.S. Fidelity & Guaranty Co. v. Centropolis Bank (C.C.A.) 17 F.(2d) 913, 916, 53 A.L.R. 295; Thomson v. Crane (C.C.) 73 F. 327, 331." [American Surety Co. of New York v. Marotta, 287 U.S. 513 (1933)]
[American Surety Co. of New York v. Marotta, 287 U.S. 513 (1933)]

2.5.3 Rusello v. United States, 464 U.S. 16 (1983)

"This fact only underscores our duty to refrain from reading a phrase into the statute when Congress has left it out. " '[W]here Congress includes particular language in one section of a statute but omits it in another ..., it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion.' "
[Russello v United States, 464 US 16, 23, 78 L Ed 2d 17, 104 S Ct. 296 (1983)]

2.5.4 Gould v. Gould, 245 U.S. 151 (1917)

*"In the interpretation of **statutes levying taxes**, it is the established rule **not to** extend their provisions by implication beyond the clear import of the language used, or to enlarge their operations so as to embrace matters not specifically pointed out. In case of doubt they are construed most strongly against the government and in favor of the citizen."*
[Gould v. Gould, 245 U.S. 151 (1917)]

3 Rules of Statutory Construction and Interpretation

3.1 Courts may not question whether laws passed by the legislature are prudent

In state courts:

"Whether the legislature acted wisely by creating the challenged restriction is not a proper subject for judicial determination. McKinney v. Estate of McDonald, 71 Wash.2d 262, 264, 427 P.2d 974 (1967); Port of Tacoma v. Parosa, 52 Wash.2d 181, 192, 324 P.2d 438 (1958). The fact that the legislature made no exception for minors does not give rise to some latent judicial power to do so by means of a volunteered additional provision. This is true even if it could be said the legislative omission was inadvertent. State v. Roth, 78 Wash.2d 711, 715, 479 P.2d 55 (1971); Boeing v. King County, 75 Wash.2d 160, 166, 449 P.2d 404 (1969); State ex rel. Hagan v. Chinook Hotel, 65 Wash.2d 573, 578, 399 P.2d 8 (1965); Vannoy v. Pacific Power and Light Company, 59 Wash.2d 623, 629, 369 P.2d 848 (1962). If there is a need for such an exception, it must be initiated by the legislature, not by the courts. Boeing v. King County, supra; State ex rel. Hagan v. Chinook Hotel, supra." [1]

And in federal courts:

*"The particular need for making the judiciary independent was elaborately pointed out by Alexander Hamilton in the Federalist, No.78, from which we excerpt the following: "The executive not only dispenses the honors, but holds the sword of the community. The Legislature not only commands the purse, but prescribes the rules by which the duties and rights of every citizen are to be regulated. The judiciary, on the contrary, **has no influence** over either the sword or the purse; **no direction** either of the strength or of the wealth of the society; and **can take no active resolution whatever. It may truly be said to have neither force nor will, but merely judgment."*** [2]

3.2 Meaning of a statute must be sought in the language in which it is framed

"It is elementary that the meaning of a statute must, in the first instance, be sought in the language in which the act is framed, and if that is plain, and if the law is within the constitutional authority of the law-making body which passed it, the sole function of the court is to enforce it according to its terms. Lake County v. Rollins, 130 U.S. 662, 670, 671; Bate Refrigerating Co. v. Sulzberger, 157 U.S. 1, 33; United States v. Lexington Mill and Elevator Co., 232 U.S. 399, 409; United States v. Bank, 234 U.S. 245, 258." [3]

[1] See *Cook v. State*, 83 Wash.2d 725, 735, 521 P.24 725 (1974).

[2] See *Evans v. Gore*, 253 U.S. 245, 249, 40 S.Ct. 550, 551 (1920).

[3] See *Carminetti v. US.*, 242 U.S. 470, 485, 489493 (1916).

On state and federal levels, strict construction and hewing to the law with indifference is a mandate and axiom.

3.3 The Legislative Intent governs

Under *Chevron*, and *Brown*, those interpreting statutes must first consider the intent of Congress because

> *"[i]f the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress."*

See *Chevron,* 467 U.S. at 842-43. It is only if the intent of Congress is ambiguous that we defer to a permissible interpretation by the agency. *Chevron,* 467 U.S. at 843.

3.4 Executive agencies may not write regulations that exceed the authority of the statute itself

While executive branch officials may enjoy various delegations of regulatory authority, it is Congress' enactments within which those officials must stay when promulgating regulations. (See *Brown & Williamson v. F.D.A.*, 153 F.3d 155, 160-167 (CA4 1998), affd 529 U.S. 120 (2000) (FDA stripped of tobacco enforcement authority for lack of statutory basis)). Regulation cannot deviate from statute or it is void. The Secretary of the Treasury is bound by statute. Congressional intent is the deciding factor in considering the validity of a regulation. [4] What does not exist in regulation or statute does not exist at all.[5]

Agency power is "not the power to make law. Rather, it is 'the power to adopt regulations to carry into effect ***the will*** *of* ***Congress as expressed*** *by the statute.' "Ernst & Ernst v. Hochfelder,* 425 U.S. 185, 213-14 (1976) (quoting *Manhattan Gen. Equip. Co. v. Commission,* 297 U.S. 129, 134 (1936)). "[I]t [is] the judiciary's duty "to say what the law is." *Marbury v. Madison,* 1 Cranch. 137, 177 (1803) (Marshal, C.J.)." [6] Thus, our initial inquiry is whether Congress intended to subject the Petitioner to the 26 U.S.C. income taxes. (See *Bowen v. Georgetown Univ. Hosp.*, 488 U.S. 204, 208 (1988) (stating that "[i]t is axiomatic that an administrative agency's power to promulgate legislative regulations ***is limited to the authority delegated by Congress");*** *INS v. Chadha,* 462 U.S. 919, 953 n.16, 955 n.19 (1983) (providing that agency action "is always subject to check by the terms of the legislation that authorized it; and if that authority is exceeded it is open to judicial review" and "Congress ultimately controls administrative agencies in the legislation that creates them")).

3.5 The starting point for determining the scope of a statute is the statute itself

The starting point in every case involving construction of a statute is the language of the statute itself. (See *Landreth Timber Co. v. Landreth,* 471 U.S. 681, 685 (1985) (quoting *Blue Chip Stamps v. Manor Drug Stores,* 421 U.S. 723, 756 (1975) (Powell, J., concurring)); *Central Bank of Denver, N.A. v. First Interstate Bank of Denver, N.A.,* 511 U.S. 164, 173-175 (1994)).

3.6 When confronted with a challenge based on statutory definitions, definitions govern

When a court is confronted with a challenge based on statutory definitions the U.S. Supreme Court is clear in its prescription that the specific terms of such a definition must be "met" to trigger applicability of its related statutes to any particular act, person (natural or otherwise), or thing.

> *"**Metropolitan was** subject to Title VII, however, **only** if, **at the time** of **the alleged retaliation, it met the statutory definition** of **"employer," to wit:** "a person engaged in an industry affecting commerce who has fifteen or mote employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year." 42 U.S.C. Section(s) 2000e(b). . . . **Statutes must be** interpreted, if **possible, to give each word some operative effect."** [7]*

[4] See *K Mart Corp. v. Cartier, Inc.*, 486 U.S. 281, 291 (1988); *US. v. Larinoff,* 431 U.S. 864, 872-873 (1976); *US. v. Calamaro,* 354 U.S. 351, 359 (1956); *Koshland v. Helvering,* 298 U.S. 441, 446-447 (1936); *Manhattan General Equip. Co. v. CIA,* 297 U.S. 129, 134, 54 S.Ct. 397, 399 (1936); *Tracy v. Swartout,* 10 Pet. 354, 359 (1836).

[5] See *Carminetti v. US.*, 242 U.S. 470, 485, 489-493 (1916), citing (on 485) *Lake County* v. *Rollins,* 130 U.S. 662, 670, 671; *Bate Refrigerating Co. v. Sulzberger,* 157 U.S. 1, 33; *US. v. Lexington Mill and Elevator Co.*, 232 U.S. 399, 409; *US. v. Bank,* 234 U.S. 245, 258; *Security Bank of Minnesota v. CIS.*, 994 F.2d 432, 436 (CA8 1993); *Washington Red Raspberry Comm'n v. US.*, 657 F.Supp. 537, 545 (1987); *Forging Industry Ass 'n v. Secretary of Labor,* 748 F.2d 211, 213 (1984); *Community for Creative Nonviolence v. Kerrigan,* 865 F.2d 382, 387-91 (1988); *Iglesias v. US.*, 848 F.2d 362, 367 (CA2 1988); *Bank of New York v. US.*, 471 F.2d 247, 250 (CA8 1973); *Fidelity Philadelphia Trust Co. v. US.*, 122 F.Supp. 551, 553 at [3,4].

[6] See *U.S. v. Lopez,* 514 U.S. 549, 115 S.Ct. 1624, 1633 (1995).

[7] See *Walters v. Metropolitan Enterprises, Inc. et al.*, 519 U.S. 202 (1997).

`. . . Thus, **Congress did not reach every transaction** in which an investor actually relies on inside information. **person avoids liability if he does not meet the statutory definition** of **an** "insider[.]" [8]

"On its face, this is an attractive argument. **Petitioner urges that, in view of the severity of the result flowing from a denial of suspension of deportation, we should interpret the statute by resolving all doubts in the applicant's favor.** Cf. United States v. Minker, 350 U.S. 179, 187-188. **But we must adopt the plain meaning of a statute, however severe the consequences.** Cf. Galvan v. Press, 347 U.S. 522, 528."[9]

"The wording of the federal statute plainly places the incidence of the tax upon the "producer," that is, by definition, upon federally licensed distributors of gasoline such as petitioner. . . . The congressional purpose to lay the tax on the "producer" and only upon the "producer" could not be more plainly revealed. Persuasive also that such was Congress' purpose is the fact that, if the producer does not pay the tax, the Government cannot collect it from his vendees; **the statute has no provision making the vendee liable** for **its payment.** First Agricultural Nat. Bank v. Tax Comm 'n, supra, at 347." [10]

"A purpose to subject aliens, much less citizens, to a **police practice so dangerous to individual liberty as this** should not be read into an Act of Congress **in the absence** of **a clear and unequivocal congressional mandate.** I think the Act relied on here by the Department of Justice should not be so read. I **would hold that immigration** officers are **wholly without statutory authority to summon persons,** whether suspects or not, **to testify in private as "witnesses" in denaturalization matters.** For this reason I concur in the Court's judgment in this case."[11]

"Conspicuously absent from § 1415(e)(3), however, is any emergency exception for dangerous student& This absence is all the more telling in light of the injunctive decree issued in PARC, which permitted school officials unilaterally to remove students in "'extraordinary circumstances." 343 F.Supp. at 301. Given the lack of any similar exception in Mills and the close attention Congress devoted to these "landmark" decisions, see S.Rep. at 6, **we can only conclude that the omission was intentional; we are therefore not at liberty to engraft onto the statute an exception Congress chose not to create."** [12]

"It is axiomatic that the statutory definition of the term excludes unstated meanings of that term. Colautti v. Franklin, 439 U.S. 379, 392, and n.10 (1979). Congress' use of the term "propaganda" in this statute, as indeed in other legislation, has no pejorative connotation. **As judges, it is our duty to construe legislation as it is, written, not as it might be, read by a layman, or as it might be understood by someone who has not even read it. If the term "political propaganda" is construed consistently with the neutral definition contained in the text of the statute itself, the constitutional concerns voiced by the District Court completely disappear."** [13]

"As we **have explained with reference to the technical definition** of "child" contained within this statute:

> With respect to each of these legislative policy distinctions, it could be argued that the line should have been drawn at a different point and that the statutory definitions deny preferential status to [some] who share strong family ties. . . . But it is clear from our cases ... that these are policy questions entrusted exclusively to the political branches of our Government, **and we have no judicial authority to substitute our political judgment for that of** the Congress.

Fiallo v. Bell, 430 U.S. 787, 798 (1977). Thus, even if Hector's relationship with her nieces closely resembles a parent-child relationship, we are constrained to hold that **Congress, through the plain language of the statute, precluded this functional approach** to defining the term[.]"[14]

"Although agencies must be "able to change to meet new conditions arising within their sphere of authority," any expansion of agency jurisdiction must come from Congress, and not the agency itself. 744 F.2d at 1409. Accordingly, the Court of Appeals invalidated the amended regulations." [15]

"If Congress had intended the more circumscribed approach espoused by the Court of Appeals, there would have been some positive sign that the law was not to reach organized criminal activities that give rise to the

[8] See *Reliance Elec. Co. v. Emerson Elec. Co.*, 404 U.S. 418, 422 (1972),

[9] See *Jay v. Boyd*, 352 U.S. 345, 357 (1956).

[10] See *Gurley v. Rhoden*, 421 U.S. 200, 205 (1975).

[11] *See U.S. v. Minker*, 350 U.S. 179, 192 *(1956).*

[12] See *Honig v. Doe*, 484 U.S. 305, 324 (1988).

[13] See *Meese v. Keene*, 481 U.S. 465, 484 (1987).

[14] See *INS v. Hector*, 479 U.S. 85, 88 (per curiam opinion) (1986).

[15] See *FRS v. Dimensional Financial Corp.*, 474 U.S. 361, 365 (1986).

> ***concerns about infiltration. The language** of **the statute, however -- the most reliable evidence** of **its intent --** reveals that Congress opted for a far broader definition of the word "enterprise," and we are unconvinced by anything in the legislative history that this definition should be given less than its full effect."* [16]

3.7 U.S. Supreme Court Rules of Statutory Construction

This following subsections shall list quotes from rulings of the U.S. Supreme Court on the subject of the meaning of significance of the words "includes" and "including". If you identify other pertinent cases, please point them out to us.

3.7.1 Meese v. Keene, 481 U.S. 465, 484 (1987)

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

3.7.2 Colautti v. Franklin, 439 U.S. 379 (1979)

> *"As a rule, `**a definition which declares what a term "means" . . . excludes any meaning that is not stated**'"*
> *[Colautti v. Franklin, 439 U.S. 379 (1979), n. 10]*

3.7.3 Stenberg v. Carhart, 530 U.S. 914 (2000)

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

3.7.4 Connecticut National Bank v. Germain, 503 U.S. 249 (1992)

> *"When the words of a statute are unambiguous, the first canon of statutory construction--that courts must presume that a legislature says in a statute what it means and means in a statute what it says there--is also the last, and judicial inquiry is complete."*
> *[Connecticut National Bank v. Germain, 503 U.S. 249 (1992)]*

3.7.5 Richards v United States, 369 US 1, 9, 7 L Ed 2d 492, 82 S Ct. 585 (1962)

> *"As in all cases involving statutory construction, "our starting point must be the language employed by Congress," Reiter v Sonotone Corp., 442 US 330, 337, 60 L Ed 2d 931, 99 S Ct. 2326 (1979), and we assume that the legislative purpose is expressed by the ordinary meaning of the words used."*
> *[Richards v United States, 369 US 1, 9, 7 L Ed 2d 492, 82 S Ct. 585 (1962)]*

3.7.6 Fischer v. United States, 529 U.S. 667 (2000)

> *This expansive construction of § 666(b) is, at the very least, **inconsistent with the rule of lenity -- which the Court does not discuss. This principle requires that, to the extent that there is any ambiguity in the term "benefits," we should resolve that ambiguity in favor of the defendant. See United States v. Bass, 404 U.S. 336, 347 (1971) ("In various ways over the years, we have stated that, when choice has to be made between two readings of what conduct Congress has made a crime, it is appropriate, before we choose the harsher alternative, to require that Congress should have spoken in language that is clear and definite" (internal quotation marks omitted)).”***
> *[Fischer v. United States, 529 U.S. 667 (2000)]*

[16] See *U.S. v. Turkette*, 452 U.S. 576, 593 (1981).

3.7.7 Freytag v. Commissioner, 501 U.S. 868 (1991)

"When the terms of a statute are unambiguous, judicial inquiry is complete except in rare and exceptional circumstances."
[Freytag v. Commissioner, 501 US 115 L Ed 2d 764 (1991)]

3.7.8 Estate of Cowart v. Nicklos Drilling Co., 505 U.S. 469, 120 L.Ed.2d 379, 112 S.Ct. 2589 (1992)

"In a statutory construction case, the beginning point must be the language of the statute, and when a statute speaks with clarity to an issue, judicial inquiry into the statute's meaning--in all but the most extraordinary circumstance--is finished; courts must give effect to the clear meaning of statutes as written."
[Estate of Cowart v. Nicklos Drilling Co., 505 US 469, 120 L Ed 2d 379, 112 S Ct. 2589 (1992)]

3.7.9 American Tobacco Co. v. Patterson, 456 U.S. 63 (1982)

"It is not a function of the United States Supreme Court to sit as a super-legislature and **c***reate statutory distinctions where none were intended."*
[American Tobacco Co. v. Patterson, 456 US 63, 71 L Ed 2d 748, 102 S Ct. 1534 (1982)]

3.7.10 Federal Trade Com. v. Simplicity Pattern Co. 360 U.S. 55 (1959)

"The United States Supreme Court cannot supply what Congress has studiously omitted in a statute."
[Federal Trade Com. v. Simplicity Pattern Co., 360 US 55, p. 55, 475042/56451 (1959)]

3.7.11 Product Safety Comm'n v. GTE Sylvania, 447 U.S. 102 (1980)

"The starting point for interpreting a statute is the language of the statute itself; absent a clearly expressed legislative intention to the contrary, that language must ordinarily be regarded as conclusive."
[Product Safety Comm'n v. GTE Sylvania, 447 US 102, 64 L Ed 2d 766, 100 S Ct. 2051 (1980)]

3.7.12 Washington Market Co. v. Hoffman, 101 U.S. 112 (1879)

"Words used in the statute are to be given their proper signification and effect."
[Washington Market Co. v. Hoffman, 101 U. S. 112, 115, 25 L. Ed. 782, 783 (1879)]

3.7.13 Rector, Etc. Of Holy Trinity Church v. United States, 153 U.S. 457 (1892)

*"**All laws should receive a sensible construction. General terms should be so limited in their application as not to lead to injustice, oppression, or an absurd consequence.** It will always be presumed that the legislature intended exceptions to its language which would avoid results of this character. **The reason of the law in such cases should prevail over its letter.**"*
[Rector, Etc., Of Holy Trinity Church v. United States, 143 U.S. 457; 12 S.Ct. 511 (1892)]

3.7.14 Gustafson v. Alloyd Co., 513 U.S. 561 (1995)

"…a word is known by the company it keeps (the doctrine of noscitura sociis). This rule we rely upon to avoid ascribing to one word a meaning so broad that it is inconsistent with its accompanying words, thus giving "unintended breadth to the Acts of Congress." Jarecki v. G. D. Searle & Co., 367 US 303, 307 (1961)"
[Gustafson v. Alloyd Co. (93-404), 513 U.S. 561 (1995)]

3.7.15 Scheidler v. National Organization for Women, 537 U.S. 393 (2003)

"Absent contrary direction from Congress, we begin our interpretation of statutory language with the general presumption that a statutory term has its common law meaning. See Taylor v. United States, 495 U.S. 575, 592 (1990); Morissette v. United States, 342 U.S. 246, 263 (1952)."
[Scheidler v. National Organization for Women, 537 U.S. 393 (2003)]

3.7.16 United States v. Johnson, 529 U.S. 53 (2000)

"The rule of lenity does not alter the analysis. Absent ambiguity, the rule of lenity is not applicable to guide statutory interpretation. Cf. Gozlon-Peretz v. United States, 498 U.S. 395, 410 (1991)."
[United States v. Johnson, 529 U.S. 53 (2000)]

3.7.17 Bell v. United States, 349 U.S. 81 (1955)

> *"It is not to be denied that argumentative skill, as was shown at the Bar, could persuasively and not unreasonably reach either of the conflicting constructions. About only one aspect of the problem can one be dogmatic.* ***When Congress has the will it has no difficulty in expressing it - when it has the will, that is, of defining what it desires to make the unit of prosecution and, more particularly, to make each stick in a faggot a single criminal unit. When Congress leaves to the Judiciary the task of imputing to Congress an undeclared will, the ambiguity should be resolved in favor of lenity.*** *And this not out of any sentimental consideration, or for want of sympathy with the purpose of Congress in proscribing evil or antisocial conduct. It may fairly be said to be a presupposition of our law to resolve doubts in the enforcement of a penal code against the imposition of a harsher punishment. This in no wise implies that language used in criminal statutes should not be read with the saving grace of common sense with which other enactments, not cast in technical language, are to be read. Nor does it assume that offenders against the law carefully read the penal [349 U.S. 81, 84] code before they embark on crime. It merely means that* ***if Congress does not fix the punishment for a federal offense clearly and without ambiguity, doubt will be resolved against turning a single transaction into multiple offenses, when we have no more to go on than the present case furnishes.****"*
> *[Bell v. United States, 349 U.S. 81 (1955)]*

3.8 Summary of the Rules of Statutory Construction and Interpretation

Based on the foregoing quotes from the U.S. Supreme Court on the rules of statutory construction, the following rules apply, which are also repeated in section 3.8 of our free *Great IRS Hoax* book:

1. The law should be given it's plain meaning wherever possible.
2. Presumption may not be used in determining the meaning of a statute. Doing otherwise is a violation of due process and a religious sin under Numbers 15:30 (Bible). A person reading a statute cannot be required by statute or by "judge made law" to read anything into a Title of the U.S. Code that is not expressly spelled out.
3. Every word within a statute is there for a purpose and should be given its due significance.
4. All laws are to be interpreted consistent with the legislative intent for which they were originally passed, as revealed in the Congressional Record prior to the passage. The passage of no amount of time can change the original legislative intent of a law.
5. The proper audience to turn to in order to deduce the meaning of a statute are the persons who are the subject of the law, and not a judge. Laws are supposed to be understandable by the common man because the common man is the proper subject of most laws. Judges are NOT common men.

> *"It is a basic principle of due process that an enactment [435 U.S. 982 , 986] is void for vagueness if its prohibitions are not clearly defined. Vague laws offend several important values. First, because we assume that man is free to steer between lawful and unlawful conduct,* ***we insist that laws give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly.*** *Vague laws may trap the innocent by not providing fair warning. Second, if arbitrary and discriminatory enforcement is to be prevented, laws must provide explicit standards for those who apply them. A vague law impermissibly delegates basic policy matters to policemen, judges, and juries for resolution on an ad hoc and subjective basis, with the attendant dangers of arbitrary and discriminatory application."*
> *[Grayned v. City of Rockford, 408 U.S. 104, 108 (1972)]*

> *". . .whether right or wrong, the premise underlying the constitutional method for determining guilt or innocence in federal courts is that laymen are better than specialists to perform this task."*
> *[United States ex rel. Toth v. Quarles,* ***350 U.S. 11, 18*** *(1955)]*

6. If a word is not statutorily defined, then the courts are bound to start with the common law meaning of the term.

> *"Absent contrary direction from Congress, we begin our interpretation of statutory language with the general presumption that a statutory term has its common law meaning. See Taylor v. United States, 495 U.S. 575, 592 (1990); Morissette v. United States, 342 U.S. 246, 263 (1952)."*
> *[Scheidler v. National Organization for Women, 537 U.S. 393 (2003)]*

7. The purpose for defining a word within a statute is so that its ordinary (dictionary) meaning is *not* implied or assumed by the reader. A "definition" by its terms excludes non-essential elements by mentioning only those things to which it shall apply.

> *"**Define.** To explain or **state the exact meaning** of words and phrases; to state explicitly; **to limit;** to determine essential qualities of; to determine **the precise signification** of; to settle; to establish or prescribe authoritatively; to make clear. (Cite omitted)"*

*"To "define" with respect to space, means to set or establish its boundaries authoritatively; to **mark the limits** of; to determine with precision or exhibit clearly the boundaries of; to **determine the end or limit;** to fix or **establish the limits.** It is the equivalent to declare, fix or establish.*
[Black's Law Dictionary, Sixth Edition, p. 422]

---

*"**Definition.** A description of a thing by its properties; an explanation of the meaning of a word or term. The process of stating the exact meaning of a word by means of other words. Such a description of the thing defined, **including all essential elements and excluding all nonessential,** as **to distinguish it from all other things** and classes."*
[Black's Law Dictionary, Sixth Edition, p. 423]

8. When a term is defined within a statute, that definition is provided usually to *supersede* and not *enlarge* other definitions of the word found elsewhere, such as in other Titles or Codes.

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

9. Expressio Unius est Exclusio Alterius Rule: The term "includes" is a term of *limitation* and not enlargement in most cases. Where it is used, it prescribes *all* of the things or classes of things to which the statute pertains. All other possible objects of the statute are thereby *excluded*, by implication.

*"**expressio unius, exclusio alterius**"—if one or more items is specifically listed, omitted items are purposely excluded. Becker v. United States, 451 U.S. 1306 (1981)*

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

10. When the term "includes" is used as implying enlargement or "in addition to", it only fulfills that sense when the definitions to which it pertains are scattered across multiple definitions or statutes within an overall body of law. In each instance, such "scattered definitions" must be considered AS A WHOLE to describe all things which are included. The U.S. Supreme Court confirmed this when it said:

*"**That is to say, the statute, read "as a whole," post at 998 [530 U.S. 943] (THOMAS, J., dissenting), leads the reader to a definition.** That definition does not include the Attorney General's restriction -- "the child up to the head." Its words, "substantial portion," indicate the contrary."*
[Stenberg v. Carhart, 530 U.S. 914 (2000)]

An example of the "enlargement" or "in addition to" context of the use of the word "includes" might be as follows, where the numbers on the left are a fictitious statute number :

10.1. "110 The term "state" includes a territory or possession of the United States."

10.2. "121 In addition to the definition found in section 110 earlier, the term "state" includes a state of the Union."

11. Statutes that do not specifically identify ALL of the things or classes of things or persons to whom they apply are considered "void for vagueness" because they fail to give "reasonable notice" to the reader of all the behaviors that are prohibited and compel readers to make presumptions or to guess at their meaning.

*"It is a basic principle of due process that an enactment is void for vagueness if its prohibitions are not clearly defined. Vague laws offend several important values. First, because we assume that man is free to steer between lawful and unlawful conduct, **we insist that laws give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly.** Vague laws may trap the innocent by not providing fair warning. Second, if arbitrary and discriminatory enforcement is to be prevented, laws must provide explicit standards for those who apply them. **A vague law impermissibly delegates basic policy matters***

> ***to policemen, judges, and juries for resolution on an ad hoc and subjective basis, with the attendant dangers of arbitrary and discriminatory application.*** *" (Footnotes omitted.)*
>
> *See al Papachristou v. City of Jacksonville,* 405 U.S. 156 *(1972); Cline v. Frink Dairy Co.,* 274 U.S. 445, 47 *S. Ct. 681 (1927); Connally v. General Construction Co.,* 269 U.S. 385 *(1926).*
> *[Sewell v. Georgia, 435 U.S. 982 (1978)]*

12. Judges may not extend the meaning of words used within a statute, but must resort ONLY to the meaning clearly indicated in the statute itself. That means they may not imply or infer the common definition of a term IN ADDITION to the statutory definition, but must rely ONLY on the things clearly included in the statute itself and nothing else.

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

13. Citizens [not "taxpayers", but "citizens"] are presumed to be exempt from taxation unless a clear intent to the contrary is clearly manifested in a positive law taxing statute.

> *"In the interpretation of* ***statutes levying taxes****, it is the established rule* ***not to*** *extend their provisions by implication beyond the clear import of the language used, or to enlarge their operations so as to embrace matters not specifically pointed out. In case of doubt they are construed most strongly against the government and in favor of the citizen."*
> *[Gould v. Gould, 245 U.S. 151, at 153 (1917)]*

For additional authorities similar to those above, see: *Spreckles Sugar Refining v. McClain*, 192 U.S. 397, 416 (1904); *Smietanka v. First Trust & Savings Bank*, 257 U.S. 602, 606 (1922); *Lucas v. Alexander*, 279 U.S. 573, 577 (1929); *Crooks v. Harrelson*, 282 U.S. 55 (1930); *Burnet v. Niagra Falls Brewing Co.*, 282 U.S. 648, 654 (1931); *Miller v. Standard Nut Margarine Co.*, 284 U.S. 498, 508 (1932); *Gregory v. Helvering*, 293 U.S. 465, 469 (1935); *Hassett v. Welch*, 303 U.S. 303, 314 (1938); *U.S. v. Batchelder*, 442 U.S. 114, 123 (1978); *Security Bank of Minnesota v. CIA*, 994 F.2d 432, 436 (CA8 1993).

14. Ejusdem Generis Rule: Where general words follow an enumeration of persons or things, by words of a particular and specific meaning, such general words are not to be construed in their widest extent, but are to be held as applying only to persons or things of the same general kind or class as those specifically mentioned

> *"[w]here general words [such as the provisions of 26 U.S.C. §7701(c)] follow specific words in a statutory enumeration, the general words are construed to embrace only objects similar in nature to those objects enumerated by the preceding specific words."*
> *[Circuit City Stores v. Adams, 532 US 105, 114-115 (2001)]*
>
> ---
>
> *"Under the principle of ejusdem generis, when a general term follows a specific one, the general term should be understood as a reference to subjects akin to the one with specific enumeration."*
> *[Norfolk & Western R. Co. v. Train Dispatchers, 499 US 117 (1991)]*
>
> ---
>
> *"**Ejusdem generis**. Of the same kind, class, or nature. In the construction of laws, wills, and other instruments, the "ejusdem generis rule" is, that where general words follow an enumeration of persons or things, by words of a particular and specific meaning, such general words are not to be construed in their widest extent, but are to be held as applying only to persons or things of the same general kind or class as those specifically mentioned. U.S. v. LaBrecque, D.C. N.J., 419 F.Supp. 430, 432. The rule, however, does not necessarily require that the general provision be limited in its scope to the identical things specifically named. Nor does it apply when the context manifests a contrary intention.*
>
> *Under "ejusdem generis" cannon of statutory construction, where general words follow the enumeration of particular classes of things, the general words will be construed as applying only to things of the same general class as those enumerated. Campbell v. Board of Dental Examiners, 53 Cal.App.3d 283, 125 Cal.Rptr. 694, 696."*
> *[Black's Law Dictionary, Sixth Edition, page 517]*

15. In all criminal cases, the "Rule of Lenity" requires that where the interpretation of a criminal statute is ambiguous, the ambiguity should be resolved in favor of the defendant and against the government. An ambiguous statute fails to give

"reasonable notice" to the reader what conduct is prohibited, and therefore renders the statute unenforceable. The Rule of Lenity may only be applied when there is ambiguity in the meaning of a statute:

> *This expansive construction of § 666(b) is, at the very least,* ***inconsistent with the rule of lenity -- which the Court does not discuss. This principle requires that, to the extent that there is any ambiguity in the term "benefits," we should resolve that ambiguity in favor of the defendant. See United States v. Bass, 404 U.S. 336, 347 (1971) ("In various ways over the years, we have stated that, when choice has to be made between two readings of what conduct Congress has made a crime, it is appropriate, before we choose the harsher alternative, to require that Congress should have spoken in language that is clear and definite" (internal quotation marks omitted)).”***
> *[Fischer v. United States, 529 U.S. 667 (2000)]*

> *"It is not to be denied that argumentative skill, as was shown at the Bar, could persuasively and not unreasonably reach either of the conflicting constructions. About only one aspect of the problem can one be dogmatic.* ***When Congress has the will it has no difficulty in expressing it - when it has the will, that is, of defining what it desires to make the unit of prosecution and, more particularly, to make each stick in a faggot a single criminal unit. When Congress leaves to the Judiciary the task of imputing to Congress an undeclared will, the ambiguity should be resolved in favor of lenity.*** *And this not out of any sentimental consideration, or for want of sympathy with the purpose of Congress in proscribing evil or antisocial conduct.* ***It may fairly be said to be a presupposition of our law to resolve doubts in the enforcement of a penal code against the imposition of a harsher punishment.*** *This in no wise implies that language used in criminal statutes should not be read with the saving grace of common sense with which other enactments, not cast in technical language, are to be read. Nor does it assume that offenders against the law carefully read the penal [349 U.S. 81, 84] code before they embark on crime. It merely means that* ***if Congress does not fix the punishment for a federal offense clearly and without ambiguity, doubt will be resolved against turning a single transaction into multiple offenses, when we have no more to go on than the present case furnishes.***"
> *[Bell v. United States, 349 U.S. 81 (1955)]*

16. When Congress intends, by one of its Acts, to supersede the police powers of a state of the Union, it must do so very clearly.

> *"If Congress is authorized to act in a field, it should manifest its intention clearly.* ***It will not be presumed that a federal statute was intended to supersede the exercise of the power of the state unless there is a clear manifestation of intention to do so. The exercise of federal supremacy is not lightly to be presumed.***"
> *[*Schwartz v. Texas, *344 U.S. 199, 202-203 (1952)]*

17. There are no exceptions to the above rules. However, there are cases where the "common definition" or "ordinary definition" of a term *can* and *should* be applied, but ONLY where a statutory definition is NOT provided that might supersede the ordinary definition. See:
    17.1. Crane v. Commissioner of Internal Revenue, 331 U.S. 1, 6 (1947), Malat v. Riddell, 383 U.S. 569, 571 (1966);

> *"[T]he words of statutes--including revenue acts--should be interpreted where possible in their ordinary, everyday senses."*
> *[Crane v. Commissioner of Internal Revenue, 331 U.S. 1, 6 (1947), Malat v. Riddell, 383 U.S. 569, 571 (1966)]*

    17.2. Commissioner v. Soliman, 506 U.S. 168, 174 (1993);

> *"In interpreting the meaning of the words in a revenue Act, we look to the 'ordinary, everyday senses' of the words."*
> *[Commissioner v. Soliman, 506 U.S. 168, 174 (1993)]*

    17.3. Helvering v. Horst, 311 U.S. 112, 118 (1940); Old Colony R. Co. v. Commissioner of Internal Revenue, 248 U.S. 552, 560 (1932)

> *"Common understanding and experience are the touchstones for the interpretation of the revenue laws."*
> *[Helvering v. Horst, 311 U.S. 112, 118 (1940); Old Colony R. Co. v. Commissioner of Internal Revenue, 248 U.S. 552, 560 (1932)]*

We must ALWAYS remember that the fundamental purpose of law is "the definition and *limitation* of power":

> *"When we consider the nature and theory of our institutions of government, the principles upon which they are supposed to rest, and review the history of their development, we are constrained to conclude that they do not mean to leave room for the play and action of purely personal and arbitrary power. Sovereignty itself is, of course, not subject to law,*

> *for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts.* ***And the law is the definition and limitation of power.****"*
>
> *From Marbury v. Madison to the present day, no utterance of this Court has intimated a doubt that in its operation on the people, by whom and for whom it was established, the national government is a government of enumerated powers, the exercise of which is restricted to the use of means appropriate and plainly adapted to constitutional ends, and which are "not prohibited, but consist with the letter and spirit of the Constitution."*
>
> *The powers delegated by the people to their agents are not enlarged by the expansion of the domain within which they are exercised. When the restriction on the exercise of a particular power by a particular agent is ascertained, that is an end of the question.*
>
> *To hold otherwise is to overthrow the basis of our constitutional law, and moreover, in effect, to reassert the proposition that the states, and not the people, created the government.*
>
> *It is again to antagonize Chief Justice Marshall, when he said:*
>
> > *The government of the Union, then (whatever may be the influence of this fact on the case), is emphatically and truly a government of the people. In form and in substance, it emanates from them. Its powers are granted by them, and are to be exercised directly on them and for their benefit. This government is acknowledged by all to be one of enumerated powers.*
>
> *[Downes v. Bidwell, 182 U.S. 244 (1901)]*

Law cannot serve the purpose of defining and limiting power if the definitions upon which it is based are vague, arbitrary, changing, or subject to the whim of either a judge or a jury. The only way to limit power is to define ALL things to which a law applies and to exclude all others by implication in order to ensure consistent application of the law to all of its intended subjects. It is an abuse of the justice system to:

1. Withdraw the law from discussion in the courtroom so as to compel jurists to make presumptions by applying the common definition of the term rather than the legal definition. All law is a contract of one form or another, because all law requires "the consent of the governed" and cannot be approved without consent, according to the Declaration of Independence. "Public law" is a contract among the constituents "as a collective" to conduct their affairs according to fixed standards. "Private law", which includes the Internal Revenue Code and the Social Security Act, is a contract or agreement ONLY among those who have manifested written consent in some form, to abide by the contract, which in fact is a "franchise agreement" among those collecting privileged government benefits. For a judge to prevent discussing law in the courtroom is to interfere with the right to contract and the enforcement of contracts in courts of justice. The federal courts ***do not*** possess such powers!:

> *"****Independent of these views, there are many considerations which lead to the conclusion that the power to impair contracts [either the Constitution or the Holy Bible], by direct action to that end, does not exist with the general [federal] government. In the first place, one of the objects of the Constitution, expressed in its preamble, was the establishment of justice, and what that meant in its relations to contracts is not left, as was justly said by the late Chief Justice, in Hepburn v. Griswold, to inference or conjecture.*** *As he observes, at the time the Constitution was undergoing discussion in the convention, the Congress of the Confederation was engaged in framing the ordinance for the government of the Northwestern Territory, in which certain articles of compact were established between the people of the original States and the people of the Territory, for the purpose, as expressed in the instrument, of extending the fundamental principles of civil and religious liberty, upon which the States, their laws and constitutions, were erected.* ***By that ordinance it was declared, that, in the just preservation of rights and property, 'no law ought ever to be made, or have force in the said Territory, that shall, in any manner, interfere with or affect private contracts or engagements bona fide and without fraud previously formed.****' The same provision, adds the Chief Justice, found more condensed expression in the prohibition upon the States [in Article 1, Section 10 of the Constitution] against impairing the obligation of contracts, which has ever been recognized as an efficient safeguard against injustice; and though the prohibition is not applied in terms to the government of the United States, he expressed the opinion, speaking for himself and the majority of the court at the time,* ***that it was clear 'that those who framed and those who adopted the Constitution intended that the spirit of this prohibition should pervade the entire body of legislation, and that the justice which the Constitution was ordained to establish was not thought by them to be compatible with legislation [or judicial precedent] of an opposite tendency.****' 8 Wall. 623. [99 U.S. 700, 765] Similar views are found expressed in the opinions of other judges of this court."*
>
> *[Sinking Fund Cases, 99 U.S. 700 (1878)]*

2. Recuse jurists who have read and wish to apply the definitions in the law to the case at hand. See the following, which shows willful intention on the part of judge in San Diego to do exactly this, by preventing the courthouse law library from being used by jurists while serving as jurists. This is a willful attempt to interfere with the right to contract of all those subject to said contract:
http://famguardian.org/Disks/IRSDVD/Evidence/JudicialCorruption/GenOrder228C-Library.pdf
3. Allow either a judge or a jury to become "public policy boards" and "legislatures" in applying the provisions of a statute to a group of persons for whom it was never intended. He is in effect "politicizing the court" and turning the jury essentially into an angry lynch mob not unlike what they did to Jesus after Pilate (the Judge, in that instance) washed his hands of Jesus by saying he could find no sin in this man (Matt. 27:24). Recall that Jesus himself was ALSO accused of being a tax protester: Luke 23:2. This is willful abuse of the evils of "democracy" to destroy Constitutionally protected rights. It is TREASON punishable by DEATH in 18 U.S.C. §2381. It is also precisely this abuse which the founders condemned in the Federalist Papers:

> *"If a faction consists of less than a majority, relief is supplied by the republican principle, which enables the majority to defeat its sinister views by regular vote. It may clog the administration, it may convulse the society; but it will be unable to execute and mask its violence under the forms of the Constitution. When a majority is included in a faction, the form of popular government, on the other hand, enables it to sacrifice to its ruling passion or interest both the public good and the rights of other citizens.* ***To secure the public good and private rights against the danger of such a faction, and at the same time to preserve the spirit and the form of popular government, is then the great object to which our inquiries are directed. Let me add that it is the great desideratum by which this form of government can be rescued from the opprobrium under which it has so long labored, and be recommended to the esteem and adoption of mankind.***
>
> *By what means is this object attainable? Evidently by one of two only. Either the existence of the same passion or interest in a majority at the same time must be prevented, or the majority, having such coexistent passion or interest, must be rendered, by their number and local situation, unable to concert and carry into effect schemes of oppression. If the impulse and the opportunity be suffered to coincide, we well know that neither moral nor religious motives can be relied on as an adequate control. They are not found to be such on the injustice and violence of individuals, and lose their efficacy in proportion to the number combined together, that is, in proportion as their efficacy becomes needful.*
>
> *From this view of the subject it may be concluded that a pure democracy, by which I mean a society consisting of a small number of citizens, who assemble and administer the government in person, can admit of no cure for the mischiefs of faction. A common passion or interest will, in almost every case, be felt by a majority of the whole; a communication and concert result from the form of government itself; and there is nothing to check the inducements to sacrifice the weaker party or an obnoxious individual.* ***Hence it is that such democracies have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security or the rights of property; and have in general been as short in their lives as they have been violent in their deaths. Theoretic politicians, who have patronized this species of government, have erroneously supposed that by reducing mankind to a perfect equality in their political rights, they would, at the same time, be perfectly equalized and assimilated in their possessions, their opinions, and their passions.***
>
> ***A republic, by which I mean a government in which the scheme of representation takes place, opens a different prospect, and promises the cure for which we are seeking.*** *Let us examine the points in which it varies from pure democracy, and we shall comprehend both the nature of the cure and the efficacy which it must derive from the Union.*
>
> *The two great points of difference between a democracy and a republic are: first, the delegation of the government, in the latter, to a small number of citizens elected by the rest; secondly, the greater number of citizens, and greater sphere of country, over which the latter may be extended.*
> *[James Madison, Federalist Paper #10]*

If you want to find out whether the judge is up to no good and is abusing the above techniques, insist that the jurists be given a copy of the definitions in the law and be given a multiple choice test to define what is "included". If the answers are not universal, unanimous, or consistent, then the law is "void for vagueness" and unenforceable and the case must be dismissed. If the judge refuses such a poll, he is trying to conceal the fact that he is abusing legal process to keep the truth of this matter out of the court record.

Instead, all persons accused of any "crime", including that of being "taxpayers" or of being "liable" for a tax, MUST be presumed to be innocent until proven guilty with a statute that clearly identifies him as being part of a group subject to tax:

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

4 Analysis of meaning of "includes" and "including"

4.1 Application of "innocent until proven guilty" maxim of American Law

A well-known and universal rule of American Jurisprudence throughout the states and federal government that nearly everyone is aware of is the following, elucidated by the Supreme Court:

> *The presumption of innocence plays a unique role in criminal proceedings. As Chief Justice Burger explained in his opinion for the Court in Estelle v. Williams, 425 U.S. 501 (1976): [507 U.S. 284]:*
>
> > *The presumption of innocence, although not articulated in the Constitution, is a basic component of a fair trial under our system of criminal justice. Long ago this Court stated:*
> >
> > *The principle that there is a presumption of innocence in favor of the accused is the undoubted law, axiomatic and elementary, and its enforcement lies at the foundation of the administration of our criminal law. Coffin v. United States, 156 U.S. 432, 453 (1895).*
>
> *To implement the presumption, courts must be alert to factors that may undermine the fairness of the factfinding process. In the administration of criminal justice, courts must carefully guard against dilution of the principle that guilt is to be established by probative evidence and beyond a reasonable doubt. In re Winship, 397 U.S. 358, 364 (1970). [425 U.S. 501, 504]*
> *[Delo v. Lashely, 507 U.S. 272 (1993)]*

The implication of this rule to the interpretation of law is that the law must state clearly and unambiguously what conduct is prohibited and what specific conduct is required.

> *"The purpose of law cannot be to compel confusion. The reason for this is that the purpose of law is to protect by defining for the person of average intelligence exactly what behavior is required in order to sustain an orderly society free from crime, injury, and duress."*
> *[C. Hansen]*

The Supreme Court defined why laws must be written specifically for the audience of ordinary Americans when it stated:

> *"whether right or wrong, the premise underlying the constitutional method for determining guilt or innocence in federal courts is that laymen are better than specialists [such as judges and lawyers] to perform this task."*
> *[United States ex rel. Toth v. Quarles, 350 U.S. 11, 18 (1955)]*

The innocent until proven guilty rule is a "rule of presumption". It requires that a jury must presume the Defendant is not guilty until evidence is produced which clearly and unambiguously demonstrates otherwise. Any presumption to the contrary will prejudice the rights of the Defendant and is a violation of due process:

> *(1) [8:4993] **Conclusive presumptions affecting protected interests:** A conclusive presumption may be defeated where its application would impair a party's constitutionally-protected liberty or property interests. In such cases, conclusive presumptions have been held to violate a party's due process and equal protection rights. [Vlandis v. Kline (1973) 412 U.S. 441, 449, 93 S.Ct 2230, 2235; Cleveland Bed. of Ed. v. LaFleur (1974) 414 US 632, 639-640, 94 S.Ct. 1208, 1215-presumption under Illinois law that unmarried fathers are unfit violates process]*
> *[Rutter Group Practice Guide-Federal Civil Trials and Evidence, paragraph 8:4993, page 8K-34]*

4.2 Role of Law and Presumption in Proving Guilt

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

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

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

> ***TITLE 1** > **CHAPTER 3** > § 204*

§ 204. Codes and Supplements as evidence of the laws of United States and District of Columbia; citation of Codes and Supplements

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

(a) ***United States Code.—*** *The matter set forth in the edition of the Code of Laws of the United States current at any time shall, together with the then current supplement, if any, establish prima facie the laws of the United States, general and permanent in their nature, in force on the day preceding the commencement of the session following the last session the legislation of which is included:* ***Provided, however, That whenever titles of such Code shall have been enacted into positive law the text thereof shall be legal evidence of the laws therein contained, in all the courts of the United States, the several States, and the Territories and insular possessions of the United States.***

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

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

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

Black's Law Dictionary defines the term "presumption" as follows:

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

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

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

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

A "statutory presumption" is one that occurs in a court of law because it is mandated by a positive law statute. The U.S. Supreme Court has said that "statutory presumptions" which prejudice constitutional rights are forbidden:

"A rebuttable presumption clearly is a rule of evidence which has the effect of shifting the burden of proof, *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. 1912A, 463; and* ***it is hard to see how a statutory rebuttable presumptions is turned from a rule of evidence into a rule of substantive law as the result of a later statute making it conclusive. In both cases it is a substitute for proof; in the one open to challenge and disproof, and in the other conclusive. However, whether the latter presumption be treated as a rule of evidence or of substantive law, it constitutes an attempt, by legislative fiat, to enact into existence a fact which here does not, and cannot be made to, exist in actuality,*** *and the result is the same, unless we are ready to overrule the Schlesinger Case, as we are not; for that case dealt with a conclusive presumption, and the court held it invalid without regard to the question of its technical characterization.* ***This court has held more than once that a statute creating a presumption which***

operates to deny a fair opportunity to rebut it violates the due process clause of the Fourteenth Amendment. *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, 49 S. Ct. 215.*

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

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

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

TITLE 26 > ***Subtitle F*** > ***CHAPTER 76*** > ***Subchapter E*** > *§ 7491*
§ 7491. Burden of proof

(a) Burden shifts where taxpayer produces credible evidence

(1) General rule

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

(2) Limitations

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

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

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

(C) in the case of a partnership, corporation, or trust, the taxpayer is described in section 7430 (c)(4)(A)(ii).

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

(3) Coordination

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

4.3 How the U.S. Government Acquires Extra-Territorial Jurisdiction to Reach Into the States and Your Pocket Without Violating the Constitution

A number of very important implications result from the analysis in the preceding section in court settings where a section of the U.S. Code is being cited as "prima facie" evidence or in which "statutory presumption" is involved:

1. Based on the Rutter Group cite above and the Supreme Court in *Vlandis v. Kline*, 412 U.S. 441 (1973), presumption that prejudices any constitutionally protected right is unconstitutional and may not be used in any court of law.
2. A "statutory presumption", such as that found in 1 U.S.C. §204, relating to admission into evidence of anything that is not positive law, may only be used against a party who is *not* protected by the Bill of Rights.
3. Those who reside inside the federal zone and who therefore are not parties to the Constitution, may not therefore exclude "prima facie" evidence or statutes that are not "positive law" from evidence. Such a person has no Constitutional rights that can be prejudiced. Therefore, he is not entitled to "due process of law".
4. A person who is protected by the Constitution and the Bill of Rights should have the right to exclude "prima facie" evidence in his trial because it prejudices his Constitutional Rights.

5. A court which allows any statute from the Internal Revenue Code, Title 26, into evidence in any federal court in a trial involving a person who maintains a domicile in an area covered by the Constitution is:
   5.1. Engaging in kidnapping, by moving the domicile of the party to an area that has no rights, in violation of 18 U.S.C. §1201.
   5.2. Engaging in a "conspiracy against rights" in violation of 18 U.S.C. §241.

Based on the above, it is VERY important to know which codes within the U.S. Code are positive law and which are not. Those that are not "positive law" may not be cited in a trial involving a person domiciled in a state of the Union and not on federal property, because such a person is covered by the Bill of Rights. The U.S. Code provides a list of Titles of the U.S. Code that are not "positive law" within the legislative notes section of 1 U.S.C. §204. Among the titles of the U.S. Code that are NOT "positive law" include:

1. Title 26: Internal Revenue Code.
2. Title 42: Social Security
3. Title 50: The Military Selective Service Act (military draft)

Yes, folks, that's right: Americans domiciled in states of the Union may *not* have any sections of the above titles of the U.S. code cited in any trial involving them in a federal court. They may also not have any ruling of a federal court below the Supreme Court cited as authority against them PROVIDED, HOWEVER that:

1. They provide proof of their domicile within a state of the Union. See: http://famguardian.org/Subjects/Taxes/Articles/DomicileBasisForTaxation.htm
2. They file using Diversity of Citizenship pursuant to Article III, Section 2 of the Constitution. Note that they may NOT file diversity under 28 U.S.C. §1332 because the definition of "State" in 28 U.S.C. §1332(d) does not include states of the Union.
3. They do not implicate themselves as "taxpayers" or "U.S. persons" by citing anything from the Internal Revenue code in their own pleading, which would be an indirect admission that they are subject to it. See: http://famguardian.org/Subjects/Taxes/Articles/TaxpayerVNontaxpayer.htm
4. They do not fill out and sign any government forms that creates any employment or agency between them and the federal government, such as the W-4, 1040, of SS-5 forms.

The most prevalent occasion where the above requirements are violated with most Americans is applying for the Social Security program using the SS-5 form. Completing, signing, and submitting that form creates an agency and employment with the federal government. The submitter becomes a Trustee and a federal "employee" under federal law, and therefore accepts federal jurisdiction from that point forward. We have written an exhaustive free pamphlet that analyzes all the reasons why this is the case, which may be found at:

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

The above pamphlet also serves the double capacity of an electronically fillable form you can send in to eliminate this one important source of federal jurisdiction and restore your sovereignty so that the Internal Revenue Code may not be cited as authority against you in a court of law.

The reason why signing up for Social Security creates a nexus for federal jurisdiction and a means to cite it against the average American in the states is that:

1. Signing up for Social Security makes one into a "Trustee", agent, and fiduciary of the United States government under 26 U.S.C. §6903. The United States government is a foreign corporation with respect to a state of the Union, but it becomes a "domestic" corporation when you are acting as an "employee" and agent.

> *"The United States Government is a foreign corporation with respect to a state." [**N.Y. v. re Merriam** 36 N.E. 505; 141 N.Y. 479; affirmed 16 S.Ct. 1073; 41 L. Ed. 287] [underlines added]"*
> *[19 Corpus Juris Secundum (C.J.S.) §884]*

2. The United States Government is defined as a "federal corporation" in 28 U.S.C. §3002(15)(A):

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART VI - PARTICULAR PROCEEDINGS
CHAPTER 176 - FEDERAL DEBT COLLECTION PROCEDURE
SUBCHAPTER A - DEFINITIONS AND GENERAL PROVISIONS
Sec. 3002. Definitions

*(15) **"United States" means** -*
*(A) **a Federal corporation**;*
(B) an agency, department, commission, board, or other entity of the United States; or
(C) an instrumentality of the United States.

3. The Trust you are acting as a Trustee for is an "employee" of the United States government within the meaning of the Internal Revenue Code under 26 CFR §31.3401(c)-1.
4. You, when acting as a Trustee, are an "officer or employee" of a federal corporation called the "United States".
5. The legal "domicile" of the Trust you are acting on behalf of is the "District of Columbia". This is where the "res" or "corpus" of the Social Security Trust has its only legal existence as a "person". See: http://famguardian.org/Subjects/Taxes/Articles/DomicileBasisForTaxation.htm
6. The Social Security Number is the "Trustee License Number". Whenever you write your name anywhere on a piece of paper, and especially in conjunction with your all caps name, such as "JOHN SMITH", you are indicating that you are acting in a Trustee capacity. The only way to remove such a presumption is to black out the number or not put it on the form, and then to correct whoever sent you the form or notice to clarify that you are not acting as a Trustee or government employee, but instead are acting as a natural person. See: http://sedm.org/ProductInfo/RespLtrs/AboutSSNs/AboutSSNs.htm
7. As an "officer or employee of a corporation", you are the proper subject of the penalty and criminal provisions of the Internal Revenue Code under:
   7.1. 26 U.S.C. §6671(b)
   7.2. 26 U.S.C. §7343
8. The Internal Revenue Code becomes enforceable against you without the need for implementing regulations. The following statutes say that implementing regulations published in the Federal Register are not required in the case of federal employees or contractors:
   8.1. 5 U.S.C. §553(a)(2)
   8.2. 44 U.S.C. §1505(a)(1)
9. As a Trustee over the Social Security Trust, you are a "public officer" engaged in a "trade or business" as defined in 26 U.S.C. §7701(a)(26). Consequently, the earnings of the federal corporation you preside over as Trustee are taxable under the Internal Revenue Code. You are exercising the functions of a "public office" because you are exercising fiduciary duty over payments paid to the Federal Government. You are in business with Uncle Sam and essentially become a "Kelly Girl". Income taxes are really just the "profits" of the Social Security trust created when you signed up for the program, which are "kicked back" to the mother corporation called the "United States".
10. All items that you take deductions on under 26 U.S.C. §162, earned income credit under 26 U.S.C. §32, or a graduated rate of tax under 26 U.S.C. §1 become "effectively connected with a trade or business", which is a code word for saying that they are public property, because a "trade or business" is a "public office". This "trade or business" then becomes a means of earning you "revenue" or "profit" as a private individual, because it serves to reduce your tax liability as a Trustee filing 1040 returns for the Social Security Trust. What the government doesn't tell you, however, is that you can't reduce a liability you wouldn't have if had just been smart enough not so sign up for Social Security to begin with! See the following article for more details on "The trade or business scam" for further details: http://famguardian.org/Subjects/Taxes/Articles/TradeOrBusinessScam.htm
11. Below is what the Supreme Court said about all property you donated for "public use" by the Trust in acquiring reduced tax liability:

> *"Surely the matters in which the public has the most interest are the supplies of food and clothing; yet can it be that by reason of this interest the state may fix the price at which the butcher must sell his meat, or the vendor of boots and shoes his goods? Men are endowed by their Creator with certain unalienable rights,-'life, liberty, and the pursuit of happiness;' and to 'secure,' not grant or create, these rights, governments are instituted. **That property which a man has honestly acquired he retains full control of, subject to these limitations: First, that he shall not use it to his neighbor's injury, and that does not mean that he must use it for his neighbor's benefit; second, that if he devotes it to a public use, he gives to the public a right to control that use; and third, that whenever the public needs require, the public may take it upon payment of due compensation.***
> *[Budd v. People of State of New York, 143 U.S. 517 (1892)]*

Therefore, whatever you take deductions on comes under the jurisdiction of the Internal Revenue Code, which is the vehicle by which the "public" controls the use of your formerly private property. Every benefit has a string attached, and in this case, the string is that you as Trustee, and all property you donate for temporary use by the Trust then comes under the jurisdiction of the Internal Revenue Code and the Social Security Act.

12. Your Trust employer, the "United States" government, is your new boss. As your new boss, it does not need territorial jurisdiction over you. All it needs is "in rem" jurisdiction over the property you donated to the trust, which includes all your earnings. All this property, while it is donated to a public use, becomes federal property under government management. That is why the Slave Surveillance Number is assigned to all accounts: to track government property, contracts, and employees.
13. Because the property already is government property while you are using it in connection with a "trade or business", then you implicitly have already given the government permission to repossess that which always was theirs. That is why they can issue a "Notice of Levy" without any judicial process and immediately and conveniently take custody of your bank accounts, personal property, and retirement funds: Because they have the mark of the Beast, the Slave Surveillance Number on them, which means you already gave them to your new benefactor and caretaker, the United States Government.
14. The United States Government does ***not*** need territorial jurisdiction over you in order to drag you into federal court while you are acting as one of its Trustees and fiduciaries under 26 U.S.C. §6903. Any matter relating to federal contracts, whether they are Trust Contracts or federal employment contracts (with the "Trustee"), may ONLY be heard in a federal court. It is a violation of the separation of powers doctrine for a state to hear a matter which might affect the federal government. See Alden v. Maine, 527 U.S. 706 (1999). Federal Jurisdiction over Trustees is indeed "subject matter jurisdiction", but it doesn't derive primarily from the Internal Revenue Code. Instead it derives from the agency and contract you maintain as a "Trustee":

> *American Jurisprudence, 2d*
> *United States*
> *§ 42 Interest on claim [77 Am Jur 2d UNITED STATES]*
>
> *The interest to be recovered as damages for the delayed payment of a contractual obligation to the United States is not controlled by state statute or local common law. 75 In the absence of an applicable federal statute, the federal courts must determine according to their own criteria the appropriate measure of damages. 76 State law may, however, be adopted as the federal law of decision in some instances. 77*
> *[American Jurisprudence, 2d, United States, Section 42: Interest on Claim]*

15. The U.S. Supreme Court has always given wide latitude to manage its own "employees" which includes both its Social Security Trusts and the Trustees who are exercising agency over the Trust and its corpus or property. You better bow down and worship your new boss: Uncle Sam!

A few authorities supporting why the Federal Government may not cite federal statutes or caselaw against those who are not its employees or contractors follows:

1. Federal courts are administrative courts which only have jurisdiction within the federal zone and over maritime jurisdiction in territorial waters under the exclusive jurisdiction of the general/federal government. Federal judicial districts consist entirely of the federal territory within the exterior boundaries of the district, and do not encompass land not ceded to the federal government as required by 40 U.S.C. §255 and its successors, 40 U.S.C. §3111 and 3112.
2. Internal Revenue Manual, section 4.10.7.2.9.8 says that the IRS cannot cite rulings below the Supreme Court to apply to more than the specific person who litigated:

> *4.10.7.2.9.8 (05-14-1999)*
> *Importance of Court Decisions*
>
> *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.

3. There is no federal common law within states of the Union, according to the Supreme Court in *Erie Railroad v. Tompkins*, 304 U.S. 64 (1938). Consequently, the rulings of federal district and circuit courts have no relevancy to state citizens domiciled in states of the union who do not declare themselves to be "U.S. citizens" under 8 U.S.C. §1401 and who would litigate under diversity of citizenship, as described in 28 U.S.C. §1332.

> *"There is no Federal Common Law, and Congress has no power to declare substantive rules of Common Law applicable in a state. Whether they be local or general in their nature, be they commercial law or a part of the Law of Torts"*
> *[Erie Railroad v. Tompkins, 304 U.S. 64 (1938)]*

> ***"Common law**. As distinguished form statutory law created by the enactment of legislatures, the common law comprises the body of those principles and rules of action, relating to the government and security of persons and property, which derive their authority solely from usages and customs of immemorial antiquity, or from the judgments and decrees of the courts recognizing, affirming, and enforcing such usages and customs and, in this sense, particularly the ancient unwritten law of England. In general, it is a body of law that develops and derives through judicial decisions, as distinguished form legislative enactments. The "common law" is all the statutory and case law background of England and the American colonies before the American revolution. People v. Rehman, 253 C.A.2d 119, 61 Cal.Rptr. 65, 85. It consists of those principles, usage and rules of action applicable to government and security of persons and property which do not rest for their authority upon any express and positive declaration of the will of the legislature. Bishop v. U.S., D.C.Tex., 334 F.Supp. 415, 418.*
>
> *"Calif. Civil Code, Section 22.2, provides that the "common law of England, so far as it is not repugnant to or inconsistent with the Constitution of the United States, or the Constitution or laws of this State, is the rule of decision in all the courts of this State."*
>
> *"In a broad sense, "common law" may designate all that part of the positive law, juristic theory, and ancient custom of any state or nation which is of general and universal application, thus marking off special or local rules or customs.*
>
> *"For federal common law, see that title.*
>
> *"As a compound adjective "common-law" is understood as contrasted with or opposed to "statutory," and sometimes also to "equitable" or to "criminal."*
> *[Black's Law Dictionary, Sixth Edition, p. 276]*

4. The Rules of Decision Act, 28 U.S.C. §1652, requires that the laws of the states of the Union are the only rules of decision in federal courts. This means that federal courts MUST cite state law and not federal law in all tax cases and MAY NOT cite federal caselaw.
5. The Federal Rules of Civil Procedure, Rule 17(b) say that the capacity to sue or be sued is determined by the law of the individual's domicile. This means that if a person is domiciled in a state and not within an enclave, then state law are the rules of decision rather than federal law. Since state income tax liability in nearly every state is dependent on a federal liability first, this makes an income tax liability impossible for those domiciled outside the federal zone.

Therefore, in the case of a private citizen who has:

1. Provided proof of their domicile within a state of the Union. See: http://famguardian.org/Subjects/Taxes/Articles/DomicileBasisForTaxation.htm
2. Responded to the federal suit using Diversity of Citizenship under 28 U.S.C. §1332.
3. Not implicated themselves as "taxpayers" by citing anything from the Internal Revenue code in their own pleading, which would be an indirect admission that they are subject to it. See: http://famguardian.org/Subjects/Taxes/Articles/TaxpayerVNontaxpayer.htm
4. Not filled out and sign any government forms that create any employment or agency between them and the federal government, such as the W-4, 1040, of SS-5 forms.
5. Sent in and admitted into evidence the free *Resignation of Compelled Social Security Trustee* document: http://famguardian.org/TaxFreedom/Forms/Emancipation/SSTrustIndenture.pdf

Any government representative, and especially who is from the Dept. of Justice or the IRS, who cites a case below the Supreme Court or any section from the Internal Revenue Code or Title 42 of the U.S. Code in the case of a person who is a "national" but not a "citizen" under federal law, who is not a "Trustee" or federal "employee", is abusing caselaw for political purposes, usually with willful intent to deceive the hearer. Federal courts, incidentally, are NOT allowed to involve themselves in such "political questions", and therefore should not allow this type of abuse of caselaw, but judges who are fond of increasing their retirement benefits often will acquiesce if you don't call them on it as an informed American. This kind of bias on the part of federal judges, incidentally, is highly illegal under 28 U.S.C. §144 and 28 U.S.C. §455. Below is what the Supreme Court said about the authority of itself, and by implication all other federal courts, to involve itself in strictly political matters:

> ***"But, fortunately for our freedom from political excitements in judicial duties, this court [the U.S. Supreme Court] can never with propriety be called on officially to be the umpire in questions merely political. The adjustment of these questions belongs to the people and their political representatives, either in the State or general government. These questions relate to matters not to be settled on strict legal principles.*** *They are adjusted rather by inclination, or prejudice or compromise, often.*
>
> *[. . .]*
>
> ***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)]*

We know that the content of this section may appear strange at first reading, but after you have gone back and read the Resignation of Compelled Social Security Trustee document, there is simply no other logical conclusion that a person can reach based on the overwhelming evidence presented there that so clearly describes how the Social Security program operates from a legal perspective.

A number of tax honesty advocates will attempt to cite 26 U.S.C. §7701(a)(9) and (a)(10) as proof that federal jurisdiction does not extend into the states for the purposes of the Internal Revenue Code.

> *TITLE 26 > Subtitle F > CHAPTER 79 >* ***Sec. 7701. [Internal Revenue Code]***
> *Sec. 7701. - Definitions*

(a)(9) United States

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

(a)(10): State

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

Federal district and circuit courts have been known to label such arguments based on these definitions in the Internal Revenue Code as "frivolous". Their reasons for doing so have never been completely or truthfully revealed anywhere but here, to the best of our knowledge. Now that we know how the government ropes sovereign Americans into their jurisdiction based on the analysis in this section, we also know that it is indeed "frivolous" to state that federal jurisdiction does not extend into the states in the case of those who are "Trustees" or federal "employees" or federal contractors, such as those who participate in Social Security. Since we know that the legal domicile of the Trust is indeed the District of Columbia, we also know that anyone who litigates in a federal court and does not deny all of the following will essentially be presumed to be a federal "employee" and Trustee acting on behalf of the Social Security Trust:

1. The all caps name in association with him. His proper name is the lower case Christian Name. The all caps name is the name of the Social Security Trust that was created when you completed and submitted the SS-5 form to sign up for Social Security.
2. The Trustee license number called the Social Security Number associated with him. If you admit the number is yours, then you admit that you are acting as a Social Security Trustee. Only trustees can use the license number.
3. The receipt of income connected to a "trade or business" on form 1099's. All earnings identified on a 1099 are "presumed" to be "effectively connected with a trade or business", which is a "public office" in the United States government as a "Trustee" and fiduciary over federal payments.
4. The receipt of "wage" income in connection with a W-4. Receipt of "wages" are evidence from 26 CFR §31 .3401(a)-3(a) that you consented to withhold and participate in Social Security.
5. The existence of consent in signing the SS-5 form. The Trust contract created by this form cannot be lawful so long as it was either signed without your consent or was signed for you by your parents without your informed consent.
6. The voluntary use of the Slave Surveillance Number. Instead, all uses must be identified as compelled. Responsibility for a compelled act falls on the person instituting the compulsion, and not the actor.

4.4 Purpose of Due Process: To completely remove "presumption" from legal proceedings

All presumption represents a violation of Constitutional Due Process. The only exception to this rule is if the Defendant is not covered by the Constitution because domiciled in the federal zone or exercising agency of a legal "person" who is domiciled in the federal zone. This was thoroughly covered in the previous section.

According to the Bible, "presumption" also happens to be a Biblical sin in violation of God's law as well, which should result in the banishment of a person from his society:

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

---

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

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

We have therefore established that "presumption" is something we should try very hard to avoid, because it is a violation of both man's law AND God's law. As a matter of fact, we have a whole free book on our website that challenges the false assumption of liability to federal taxation available at:

http://famguardian.org/Publications/AssumptOfLiability/AssumptionOfLiability.htm

The chief purpose of Constitutional "due process" is therefore to completely remove bias and the presumption that produces it from every legal proceeding in a court of law. This is done by:

1. Completely removing all presumptions from the legal proceeding.
2. Preventing the application of any "statutory presumptions" that might prejudice the rights of the Defendant.
3. Insisting that every conclusion is based on physical and non-presumptive (not "prima facie") evidence.
4. To apply the same rules of evidence equally against both parties.
5. Choosing jurists who are free from bias or prejudice during the voir dire (jury selection) process.
6. Choosing judges who are free from bias or prejudice during the voir dire process.

A good lawyer will challenge presumptions at every stage of a legal proceeding. You can tell when presumptions are being prejudicially used in a legal proceeding when:

1. The judge or either party uses any of the following phrases:
   1.1. "Everyone knows. . ."
   1.2. "You knew or should have known…"
   1.3. "A reasonable [presumptuous] person would have concluded otherwise…"
2. The judge does not ***exclude*** the I.R.C. from evidence in the case involving a person who is not domiciled in the federal zone and provided proof of same.
3. The judge allows the Prosecutor to throw accusations at the Defendant in front of the jury without insisting on evidence to back it up.
4. The judge admits into evidence or cites a statutory presumption that prejudices your rights.

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

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

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

1. They will choose a jury that is misinformed or under-informed about the law and legal process.
2. They will use the prejudices and ignorance of the jury as a weapon to manipulate them into becoming an angry "lynch mob" with a vendetta against the Defendant.
3. They will make frequent use of "words of art" to deceive the jury into making false presumptions that will prejudice the rights of the defendant.

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

4. They will prevent evidence of the meaning of the words they are using from entering the court record or the deliberations. Federal judges will help them with this process by insisting that "law" may not be discussed in the courtroom.

A good judge will ensure that the above prejudice does not happen. He will especially do so where the matter involves taxation and where there is no jury or where any one in the jury is either a taxpayer or a recipient of government benefits. He will do so in order to avoid violation of 18 U.S.C. §597, which forbids bribing of voters, since jurists are a type of voter. However, we don't have many good judges who will be this honorable in the context of a tax trial because their pay and retirement, they think, depends on a vigorous illegal enforcement of the Internal Revenue Code in violation of 28 U.S.C. §455.

> *TITLE 28 > PART I > CHAPTER 21 > § 455*
> *§ 455. Disqualification of justice, judge, or magistrate judge*
>
> *(a) Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.*
>
> *(b) He shall also disqualify himself in the following circumstances:*
>
> *[. . .]*
>
> *(4) He knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;*

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

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

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

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

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

http://famguardian.org/TaxFreedom/CitesByTopic/presumption.htm

Another very important point needs to be made about the subject of "presumption", which is that "presumption", when it is left to operate unchecked in a federal court proceeding:

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

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

our free *Great IRS Hoax* book, sections 5.4 through 5.4.3.6 below. We strongly encourage you to rebut the evidence contained there if you find any errors or omissions:

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

4.5 U.S. Supreme Court on the Void for Vagueness Doctrine

The U.S. Supreme Court created a doctrine which it calls the "Void for Vagueness Doctrine". A series of cases identified in the following subsections describe the significance and operation of the doctrine. It is founded upon the notion of "due process", which we will expand upon later. An understanding of this doctrine is important in reaching any conclusions about the proper application of the rules of statutory construction, which we will discuss subsequently.

4.5.1 Conally v. General Construction Co., 269 U.S. 385 (1926)

> *That the terms of a penal statute creating a new offense must be sufficiently explicit to inform those who are subject to it what conduct on their part will render them liable to its penalties is a well- recognized requirement, consonant alike with ordinary notions of fair play and the settled rules of law; and a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application violates the first essential of due process of law. International Harvester Co. v. Kentucky, 234 U.S. 216, 221 , 34 S. Ct. 853; Collins v. Kentucky, 234 U.S. 634, 638 , 34 S. Ct. 924*
>
> *...*
>
> *[269 U.S. 385, 393] ... The dividing line between what is lawful and unlawful cannot be left to conjecture. The citizen cannot be held to answer charges based upon penal statutes whose mandates are so uncertain that they will reasonably admit of different constructions. A criminal statute cannot rest upon an uncertain foundation. The crime, and the elements constituting it, must be so clearly expressed that the ordinary person can intelligently choose, in advance, what course it is lawful for him to pursue. Penal statutes prohibiting the doing of certain things, and providing a punishment for their violation, should not admit of such a double meaning that the citizen may act upon the one conception of its requirements and the courts upon another.'*
> *[Conally v. General Construction Co., 269 U.S. 385 (1926)]*

4.5.2 Sewell v. Georgia, 435 U.S. 982 (1978)

> *"Appellant's second argument, that 26-2101(c) is void for vagueness, also raises a substantial federal question-one of first impression in this Court-even though appellant fundamentally misapprehends the reach of the First Amendment in his argument that the protections of that Amendment extend to the sexual devices involved in this case. As we said in Grayned v. City of Rockford, 408 U.S. 104, 108 (1972):*
>
> *"It is a basic principle of due process that an enactment is void for vagueness if its prohibitions are not clearly defined. Vague laws offend several important values. First, because we assume that man is free to steer between lawful and unlawful conduct, we **insist that laws give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly. Vague laws may trap the innocent by not providing fair warning.** Second, if arbitrary and discriminatory enforcement is to be prevented, laws must provide explicit standards for those who apply them. A **vague law impermissibly delegates basic policy matters to policemen, judges, and juries for resolution on an ad hoc and subjective basis, with the attendant dangers of arbitrary and discriminatory application.**" (Footnotes omitted.)*
>
> *"See also Papachristou v. City of Jacksonville, 405 U.S. 156 (1972); Cline v. Frink Dairy Co., 274 U.S. 445, 47 S. Ct. 681 (1927); Connally v. General Construction Co., 269 U.S. 385 (1926)."*
> *[Sewell v. Georgia, 435 U.S. 982, 985 (1978)]*

4.5.3 Karlan v. City of Cincinatti, 416 U.S. 924 (1974)

> *"These cases all involve convictions under ordinances and statutes which punish the mere utterance of words variously described as 'abusive,' 'vulgar,' 'insulting,' 'profane,' 'indecent,' 'boisterous,' and the like. 1 The provisions are challenged as being unconstitutionally vague and overbroad. The 'void for vagueness' doctrine is, of course, a due process concept implementing principles of fair warning and non-discriminatory enforcement. Vague laws may trap those who desire to be law-abiding by not providing fair notice of what is prohibited. Papachristou v. City of Jacksonville, 405 U.S. 156, 162 (1972); United States v. Harriss, 347 U.S. 612, 617 (1954). They also provide opportunity for arbitrary and discriminatory enforcement since those [416 U.S. 924 , 925] who apply the laws have no clear and explicit standards to guide them. Coates v. Cincinnati, 402 U.S. 611, 614 (1971); Shuttlesworth v. Birmingham, 382 U.S. 87 , 90-91, 15 L. Ed.2d 176 (1965). Further, when a vague statute "abut[s] upon sensitive areas of First Amendment freedoms,' it 'operates to inhibit the*

exercise of [those] freedoms.' Uncertain meanings inevitably lead citizens to 'steer far wider of the unlawful zone . . . than if the boundaries of the forbidden areas were clearly marked." Grayned v. City of Rockford, 408 U.S. 104, 109 (1972), quoting Baggett v. Bullitt, 377 U.S. 360, 372 (1964), and Speiser v. Randall, 357 U.S. 513, 526 (1958)."

"Overbreadth, on the other hand, 'offends the constitutional principle that 'a governmental purpose to control or prevent activities constitutionally subject to state regulation may not be achieved by means which sweep unnecessarily broadly and thereby invade the area of protected freedoms." Zwickler v. Koota, 389 U.S. 241, 250 (1967), quoting NAACP v. Alabama, 377 U.S. 288, 307 (1964). A vague statute may be overbroad if its uncertain boundaries leave open the possibility of punishment for protected conduct and thus lead citizens to avoid such protected activity in order to steer clear of the uncertain proscriptions. Grayned v. City of Rockford supra, 408 U.S. at 109; Dombrowski v. Pfister, 380 U.S. 479, 486 (1965). A statute is also overbroad, however, if, even though it is clear and precise, it prohibits constitutionally protected conduct. Aptheker v. Secretary of State, 378 U.S. 500 , 508-509 (1964); Shelton v. Tucker, 364 U.S. 479, 488 (1960)."
[Karlan v. City of Cincinatti, 416 U.S. 924 (1974)]

4.5.4 Giaccio v. State of Pennsylvania, 382 U.S. 399 (1966)

"Law fails to meet requirements of due process clause if it is so vague and standardless that it leaves public uncertain as to conduct it prohibits or leaves judges and jurors free to decide, without any legally fixed standards, what is prohibited and what is not in each particular case."
[Giaccio v. State of Pennsylvania, 382 U.S. 399; 86 S.Ct. 518 (1966)]

4.5.5 Winters v. People of State of New York, 333 U.S. 507 (1948)

"Men of common intelligence cannot be required to guess at the meaning of penal enactment.

"In determining whether penal statute is invalid for uncertainty, courts must do their best to determine whether vagueness is of such a character that men of common intelligence must guess at its meaning.

"Where a statute is so vague as to make criminal an innocent act, a conviction under it cannot be sustained."
[Winters v. People of State of New York, 333 U.S. 507; 68 S.Ct. 665 (1948)]

4.5.6 Smith v. Gougen, 415 U.S. 566, 572 (1974)

"We agree with the holdings of the District Court and the Court of Appeals on the due process doctrine of vagueness. The settled principles of that doctrine require no extensive restatement here. (fn.7) ***The doctrine incorporates notions*** *of* ***fair notice or warning. (fn.8) Moreover, it requires legislatures to set reasonably clear guidelines for law enforcement officials and triers of fact in order to prevent "arbitrary and discriminatory enforcement."*** *(fn.9) Where a statute's literal scope, unaided by a narrowing state court interpretation, is capable of reaching expression sheltered by the First Amendment, the doctrine demands a greater degree of specificity than in other contexts. (fn.10) The statutory language at issue here, "publicly... treats contemptuously the flag of the United States...," has such scope, e.g., Street v. New York, 394 U.S. 576 (1969) (verbal flag contempt), and at the relevant time was without the benefit of judicial clarification. (fn.11)"*[17]
[Smith v. Gougen, 415 U.S. 566, 572 (1974)]

4.5.7 Papachristou v. City of Jacksonville, 405 U.S. 156, 172 (1972)

[17] See *Smith v. Gougen*, 415 U.S. 566, 572 (1974). The Court's footnotes for this paragraph are as follows:

6. Appellant correctly conceded at oral argument that Goguen's case is the first recorded Massachusetts court reading of this language. Tr. of Oral Mg. 17-18. Indeed, with the exception of one case at the turn of the century involving one of the statute's commercial misuse provisions, *Commonwealth v. R I. Sherman Mfg. Co.*, 189 Mass. 76, 75 N.E. 71 (1905), the entire statute has been essentially devoid of state court interpretation.

7. The elements of the "void for vagueness" doctrine have been developed in a large body of precedent from this Court. The cases are categorized in, e.g., *Grayned v. City of Rockford*, 408 U.S. 104, 10$-109 (1972). See Note, *The Void for Vagueness Doctrine in the Supreme Court*, 109 U.Pa.L.Rev. 67 (1960).

8. E.g., *Papachristou v. City of Jacksonville*, 405 U.S. 156, 162 (1972); *Lanzetta v. New Jersey*, 306 U.S. 451, 453 (1939) ***("No one may be required at peril*** *of life,* ***liberty or property to speculate as to the meaning of penal statutes. All are entitled to be informed as to what the State commands or forbids")*** (citations omitted); *Connally v. General Construction Co.*, 269 U.S. 385, 391 (1926) ("[A]* ***statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and*** *differ as to its application, violates the first essential of* ***due process*** *of law")* (citations omitted).

E.g., *Grayned, supra at* 108; *United States v. Cohen Grocery Co.*, 255 U.S. 81, 89 (1921) ("[T]o attempt to enforce the section would be the exact equivalent of an effort to carry out a statute which in terms merely penalized and punished all acts detrimental to the public interest when unjust and unreasonable in the estimation of the court and jury"); *United States v. Reese*, 92 U.S. 214, 221 (1876) *("It would certainly be dangerous* ***if the legislature could set a net large enough to catch all possible offenders, and leave it to the courts to step inside and say who could be rightfully detained, and who should be set*** *at large").*

*"This ordinance is void for vagueness, both in the sense that it 'fails **to give a person of ordinary intelligence fair notice that his contemplated conduct is forbidden by the statute,"** United States v. Harriss, 347 U.S. 612, 617, **and because it encourages** arbitrary and erratic arrests and **convictions.** Thornhill v. Alabama, 310 U.S. 88; Herndon v. Lowy, 301 U.S. 242."*

***"Living under a rule of law entails various suppositions, one of which is that "fall persons] are entitled to be informed as to what the State commands or forbids."** Lanzetta v. New Jersey, 306 U.S. 451, 453."*

*"Lanzetta is one of a well-recognized group of cases **insisting that the law give fair notice** of **the offending** conduct_ See Connally v. General Construction Co., 269 U.S. 385, 391; Cline v. Frink Dairy Co., 274 U.S. 445; United States v. Cohen Grocery Co., 255 U.S. 81. In the field of regulatory statutes governing business activities, where the acts limited are in a narrow category, greater leeway is allowed. Boyce Motor Lines, Inc. v. United States, 342 U.S. 337; United States v. National Dairy Products Corp., 372 U.S. 29; United States v. Petrillo, 332 U.S. 1."*
[Papachristou v. City of Jacksonville, 405 U.S. 156, 172 (1972)]

4.5.8 United States v. Batchelder, 442 U.S. 114, 123 (1979)

"It is a fundamental tenet of due process that "[n]o one may be required at peril of life, liberty or property to speculate as to the meaning of penal statutes." Lanzetta v. New Jersey, *306 U.S. 451, 453 (1939). A criminal statute is therefore invalid* if ***it "fails to give a person of ordinary intelligence fair notice that his contemplated conduct is forbidden."*** United States v. Harriss, *347 U.S. 612, 617 (1954). See* Connally v. General Construction Co., *269 U.S. 385, 391-393 (1926);* Papachristou v. Jacksonville, *405 U.S. 156, 162 (1972);* Dunn v. United States, *ante, at 112-113.* ***So too, vague sentencing provisions may pose constitutional questions if they do not state with sufficient clarity the consequences of violating a given criminal statute. See*** United States v. Evans, *333 U.S. 483 (1948);* United States v. Brown, *333 U.S. 18 (1948); cf.* Giaccio v. Pennsylvania, *382 U.S. 399 (1966)."*
[United States v. Bachelder, 442 U.S. 114, 123 (1979)]

4.5.9 Williams v. United States, 341 U.S. 97, 100 (1951)

"Criminal statutes must have an ascertainable standard of guilt or they fall for vagueness. *See* United States v. Cohen Grocery Co., *255 U.S. 81;* Winters v. New York, *333 U.S. 507."*
[Williams v. United States, 341 U.S. 97, 100 (1951)]

4.5.10 United States v. National Dairy Corp., 372 U.S. 29, 32 (1963)

"Void for vagueness simply means that criminal responsibility should not attach where one could not reasonably understand that his contemplated conduct is proscribed. United States v. Harriss, *347 U.S. 612, 617 (1954). In determining the sufficiency of the notice a statute must of necessity be examined in the light of the conduct with which a defendant is charged.* Robinson v. United States, *324 U.S. 282 (1945)."*[18]
[United States v. National Dairy Corp. 372 U.S. 29, 32 (1936)]

4.6 Statutory Presumptions that Injure Rights are Unconstitutional

A statutory presumption is a presumption which is mandated by a statute. Below is an example of such a presumption, from section 2.1 earlier:

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

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

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

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

[18] See **also** *Browning-Ferris Industries of Vermont v. Kelco- Disposal, Inc.*, 492 U.S. 257, 297, 300-301 (1989); *U.S. v. Classic*, 313 U.S. 299, 331 (1941).

We know that the above presumption is unconstitutional and if applied as intended, would violate the Void for Vagueness Doctrine described earlier in section 4.5 and following. It would also violate the rules of statutory construction described earlier in section 3.7.14 that say:

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

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

> ***"Legislation declaring that proof of one fact of group of facts shall constitute prima facie evidence of an ultimate fact in issue is valid if there is a rational connection between what is proved and what is to be inferred. A prima facie presumption casts upon the person against whom it is applied the duty of going forward with his evidence on the particular point to which the presumption relates. A statute creating a presumption that is arbitrary, or that operates to deny a fair opportunity to repel it, violates the due process clause of the Fourteenth Amendment.*** *Legislative fiat may not take the place of fact in the judicial determination of issues involving life, liberty, or property. Manley v. Georgia, 279 U.S. 1 , 49 S. Ct. 215, 73 L. Ed. -, and cases cited."*
> ***[Western and Atlantic Railroad v. Henderson, 279 U.S. 639 (1929)]***
>
> _____
>
> *"[I]t is unconstitutional for a legislature to remove from the jury the assessment of facts that increase the prescribed range of penalties to which a criminal defendant is exposed. It is equally clear that such facts must be established by proof beyond a reasonable doubt."*
> *[McMillan v. Pennsylvania, 477 U.S. 79 (1986)]*
>
> _____
>
> *It has always been recognized that the guaranty of trial by jury in criminal cases means that the jury is to be the factfinder. This is the only way in which a jury can perform its basic constitutional function of determining the guilt or innocence of a defendant. See, e. g., United States ex rel. Toth v. Quarles, 350 U.S. 11, 15 -19; Reid v. Covert, 354 U.S. 1, 5 -10 (opinion announcing judgment). And of course this constitutionally established power of a jury to determine guilt or innocence of a defendant charged with crime cannot be taken away by Congress, directly or indirectly, in whole or in part. Obviously, a necessary part of this power, vested by the Constitution in juries (or in judges when juries are waived), is the exclusive right to decide whether evidence presented at trial is sufficient to convict. I think it flaunts the constitutional power of courts and juries for Congress to tell them what "shall be deemed sufficient evidence to authorize conviction." And if Congress could not thus directly encroach upon the judge's or jury's exclusive right to declare what evidence is sufficient to prove the facts necessary for conviction, it should not be allowed to do so merely by labeling its encroachment a "presumption." Neither Tot v. United States, 319 U.S. 463 , relied [380 U.S. 63, 78] on by the Court as supporting this presumption, nor any case cited in Tot approved such an encroachment on the power of judges or juries.* ***In fact, so far as I can tell, the problem of whether Congress can so restrict the power of court and jury in a criminal case in a federal court has never been squarely presented to or considered by this Court, perhaps because challenges to presumptions have arisen in many crucially different contexts but nevertheless have generally failed to distinguish between presumptions used in different ways, treating them as if they are either all valid or all invalid, regardless of the rights on which their use may impinge.*** *Because the Court also fails to differentiate among the different circumstances in which presumptions may be utilized and the different consequences which will follow, I feel it necessary to say a few words on that subject before considering specifically the validity of the use of these presumptions in the light of the circumstances and consequences of their use.*
>
> ***In its simplest form a presumption is an inference permitted or required by law of the existence of one fact, which is unknown or which cannot be proved, from another fact which has been proved.*** *The fact presumed may be based on a very strong probability, a weak supposition or an arbitrary assumption. The burden on the party seeking to prove the fact may be slight, as in a civil suit, or very heavy - proof beyond a reasonable doubt - as in a criminal prosecution.* ***This points up the fact that statutes creating presumptions cannot be treated as fungible, that is, as interchangeable for all uses and all purposes. The validity of each presumption must be determined in the light of the particular consequences that flow from its use. When matters of trifling moment are involved, presumptions may be more freely accepted, but when consequences of vital importance to litigants and to the administration of justice are at stake, a more careful scrutiny is necessary.*** *[380 U.S. 63, 79]*

> ***In judging the constitutionality of legislatively created presumptions this Court has evolved an initial criterion which applies alike to all kinds of presumptions: that before a presumption may be relied on, there must be a rational connection between the facts inferred and the facts which have been proved by competent evidence, that is, the facts proved must be evidence which is relevant, tending to prove (though not necessarily conclusively) the existence of the fact presumed.*** *And courts have undoubtedly shown an inclination to be less strict about the logical strength of presumptive inferences they will permit in civil cases than about those which affect the trial of crimes.* ***The stricter scrutiny in the latter situation follows from the fact that the burden of proof in a civil lawsuit is ordinarily merely a preponderance of the evidence, while in a criminal case where a man's life, liberty, or property is at stake, the prosecution must prove his guilt beyond a reasonable doubt.*** *See Morrison v. California, 291 U.S. 82, 96 -97. The case of Bailey v. Alabama, 219 U.S. 219 , is a good illustration of this principle. There Bailey was accused of violating an Alabama statute which made it a crime to fail to perform personal services after obtaining money by contracting to perform them, with an intent to defraud the employer.* ***The statute also provided that refusal or failure to perform the services, or to refund money paid for them, without just cause, constituted "prima facie evidence" (i. e., gave rise to a presumption) of the intent to injure or defraud.*** *This Court, after calling attention to prior cases dealing with the requirement of rationality, passed over the test of rationality and held the statute invalid on another ground.* ***Looking beyond the rational-relationship doctrine the Court held that the use of this presumption by Alabama against a man accused of crime would amount to a violation of the Thirteenth Amendment to the Constitution, which forbids "involuntary [380 U.S. 63, 80] servitude, except as a punishment for crime." In so deciding the Court made it crystal clear that rationality is only the first hurdle which a legislatively created presumption must clear - that a presumption, even if rational, cannot be used to convict a man of crime if the effect of using the presumption is to deprive the accused of a constitutional right.***
>
> ***[United States v. Gainly, 380 U.S. 63 (1965)]***

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

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

The implication of the prohibition against statutory presumptions is that:

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

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

that those participating in the Social Security program are deemed to be "agents", "employees", and "fiduciaries" of the federal corporation called the United States, which has a "domicile" in the federal zone (District of Columbia) under 4 U.S.C. §72. Therefore, unless and until they eliminate said agency using the above document, statutory presumptions may be used against them without an unconstitutional result, but only in the context of the agency they are exercising.

4.7 Application of "Expressio unius est exclusio alterius" rule

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

The above important rule establishes that what is not enumerated in law can safely be ignored. The Supreme court has said about the above rule:

1. That it is a rule of statutory construction and interpretation, and not a substantive law. See *U.S. v. Barnes*, 222 U.S. 513 (1912).
2. That the rule can never override clear and contrary evidences of Congressional intent. See *Neuberger v. Commissioner of Internal Revenue*, 311 U.S. 83 (1940).
3. A few exceptions to the *Exclusio Rule* were made in the following cases:
   - 3.1. *Springer v. Government of the Philippine Islands*, 277 U.S. 189 (1928)
   - 3.2. *U.S. v. Barnes*, 222 U.S. 513 (1912)
   - 3.3. *Neuberger v. Commissioner of Internal Revenue*, 311 U.S. 83 (1940)
4. For examples of the use of the above rule of statutory construction, see the following U.S. Supreme Court Rulings: *Tennessee Valley Auth. v. Hill*, 437 U.S. 153, 188 (1978); *Passenger Corp. v. Passengers Assoc.*, 414 U.S. 453, 458 (1974); *Bingler v. Johnson*, 394 U.S. 741, 749 (1969); *Evans v. Newton*, 382 U.S. 296, 311 (1966); *Nashville Milk Co. v. Carnation Co.*, 355 U.S. 373, 375 (1958)).

The reason for the above rule is two fold:

1. A fundamental requirement of Constitutional due process is "due notice". This means that a law must warn an individual exactly and specifically what the law requires and what is prohibited. Therefore, it must describe all of the persons and things and behaviors EXACTLY to which it applies.

> *"One of the important steps in the enactment of a valid law is the requirement that it shall be made known to the people who are to be bound by it. There would be no justice if the state were to hold its people responsible for their conduct before it made known to them the unlawfulness of such behavior. In practice, our laws are published immediately upon their enactment so that the public will be aware of them."*

[How Our Laws Are Made, Chapter 19, U.S. Government Printing Office http://thomas.loc.gov/home/lawsmade.toc.html]

To enforce a law that does not meet this requirement violates not only the requirement for "due notice", but more importantly violates the "void for vagueness doctrine", which states:

> *"Men of common intelligence cannot be required to guess at the meaning of penal enactment.*
>
> *"In determining whether penal statute is invalid for uncertainty, courts must do their best to determine whether vagueness is of such a character that men of common intelligence must guess at its meaning.*
>
> *"Where a statute is so vague as to make criminal an innocent act, a conviction under it cannot be sustained." [Winters v. People of State of New York, 333 U.S. 507; 68 S.Ct. 665 (1948)]*

2. In addition to the above, a statute also may NOT create or encourage presumption. Statutory presumptions are absolutely forbidden where they impair or injure Constitutionally guaranteed rights. If the reader is required to "presume" what is included in a statute or regulations or if he must rely on a judge rather than the law itself to decide what is "included", then we have violated the legislative intent of the Constitution, which was to create a society of law and not of men:

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

Either "presuming" or being compelled by the court to "presume" something that isn't actually written in the law, especially where it would prejudice Constitutional rights, is a violation of due process and represents a gross injury to the rights of the Alleged Defendant. Below is the U.S. Supreme Court's condemnation of such statutory presumptions in *United States v. Gainly*, 380 U.S. 63 (1965). Notice that they go so far as to call the consequences of such a presumption slavery in violation of the Thirteenth Amendment. This is a very important point:

> ***Looking beyond the rational-relationship doctrine the Court held that the use of this presumption by Alabama against a man accused of crime would amount to a violation of the Thirteenth Amendment to the Constitution, which forbids "involuntary [380 U.S. 63, 80] servitude, except as a punishment for crime."*** *In so deciding the Court made it crystal clear that rationality is only the first hurdle which a legislatively created presumption must clear - that a presumption, even if rational, cannot be used to convict a man of crime if the effect of using the presumption is to deprive the accused of a constitutional right. In Bailey the constitutional right was given by the Thirteenth Amendment. In the case before us the accused, in my judgment, has been denied his right to the kind of trial by jury guaranteed by Art. III, 2, and the Sixth Amendment, as well as to due process of law and freedom from self-incrimination guaranteed by the Fifth Amendment. And of course the principle announced in the Bailey case was not limited to rights guaranteed by the Thirteenth Amendment. The Court said in Bailey:*
>
> > *"It is apparent that a constitutional prohibition cannot be transgressed indirectly by the creation of a statutory presumption any more than it can be violated by direct enactment. The power to create presumptions is not a means of escape from constitutional restrictions." 219 U.S., at 239 .*
>
> ***Thus the Court held that presumptions, while often valid (and some of which, I think, like the presumption of death based on long unexplained absence, may perhaps be even salutary in effect), must not be allowed to stand where they abridge or deny a specific constitutional guarantee.***
> ***[United States v. Gainly, 380 U.S. 63 (1965)]***

4.8 Meaning of "extension" and "enlargement" context of the word "includes"

Earlier in this document, we quoted the definition of "includes" from Black's Law Dictionary. We have underlined and emphasized that portion which we shall address in this section:

> *"**Include**. (Lat. Inclaudere, to shut in. keep within.) To confine within, hold as an inclosure. Take in, attain, shut up, contain, inclose, comprise, comprehend, embrace, involve. **Term may, according to context, express an enlargement and have the meaning of and or in addition to, or merely specify a particular thing already included within general words theretofore used. "Including" within statute is interpreted as a word of enlargement or of illustrative application as well as a word of limitation.** Premier Products Co. v. Cameron, 240 Or. 123, 400 P.2d 227, 228."*

[Black's Law Dictionary, Sixth Edition, p. 763]

The Supreme Court has ruled that the use of the word "includes" as a term of enlargement" or "extension" is the exceptional and not usual use:

> *The determining word is, of course the word 'including.' It may have the sense of addition, [221 U.S. 452, 465] as we have seen, and of 'also;' but, we have also seen, 'may merely specify particularly that which belongs to the genus.' Hiller v. United States, 45 C. C. A. 229, 106 Fed. 73, 74. It is the participle of the word 'include,' which means, according to the definition of the Century Dictionary, (1) 'to confine within something; hold as in an inclosure; inclose; contain.' (2) 'To comprise as a part, or as something incident or pertinent; comprehend; take in; as the greater includes the less; . . . the Roman Empire included many nations.' 'Including,' being a participle, is in the nature of an adjective and is a modifier."*
>
> *...*
>
> *"...**The court also considered that the word 'including' was used as a word of enlargement, the learned court being of opinion that such was its ordinary sense. With this we cannot concur. It is its exceptional sense, as the dictionaries and cases indicate.** We may concede to 'and' the additive power attributed to it. It gives in connection with 'including' a quality to the grant of 110,000 acres which it would not have had,-the quality of selection from the saline lands of the state. And that such quality would not exist unless expressly conferred we do not understand is controverted. Indeed, it cannot be controverted...."*
> *[Montello Salt Co. v. Utah, 221 U.S. 452 (1911)]*

A favorite tactic of those who wish to illegally expand the public perception of federal jurisdiction is to zero in on the use of the word "includes" as a word of "enlargement". They will first cite 26 U.S.C. §7701(c) :

> ***26 U.S.C. Sec. 7701(c) INCLUDES AND INCLUDING.***
>
> *The terms 'include' and 'including' when used in a definition contained in this title shall not be deemed to exclude other things otherwise within the meaning of the term defined."*

Then they will try to imply that the above definition allows for:

1. The inclusion of the common meaning or use of the word IN ADDITION to that context in which it is defined in the code. This violates the rules of statutory construction summarized earlier in section 3.7.13, rules 6 and 7.
2. The inclusion of subjects or things which are not specifically pointed out in the code itself. This is a violation of the "Expressio unius est exclusion alterius" rule covered in the previous section.
3. The inclusion of anything the government or the reader wants to include. This is a violation of the Supreme Court ruling in the case of *Marbury v. Madison*, which unequivocally stated that we are a society of law and not of men. The meaning of the law cannot be mandated to be decided by any man, but only by a reader of average intelligence.

> *"The government of the United States has been emphatically termed a government of laws, and not of men. It will certainly cease to deserve this high appellation, if the laws furnish no remedy for the violation of a vested legal right…"*
>
> *"The government of the United States is the latter description. **The powers of the legislature are defined and limited; and that those limits may not be mistaken, or forgotten, the constitution is written. To what purpose are powers limited, and to what purpose is that limitation committed to writing, if these limits may, at any time, be passed by those intended to be restrained? The distinction between a government with limited and unlimited powers is abolished, if those limits do not confine the persons on whom they are imposed, and if acts prohibited and acts allowed, are of equal obligation. It is a proposition too plain to be contested, that the constitution controls any legislative act repugnant to it; or, that the legislature may alter the constitution by an ordinary act.**"*
> *[Marbury v. Madison, 5 U.S. 137, 1 Cranch 137; 2 L.Ed. 60 (1803)]*

As the above case points out, the government of the United States is one of finite, limited, and delegated powers. The limits imposed by the Constitution, Ninth and Tenth Amendments, upon our public servants are there to protect our rights and freedoms and for no other reason. The purpose of law, in fact, is to define and limit government power. Law is incapable of performing that essential role of protection from government abuse when:

1. A statute compels a presumption (called a "statutory presumption") which violates or prejudices the Constitutional rights of the litigant.
2. Judge-made-law compels presumptions or uses presumptions as a substitute for REAL, positive law evidence.

3. The law uses terms whose definition is uncertain.
4. The law uses terms that can only be understood subjectively.
5. The law uses terms that can be interpreted to mean whatever the reader or a government bureaucrat wants them to mean.

The Supreme Court related why the above tactics represent malicious abuses of legal process when it created what it calls "the void for vagueness doctrine":

> *"That the terms of a penal statute creating a new offense must be sufficiently explicit to inform those who are subject to it what conduct on their part will render them liable to its penalties is a well- recognized requirement, consonant alike with ordinary notions of fair play and the settled rules of law; and* ***a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application violates the first essential of due process of law.*** *International Harvester Co. v. Kentucky, 234 U.S. 216, 221 , 34 S. Ct. 853; Collins v. Kentucky, 234 U.S. 634, 638 , 34 S. Ct. 924*
>
> ...
>
> *[269 U.S. 385, 393] ...* ***The dividing line between what is lawful and unlawful cannot be left to conjecture. The citizen cannot be held to answer charges based upon penal statutes whose mandates are so uncertain that they will reasonably admit of different constructions****. A criminal statute cannot rest upon an uncertain foundation. The crime, and the elements constituting it, must be so clearly expressed that the ordinary person can intelligently choose, in advance, what course it is lawful for him to pursue. Penal statutes prohibiting the doing of certain things, and providing a punishment for their violation, should not admit of such a double meaning that the citizen may act upon the one conception of its requirements and the courts upon another.' [Connally vs. General Construction Co., 269 U.S. 385 (1926)]*

Based on the above, the only reasonable interpretation of any statute or code is to include only that which is explicitly spelled out. There are only three ways to define a term in a law:

1. To define ***every*** use and application of a term within a ***single*** section of a code or statute. Such a definition could be relied upon as a universal rule for interpreting the word defined, to the exclusion, even, of the common definition of the word. Remember that according to the Rules of Statutory Construction, the purpose for defining a word in a statute is to exclude all other uses, and even the common use, from being used by the reader. This is the case with the word "includes" within the Internal Revenue Code, which is only defined in one place in the entire Title 26, which is found in 26 U.S.C. §7701(c). For this type of definition, the word "includes" would be used ONLY as a term of "limitation".
2. To break the definition across multiple sections of code, where each additional section is a regional definition that is limited to a specific range of sections within the code. For this context, the term "includes" is used mainly as a word of "limitation" and it means "is limited to". For instance, the term "United States" is defined in three places within the Internal Revenue Code, and each definition is different:
   2.1. 26 U.S.C. §3121
   2.2. 26 U.S.C. §4612
   2.3. 26 U.S.C. §7701(a)(9) and (a)(10).
3. To break the definition across multiple sections of code, where each additional section ADDS to the definition. For this context, the term "includes" is used mainly as a word of "enlargement", and functions essentially as meaning "in addition to". For instance:
   3.1. Code section 1 provides the following definition:

> *Chapter 1 Definitions*
> *Section 1: Definition of "fruit"*
>
> *For the purposes of this chapter, the term "fruit"* ***shall include*** *apples, oranges and bananas.*

   3.2. Code section 10 expands the definition of "fruit" as follows. Watch how the "includes" word adds and expands the original definition, and therefore is used as a term of "enlargement" and "extension":

> *Chapter 2 Definitions*
> *Section 10 Definition of "fruit"*
>
> *For the purposes of this Chapter, the term "fruit"* ***shall include****, in addition to those items identified in section 1, the following: Tangerines and watermelons.*

The U.S. Supreme Court elucidated the application of the last rule above in the case of *American Surety Co. of New York v. Marotta*, 287 U.S. 513 (1933):

> ***"In definitive provisions of statutes and other writings, 'include' is frequently, if not generally, used as a word of extension or enlargement [meaning "in addition to"] rather than as one of limitation or enumeration.*** *Fraser v. Bentel, 161 Cal. 390, 394, 119 P. 509, Ann. Cas. 1913B, 1062; People ex rel. Estate of Woolworth v. S.T. Comm., 200 App.Div. 287, 289, 192 N.Y.S. 772; Matter of Goetz, 71 App.Div. 272, 275, 75 N.Y.S. 750; Calhoun v. Memphis & P.R. Co., Fed. Cas. No. 2,309; Cooper v. Stinson, 5 Minn. 522 (Gil. 416). Subject to the effect properly to be given to context, section 1 (11 USCA 1) prescribes the constructions to be put upon various words and phrases used in the act. Some of the definitive clauses commence with 'shall include,' others with 'shall mean.' The former is used in eighteen instances and the latter in nine instances, and in two both are used. When the section as a whole is regarded, it is evident that these verbs are not used synonymously or loosely, but with discrimination and a purpose to give to each a meaning not attributable to the other. It is obvious that, in some instances at least, 'shall include' is used without implication that any exclusion is intended. Subsections (6) and (7), in each of which both verbs are employed, illustrate the use of 'shall mean' to enumerate and restrict and of 'shall include' to enlarge and extend. Subsection (17) declares 'oath' shall include affirmation, Subsection (19) declares 'persons' shall include corporations, officers, partnerships, and women. Men are not mentioned. In these instances the verb is used to expand, not to restrict. It is plain that 'shall include,' as used in subsection (9) when taken in connection with other parts of the section, cannot reasonably be read to be the equivalent of 'shall mean' or 'shall include only.' [287 U.S. 513, 518] There being nothing to indicate any other purpose, Congress must be deemed to have intended that in section 3a(1) 'creditors' should be given the meaning usually attributed to it when used in the common-law definition of fraudulent conveyances. See Coder v. Arts, 213 U.S. 223, 242 , 29 S.Ct. 436, 16 Ann.Cas. 1008; Lansing Boiler & Engine Works v. Joseph T. Ryerson & Son (C.C.A.) 128 F. 701, 703; Githens v. Shiffler (D.C.) 112 F. 505. Under the common-law rule a creditor having only a contingent claim, such as was that of the petitioner at the time respondent made the transfer in question, is protected against fraudulent conveyance. And petitioner, from the time that it became surety on Mogliani's bond, was entitled as a creditor under the agreement to invoke that rule. Yeend v. Weeks, 104 Ala. 331, 341, 16 So. 165, 53 Am.St.Rep. 50; Whitehouse v. Bolster, 95 Me. 458, 50 A. 240; Mowry v. Reed, 187 Mass. 174, 177, 72 N.E. 936; Stone v. Myers, 9 Minn. 303 (Gil. 287, 294), 86 Am.Dec. 104; Cook v. Johnson, 12 N.J.Eq. 51, 72 Am.Dec. 381; American Surety Co. v. Hattrem, 138 Or. 358, 364, 3 P.(2d) 1109, 6 P.(2d) 1087; U.S. Fidelity & Guaranty Co. v. Centropolis Bank (C.C.A.) 17 F.(2d) 913, 916, 53 A.L.R. 295; Thomson v. Crane (C.C.) 73 F. 327, 331."*
> *[American Surety Co. of New York v. Marotta, 287 U.S. 513 (1933)]*

4.9 Three Proofs that demonstrate the proper meaning of the word "includes"

In this section, we shall use evidence from the Internal Revenue Code and the IRS' own Internal Revenue Manual to establish the proper use of the word "includes". We will statistically examine three different aspects about the use of the word "includes" within these sources in order to prove that the only conclusion a reasonable person can reach about the use of the word "includes" and "including" is that it is used as a term of "limitation" in these sources unless accompanied by "in addition to".

4.9.1 PROOF #1: Internal Revenue Code (I.R.C.) uses of the word "includes"

The Internal Revenue Code defines the words "includes and including' under Title 26, Section 7701(c):

> *Title 26 – Section 7701(c) Includes and Including.*
>
> *The terms "include" and "including" when used in a definition contained in this title shall not be deemed to exclude other things otherwise within the meaning of the term defined.*

Let us accept this definition for now on its face. If we are to accept the definition under 7701(c) then why is the Internal Revenue Code using the phrase 'but not limited to' twenty-five (25) times in the 2003 version Internal Revenue Code – while the code already defines it to include other things not listed? Logically, this can mean that "includes" and "including" are to be limiting terms, because obviously there are (25) instances where the phrase 'but not limited to' has been used. Through logical reasoning, this implies that there are instances in the Internal Revenue Code where "includes" and 'including' are to be used "expansively". Here are the following sections that use the phrase 'including but not limited to' or "includes but not limited to" in Section order through the Internal Revenue Code:

1- Section 61(a) Gross income defined
2- Section 127(c)(1) Educational assistance programs
3- Section 162(e)(2)(B) Trade or business expenses
4- Section 162(j)(2) Trade or business expenses

5- Section 175(c)(1) Soil and water conservation expenditures
6- Section 190(a)(3) Expenditures to remove architectural and transportation barriers to the handicapped and elderly
7- Section 382(m) Limitation on net operating loss carry forwards and certain built-in losses following ownership
8- Section 415(j) Limitations on benefits and contribution
Section 416(f)
9- Section 509(d) Definition of supp ort
10- Section 513(d)(2) Unrelated trade or business
11- Section 513(d)(3)(A) Unrelated trade or business
12- Section 613(B)(7) Percentage depletion
13- Section 851(B) (2) Definition of regulated investment company
14- Section 852(B)(5)(B) Taxation of regulated investment companies and their shareholders
15- Section 901(e)(2) Taxes of foreign countries and of possessions of United States
16- Section 954(f) Foreign base company income
17- Section 955(B)(1) Withdrawal of previously excluded subpart F income from qualified investment
18- Section 1253(a)(2) Transfers of franchises, trademarks, trade names
19- Section 1504(a)(5) Definitions
20- Section 4462(i) Definitions and special rules
21- Section 4942(g)(2)(B) (ii)(III) Failure to distribute income
22- Section 5002(a)(5)(B) Definitions
23- Section 5006(a)(1) Determination of tax
24- Section 7624(a) Reimbursement to State and local law enforcement agencies
25- Section 9712(c)(2) Establishment and coverage of 1992 UMWA Benefit Plan

History of the Internal Revenue Code also documents that the phrase 'but not limited to' was also used. The term 'includes and including' were defined in this version the same way as it is defined in the 1986 version of the Internal Revenue Code. For instance, there were 6 instances of the phrase 'including but not limited to' in the Internal Revenue Code (1954 Version):

1- Section 61 Gross Income Defined
2- Section 175(c)(1) Soil and Water Conservation Expenditures
3- Section 346 (a)(2) Partial Liquidation defined
4- Section 613 (B)(6) Percentage depletion
5- Section 5006 (a)(1) Determination of tax
6- Section 5026 Determination and collection of rectification tax

Question for doubters that "includes" is a limiting term in the Internal Revenue Code:

If Congress and the Internal Revenue Service would like us to believe that the words "includes" and "including" are to be understood "expansively", then why add the phrase "but not limited to" used 25 times in the Internal Revenue Code of 1986 and 6 instances of it in the 54 Code?

4.9.2 PROOF #2: The I.R.C. definition of "gross income"

This proof is a bit complex and requires a little analysis. Below is section 61 of the Internal Revenue Code:

TITLE 26 > Subtitle A > CHAPTER 1 > Subchapter B > PART I > § 61
§ 61. Gross income defined

Section 61(a) Gross income defined – Except as otherwise provided in this subtitle, gross income means all income from whatever source derived, including (but not limited to) the following items:
(1) Compensation for services, including fees, commissions fringe benefits, and similar items.
(2) Gross income derived from business
(3) Gains derived from dealings in property
(4) Interest
(5) Rents
(6) Royalties
(7) Dividends

(8) Alimony and separate maintenance payments
(9) Annuities
(10) Income from life insurance and endowment contracts
(11) Pensions
(12) Income from discharge of indebtness
(13) Distributive share
(14) Income in respect of a decedent and
(15) Income from an interest in an estate

Based on this Section 61(a) definition, we are to understand that "gross income" is to mean the 15 elements above and ANYTHING that is ALSO NOT listed in that category. Taking that statement into consideration, we now are confronted with 37 sections of the Internal Revenue Code Sections which use the phrase:

"gross income does not include"

at least once within their respective sections, and then lists various elements. The above phrase proves a contradiction, within the I.R.C. because there appears to be some sort of 'definition deadlock' where 'gross income' means nothing at all! Below is the list of specific sections which use the above phrase so you can prove the contradiction yourself.

Section 101(a)
Section 101(h)(1)
Section 102(a)
Section 103(a)
Section 104(a)
Section 105(c)
Section 106(a)
Section 107
Section 108(a)(1)
Section 108(f)(1)
Section 109
Section 110(a)
Section 111(a)
Section 112(a)
Section 112(B)
Section 112(d)(1)
Section 112(d)(2)
Section 114(a)
Section 115
Section 117(a)
Section 117(d)(1)
Section 118(a)
Section 120(a)
Section 121(a)
Section 122(a)
Section 123(a)
Section 126(a)
Section 127(a)
Section 127©(1)
Section 129(a)
Section 131(a)
Section 132(a)
Section 132(j)(4)
Section 134(a)
Section 136(a)
Section 138(a)
Section 139(a)

The IRS is fond of lying to us by saying that 'includes' and 'including' are to be EXPANSIVELY. We accept that definition and apply it to Section 61(a) 'gross income' and also apply it to the above 37 sections. Next, we take the above 37 sections and apply the same 'includes' and 'including' rule. For instance, when one section states 'gross income does NOT include A B C D and E' – then we can claim that gross income does NOT INCLUDE anything, because we are told to use the word EXPANSIVELY.

If our critics DISMISS this proof, then LOGICALLY this would mean that the they admit that the word 'includes' and 'including' are used in a limiting rather expansive way, in the above 37 sections. As a result, this would also prove that the phrase 'includes' and 'including' CAN ALSO be used in a limiting way, DESPITE Section 7701(c). In turn, this would introduce the 'void for vagueness' doctrine.

In conclusion, either way you look at it "includes and including" are words in such a way that they compel men of common intelligence must necessarily have to guess at its meaning, which the Supreme Court said no law can do.

Following the illogic of our detractors leads to the conclusion that the Internal Revenue Code is filled with such contradictions with 'includes' and 'does not include'. For instance, Section 1273 uses the word 'includes' and 'include' in a very interesting manner:

> *Section 1273(B)(5) – Property. In applying this subsection, the term 'property' includes services and the right to use property, but such term does not include money.*

If one states that 'include' and 'includes' is used EXPANSIVELY in this Section, then the word 'property' as used in that Section means nothing! If one states that 'include' and 'includes' is used in a LIMITATING way, then this proves that 'include' and all of its derivatives as used in the Code are void for vagueness.

Here is another interesting way the word 'include' is used, as found in Section 1301(B)(2), in which the same LOGIC can be used:

> *Section 1301(B)(2) – Individual. The term 'individual' shall not include any estate or trust.*

Here is another Section that uses the word 'include' in a very interesting way in Section 3405(e)(11):

> *Section 3405(e)(11) – Withholding includes deduction. The term 'withholding' 'withhold' and 'withheld' include 'deducting' 'deduct' and 'deducted'*

An important question that might be asked is – What if Congress wished to use the word 'include' or any of its derivatives in a limiting way? What would it need to do?

Answer: They would need to add the word 'only' before or after the word 'include' as they have done so with the Sections below.

In Section 132(k):

> *"Customers not to include employees – for the purposes of this section (other than subsection ©(2)), the term 'customers' shall **only include** customers who are not employees."*

In Section 164(B)(2) and Section 164(B)(3):

> *"(2) State or Local taxes – A State or local taxes **includes only** a tax imposed by a State, a possession of the United States, or a political subdivision of any of the foregoing, or by the District of Columbia.*
>
> *(3) Foreign taxes. A foreign tax **includes only** a tax imposed by the authority of a foreign country."*

In Section 7701(a)(9):

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

CONCLUSION OF THIS PROOF: The word "includes" and all of its derivatives is either used as a word of limitation or is void for vagueness.

4.9.3 PROOF #3: IRS uses of the word in their own Internal Revenue Manual (IRM)

Believe it or not, the Internal Revenue Service itself uses the words "includes" and 'including' in a limiting way. Ironically, the Internal Revenue Service's own, Internal Revenue Manual (IRM) can prove this! The Manual as of April 15, 2004 uses the phrases"

"includes but is not limited to" or

"including but not limited to"

(426) times. Furthermore, the IRM at time when it deems necessary, uses the phrase "includes" or "including" WITHOUT using the phrase "but not limited to"'. Obviously, the Manual recognizes this distinction. The deception is revealing. Below is the list of IRM sections which contain the above two phrases:

1.1.10.1 - Equal Employment Opportunity and Diversity
1.1.12.2.1 - Office of Security Standards and Evaluation
1.1.16.6.1 - Program Management
1.2.1.5.19 - Collection Activity
1.2.4.7 - Additional Information
1.4.1.7 Employee Development and Training
1.4.16.5.4 - Workload Reviews
1.4.20.3 – Extracts
1.4.50.2 - Role of the Collection Field function (CFf) Manager
1.4.50.3 Protecting Taxpayer Rights
1.4.50.5.4 - Other Managerial Responsibilities
1.4.50.5.5 – Administrative
1.4.50.5.7 - Employee Development and Training
1.4.50.5.12 - Interaction With Employees on Flexiplace
1.5.2.7 - Reason for Prohibitions on the Use of ROTERs
1.5.2.9 - Records of Tax Enforcement Results (ROTERS)
1.5.2.12 Exercise of Judgment in Pursuing Enforcement of the Tax Laws
1.5.3.3 - Certification and Waiver Requirements
1.5.4.4 - Tax Enforcement Results
1.5.4.5 - Examples of Section 1204 Employees in Appeals
1.5.5.3 (10-01-2000) - Use of ROTERs in Evaluations
1.5.5.4 (10-01-2000) - Other Measures and Statistics
1.5.6.2 - Definition and Examples of Section 1204 Employees in LMSB
1.5.6.3 - What Are Tax Enforcement Results?
1.5.6.4 (10-01-2000) - What are NOT Tax Enforcement Results?
1.5.6.5 - What are Records of Tax Enforcement Results (ROTERS)
1.5.6.6 - What are Quantity and Quality Measures?
1.5.7.7 - Section 1204 Employees
1.5.7.9 - Tax Enforcement Results (TERS)
1.5.7.10 - Records of Tax Enforcement Results (ROTERS
1.5.7.12 - Quality Measures
1.5.8.3 - Self-Certification
1.5.9.2 (10-01-2000) Examples of Section 1204 Employees in TE/GE
1.5.9.3 - What Are Tax Enforcement Results
1.5.9.5 - What Are Records of Tax Enforcement Results (ROTERS)
1.5.10.3 - What Are Tax Enforcement Results?
1.5.10.4 - What are Records of Tax Enforcement Results?
1.5.10.8 - What are Quantity and Quality Measures?
1.11.1.4.2 (07-01-2003) - IMD Coordinator Responsibilities

1.11.1.5 (07-01-2003) - Routing and Clearing IMDs
1.15.7.4 (01-01-2003) Subject Files
1.16.8.3.4 (07-01-2003) Significant Incidents
1.16.10.3 (07-01-2003) – Planning
1.16.13.3.4.1 (07-01-2003) – Disposition
1.16.14.10 (07-01-2003) - Automatic Detection Equipment
1.17.6.7.2 (11-01-2003) - Work Planning and Control (WP&C)
1.22.6.1.2 (05-28-2002) – Responsibility
1.22.7.5.1 (05-28-2002) - Shipment Valuation
1.23.2.1.3 (02-01-2003) – Definitions
1.23.2.2 (02-01-2003) - General Investigative Requirements
1.23.3.1.3 (01-02-2000) – Definitions
1.54.1.3.1 (09-30-2003) - Elevation to Inform Managers or Executives
1.54.1.3.2 (09-30-2003) - Elevation to Obtain a Decision
1.54.1.6.6 (09-30-2003) - Commissioner and Deputy Commissioner, TE/GE
3.0.257.3.1 (10-01-2002) - Centralized File
3.0.273.3.5 (01-01-2003) - Form 9345, Editorial Change Request
3.0.275.5.5.3 (12-01-2002) - Deposit Error Rate Summary Reports
3.8.45.6.40 (02-01-2004) - Processing Items From NCS, EFAST Processing Center OSPC only
3.13.5.12 (01-01-2004) - Oral Statement, Change of Address
3.13.5.14.1 (01-01-2004) - Updating Address Records
3.17.63.19.1 (10-01-2003) - After Hours Assessments
3.21.260.10 (10-01-2002) - Unacceptable Documentation
3.30.28.5.2.1 (03-01-2003) - BMF Entity SS-4 Review
3.30.28.5.2.2 (03-01-2003) - BMF Returns Received Without EIN's
3.30.28.5.3.2 (03-01-2003) - FTD Penalty Adjustments
3.30.28.5.3.3 (03-01-2003) - FTD Review for Accounting
3.31.125.3 (01-01-2004) - Types of Forms Used to Submit IRM/Program Changes
4.1.4.23 (05-19-1999) – Nonfilers
4.1.7.4 (05-19-1999) - Control and Management of Tax Return and Return Information
4.2.2.4 (10-01-2003) - Identification of Bad Payer Data
4.2.3.3.1.1 (10-01-2003) - Examples of Area Counsel Assistance
4.2.4.2 (10-01-2003) - Responsibilities of Examiners
4.3.1.1 (05-18-1999) – Overview
4.3.2.6 (05-18-1999) - Compliance/Compliance Services Exam Operation
4.4.24.7.1 (02-08-1999) - Manager's Responsibility
4.4.27.7.1.4 (02-08-1999) – Missing Document
4.4.35.9 (02-08-1999) - Resolving Unpostables without Source Docs.
4.5.2.1.3.1 (06-01-2003) - POA/TIA
4.6.1.1.2 (06-20-2002) – Outreach
4.6.1.1.6 (06-20-2002) - Third Party Contacts
4.7.4.4.1 (10-01-2003) - Role and Responsibilities of Support Manager, Planning and Special Programs Section
4.7.4.4.2 (10-01-2003) - Role and Responsibilities of the Project/Program Manager
4.7.5.7.1 (10-01-2003) - Role and Responsibilities of the Technical Employee
4.7.6.2.1 (10-01-2003) - Overage Report (IVL)/Inventory Listing
4.7.6.2.2 (10-01-2003) - Status Report
4.7.6.2.8 (07-31-2000) - Closed Case Report
4.7.6.2.9 (07-31-2000) - Tracking Code Report
4.7.6.2.10 (10-01-2003) - Suspense Report
4.7.6.3 (10-01-2003) - Time Analysis
4.7.6.3.2 (10-01-2003) - Case Time Analysis Report
4.7.6.3.5 (07-31-2000) - Inactive Case Report
4.7.6.5.1 (10-01-2003) - Activity Code Count Report
4.7.7.4 (10-01-2003) - Role and Responsibilities of Technical Services Manager Staff/Section
4.7.7.4.1 (10-01-2003) - Role and Responsibilities of Reviewer

4.7.7.4.2 (10-01-2003) - Role and Responsibilities of Secretary/Clerk
4.7.8.4 (10-01-2003) - Role and Responsibilities of Case Processing Support Manager and Managers
4.7.8.4.1 (10-01-2003) - Role and Responsibilities of Case Processing Support Users
4.7.9.4 (10-01-2003) - Role and Responsibilities of Chief Users
4.7.9.4.1 (10-01-2003) - Role and Responsibilities of Secretary and Clerical Staff
4.7.10.4 (10-01-2003) - Role and Responsibilities of the ERCS Functional Coordinator
4.7.11.3 (10-01-2003) - Role and Responsibilities of the System Administrator
4.8.5.4.1 (10-01-2003) - Completion of TEFRA Procedures by Examiners
4.10.1.6.12.1 (05-14-1999) - Third Party Contacts – Definition
4.10.2.7.1 (05-14-1999) - Determining the Proper Person to Contact
4.10.3.3.5 (03-01-2003) - Inspection of a Taxpayer's Residence
4.10.3.16.6 (03-01-2003) – Work papers
4.10.4.6.3.4 (05-14-1999) - Gross Receipts Defined
4.10.8.15.1 (05-14-1999) - Determination of Taxpayer Compliance
4.10.9.2.5 (05-14-1999) - Supporting Work papers
4.10.9.3.1 (05-14-1999) - Activity Records
4.12.2.3.1 (04-30-1999) - Field Territory Managers Guidelines for Cases Involving IRC
4.12.2.4.1 (04-30-1999) – General
4.16.1.2 (01-01-2003) – Introduction
4.19.1.6.3 (10-01-2001) - incorrect Arguments
4.19.1.6.13.2 (10-01-2001) - Auditing Standards-Non-filer Returns
4.19.1.7.3.7 (10-01-2001) - Clerical Review
4.19.1.8 (10-01-2002) - Telephone Contacts
4.19.4.2 (03-01-2003) - CAWR Case Screening
4.20.2.2 (05-25-2000) - General Collectability Considerations
4.20.3.2 (05-25-2000) - Tiered Interview Approach
4.23.3.5 (03-01-2003) - Employment Tax Leads
4.23.3.10.6 (03-01-2003) - Third Party Authorization/Power of Attorney
4.23.5.2.2.2 (02-01-2003) - Consistency Requirement-Substantive Consistency
4.23.7.11 (03-01-2003) - Form 8027 Requirements
4.23.11.5.1 (02-01-2003) - Payments Of $100,000 Or More
4.24.2.9 (02-01-2003) - Follow-up Actions After Approval
4.24.2.10 (02-01-2003) - Examinations Resulting from Compliance Reviews
4.24.6.4.3.5 (02-01-2003) - Foreign Insurance Tax
4.26.9.2.2.1 (01-01-2003) - Reporting Requirements
4.26.9.2.6.5 (01-01-2003) - Review of Record keeping
4.26.9.2.8.1 (01-01-2003) – Evidence
4.26.12.9 (01-01-2003) - Other Retail Overview
4.26.12.10 (01-01-2003) - Retail Vehicles Overview
4.26.13.3.1 (01-01-2003) - Identification of Potentially Structured Transactions in a Form 8300 Compliance Review
4.30.1.3 (01-09-2002) - Screening of PFA Applications
4.30.3.2 (02-01-2002) - A Role of the Tax Attaché
4.31.1.12.8.10 (01-01-1999) - When Designation, Resignation, or Revocation Becomes Effective
4.31.1.12.10.4 (01-01-1999) – TEFRA
4.31.2.2 (01-01-1999) – General
4.37.1.1.2 (07-31-2002) – Background
4.37.1.2.3.4 (07-31-2002) - Team Managers
4.40.2.1.1 (03-01-2002) - Director, Pre-Filing and Technical Guidance
4.45.7.2 (01-01-2002) - Overview/Planning the Examination
4.60.1.2.1 (01-01-2002) - Exchangeable Information
4.60.4.6 (01-01-2002) - Regional Program Analyst (International) Duties
4.60.4.7 (01-01-2002) - DPM Duties
4.61.10.4 (01-01-2002) - Substantiation Requirements
4.62.1.8.5.8 (06-01-2002) - Separate Maintenance Allowance (SMA)

4.71.1.2 (10-31-2002) - Examination Jurisdiction
4.71.1.7 (10-31-2002) - Power of Attorney
4.71.1.8.1 (10-31-2002) - Third Party Contact Defined
4.71.1.16 (10-31-2002) - Failure to Maintain Proper Records
4.71.3.2 (07-01-2003) - Addressing Issues that Effect Plan Qualification
4.71.3.4.2.1 (07-01-2003) - Extent of Retroactive Enforcement
4.71.4.4.1 (10-31-2002) - IDRS Research
4.71.14.1 (07-01-2003) - Overview of EP Mandatory Review
4.71.14.4 (07-01-2003) - Cases Subject to Review
4.71.14.4.1 (07-01-2003) – Definitions
4.72.7.5.1.1 (06-14-2002) - "Traditional" IRC 415©(3) Compensation
4.72.11.3.1.2 (06-14-2002) - Examination Step
4.72.11.4.3.1.1 (06-14-2002) - Correction Involving Use of Money or Property
4.72.11.4.3.1.2 (06-14-2002) - Correction Involving Use of Money or Property by a Plan
4.72.11.4.3.1.3 (06-14-2002) - Correction of Sales of Property by a Plan
4.72.11.4.3.1.5 (06-14-2002) - Correction of Sale of Property to a Plan
4.75.11.4.3.2 (08-01-2003) - Inadequate Records
4.75.11.5.2.1 (08-01-2003) - Form 5464 Case Chronology Record
4.75.11.6 (08-01-2003) - Examination Techniques
4.75.16.10 (05-13-2003) - Processing Suspense Cases
4.75.16.12.4 (05-13-2003) - Returns, Forms, and Other Documents Enclosed in the Case File
4.75.17.6.2 (03-01-2003) - Suspense Procedures
4.75.28.3 (03-01-2003) - Processing Discrepancy Adjustments
4.76.8.3 (07-01-2003) - Private Schools Racial Nondiscrimination Policy
4.76.8.5 (07-01-2003) - Private Schools Legal Decisions
4.76.20.13.9 (04-01-2003) - Initial Document Requests
4.76.20.15.6 (04-01-2003) - Initial Document Requests
4.76.50.3.1 (01-01-2004) - Facts to be Determined
4.76.50.8.3 (01-01-2004) - UBI Exception Under IRC 513(a) and Reg. 1.513-1(e)(1)
4.81.1.5 (01-01-2003) - Case Selection
4.81.1.10.1 (01-01-2003) - Case Upgrade
4.81.1.32.1 (01-01-2003) - Agent Responsibility
4.87.1.4.7 (01-01-2003) - Compliance Checks
4.88.1.10.3 (01-01-2003) - Power of Attorney (POA)
4.88.1.12.1 (01-01-2003) - Submission Processing Center
4.90.4.4 (09-30-2002) - Case Processing Procedures
4.90.5.6 (09-30-2002) - Sources of Casework
4.90.5.6.2 (09-30-2002) - Form 941 Database (RICS)
4.90.6.2 (09-30-2002) – Introduction
4.90.12.7 (09-30-2002) - Procedures for Processing Suspense Cases
4.90.13.15.1 (11-30-2003) - Assistance from the OPR Technical/Quality Review Staff (TQR)
5.1.2.1.3 (01-22-2001) - Payment Documents
5.1.10.7 (04-01-2003) - Timely Follow-ups
5.1.11.6.1 (05-27-1999) - Preparing and Processing Referrals
5.1.17.2 (12-30-2002) - Third-Party Contacts
5.4.2.2 (05-31-2000) - Types of Area Office Adjustments
5.4.2.21 (05-31-2000) - Management Responsibilities for the Personal Liability for Excise Tax Program
5.6.1.2 (07-15-1998) - Types of Acceptable Securities
5.8.11.2.1 (11-30-2001) - Economic Hardship
5.10.1.3.2 (01-01-2003) - Alternative Methods of Collection
5.10.1.3.3 (01-01-2003) - Equity Determination
5.10.1.3.3.1 (01-01-2003) - Equity Determination - Expenses of Sale
5.10.3.20 (01-01-2003) - Transfer of Custody to PALS
5.10.5.1 (01-01-2003) – General
5.11.7.1.3 (07-26-2002) - SITLP Coordinator

5.12.3.11 (06-12-2001) - Data for Defense of Suits
5.14.1.4.3 (07-01-2002) Increases, Decreases, Varied Payment Amounts; Completing and Processing Installment Agreements
5.14.2.1 (03-30-2002) - Collection Statute Expiration Date (CSED): Law, Policy and Procedures: Group Managers Approve F900 Waivers
5.17.7.1.1 (09-20-2000) - Persons Subject to Trust Fund Recovery Penalty
5.17.10.4.2 (10-31-2000) - Appointing a Chapter 11 Trustee
5.17.12.4 (09-20-2000) - Work Plan
5.19.1.4 (12-31-2003) - Analyze Taxpayer's Ability to Pay
5.19.1.4.3.5 (12-31-2003) - Other Expenses
5.19.1.8.1 (12-15-2002) - Consequences of Non-Compliance
5.19.2.5 (03-01-2004) - Return Delinquency Research
5.19.5.5.8 (06-28-2001) - Notification of Third Party Contact
5.19.6.3 (08-30-2001) - ACS Support Research
5.19.8.5 (10-01-2002) - Collection Appeal Rights Research
5.19.9.2.1 (11-01-2003) - SITLP Coordinator
5.19.9.5.2 (11-01-2003) - How AKPFD Works
6.335.4.8.3 (10-30-2001) - Involuntary Cessation
6.410.1.1.11 (10-01-2001) - Reasonable Accommodation
6.410.1.3.4 (10-01-2001) - Course Development Project Agreements
6.500.1.11.12.4 (07-01-2003) - Back Pay Computations
6.711.1.11 (07-01-2002) - Job Actions Reporting Procedures
6.771.1.4 (07-01-2002) – Definitions
6.771.1.7 (07-01-2002) - Grievance Coverage
6.771.1.18 (07-01-2002) - Grievance Files
6.771.1.18.1 (07-01-2002) - Contents of the Grievance File
7.11.1.6.1 (09-01-2002) - Extent of Analysis
7.25.3.18.1 (02-23-1999) - Political Activities
7.25.4.2.1 (02-09-1999) - Published Precedents
7.25.7.1 (02-23-1999) – Overview
7.25.9.8.1 (02-09-1999) - Taxable Benefits
7.27.5.8.6 (02-23-1999) - Convention and Trade Show Activity
7.27.5.8.7 (02-23-1999) - Public Entertainment Activities
7.27.7.6 (04-30-1998) - Direct Use
7.27.15.4.1.1 (04-26-1999) - Sale or Exchange
7.27.15.7.2 (04-26-1999) – Correction
7.27.16.4.4.2 (04-01-1999) - Valuation of Real Property Interests
7.27.16.6.8.1 (04-01-1999) - Suitability Test
7.27.19.4.1 (02-22-1999) - Influencing the Outcome of a Specific Election
7.27.19.5.1 (02-22-1999) - IRC 4945(d)(3) Grants Defined
7.27.19.5.7.3 (02-22-1999) - Selection Criteria
8.1.1.2 (02-01-2003) - Appeals' Functional Authority and Jurisdiction
8.1.1.3.3 (02-01-2003) - Testimony by Appeals Officers or Settlement Officers in IRS Tax Case
8.1.1.6.2 (02-01-2003) - What are not third party contacts?
8.2.1.7.7 (11-30-2001) - Remittance Processing
8.4.1.2.4 (06-01-2002) - Preparation of Settlement Documents
8.7.2.3.1 (05-27-2004) - Revenue Officer/ACS Procedures under Collection Due Process Appeals
8.20.8.1 (01-31-2002) - Appeals Office Files
9.1.3.4.16 (08-11-2003) - Section 1960 Prohibition of Unlicensed Money Transmitting Businesses
9.2.1.13 (03-31-2004) - Instructor Assignments
9.4.2.5.5.2 (12-20-2001) - Responsibility of Special Agents When Dealing With a Confidential Informant/Cooperating Witness/Cooperating Defendant
9.4.2.5.6.1 (12-20-2001) - General Information
9.4.2.5.10.4 (12-20-2001) - Required Justice Reports When Using Title V Witnesses In Investigations
9.4.4.2.18 (12-16-1998) - Federal Aviation Administration (FAA)

9.4.10.4.2 (03-26-2002) - Factors To Consider
9.4.11.7.4 (12-20-2001) - Services Provided by a Tax Fraud Investigative Assistant
9.4.11.8.4 (12-20-2001) - Services Provided by a Compliance Support Assistant
9.5.5.1.4 (07-29-2002) - 18 USC §1960 Prohibition of Illegal Money Transmitting Business
9.5.5.1.8 (07-29-2002) - Title 31 Definitions (31 CFR §103.11)
9.5.5.1.9.3 (07-29-2002) - Currency Transaction Report by Casinos (Form 8362)
9.5.5.1.18 (07-29-2002) - Definitions of Terms Used in Section 6050I (Defined by the IRS Regulations)
9.5.6.1.1 (07-29-1998) - Definition of Organized Crime
9.7.6.10.3 (06-11-2002) - Post and Walk
9.7.6.10.5 (06-11-2002) - Initial Services upon Transfer of Real Property to the Seized Property Contractor
9.7.6.12 (06-11-2002) – Maintenance
9.7.7.4.5 (11-21-2001) - Criteria For Mitigation
9.7.8.18.2 (12-03-2002) - Limitations on the Mandatory Spending Authority
9.8.1.7.1.2 (01-29-2002) – Responsibilities
9.10.1.3 (09-16-2003) – DEFINITIONS
9.11.3.2.2 (09-20-1998) - Investigative Accessories and Supplies
9.11.4.8.3 (10-30-2001) - Involuntary Cessation
11.2.1.1.1 (05-15-2002) - Privacy Legislation and Guidance
11.3.2.4.3 (02-28-2003) – Corporations
11.3.2.4.11 (12-31-2001) - Deceased Individuals
11.3.9.7 (12-31-2001) - Letters or Documents Issued by the Service
11.3.10.2 (12-31-2001) - Explanation of Terms
11.3.10.3 (12-31-2001) - Documents That May Be Inspected
11.3.14.9 (12-31-2001) - Privacy Act Orientation and Training
11.3.15.3 (04-30-2003) - Explanation of Terms
11.3.23.11 (12-31-2001) - Information Available to GAO in Connection with Tax Reviews
11.3.23.12 (12-31-2001) - Information Available to GAO in Connection with Nontax Reviews
11.3.28.3 (03-31-2003) - Disclosure of Returns and Return Information Pursuant to IRC 6103(i)(1), IRC 6103(i)(2) and IRC 6103(i)(5)
11.3.32.6.1 (05-31-2003) - Content of Implementing Agreements
11.3.35.3 (08-01-2003) – Definitions
11.3.35.6 (08-01-2003) - Procedures in IRS Matter Cases
11.3.35.8 (08-01-2003) - Responsibilities of Service Personnel
11.3.35.10 (08-01-2003) - Recommending and Preparing Testimony and Production Authorizations
11.3.36.7.1 (05-06-2003) - Content of Safeguard Activity Report
11.3.36.9.2 (05-06-2003) - Need and Use Reviews
11.3.38.6 (05-14-2003) - Referral of Unauthorized Disclosure and/or Inspection
11.3.38.6.1 (05-12-2003) - Report of Inadvertent Improper Disclosures
11.55.1.3.1 (04-01-2004) - Page Steward
13.1.7.3.8 (10-01-2001) - Contacts Meeting Criteria
13.1.7.4.3 (08-21-2000) - Exceptions to Transfers
13.1.7.5.2.2 (10-01-2001) - Hardship Validation (Step 2)
13.1.7.10.3.16 (10-01-2001) - Lost/Stolen Refund Checks
20.1.1.3.1.2.3 (08-20-1998) – Forgetfulness
20.1.1.3.1.2.4 (08-20-1998) - Death, Serious Illness, or Unavoidable Absence
20.1.1.3.1.2.5 (08-20-1998) - Unable to Obtain Records
20.1.1.3.2.3 (08-20-1998) - Undue Hardship
20.1.1.3.2.4 (08-20-1998) – Advice
20.1.4.12.1 (07-15-1998) - Manual Adjustments
20.1.6.4.11 (07-08-1999) - Coordination with other Penalties
20.1.6.6.3.3 (07-08-1999) - Evidence Supporting the Government's Burden of Proof
20.1.7.9.1 (08-20-1998) - Reasonable Cause
21.1.1.6 (10-01-2003) - Customer Service Representative (CSR) Duties
21.2.2.4.4.5 (10-01-2000) - TRDB Summary Screens
21.2.5.3 (10-01-2002) - Miscellaneous Forms Research

21.3.5.3 (10-01-2003) - Referral Research
21.3.7.11 (10-01-2003) - Specific Use Authorizations
21.3.7.12 (10-01-2003) - Civil Penalty Authorizations
21.6.2.4.2.1 (10-01-2003) - Telephone Inquiries (Toll Free)
21.10.1.3 (10-01-2003) - Quality Review Research Tools and Procedures
22.21.1.2.5.3 (09-01-2003) - Area (Local) Coordination
22.21.1.3.4.21 (09-01-2003) - Form 8027 Requirements
22.22.16.1 (01-01-2004) - SB/SE Website
22.30.1.2.1.7 (10-01-2003) - Single Entry Time Reporting (SETR)
22.30.1.2.8.2.1 (10-01-2003) - Convention Request Form Instructions
22.30.1.2.15.1.1.2 (10-01-2003) - Number of Sites
22.30.1.2.15.1.4 (10-01-2003) – Outreach
22.30.1.2.15.1.4.1 (10-01-2003) - Taxpayer Contacts
22.30.1.2.15.4.6 (10-01-2003) - Program Activity (Items 07 - 22)
22.30.1.2.15.4.9 (10-01-2003) - Number of Sites/Sessions
22.30.1.4.5 (10-01-2003) - Planning, Recruitment and Retention of Volunteers
22.30.1.5.9 (10-01-2003) - Administrative Requirements
22.30.1.6 (10-01-2003) - Outreach Program Overview
22.30.1.10.13 (10-01-2003) - Free Tax Preparation Site Information
22.30.1.12.3.1 (10-01-2003) - Tax Education Seminars
25.1.3.2 (01-01-2003) - Preparation of Form 2797
25.1.7.4 (01-01-2003) - Development of Fraud
25.1.8.4 (01-01-2003) - Fraudulent Offers In Compromise
25.5.2.4.1.2 (04-30-1999) - Corporate Records
25.5.2.4.1.3 (04-30-1999) - Individual Records
25.5.2.4.1.4 (04-30-1999) - Third Party Records
25.5.2.4.1.5 (04-30-1999) - Other Records
25.6.1.4.5 (10-01-2001) - Necessity Of Managerial Review
25.6.18.2.2 (10-01-2002) - CSED Research for Installment Agreement Extensions
25.6.18.3.2 (10-01-2002) - Conditions Which Suspend the CSED
25.8.1.2 (01-01-2004) – Revisions
25.8.1.3 (01-01-2004) - Approval Authority for Reorganization
25.15.3.4.1.2 (09-01-2003) – Item
25.15.3.8.3.1 (09-01-2003) - Divorced or Separated
25.15.3.8.3.3 (09-01-2003) - Economic Hardship
25.15.3.8.4.1 (09-01-2003) - Tier II Factors Weighing in Favor of Relief
25.15.3.8.4.2 (09-01-2003) - Tier II Factors Weighing Against Relief
25.15.7.10.12.6 (09-01-2003) - Tax Equity Fiscal Responsibility Act (TEFRA)
25.15.7.10.14 (09-01-2003) - Exceptions to Innocent Spouse Provisions
25.16.5.13 (06-01-2003) - Compliance Field Operations - Collection Procedures
25.17.2.9 (07-01-2002) - The Effect of Bankruptcy on Collection
25.17.3.4 (07-01-2002) - Automatic Stay
25.17.3.11 (07-01-2002) - Courtesy Investigations - Insolvency-Initiated
25.17.6.8 (07-01-2002) - Unassessed Claims
30.3.1.2.1.2 (06-18-1996) - Deputy Chief Counsel
30.3.1.2.3.3 (09-29-1997) - Assistant Chief Counsel (Disclosure Litigation)
30.4.2.9.5.1 (03-29-1995) - Responsibility for Establishing and Maintaining EPFs
30.4.5.6.3 (06-18-1996) – Testing
30.4.7.3.3 (01-16-1998) - Committee Operations and Functions
30.4.8.3.14 (03-2194) - Actions Included
30.4.8.7.1 (04-15-1999) - Matters to be Referred to the Deputy Chief Counsel for Referral to the Treasury Inspector General for Tax Administration
30.4.8.7.2 (04-15-1999) - Matters to be Referred to the Deputy Chief Counsel for Consideration
30.4.8.7.4 (04-15-1999) - Matters Which May Be Handled Under Local Procedures
31.1.1.1 (04-18-1997) - Authority of Chief Counsel's Office

31.3.2.1 (12-11-1989) - Exceptions Generally
31.4.4.13 (12-09-1997) - Gasoline Excise Tax
31.8.3.2 (06-29-1994) – Seizures
34.6.1.3 (06-11-1999) - General Litigation Division Prereview
34.12.3.7.1 (06-22-1999) - Requests Referred Directly to the United States Attorney
35.4.16.13 (07-14-1992) - Attorney Fees: Processing Issues Under the Equal Access to Justice Act (Pub. L. No. 96-481)
35.8.12.7.1 (12-13-1999) - Field Responsibilities with Respect to Obtaining and Disseminating Chief Counsel Advice
35.13.2.1 (01-24-1996) - Responsibilities and Functions (Department of Justice, National Office, Field Offices)
35.13.10.3 (07-11-1991) - Assessment in Appealed Cases
42.2.2.1 (06-15-1988) - Formal Document Request
42.10.9.1 (11-15-1996) - Coordination with Ongoing Litigation
42.10.10.1 (11-15-1996) - Application of APA Methodology to Prior Years

It is obvious that the Internal Revenue Manual (IRM) recognizes the difference between:

1. "includes" and "include but not limited to"
2. "including" and "including but not limited to"

4.10 Techniques for Malicious Abuse of the rules of Statutory Construction by Misbehaving Public Servants

The most famous type of abuse of the rules of statutory construction occurs in the context of terms used within the Internal Revenue Code that are used to define and limit the jurisdiction of the Internal Revenue Code. The only purpose for such abuse is to extend federal jurisdiction beyond the clear limits imposed by the code itself in order to enlarge federal revenues.

"The love of money is the root of all evil." [1 Tim. 6:10]

The definitions within the Internal Revenue Code which are most frequently abused in this way are the following, all of which incorporate the word "includes" into their definitions:

1. "employee": 26 U.S.C. §3401(c)
2. "gross income": 26 U.S.C. §872
3. "person": 26 U.S.C. §7701(a)(1), 26 U.S.C. §7343, 26 U.S.C. §6671(b)
4. "State": 26 U.S.C. §7701(a)(10)
5. "trade or business": 26 U.S.C. §7701(a)(26)
6. "United States": 26 U.S.C. §7701(a)(9)

Tyrants in government will frequently point to the above words, when used by an American, and point out that the definitions of the terms use the word "includes". They will then cite the definition of "includes" found in 26 U.S.C. §7701(c) and try to "enlarge" or expand the definition using some arbitrary criteria that financially benefits them, and in clear violation of the uses for that context of the word described in the previous section. They will attempt to imply that I.R.C. 7701(c) gives them carte blanche authority to include whatever they subjectively want to add into the definition of the term being controverted. This approach obviously:

1. Violates the whole purpose behind why law exists to begin with, explained earlier , which is to define and limit government power so as to protect the citizen from abuse by his government.
2. Gives arbitrary authority to a single individual to determine what the law "includes" and what it does not.

> *"**When we consider the nature and the theory of our institutions of government, the principles on which they are supposed to rest, and review the history of their development, we are constrained to conclude that they do not mean to leave room for the play and action of purely personal and arbitrary power. Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and***

> ***acts. And the law is the definition and limitation of power***. *It is, indeed, quite true that there must always be lodged somewhere, and in some person or body, the authority of final decision; and in many cases of mere administration, the responsibility is purely political, no appeal lying except to the ultimate tribunal of the public judgment, exercised either in the pressure of opinion, or by means of the suffrage. But the fundamental rights to life, liberty, and the pursuit of happiness, considered as individual possessions, are secured by those maxims of constitutional law which are the monuments showing the victorious progress of the race in securing to men the blessings of civilization under the reign of just and equal laws, so that, in the famous language of the Massachusetts bill of rights, the government of the commonwealth 'may be a government of laws and not of men.' **For the very idea that one man may be compelled to hold his life, or the means of living, or any material right essential to the enjoyment of life, at the mere will of another, seems to be intolerable in any country where freedom prevails, as being the essence of slavery itself**."*
> *[Yick Wo v. Hopkins, 118 U.S. 356 (1886)]*

3. Creates a society of men and not law, in violation of *Marbury v. Madison* cited earlier.
4. Is a recipe for tyranny and oppression.
5. Creates slavery and involuntary servitude of citizens toward their government, in violation of the Thirteenth Amendment.
6. Creates a "dulocracy", where our public servants unjustly domineer over their sovereign citizen masters:

> *"**Dulocracy**. A government where servants and slaves have so much license and privilege that they domineer."*
> *[Black's Law Dictionary, Sixth Edition,, p. 501]*

7. Compels "presumption" and therefore violates due process of law.
8. Injures the Constitutional rights of the interested party.

The only way to eliminate the above types of abuses in the interpretation of law and to oppose such an abuse of authority by a public servant is to demand that the misbehaving "servant" produce a definition of the word somewhere within the code that clearly establishes the thing which he is attempting to "include". If it isn't shown in an enacted positive law, then it violates the exclusio rule and due process: To wit:

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

4.11 Summary: Precise Meaning of "includes"

This section shall attempt a concise, complete, and more useful definition of the word "includes" which removes the controversies over the use of the word so commonly found throughout the freedom community. In doing so, we started with the definition from Black's Law Dictionary, Sixth Edition, and expanded upon it as little as possible so that the clear meaning can clearly and unambiguously be understood. The intention of doing so is to prevent false presumption and abuses of due process by those with a political or financial agenda who work in the tax profession or for the government. The added language is shown underlined in order to emphasize what we added to the definition in order to make it clearer:

> *"**Include**. (Lat. Inclaudere, to shut in. keep within.) To confine within, hold as an inclosure. Take in, attain, shut up, contain, inclose, comprise, comprehend, embrace, involve. Term may, according to context, express an enlargement and have the meaning of and or in addition to, or merely specify a particular thing already included within general words theretofore used. "Including" within statute is interpreted as a word of enlargement or of illustrative application as well as a word of limitation. Premier Products Co. v. Cameron, 240 Or. 123, 400 P.2d 227, 228." When 'Includes" is used as a term, of "enlargement" or "expansion", it is only in the context of a definition which is spread across multiple sections of a title or code and which relate to each other, each of which usually use the phrase "in addition to". If the definition of a word within a Title of a code is only found in **one** place, it is always used only as a term of limitation and is equivalent to "is limited to". When "includes" it is used in the context of a definition, it may safely be concluded that the purpose of providing the definition was to **supersede, and not extend**, the commonly understood meaning of the term. Stenberg v. Carhart, 530 U.S. 914 (2000) **("When a statute includes an explicit definition, we must follow that definition, even if it varies from that term's ordinary meaning.** Meese v. Keene, 481 U.S. 465, 484-485 (1987)" Any other method or construction or interpretation of a statute compels a statutory presumption and therefore violates due process of law. United States v. Gainly, 380 U.S. 63 (1965) All presumption which prejudices constitutionally guaranteed rights is impermissible in any court of law.* Vlandis v. Kline *(1973) 412*

U.S. 441, 449, 93 S.Ct 2230, 2235; Cleveland Bd. of Ed. v. LaFleur (1974) 414 US 632, 639-640, 94 S.Ct. 1208, 1215"
[Black's Law Dictionary, Sixth Edition, p. 763]

5 Methods for opposing bogus government defenses of the abuse of the word "includes"

The following subsections will document some of the more prevalent methods for opposing false and fraudulent government abuses of the word "includes" to unlawfully expand federal jurisdiction and thereby destroy the separation of powers doctrine that is the foundation of our liberties. The goal of all of the approaches documented is to remove presumption from the legal process and require that every source of reasonable belief derives from admissible evidence and not presumption. If you would like to know more about how presumption is abused to perpetuate misapplication of and violation of the law, see:

Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction, Form #05.017 http://sedm.org/Forms/FormIndex.htm

5.1 Not a "definition"

One effective technique for opposing the abuse of the word "includes" to "stretch" definitions within the Internal Revenue Code involves the definition of the word "Definition" found in Black's Law Dictionary:

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

All of the terms defined in the Internal Revenue Code are identified as "Definitions". For instance, 26 U.S.C. §7701, the definitions section of the Internal Revenue Code, begins with the following:

> ***TITLE 26*** > ***Subtitle F*** > ***CHAPTER 79*** > *§ 7701*
> *§ 7701. Definitions*

Therefore, the words described there are "definitions" of each word. A definition must describe EVERYTHING that is included or it is simply not a definition. This is confirmed by the Rules of Statutory Construction and Interpretation, which state:

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

The purpose of providing a definition is to REPLACE, not ENLARGE the ordinary meaning of a term used in everyday English:

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

5.2 The "Reasonable Notice" approach

One of the chief purposes of all law is to give what is called "reasonable notice" to all the parties affected by it of the specific conduct that is either required or prohibited of them. This was described by the U.S. Supreme Court and lower courts as follows:

> *"Law fails to meet requirements of due process clause if it is so vague and standardless that it leaves public uncertain as to conduct it prohibits or leaves judges and jurors free to decide, without any legally fixed standards, what is prohibited and what is not in each particular case."*
> *[Giaccio v. State of Pennsylvania, 382 U.S. 399; 86 S.Ct. 518 (1966)]*

> *"**The essential purpose** of the "void for vagueness doctrine" with respect to interpretation of a criminal statute, **is to warn individuals of the criminal consequences of their conduct**. ... Criminal statutes which fail to give due notice that an act has been made criminal before it is done are unconstitutional deprivations of due process of law."*
> *[U.S. v. De Cadena, 105 F.Supp. 202, 204 (1952)]*

> *"It is a basic principle of due process that an enactment [435 U.S. 982 , 986] is void for vagueness if its prohibitions are not clearly defined. Vague laws offend several important values. First, because we assume that man is free to steer between lawful and unlawful conduct, we insist that laws give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly. Vague laws may trap the innocent by not providing fair warning. Second, if arbitrary and discriminatory enforcement is to be prevented, laws must provide explicit standards for those who apply them. A vague law impermissibly delegates basic policy matters to policemen, judges, and juries for resolution on an ad hoc and subjective basis, with the attendant dangers of arbitrary and discriminatory application." (Footnotes omitted.)*
> *[Grayned v. City of Rockford, 408 U.S. 104, 108 (1972)]*

When a government employee introduces something to be included within a definition that does not specifically appear as either a thing or within class of things specifically pointed out in the law itself, then all we have to do is:

1. Ask them where that thing they wish to include is mentioned in the law. Tell them you are a reasonable person who reads the law and who has not found any evidence within the law upon which to base a belief that the thing that they wish to "include" is specifically included within a definition found in the Internal Revenue Code itself. Tell them that you as a Christian are prohibited from making "presumptions" by the Bible in Numbers 15:30 and that your beliefs can therefore only be based upon what is actually written in the law itself, which is the only legally admissible evidence of a liability.
2. Tell them that unless they can point to a statute somewhere that includes what they want to include, then they are depriving you of "reasonable notice" of the conduct that is expected of you and thereby operating in presumptuously and in "bad faith".
3. Quote the U.S. Supreme Court, which said that failure to satisfy the requirement for "reasonable notice" deprives the government of a judicially enforceable remedy for whatever conduct they expect from you:

> ***"It never has been doubted by this court, or any other, so far as we know, that notice and hearing are preliminary steps essential to the passing of an enforceable judgment."***
> *[Powell v. Alabama, 287 U.S. 45 (1932)]*

> *"Waivers of constitutional rights not only must be voluntary but must be knowing, intelligent acts done with sufficient awareness [reasonable notice] of the relevant circumstances and likely consequences."*
> *[Brady v. U.S., 397 U.S. 742, at 749, 90 S.Ct. 1463 at 1i469 (1970)]*

> *"It is sufficient to say that there are certain immutable principles of justice which inhere in the very idea of free government which no member of the Union may disregard, as that **no man shall be condemned in his person or property without due notice and an opportunity of being heard in his own defense.**"*
> *[Holden v. Hardy, 169 U.S. 366 (1898)]*

If you would like to know more about this interesting subject, you can find an exhaustive analysis in the following free memorandum of law:

Requirement for Reasonable Notice, Form #05.022 http://sedm.org/Forms/FormIndex.htm

5.3 The "Academic Approach"

The prior two approaches for fighting the "includes" argument are simple and elegant and point to the fraud, which is the making of false or unsubstantiated "presumptions" that are not substantiated by any kind of admissible evidence. We emphasize that any presumption you make that cannot be substantiated by admissible evidence constitutes the equivalent of "religious faith", and that the First Amendment prohibits the government from establishing or disestablishing a religion. This is why all conclusive presumptions which adversely affect constitutional rights are unconstitutional and impermissible in any legal proceeding:

> *(1) [8:4993]* ***Conclusive presumptions affecting protected interests:*** *A conclusive presumption may be defeated where its application would impair a party's constitutionally-protected liberty or property interests. In such cases, conclusive presumptions have been held to violate a party's due process and equal protection rights. [*Vlandis v. Kline *(1973) 412 U.S. 441, 449, 93 S.Ct 2230, 2235;* Cleveland Bed. of Ed. v. LaFleur *(1974) 414 US 632, 639-640, 94 S.Ct. 1208, 1215-presumption under Illinois law that unmarried fathers are unfit violates process]*
> ***[Rutter Group Practice Guide-Federal Civil Trials and Evidence, paragraph 8:4993, page 8K-34]***

The techniques in previous sections are therefore reserved for clerks and employees who don't read the law because they are simple and uninformed. However, you may encounter more informed opponents such as IRS or DOJ attorneys who are more educated about the law. For them, the "Academic Approach" is best. The Academic Approach involves asking them a series of detailed legal questions, hopefully in the context of legal discovery such as a deposition or interrogatory or request for admission. We have crafted detailed legal questions you can use that are found starting in section 7 and following of this document.

6 Rebutted Propaganda Relating to abuse of word "includes"

6.1 Congressional Research Service Report 97-59A: Frequently Asked Questions Concerning the Federal Income Tax

The Congressional Research Service Report 97-59A is often cited especially by Congressmen as a means to justify the illegal and presumptuous operations of the IRS. You can find a rebutted version of this report at:

http://famguardian1.org/PublishedAuthors/Govt/CRS/CRS-97-59A-rebuts.pdf

Starting on the next page, you can find item 20 of that report entitled "What is Meant by the Term 'Includes'".

20 What is Meant by the Term "Includes"?

The use of the term "includes" in IRC definitions has given rise to at least two questions concerning the application of the tax code. Does the "State" include the fifty states? Does "employee" include anyone who does not work for the Government or is an officer of a corporation?

The IRC defines "State" to include the District of Columbia.[19] There are those who argue that this means that the term "State" only includes the District of Columbia and not the fifty States of the Union. The IRC defines "employee" to include officers, employees or elected officials of the United States, a State, or any political subdivision thereof, or the District of Columbia or an officer of a corporation.[20] There are those who argue that this means that only those in one of these categories are "employees" for purposes of the income tax.

Each of these arguments displays a basic misunderstanding of the meaning of the term "includes." The term "includes" is inclusive not exclusive. The IRC provides that the terms "includes" and "including" when used in a definition shall not be deemed to exclude other things otherwise within the meaning of the term defined.[21]

The courts have not given any credence to arguments that "includes" implicitly excludes. They have been consistently found to be without merit and frivolous.[22]

First of all, you will note that ALL of the cases cited are federal circuit court cases, and NOT supreme Court cases. You will probably never see a U.S. supreme Court opinion on this, because it would destroy the income tax system and expose the fraud perpetuated on us all those years since the passage of the 16th Amendment in 1913. It would be political suicide for every Chief Justice that ruled unfavorably against the government on it. The supreme Court is primarily a political court and they are much too smart to get tangled up in this scandalous mess. Consequently, it will undoubtedly deny any and every writ of certiorari (appeal) brought before it that deals with this issue. This reinforces our contention that there is a "judicial conspiracy to protect the income tax" and that it exists primarily at the circuit court level. The reason Subtitle A federal (excise) income taxes can be illegally imposed on American citizens is because of the denial of due process maintained both by the IRS and the federal courts.
The word "includes" is used in several places in the Internal Revenue Code, but it is found most often in the definitions of key words that circumscribe the jurisdiction of the Internal Revenue Code as follows:

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

You must first realize that this flagrant abuse of our language and of the meaning of the word "includes" is part of an obfuscation approach designed by Congress and the IRS to illegally expand the jurisdiction of the federal government to assess I.R.C. Subtitle A income taxes beyond their clear constitutional limits and beyond federal property or territories and into the 50 sovereign states. It violates common sense, and every other use of the word "includes" in the English language we ever learned throughout our lifetime. It also violates the government's own definition of the word "includes" published in the Federal Register, :

> ***Treasury Definition 3980****, Vol. 29, January-December, 1927, pgs. 64 and 65 defines the words includes and including as:*
>
> *"(1) To comprise, comprehend, or embrace…(2) To enclose within; contain; confine…But granting that the word 'including' is a term of enlargement, it is clear that it only performs that office by introducing the specific elements constituting the enlargement. It thus, and thus only, enlarges the otherwise more limited,*

[19] IRC § 7701(a)(10).

[20] IRC § 3401(c).

[21] IRC § 7701(c).

[22] See, *U.S. v. Rice*, 659 F.2d 524,528 (5th Cir, 1981), U.S. *v. Latham*, 754 F.2d 813, 815 *(1st* Cir. 1986), *U.S. v. Ward*, 833 F.2d 1538 (11th Cir. 1987), and *U.S. v. Steiner*, 963 F.2d 381 (9th Cir. 1992).

preceding general language…The word 'including' is obviously used in the sense of its synonyms, comprising; comprehending; embracing."

The IRS definition of the word includes also violates several court rulings. Below is just one example:

> *"**Includes** is a word of **limitation**. Where a **general term** in Statute is followed by the word, '**including**' the primary import of the specific words following the quoted words is to indicate restriction rather than enlargement. **Powers ex re. Covon v. Charron R.I.**, 135 A. 2nd 829, 832*
> *[Definitions-Words and Phrases pages 156-156, Words and Phrases under '**limitations**'."]*

As you may know, Black's Law Dictionary is the Bible of legal definitions. Let's see what it says about the definition of "includes":
"**Include**. (Lat. Inclaudere, to shut in. keep within.) To confine within, hold as an inclosure. Take in, attain, shut up, contain, inclose, comprise, comprehend, embrace, involve. Term may, according to context, express an enlargement and have the meaning of and or in addition to, or merely specify a particular thing already included within general words theretofore used. "Including" within statute is interpreted as a word of enlargement or of illustrative application as well as a word of limitation. Premier Products Co. v. Cameron, 240 Or. 123, 400 P.2d 227, 228."

In other words, according to Black's, when INCLUDE is used it expands to take in all of the items stipulated or listed, but is then limited to them.
Such an obfuscating approach by the Congress and the IRS is a clear assault on our liberty, as it undermines our very language and our means of comprehending precisely and exclusively not only what the law *requires* of us, but what it *doesn't require*. Here is what Confucius said about this kind of conspiracy:
"When words lose their meaning, people will lose their liberty." Confucius, circa 500 B.C.
Such an approach also amounts to a clear violation of due process under the Fourth and Sixth Amendment , in that it causes the law to *not* specifically define what is or is not required of the citizen:

> *"A statute which either forbids or requires the doing of an act in terms so vague that men and women of common intelligence must necessarily guess at its meaning and differ as to its application, violates the first essential of due process of law."*
> *[Connally vs. General Construction Co., 269 U.S. 385 (1926)]*

The above finding gives rise to a doctrine known as the "void for vagueness doctrine", that was advocated by the U.S. supreme Court. This doctrine is deeply rooted in our right to due process (under the Fifth Amendment) and our right to know the nature and cause of any criminal accusation (under the Sixth Amendment). The latter right goes far beyond the contents of any criminal indictment. The right to know the nature and cause of any accusation starts with the statute which a defendant is accused of violating. A statute must be sufficiently specific and unambiguous in all its terms, in order to define and give adequate notice of the kind of conduct which it forbids.

> ***"The essential purpose** of the "void for vagueness doctrine" with respect to interpretation of a criminal statute, **is to warn individuals of the criminal consequences of their conduct**. ... Criminal statutes which fail to give due notice that an act has been made criminal before it is done are unconstitutional deprivations of due process of law."*
> [*U.S. v. De Cadena*, 105 F.Supp. 202, 204 (1952), emphasis added]

If it fails to indicate with reasonable certainty just what conduct the legislature prohibits, a statute is necessarily void for uncertainty, or "void for vagueness" as the doctrine is called. In the *De Cadena* case, the U.S. District Court listed a number of excellent authorities for the *origin* of this doctrine (see *Lanzetta v. New Jersey*, 306 U.S. 451) and for the *development* of the doctrine (see *Screws v. United States*, 325 U.S. 91, *Williams v. United States*, 341 U.S. 97, and *Jordan v. De George*, 341 U.S. 223). Any prosecution which is based upon a vague statute or a vague (or expansive) definition must fail, together with the statute itself. A vague criminal statute is unconstitutional for violating the 5th and 6th Amendments.

The abuse of the word "includes" or its expansive use also violates the rules of statutory construction, which are founded on the Fourth Amendment right of due process of law:

> *"In view of other settled rules of statutory construction, which teach that a law is presumed, in the absence of clear expression to the contrary, to operate prospectively; that, **if doubt exists as to the construction of a taxing statute, the doubt should be resolved in favor of the taxpayer**..."*

[Hassett v. Welch., 303 US 303, pp. 314 - 315, 82 L Ed 858. (1938) (emphasis added)]

*This fact only underscores our duty to refrain from reading a phrase into the statute when Congress has left it out. " '[W]here Congress includes particular language in one section of a statute but omits it in another ..., it is generally presumed that **Congress acts intentionally and purposely in the disparate inclusion or exclusion**.' " **Russello v United States**, 464 US 16, 23, 78 L Ed 2d 17, 104 S Ct 296 (1983) (citation omitted).*
[Keene Corp. v United States,508 US 200, 124 L Ed 2d 118, 113 S Ct 1993. (emphasis added)]

*If the act doesn't specifically identify what is forbidden or "included" and we have to rely **not** on the law, but some judge or lawyer or politician or a guess to describe what is "included", then our due process has been violated and our government has thereby instantly been transformed from a government of laws into a government of men.* And in this case, it only took the abuse of one word in the English language to do so!
The concept of "**due process of law" as it is embodied in Fifth Amendment demands that a law shall not be unreasonable, arbitrary, or capricious** and that the means selected shall have a reasonable and substantial relation to the object being sought. [Black's Law Dictionary, Sixth Edition, page 500, under the definition of "due process of law"]

If the word "includes" can be lawlessly abused to mean other things not specifically identified or at least classified in the statute, then the whole of the Internal Revenue Code essentially defines NOTHING, because it all hinges on jurisdiction, and 26 U.S.C. §7701(a)(9), which establishes jurisdiction uses the word "includes". How can the code define ANYTHING that uses the word "includes", based on the definition of "definition" found below?:

***definition**: A description of a thing by its properties; an explanation of the meaning of a word or term. **The process of stating the exact meaning of a word by means of other words**. Such a description of the thing defined, including all essential elements and excluding all nonessential, as to distinguish it from all other things and classes."*

[Black's Law Dictionary, Sixth Edition, page 423]

*Is the word "United States" defined exactly, if "includes" can mean that you can add **whatever you arbitrarily want** to be "included" in the definition?*

26 U.S.C. §7701

(a) Definitions
(9) United States
*The term "United States" when used in a geographical sense **includes** only the States and the District of Columbia.*

This clear and flagrant disregard for due process of law strikes at the heart of our liberty and freedom and we ought to boycott the income tax based on this clever ruse by the shysters in Congress and the IRS who invented it. If the word "includes" is used in its expansive sense, we have, in effect, subjected ourselves to the arbitrary whims of however the currently elected politician or judge wants to describe what is "included". That leads to massive chaos, injustice, and unconstitutional behavior by our courts and our elected representatives, which is exactly what we have today. To put it bluntly, such deceptive actions are treasonable. The abuse also promotes unnecessary litigation over the meaning of the tax laws, to the benefit of lawyers, lawmakers, and the American Bar Association, which is a clear conflict of interest. Here is what the U.S. Supreme Court says about the confusion created by the expansive use of the word "includes":

In the interpretation of statutes levying taxes, it is THE ESTABLISHED RULE NOT TO EXTEND their provisions, by implication, BEYOND THE CLEAR IMPORT OF THE LANGUAGE USED, OR TO ENLARGE their operations SO AS TO EMBRACE MATTERS NOT SPECIFICALLY POINTED OUT". [Gould v. Gould, 245 U.S.151]

If this ridiculous interpretation of the word "includes" is allowed to stand by the courts and this assault on our liberty by Congress is allowed to continue, then below is the essence of what the government has done to us, represented as a satirical press release by the U.S. supreme Court:

NEW RULES FOR LAW

SMUCKWAP NEWSSERVICE, Washington: The Supreme Court ruled today that judges can do whatever the hell they want. In a landmark case, Black-Robed Lawyers vs. Everyone Else, the justices handed down their inestimable judgment that since lawyers in general and judges in particular are such fine examples of humanity, not to mention smart enough to get through law school, judges can do whatever they please.

"The Rule of Law has ended," proclaimed Supreme Court Justice Arrogant B. Astard, "and the Rule of Judges begins!"

Turning their shiny black backs on the rest of America, the justices decided to toss out two hundred years of Constitutional law and indeed, to rid themselves completely of having to heed the Constitution.

"The law is what we say it is," said Justice Whiney I. Diot. "It has been this way for some time now, but with Black-Robed Lawyers vs. Everyone Else, we are coming out of our judicial closet. No more arguments will be allowed from anyone, and we don't want to hear any more of your complaining about your rights. In fact, any mention of so-called rights will guarantee you 100 years, hard labor."

Justice K. Rupt Assin concurred in his opinion that "judicial oligarchy has now fully come into its place in American history and will be fully enforced by an iron rule of law, and remember, law is whatever we say it is."

The Center for People Who Want to Leave This Country Because It Is Beginning to Look Too Much Like Nazi Germany analyzed the justices' decision.

"Judges now legally can put anyone in prison for any reason they want, for as long as they want," states the analysis. "Judges can also put jurors in prison for 'obstructing justice' and for anything else, including not handing the judge whatever money they may have on them at the time. Jurors who don't behave exactly as the judge desired have been persecuted in the past, but "now they can receive prison terms much longer than their own lifespan added to the lifespan(s) of the defendant(s) in any trial.

The report also mentioned the justices' decision that anyone who says anything disagreeable in their courtroom can be immediately arrested and jailed, their property confiscated, and their spouses and children taken as "wards" of the court under the justices own personal pleasure ... or... supervision.

The concept of separation of powers was addressed in the Center's report on the decision.

"There is no separation of powers," it reads, "when not only all the justices are lawyers, so are all Congressmen and the President, his wife, his cabinet, the entire Department of Justice, most lobbyists and almost everyone else in Washington, D.C."

*When questioned about what effect the decision would have on all Americans, the spokesman for the Center said, "I can't be certain. I suspect that emigration rather than immigration will become a major concern. Those Americans who are lawyers will be fine, for the most part. No one will ever again show up for jury duty. But if we thought we had an overcrowded prison problem before, we're in for a *major* shock!"*

6.2 Definition of the term "United States"

Freedom advocates who have read the Internal Revenue Code for themselves learn that definitions are the most frequently abused means of illegally extending federal jurisdiction. They usually start by examining the definition of "United States" in the Internal Revenue Code, which follows:

> ***TITLE 26*** *>* ***Subtitle F*** *>* ***CHAPTER 79*** *>* ***Sec. 7701. [Internal Revenue Code]***
> *Sec. 7701. - Definitions*
>
> *(a)(9) United States*
>
> *The term "United States" when used in a geographical sense includes only the States and the District of Columbia.*
>
> *(a)(10) State*
>
> *The term "State" shall be construed to include the District of Columbia, where such construction is necessary to carry out provisions of this title.*

Freedom researchers will point to the word "State" above and say that that the "State" being referred to is only the District of Columbia. They will then cite 4 U.S.C. §110(d) as backup:

> *TITLE 4 - FLAG AND SEAL, SEAT OF GOVERNMENT, AND THE STATES*
> *CHAPTER 4 - THE STATES*
> *Sec. 110. Same; definitions*
>
> ***(d) The term "State" includes any Territory or possession of the United States.***

Based on the above, they will apply the Rules of Statutory Construction summarized earlier in section 3.7.14 and conclude:

> *"The term 'United States' within Subtitle A of the Internal Revenue Code means the District of Columbia and the territories and possessions of the United States and excludes states of the Union. States of the Union are excluded because nowhere in Subtitle A are they explicitly INCLUDED in the definition of 'State'".*

The freedom researcher will then use the above inference in his communications and audits with the IRS to establish that the IRS has no jurisdiction to collect a tax against them. When IRS responds to this sort of conclusion, they will respond to correspondence and communication with the following facts foremost in their minds:

1. They cannot reveal the existence of the Trustee position or federal agency/fiduciary duty held by those who participate in the Social Security Program described earlier in section 4.3, because this would:
   1.1. Expose the main source of their jurisdiction.
   1.2. Encourage people to leave the program en masse.
2. They cannot cite any section in Subtitle A of the Internal Revenue Code which specifically identifies states of the Union as being included in the definition of "State" found in 26 U.S.C. §7701(a)(10) because no such definition is found anywhere in the I.R.C.
3. They want to keep the illegal plunder flowing or they will jeopardize the fiscal integrity of the government, so they must win the argument without disclosing the truth or educating the audience about the illegal nature of their enforcement activities.
4. Those working in the I.R.S. Collection Branch receive commissions based on the amount of "inventory" they recover (STEAL) from the targets for their illegal activities. Therefore, there is a financial DISincentive for them to avoid a lawful and legal implementation of the I.R.C. in their dealings with the public. This creates a conflict of interest in violation of 18 U.S.C. §208. When this conflict of interest is pointed out to the Treasury Inspector General for Tax Administration, who is the legal oversight for the I.R.S., the complaint is largely ignored. See: http://www.ustreas.gov/tigta/
5. The amount of collection correspondence received by the IRS in connection with enforcement activities which are illegal and unwarranted is massive, and numbers in the millions of pieces every year. The entire staff of the IRS is only about 70,000 people and they are simply not equipped to respond to such correspondence.

Therefore, when the IRS responds to an inquiry about the meaning of "United States" in the Internal Revenue Code, they usually do so in one of the following ways:

1. They will ignore any written correspondence sent in by victims of its illegal activities and "ASSUME" or "PRESUME" that the victim agreed with their determination.
2. They will label the correspondence as "frivolous" and themselves cite irrelevant caselaw from federal courts that have no jurisdiction whatsoever over the party who sent the correspondence. The legal ignorance of most Americans usually will shut them up at this point, because they don't know enough to respond appropriately to such a misinformed, malfeasant, and malicious response. If the victim then tries to employ a tax professional to correct the malfeasance and malice of the IRS in this case, the tax professional will pillage them financially worse than the IRS. This has the affect of training Americans to "just shut up" about the abuses, because fighting them is more costly and time consuming than just paying the illegal extortion.
3. They will abuse the "includes" within the definition of "Untied States" as follows:

> *The definition of "United States" found in 26 U.S.C. §7701(a)(9) uses the word "includes". 26 U.S.C. §7701(c) states that any definition using such a word "shall not be deemed to exclude other things otherwise within the meaning of the term defined". The other things they are talking about are states of the Union.*

By the above tactic, the IRS will create a false presumption and they will do so boldly and forcefully, and argue vociferously with those who challenge such a presumption. Unless you have done your homework by reading this pamphlet and know how to respond, then you will fall victim to this abuse and organized racketeering. The proper response to such a statement by the IRS is the following:

1. The rules of statutory construction say that "includes" is a term of "limitation" and not "enlargement" in the cases where it is used.
2. The reason for providing a definition in the Internal Revenue Code is to supersede and replace the common meaning of the term, no to add to it.
3. You are attempting to use 26 U.S.C. §7701(c) to create a statutory presumption, which the Supreme Court has said many times is illegal in the case of those who are protected by the Bill of Rights, which includes me. [You may wish to quote some of the Supreme Court's statements about statutory presumptions found earlier in section 4.5.6].
4. If you believe that I am not protected by the Bill of Rights so that statutory presumptions can be used against me, please so state and then present me with legal evidence proving that I am not covered by the Bill of Rights.
5. If you believe that I am an officer, employee, agent, or contractor of the federal government who therefore is an officer or employee of a privileged federal corporation who may not assert Constitutional rights, then please so state now and provide legally admissible evidence of same. If you do not do so now, you are estopped in the future from controverting this issue.

The above will usually shut them up. The only usual comeback you will hear is that you are "frivolous". We must remember, however, how the word "frivolous" is defined:

> ***"Frivolous.*** *Of little weight or importance. A pleading is "frivolous" when it is clearly insufficient on its face and does not controvert the material points of the opposite pleading, and is presumably interposed for mere purposes of delay or to embarrass the opponent. A claim or defense is frivolous if a proposent can present no rational argument based upon the evidence or law in support of that claim or defense. Liebowitz v. Aimexco Inc., Col.App., 701 P.2d 140, 142. Frivolous pleadings may be amended to proper form or ordered stricken under federal and state rules of civil procedure."*
> *[Black's Law Dictionary, Sixth Edition, p. 668]*

In reality, the IRS is the one acting frivolously as defined above, because they can offer you nothing but presumption, verbal abuse, and threats in response to a rational inquiry. You therefore might want to tape record your conversation with them over this issue if on the phone, or if in writing, using certified mail so that their abuse becomes "actionable" fraud for which you have legal standing to sue.

> *"**Actionable**. That for which an action will lie, furnishing legal ground for an action. See Cause of action; Justiciable controversy."*
> *[Black's Law Dictionary, Sixth Edition, p. 29]*

You may also ask them for a copy of their delegation order, which should say that they have judicial authority to interpret law. We'll give you a hint: No one in the IRS has such authority, including the Chief Counsel.

We cover the subject of the meaning of the term "United States" in section 5.2.7 of our *Great IRS Hoax* book. If you would like more ammunition to use against misbehaving IRS agents on the above issue, then you may wish to cite the following U.S. Supreme Court rulings form that section:

> *"It is no longer open to question that **the general government, unlike the states**, Hammer v. Dagenhart, 247 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 internal affairs of the states; and emphatically not with regard to legislation.**"*
> *[Carter v. Carter Coal Co., 298 U.S. 238, 56 S.Ct. 855 (1936)]*

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

> *"Keeping in mind the well-settled rule that **the citizen is exempt from taxation unless the same is imposed by clear and unequivocal language, and that where the construction of a tax law is doubtful, the doubt is to be resolved in favor of those upon whom the tax is sought to be laid**."*
> *[Spreckels Sugar Refining Co. v. McClain, 192 U.S. 397 (1904)]*

You might then want to ask the IRS employee in the context of the Carter v. Carter ruling above whether he thinks the Internal Revenue Code qualifies as "legislation". There is only one way he can answer the question, and after he answers,

you win. If he says you can't cite the Supreme Court, then read to him the quote below from his own Internal Revenue Manual on the subject, which says:

> *IRM, 4.10.7.2.9.8 (05/14/99): Importance of Court Decisions*
>
> *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."*

No public servant or IRS employee has the power to essentially compel a "false presumption", which essentially amounts to an act of deception.

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

The IRS or the government also are prohibited by the Constitution from persecuting or terrorizing those who expose any false presumption or government deception:

> *"In the First Amendment, the Founding Fathers gave the free press the protection it must have to fulfill its essential role in our democracy. The press [and this religious ministry] was to serve the governed, not the governors. The Government's power to censor the press was abolished so that the press would remain forever free to censure the Government.* ***The press was protected so that it could bare the secrets of government and inform the people. Only a free and unrestrained press can effectively expose deception in government. And paramount among the responsibilities of a free press is the duty to prevent any part of the government from deceiving the people*** *and sending them off to distant lands to die of foreign fevers and foreign shot and shell. In my view, far from deserving condemnation for their courageous reporting, the New York Times, the Washington Post, and other newspapers should be commended for serving the purpose that the Founding Fathers saw so clearly. In revealing the workings of government that led to the Vietnam war, the newspapers nobly did precisely that which the Founders hoped and trusted they would do."*
> *[New York Times Co. v. United States, 403 U.S. 713 (1970)]*

Any government or official that uses legal sophistry to coerce a citizen, to establish jurisdiction it does not have, is a terrorist government. Any government official who engages in such coercion also is engaging effectively in "false commercial speech" and his activities should be enjoined by the federal courts. It is the paramount duty of our justice system to prevent such coercion, in fact.

6.3 Otto Skinner's Misinterpretation of the word "includes"

A famous tax freedom personality is Otto Skinner, who sells books about tax law to the general public on his website at:

http://ottoskinner.com

We have bought and read several of his books. Below is a direct quote from Otto Skinners book *The Biggest Tax Loophole of All*, on page 198 relating to the definition of the word "include":

> *Flawed argument #10*
>
> *The individual claims that the term "includes" as used in definitions in the Code is a word of limitations. From this erroneous conclusion, the individual claims that the does not live in a "State" as that term is defined in the Code, and/or does not live in the "United States" as that term is defined in the Code, and then concludes that the federal government does not have authority to collect taxes from any place other than the federal territories and Washington, DC. He further concludes that he is a nonresident alien. Also from the misinterpretation of the term "includes", the individual will claim that he is not an "employee" as that term is defined in the Code.*

... Probably more individuals have suffered defeat in the courtroom because of this misinterpretation than any other mistake made.

Otto then takes you to the U.S. Code annotated for the above section and quotes from it a part that refers to *Fidelity Trust Co. v. CIR*, 1944 (3rd circuit), which says:

". . .includes shall not be deemed to exclude other things otherwise within the meaning of the term defined."

The ***Biggest Loophole of All*** then goes on to say that "includes" was not intended to limit, just eliminate doubt. Otto then shows you other quotes from law library books that say "includes" is to considered a word of enlargement. He talks about 26 U.S.C. §7701(c) also. The explanation is very thorough and he takes you up to page 206 in his book (9 pages) to explain what he believes is a flaw in the conclusions about "includes" in this pamphlet.

Some readers have contacted us about the above, told us we are wrong, and even demanded that we rebut Otto's analysis above. None of these people have been courageous enough to try to reconcile Otto's analysis with the very pointed questions in the next chapter, however. The reason is that they simply can't without contradicting themselves. The reason they will contradict themselves is that Otto's views do not take into account any of the following important concepts explained elsewhere in this document, such as:

1. The U.S. Supreme Court's prohibition against statutory presumptions documented earlier in section 4.5.6. If 26 U.S.C. §7701(c) were interpreted as Otto recommends, then we would end up having to make a statutory presumption about what is "included" in the definition, which would represent a violation of due process of law and make the Internal Revenue Code unconstitutional. Since we must assume that it is constitutional, then we cannot conclude that it compels presumption.
2. The rules of statutory construction. Otto never even mentions the "expressio unius est exclusio alterius" rule of statutory construction, which by the way is consistent with the U.S. Supreme Court's condemnation of statutory presumptions.
3. Exactly how the word "includes" may be used as a term of enlargement, as explained earlier in section 4.8. When it is used as a term of enlargement, Black's Law dictionary says it means "in addition to". The rules of statutory construction, however, still require that the law as a whole MUST include every thing that is included or added to the definition.
4. The IRS's use of the word in their own Internal Revenue Manual, which frequently uses the word "includes but not limited to". See section 4.9 et seq. If includes really were a universally used as a term of enlargement in the I.R.C., then the same would be true in the I.R.M. as well, rendering the need to use "but not limited to" unnecessary.
5. The application of the "innocent until proven guilty rule" to the situation of being a "taxpayer". See 4.1 earlier.
6. The void for vagueness doctrine described starting earlier in section 4.5. A law which is vague and does not give due notice to all those affected by it exactly what is required and which does not avoid compelling presumption in the reader violates the void for vagueness doctrine described by the U.S. Supreme Court.

In fact, the analysis in this pamphlet is the ***only*** one that is completely consistent with all of the above concepts. Ottos' conclusions are either inconsistent with the above concepts and diverge from them, or do not take them into account at all, leaving the reader in a state of "cognitive dissonance". To those who question our approach and support Otto's views, we simply ask them to reconcile his views with the above in a way that is completely consistent with the above. If there is dissonance, it's usually because the proponent is wrong. Our materials do not have that dissonance.

Returning to the *Fidelity* case above, the court was correct in its application of the law to the proper subject, but not in its conclusions about the meaning of the word "includes". It was incorrect because it did not take into account the affect the result of participating in Social Security on the jurisdiction of the Federal Government. Yes, the Internal Revenue Code Subtitle A has jurisdiction against people in the states of the Union, but not because of the meaning of the word includes. Those who have a Social Security Number are in possession of public property. Public property may only be used by public employees on official duty. Therefore, those who use such a number are federal employees, agents, and contractors. The federal government has always had jurisdiction over its employees, agents, and contractors, no matter where they physically are domiciled. The government has this jurisdiction not because of the meaning of the word "includes", but because it couldn't do its important job WITHTOUT such jurisdiction. This concept is thoroughly analyzed in our pamphlet Resignation of Compelled Social Security Trustee, available at:

http://famguardian.org/TaxFreedom/Forms/Emancipation/SSTrustIndenture.pdf

Otto has to try to enlarge the word "includes" as his way to try to explain the fundamental nature of the Social Security Program as a form of federal employment. His books clearly reveal that he doesn't understand this important concept, so he fudges a little with "includes" as a way to account for the rulings of the federal courts on this issue. He also doesn't understand the precedence of law and what a reasonable belief about tax liability is. Therefore, he treats federal court rulings below the Supreme Court as authoritative, when in fact they are not. This is explained in the pamphlet Reasonable Belief About Tax Liability, available at:

http://sedm.org/Forms/MemLaw/ReasonableBelief.pdf

Our approach to "includes" is the only one we have found that takes all the above into account and is STILL completely consistent with it all. If you still disagree with our approach, then why don't you rebut the questions at the end using Otto Skinner's approach and see if you can do so without contradicting and thereby discrediting yourself. We'll give you a hint: It can't be done.

6.4 U.S. Attorney Argument About "Includes" and "Person"

Another false argument about the abuse of the word "includes" can be found in the case of *United States v. Christopher Hansen*, Case No. 05cv0921, filed in the United States District Court in San Diego, California. In that case, Hansen was being prosecuted for abusive tax shelters and cited in his defense the definition of "person" found in 26 U.S.C. §6671(b).

> *TITLE 26 > Subtitle F > CHAPTER 68 > Subchapter B > PART I > § 6671*
> *§ 6671. Rules for application of assessable penalties*
>
> *(b) Person defined*
>
> *The term "person", as used in this subchapter, **includes** an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.*

You will note that:

1. The above definition uses the word "includes".
2. There is no provision within any other part of the Internal Revenue Code that is indicated above which would add anything to the above definition. Therefore, that definition is all-inclusive for the purposes of tax shelters and every IRS penalty.
3. A natural person not employed with the federal government as a "public officer" is excluded from the above definition. A private person does not have the fiduciary duty indicated by the phrase "who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs". Therefore, such a private person is *not* the subject of this statute. Below is an example:

> *Internal Revenue Manual*
> *Section 5.14.10.2 (09-30-2004)*
> *Payroll Deduction Agreements*
>
> *2. **Private employers, states, and political subdivisions are not required to enter into payroll deduction agreements**. Taxpayers should determine whether their employers will accept and process executed agreements before agreements are submitted for approval or finalized.*
> *[http://www.irs.gov/irm/part5/ch14s10.html]*

4. The above definition *supersedes* rather than *enlarges* the definition of "person" found in 26 U.S.C. §7701(a)(1). If the above definition expanded that found in 26 U.S.C. §7701(a)(1), it would have to say so. This is a result of the Constitutional requirement for "reasonable notice" of the behavior expected from the law. See the following for an exhaustive analysis of why "reasonable notice" is an essential requirement of due process of law:

   Requirement for "Reasonable Notice", Form #05.022
   http://sedm.org/Forms/FormIndex.htm

5. 26 U.S.C. §7701(c) defines the word "includes" in a way that "appears" to create unconstitutional statutory presumptions. However, statutory presumptions are ILLEGAL and therefore this result cannot be presumed or inferred by any federal court in the context of any person protected by the Bill of Rights. See:

http://famguardian.org/TaxFreedom/CitesByTopic/presumption.htm

U.S. Attorneys just love to try to "stretch" definitions beyond their clear meaning by:

1. Violating the rules of statutory construction and interpretation documented earlier in section 3 and following.
2. Abusing caselaw and subterfuge to create statutory presumptions.
3. Citing 26 U.S.C. §7701(c) as a way to invoke a "statutory presumption" that allows them to unlawfully expand the meaning of any word statutorily defined using the word "includes" to arbitrarily add anything they want it to mean. In so doing, they are usually exploiting the legal ignorance of the average American to their injury.

The U.S. Supreme Court has said that the above unscrupulous and devious tactics are violation of due process of law:

> *"The power to create presumptions is not a means of escape from constitutional restrictions,"*
>
> *[Bailey v. Alabama, 219 U.S. 219, 239]*
>
> ---
>
> *That the terms of a penal statute creating a new offense must be sufficiently explicit to inform those who are subject to it what conduct on their part will render them liable to its penalties is a well- recognized requirement, consonant alike with ordinary notions of fair play and the settled rules of law; and a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application violates the first essential of due process of law. International Harvester Co. v. Kentucky, 234 U.S. 216, 221 , 34 S. Ct. 853; Collins v. Kentucky, 234 U.S. 634, 638 , 34 S. Ct. 924*
>
> *[...]*
>
> *... The dividing line between what is lawful and unlawful cannot be left to conjecture. The citizen cannot be held to answer charges based upon penal statutes whose mandates are so uncertain that they will reasonably admit of different constructions. A criminal statute cannot rest upon an uncertain foundation. The crime, and the elements constituting it, must be so clearly expressed that the ordinary person can intelligently choose, in advance, what course it is lawful for him to pursue. Penal statutes prohibiting the doing of certain things, and providing a punishment for their violation, should not admit of such a double meaning that the citizen may act upon the one conception of its requirements and the courts upon another.'*
>
> *[Conally v. General Construction Co., 269 U.S. 385 (1926)]*

When Hansen submitted a Petition to Dismiss which invoked the definition of "person" found in 26 U.S.C. §6671(b) as a way to prove that he doesn't fit the description, below is how the U.S. Attorney in the Hansen case attempted to counter this argument. Note that he tries to abuse presumption to stretch the definition of the word:

> *Hansen's interpretation of §6671 (b) is too narrow. As the Ninth Circuit has stated when ruling on that section's range, "[the term "person" does include officer and employee, but certainly does not exclude all others. Its scope is illustrated rather than qualified by the specified examples." United States v. Graham, 309 F.2d 210,212 (9th Cir. 1962). Code §7701(a)(l) provides a general definition of "person" to be used throughout the Code, and states that '"person' shall be construed to mean and include an individual, a trust, estate, partnership, association, company or corporation." Hansen is an individual. Code §6671(b)'s definition of person expands, rather than restricts, the general definition and thus includes Hansen. See Pacific Nat'l Ins. Co. v. United States, 422 F.2d 26, 30 (9th Cir. 1970); Bailey Vaught Robertson & Co. v. United States, 828 F. Supp. 442,444 (N.D. Tex. 1993) ("Section 6671(b) simply expands the definition of person in §7701(a)(l) to 'include' certain other individuals."); United States v. Vaccarella, 735 F. Supp. 1421, 143 1 (S.D. Ind. 1990) ; see also State of Ohio v. Helvering, 292 U.S. 360,370 (1934) (construing broadly a statutory definition using the phrase "means and includes"); Chickasaw Nation v. United States, 208 F.3d 871 (10th Cir. 2000)*
> *[Reply Brief of Defendant Shoemaker, Docket #40, p. 2, Case No. 05cv0921]*

The above statement suffers from the following defects:

1. It cites caselaw irrelevant to a person who is not a "taxpayer" subject to the I.R.C. The terms of the I.R.C. cannot be applied against a person not subject to it. The Courts may also not confer the status of "taxpayer" upon a person who declares their status as otherwise:

> *"And by statutory definition, 'taxpayer' includes any person, trust or estate subject to a tax imposed by the revenue act. ...Since the statutory definition of 'taxpayer' is exclusive, the federal courts do not have the power to create nonstatutory taxpayers for the purpose of applying the provisions of the Revenue Acts..."*
> *[C.I.R. v. Trustees of L. Inv. Ass'n, 100 F.2d 18 (1939)]*

2. In the cases cited by the U.S. Attorney, the parties were "U.S. persons" and "citizens" and doubt about the jurisdiction of taxing statutes was at issue. The U.S. Supreme Court indicated that all such doubts must be resolved in favor of the citizen rather than the government, and yet they were not. The cites he provided violated this requirement of stare decisis and therefore violated due process and were void judgments.

> *"Keeping in mind the well-settled rule that **the citizen is exempt from taxation unless the same is imposed by clear and unequivocal language, and that where the construction of a tax law is doubtful, the doubt is to be resolved in favor of those upon whom the tax is sought to be laid**."*
> *[Spreckels Sugar Refining Co. v. McClain, 192 U.S. 297 (1904)]*

3. The statement violates the IRS' Internal Revenue Manual, which says that the service is not bound to observe any ruling below the U.S. Supreme Court. Nearly all of the cases cited by the U.S. Attorney were from courts below the U.S. Supreme Court. If the IRS isn't obligated to observe such cases, then neither is the Defendant, because this is a requirement of "equal protection of the law":

> *Internal Revenue Manual*
> *Section 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."*

4. The statute itself, 26 U.S.C. §6671(b), did not specifically state that it *expands* rather than *supersedes* the definition of "person" found in 26 U.S.C. §7701(a)(1). Therefore:
   4.1. The statute fails to give "reasonable notice" of the conduct expected of the defendant, and therefore is void for vagueness. This is covered in the following memorandum of law:

Requirement for Reasonable Notice, Form #05.022 http://sedm.org/Forms/FormIndex.htm

   4.2. Any assertion that the statute *does* expand 26 U.S.C. §7701(a)(1) rather than supersede it is a "presumption" and not a fact, because it cannot be sustained from reading the statute itself. Such a statutory "presumption" cannot lawfully be invoked to injure the Constitutional rights of the party against whom it is asserted.

> *(1) [8:4993] **Conclusive presumptions affecting protected interests:** A conclusive presumption may be defeated where its application would impair a party's constitutionally-protected liberty or property interests. In such cases, conclusive presumptions have been held to violate a party's due process and equal protection rights. [Vlandis v. Kline (1973) 412 U.S. 441, 449, 93 S.Ct 2230, 2235; Cleveland Bed. of Ed. v. LaFleur (1974) 414 US 632, 639-640, 94 S.Ct. 1208, 1215-presumption under Illinois law that unmarried fathers are unfit violates process]*
> *[Rutter Group Practice Guide-Federal Civil Trials and Evidence, paragraph 8:4993, page 8K-34]*

   The above tactic is thoroughly rebutted in the following memorandum of law:

Presumption: Chief Means of Unlawfully Expanding Federal Jurisdiction, Form #05.017 http://sedm.org/Forms/FormIndex.htm

5. The U.S. Attorney invoked a "presumption" that prejudices constitutional rights and therefore is impermissible, by alleging that the Defendant was an "Individual". The Internal Revenue Code nowhere defines the term "individual". He cannot say that the Defendant is an "individual" without at least a definition. The only definition of "individual", in fact, is found in 5 U.S.C. §552a(a)(2), and this is the same provision which protects "taxpayer" records maintained by the IRS:

TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES
5 U.S.C. §552a Records maintained on individuals

(a) Definitions.— For purposes of this section—

(2) the term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

The reader will note that:

5.1. The above "individual" is a government employee or public officer, and not a private individual and that federal government has no jurisdiction over private individuals;

5.2. The defendant in the above case is neither a "citizen" under 8 U.S.C. §1401 or a "resident" under 26 U.S.C. §7701(b)(1)(A), but instead is a "nonresident alien" who does not satisfy the definition of "individual" above. Therefore, he cannot be an "individual". All "individuals" under Subtitle A of the Internal Revenue Code are "public officers" who are also "U.S. Persons" with a domicile in the District of Columbia, as required by 26 U.S.C. §7701(a)(30) and 4 U.S.C. §72. This is covered in the article below:
http://famguardian.org/Subjects/Taxes/Articles/PublicVPrivateEmployment.htm

For all the foregoing reasons, the U.S. Attorney was concocting an elaborate lie or disinformation to disguise the fact that he had no lawful jurisdiction to pursue an injunction under 26 U.S.C. §6700.

7 Questions that Readers, Grand Jurors, and Petit Jurors Should be Asking the Government

This section contains some questions which are very effective at "shutting up" those who enjoy arguing the "includes" issue in favor of the government. It uses admissible, positive law evidence to prove each point where possible.

The We the People Foundation for Constitutional Education held a formal question and answer session on February 27-28, 2002 at the Washington Marriott in Washington D.C. The Internal Revenue Service and the Department of Justice were formally invited and absolutely refused to attend. Thirteen avenues of inquiry were conducted, one of which involved resolving ambiguity of law. The Ambiguity of Law area included 27 questions that shed much light on the subject of "includes". You can review the questions and all accompanying evidence at:

http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Section%2009.htm

The remainder of Section 5 devotes itself to showing most of the We The People questions relating to the ambiguity of law, which is strongly related to the use of the word "includes". These questions have been expanded to address additional information provided elsewhere in this pamphlet.

7.1 Introduction

In the tax code, the IRS formally redefines the word "includes" to effectively mean "includes everything". This deliberate misuse of the word "includes" leads the masses to falsely believe the IRS has jurisdiction over things, places and People that it does not.

This deliberately induced confusion and ambiguity is an act of tyranny against the People and a usurpation of power not authorized the IRS under the Constitution. Without well defined words, the laws are meaningless, null, void, and unenforceable.

7.2 Findings and Conclusions

With the assistance of the following series of questions, we will show that the government has deliberately obfuscated and confused the laws on taxation to create "cognitive dissonance", uncertainty, confusion, and fear of citizens about the exact requirements of the laws on taxation and the precise jurisdiction of the U.S. government. This confusion has been exploited to violate the due process rights of the sovereign People and encourage lawless and abusive violations of due process protections guaranteed by the Fifth and Sixth Amendments to the U.S. Constitution. We will also show that:

- Critical legal terms in the IRS code defy proper definition and interpretation because of the IRS's misuse of the word "includes".
- This deliberate misuse of the word "includes" leads the masses to falsely believe the IRS has jurisdiction over things, places and People it does not.
- This deliberately induced confusion and ambiguity is an act of tyranny against the People and a usurpation of power not authorized the IRS under the Constitution.

Bottom Line: Without well defined words, a law is meaningless and unenforceable. This is a basic principle of due process.

7.3 Section Summary

Acrobat version of this section including questions and evidence (large: 3.83 Mbytes)
http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Section%2009-All.pdf

7.4 Further Study On Our Website:

1. Definition of the term "includes" in the Internal Revenue Code
2. Great IRS Hoax book:
   - 2.1. Section 3.11.1: "Words of Art": Lawyer Deception Using Definitions
   - 2.2. Section 3.11.1.7: "Includes" and "Including" (26 U.S.C. §7701(c))
   - 2.3. Section 5.6.14: Scams with the Word "includes"
   - 2.4. Section 5.11: Why the "Void for Vagueness Doctrine" Should be Invoked By The Courts to Render the Internal Revenue Code Unconstitutional in Total
   - 2.5. Section 6.4: Treasury/IRS Cover-Ups, Obfuscation and Scandals
   - 2.6. Section 6.6: Judicial Conspiracy to Protect the Income Tax
   - 2.7. Section 6.7: Legal Profession Scandals
   - 2.8. Chapter 6: History of Federal Government Income Tax Fraud, Racketeering, and Extortion in the U.S.A.

7.5 Open-ended questions

1. How can a federal government of limited, delegated powers that is consistent with the requirements of the Ninth and Tenth Amendments be defined using words whose meaning can only be determined by subjective and changing interpretation?

> *"**The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite.** **The former will be exercised principally on** external **[to the States] objects, as war, peace, negotiation, and foreign commerce; with which last the power of taxation will, for the most part, be connected."***
> *[Federalist Paper #45, James Madison]*

2. How can we have a "society of laws and not of men" if the IRS insists that I must rely on *their* interpretation of the meaning of a word instead of what a person with average intelligence would conclude by reading enacted positive law for themselves? Isn't the law supposed to be written so that the man of average intelligence can clearly and unambiguously discern what is required of him without the aid of an "ordained priest" of the civil religion of socialism fostered by the IRS?

> *"The government of the United States has been emphatically termed a government of laws, and not of men. It will certainly cease to deserve this high appellation, if the laws furnish no remedy for the violation of a vested legal right…"*

> *"The government of the United States is the latter description.* ***The powers of the legislature are defined and limited; and that those limits may not be mistaken, or forgotten, the constitution is written. To what purpose are powers limited, and to what purpose is that limitation committed to writing, if these limits may, at any time, be passed by those intended to be restrained? The distinction between a government with limited and unlimited powers is abolished, if those limits do not confine the persons on whom they are imposed, and if acts prohibited and acts allowed, are of equal obligation. It is a proposition too plain to be contested, that the constitution controls any legislative act repugnant to it; or, that the legislature may alter the constitution by an ordinary act.****"*
> *[Marbury v. Madison, 5 U.S. 137, 1 Cranch 137; 2 L.Ed. 60 (1803)]*

3. Aren't those who conclude that 26 U.S.C. §7701(c) authorizes the extension of a meaning of a word beyond what is clearly shown in the code itself engaging in a statutory presumption which is unconstitutional if implemented against those who are covered by the Bill of Rights and not exercising any agency of the federal government or of a privileged federal corporation? (see section 4.5.6)

> *This court has held more than once that a statute creating a presumption which operates to deny a fair opportunity to rebut it violates the due process clause of the Fourteenth Amendment. 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, 49 S. Ct. 215.*
>
> *'It is apparent,' this court said in the Bailey Case (219 U.S. 239 , 31 S. Ct. 145, 151) 'that a constitutional prohibition cannot be transgressed indirectly by the creation of a statutory presumption any more than it can be violated by direct enactment. The power to create presumptions is not a means of escape from constitutional restrictions.'*
> *[Heiner v. Donnan, 285 U.S. 312 (1932)]*

4. If "includes" is used in its additive/expansive sense and not all things are described in a law that are added, then how can what is added be determined without the use of presumption and without leaving room for the play of "purely arbitrary power". Isn't this a violation of due process?

> *"**When we consider the nature and the theory of our institutions of government, the principles on which they are supposed to rest, and review the history of their development, we are constrained to conclude that they do not mean to leave room for the play and action of purely personal and arbitrary power. Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts. And the law is the definition and limitation of power**. It is, indeed, quite true that there must always be lodged somewhere, and in some person or body, the authority of final decision; and in many cases of mere administration, the responsibility is purely political, no appeal lying except to the ultimate tribunal of the public judgment, exercised either in the pressure of opinion, or by means of the suffrage. But the fundamental rights to life, liberty, and the pursuit of happiness, considered as individual possessions, are secured by those maxims of constitutional law which are the monuments showing the victorious progress of the race in securing to men the blessings of civilization under the reign of just and equal laws, so that, in the famous language of the Massachusetts bill of rights, the government of the commonwealth 'may be a government of laws and not of men.' **For the very idea that one man may be compelled to hold his life, or the means of living, or any material right essential to the enjoyment of life, at the mere will of another, seems to be intolerable in any country where freedom prevails, as being the essence of slavery itself**."*
> *[Yick Wo v. Hopkins, 118 U.S. 356 (1886)]*

7.6 Admissions

These admissions are included for the obstinate readers who just can't believe the preceding analysis. If you fit into one of these categories and you find yourself in receipt of this pamphlet from one of your workers, you are demanded to rebut it within 10 days. Pursuant to Federal Rule of Civil Procedure 8(d), failure to deny within 10 days constitutes an admission to each question. This admission may form the basis for future litigation, should that be necessary in order to protect the rights of the person against whom you are attempting to unlawfully withhold. If you get other than an "Admit" answer, we would certainly like to see the proof of why from enacted law. Please send it to us!

---

1. Admit that when Supreme Court Justices, Judges of the Courts of Appeals, and Presidents of the United States are unable to agree on what a law says, that law is ambiguous.

- Click here to see Kolender v. Lawson, 461 U.S. 352, 103 S.Ct. 1855 (1983)
  http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Evidence/Q09.001.htm

YOUR ANSWER (circle one): Admit/Deny

2. Admit that an ambiguous meaning for a word violates the requirement for due process of law by preventing a person of average intelligence from being able to clearly understand what the law requires and does not require of him, thus making it impossible at worst or very difficult at best to know if he is following the law.

YOUR ANSWER (circle one): Admit/Deny

3. Admit that Black's Law Dictionary, Sixth Edition, page 500, under the definition of "due process of law" states the following:

> *"The concept of "due process of law" as it is embodied in Fifth Amendment demands that a law shall not be unreasonable, arbitrary, or capricious and that the means selected shall have a reasonable and substantial relation to the object being sought."*
> *[Black's Law Dictionary, Sixth Edition, page 500]*

- Click here for evidence
  http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Evidence/Q09.013.pdf

YOUR ANSWER (circle one): Admit/Deny

4. Admit that when a law is ambiguous, it is unconstitutional and cannot be enforced under the "void for vagueness doctrine" because it violates due process protections guaranteed by the Fifth and Sixth Amendments as described by the Supreme Court in the following decisions:

> *Origin of the doctrine (see Lanzetta v. New Jersey, 306 U.S. 451)*

- Click here for Lanzetta v.New Jersey, 306 U.S. 451
  http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Evidence/Q09.002a.pdf
- *Development* of the doctrine (see *Screws v. United States*, 325 U.S. 91, *Williams v. United States*, 341 U.S. 97, and *Jordan v. De George*, 341 U.S. 223).
- Click here for Screws v. United States, 325 U.S. 91
  http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Evidence/Q09.002b.pdf
- Click here for Williams v. United States, 341 U.S. 97
  http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Evidence/Q09.002c.pdf
- Click here for Jordan v. De George, 341 U.S. 223
  http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Evidence/Q09.002d.pdf

YOUR ANSWER (circle one): Admit/Deny

5. Admit that the "void for vagueness doctrine" of the Supreme Court was described in *U.S. v. DeCadena* as follows:

> *"**The essential purpose** of the "void for vagueness doctrine" with respect to interpretation of a criminal statute, **is to warn individuals of the criminal consequences of their conduct**. ... Criminal statutes which fail to give due notice that an act has been made criminal before it is done are unconstitutional deprivations of due process of law."*
> *[U.S. v. De Cadena, 105 F.Supp. 202, 204 (1952), emphasis added]*

- Click here for U.S. v. De Cadena, *105 F.Supp. 202, 204 (1952)*
  http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Evidence/Q09.003.pdf

YOUR ANSWER (circle one): Admit/Deny

6. Admit that the word "includes" is defined in 26 U.S.C. §7701(c) as follows:

> TITLE 26 > Subtitle F > CHAPTER 79 > Sec. 7701.
> *Sec. 7701. - Definitions*
>
> (c) Includes and including
>
> *The terms "includes" and "including" when used in a definition contained in this title shall not be deemed to exclude other things otherwise within the meaning of the term defined.*

- Click here for 26 U.S.C. §7701
  http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Evidence/Q09.004.pdf

YOUR ANSWER (circle one): Admit/Deny

7. Admit that the word "includes" is defined by the Treasury in the Federal Register as follows:

> *"(1) To comprise, comprehend, or embrace…(2) To enclose within; contain; confine…**But granting that the word 'including' is a term of enlargement, it is clear that it only performs that office by introducing the specific elements constituting the enlargement. It thus, and thus only, enlarges the otherwise more limited, preceding general language**…The word 'including' is obviously used in the sense of its synonyms, comprising; comprehending; embracing."*
> ***[Treasury Decision 3980**, Vol. 29, January-December, 1927, pgs. 64 and 65, Definition of "includes"]*

- Click here for Treasury Decision 3980
  http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Evidence/Q09.005.pdf

YOUR ANSWER (circle one): Admit/Deny

8. Admit that the definition of the word "includes" found in Black's Law Dictionary, Sixth Edition, page 763 is as follows:

> *"**Include**. (Lat. Inclaudere, to shut in. keep within.) To confine within, hold as an inclosure. Take in, attain, shut up, contain, inclose, comprise, comprehend, embrace, involve. Term may, according to context, express an enlargement and have the meaning of and or in addition to, or merely specify a particular thing already included within general words theretofore used. "Including" within statute is interpreted as a word of enlargement or of illustrative application as well as a word of limitation. Premier Products Co. v. Cameron, 240 Or. 123, 400 P.2d 227, 228."*
> *[Black's Law Dictionary, Sixth Edition, page 763]*

- Click here for evidence
  http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Evidence/Q09.006.pdf

YOUR ANSWER (circle one): Admit/Deny

9. Admit that the ordinary or common definition of a word appearing within a revenue statute may only be implied when there is no governing statutory definition that might supersede it.

YOUR ANSWER (circle one): Admit/Deny

10. Admit that when a statutory definition of a word is provided, that definition *supersedes* and *replaces*, and *enlarges*, the common or ordinary meaning of the word.

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

YOUR ANSWER (circle one): Admit/Deny

11. Admit that the things or classes of things described in a statutory definition *exclude* all things not specifically identified somewhere within the statute or other related sections of the Title:

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

*"As a rule, **`a definition which declares what a term "means" . . . excludes any meaning that is not stated'"***
[Colautti v. Franklin, 439 U.S. 379 (1979), n. 10]

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

YOUR ANSWER (circle one): Admit/Deny

12. Admit that statutory presumptions which prejudice Constitutionally protected rights are unconstitutional.

***"This court has held more than once that a statute creating a presumption which operates to deny a fair opportunity to rebut it violates the due process clause of the Fourteenth Amendment.** 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, 49 S. Ct. 215.*

'It is apparent,' this court said in the Bailey Case (219 U.S. 239 , 31 S. Ct. 145, 151) 'that a constitutional prohibition cannot be transgressed indirectly by the creation of a statutory presumption any more than it can be violated by direct enactment. The power to create presumptions is not a means of escape from constitutional restrictions.'
[Heiner v. Donnan, 285 U.S. 312 (1932)]

YOUR ANSWER (circle one): Admit/Deny

13. Admit that vague laws or statutes which do not AS A WHOLE define *all* that is included have the tendency to compel presumption and to "politicize" the courts by forcing judges and juries to become policymakers instead of factfinders and law enforcers.

*"It is a basic principle of due process that an enactment [435 U.S. 982 , 986] is void for vagueness if its prohibitions are not clearly defined. Vague laws offend several important values. First, because we assume that man is free to steer between lawful and unlawful conduct, we insist that laws give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly. Vague laws may trap the innocent by not providing fair warning. Second, if arbitrary and discriminatory enforcement is to be prevented, laws must provide explicit standards for those who apply them. **A vague law impermissibly delegates basic policy matters to policemen, judges, and juries for resolution on an ad hoc and subjective basis, with the attendant dangers of arbitrary and discriminatory application.**"*
[Grayned v. City of Rockford, 408 U.S. 104, 108 (1972)]

YOUR ANSWER (circle one): Admit/Deny

14. Admit that the Constitution creates a "society of law and not men":

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

YOUR ANSWER (circle one): Admit/Deny

15. Admit that when a judge or jury add to the definition of a word that which does not appear somewhere in the statutes, we end up with a "society of men and not law", which is based on the play of "arbitrary power" which the U.S. Supreme Court describes as "the essence of slavery itself":

*"**When we consider the nature and the theory of our institutions of government, the principles on which they are supposed to rest, and review the history of their development, we are constrained to conclude that they do not mean to leave room for the play and action of purely personal and arbitrary power. Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts. And the law is the definition and limitation of power**. It is,*

indeed, quite true that there must always be lodged somewhere, and in some person or body, the authority of final decision; and in many cases of mere administration, the responsibility is purely political, no appeal lying except to the ultimate tribunal of the public judgment, exercised either in the pressure of opinion, or by means of the suffrage. But the fundamental rights to life, liberty, and the pursuit of happiness, considered as individual possessions, are secured by those maxims of constitutional law which are the monuments showing the victorious progress of the race in securing to men the blessings of civilization under the reign of just and equal laws, so that, in the famous language of the Massachusetts bill of rights, the government of the commonwealth 'may be a government of laws and not of men.' For the very idea that one man may be compelled to hold his life, or the means of living, or any material right essential to the enjoyment of life, at the mere will of another, seems to be intolerable in any country where freedom prevails, as being the essence of slavery itself."
[Yick Wo v. Hopkins, 118 U.S. 356 (1886)]

YOUR ANSWER (circle one): Admit/Deny

16. Admit that the Thirteenth Amendment outlaws slavery and involuntary servitude of every sort.

YOUR ANSWER (circle one): Admit/Deny

17. Admit that the following definitions found within the Internal Revenue Code rely upon the meaning of the word "includes" as defined in 26 U.S.C. §7701(c).

- "State" found in 26 U.S.C. §7701(a)(10) and 4 U.S.C. §110. Click here for evidence http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Evidence/Q09.007a.pdf
- "United States" found in 26 U.S.C. §7701(a)(9). Click here for evidence http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Evidence/Q09.007a.pdf
- "employee" found in 26 U.S.C. §3401(c) and 26 CFR §31.3401(c)-1 Employee.
- Click here for 26 U.S.C. §3401(c) http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Evidence/Q09.007b.pdf
- Click here for 26 CFR. §31.3401(c)-1 http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Evidence/Q09.007c.pdf
- "person" found in 26 CFR 301.6671-1 (which governs who is liable for penalties under Internal Revenue Code). Click here for evidence (WTP Exhibit 421) http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Evidence/Q09.007d.pdf

YOUR ANSWER (circle one): Admit/Deny

18. Admit that if the meaning of "includes" as used in the definitions in the previous question is "and" or "in addition to" and the statutes AS A WHOLE do not define ***everything*** that is added, then these statutes cannot define any of the words described, based on the definition of the word "definition" found in Black's Law Dictionary, Sixth Edition, page 423:

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

- Click here for evidence http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Evidence/Q09.008.pdf

YOUR ANSWER (circle one): Admit/Deny

19. Admit that the Internal Revenue Code, IN TOTAL defines and describes all things which are included in the definition of the words above and that nothing is included in the definitions above which is not explicitly mentioned.

> *That is to say,* ***the statute, read "as a whole,"*** *post at 998 [530 U.S. 943] (THOMAS, J., dissenting),* ***leads the reader to a definition.*** *That definition does not include the Attorney General's restriction -- "the child up to the head." Its words, "substantial portion," indicate the contrary.*
> *[Stenberg v. Carhart, 530 U.S. 914 (2000)]*

YOUR ANSWER (circle one): Admit/Deny

20. Admit that the phrase "read as a whole" in the previous section implies looking at all sections of a body of law to discern all things which might be added in order to discern everything that is included, but to assume nothing that is not explicitly mentioned.

YOUR ANSWER (circle one): Admit/Deny

21. Admit that the U.S. Government is one of finite, delegated, enumerated powers.

> *We start with first principles. The Constitution creates a Federal Government of enumerated powers. See U.S. Const., Art. I, 8. As James Madison wrote, "[t]he powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite." The Federalist No. 45, pp. 292-293 (C. Rossiter ed. 1961).* ***This constitutionally mandated division of authority "was adopted by the Framers to ensure protection of our fundamental liberties." Gregory v. Ashcroft, 501 U.S. 452, 458 (1991) (internal quotation marks omitted). "Just as the separation and independence of the coordinate branches of the Federal Government serves to prevent the accumulation of excessive power in any one branch, a healthy balance of power between the States and the Federal Government will reduce the risk of tyranny and abuse from either front.*** *" Ibid.*
> *[U.S. v. Lopez, 514* U.S. 549 (1995)]

YOUR ANSWER (circle one): Admit/Deny

22. Admit that it is impossible to establish a government of finite, delegated, enumerated powers whose authority is not completely, unambiguously, and fully described in written law that is not open to subjective or arbitrary interpretation or presumption of any kind.

YOUR ANSWER (circle one): Admit/Deny

23. Admit that the definition of "includes" provided in 26 U.S.C. §7701(c) when used in its context of "in addition to" would create a statutory presumption if the Internal Revenue Code IN TOTAL or AS A WHOLE, did not define everything that is included in definitions that rely upon that word.

YOUR ANSWER (circle one): Admit/Deny

24. Admit that Congress does not have the authority under the Constitution to delegate its basic and sole function of writing law or defining the terms in the law to a judge or jury, because the Separation of Powers Doctrine does not allow it to delegate *any* of its powers and this doctrine would be unlawfully violated by doing so.

> *"To the contrary,* ***the Constitution divides authority between federal and state governments for the protection of individuals. State sovereignty is not just an end in itself: "Rather, federalism secures to citizens the liberties that derive from the diffusion of sovereign power." Coleman v. Thompson, 501 U.S. 722, 759 (1991)*** *(BLACKMUN, J., dissenting). "Just as the separation and independence of the coordinate branches of the Federal Government serve to prevent the accumulation of excessive power in any one branch, a healthy balance of power between the States and the Federal Government will reduce the risk of tyranny and abuse from either front." Gregory v. [505 U.S. 144, 182] Ashcroft, 501 U.S., at 458 . See The Federalist No. 51, p. 323. (C. Rossiter ed. 1961).*
>
> ***Where Congress exceeds its authority relative to the States, therefore, the departure from the constitutional plan cannot be ratified by the "consent" of state officials. An analogy to the separation of powers among the branches of the Federal Government clarifies this point. The Constitution's division of power among the three branches is violated where one branch invades the territory of another, whether or not the encroached-upon branch approves the encroachment.*** *In Buckley v. Valeo, 424 U.S. 1, 118 -137 (1976), for instance, the Court held that Congress had infringed the President's appointment power, despite the fact that the President himself had manifested his consent to the statute that caused the infringement by signing it into law. See National League of Cities v. Usery, 426 U.S., at 842 , n. 12. In INS v. Chadha, 462 U.S. 919, 944 -959 (1983), we held that the legislative veto violated the constitutional requirement that legislation be presented to the President, despite Presidents' approval of hundreds of statutes containing a legislative veto provision. See id., at 944-945. The constitutional authority of Congress cannot be expanded by the "consent" of the governmental unit whose domain is thereby narrowed, whether that unit is the Executive Branch or the States.*
>
> ***State officials thus cannot consent to the enlargement of the powers of Congress beyond those enumerated in the Constitution. Indeed, the facts of this case raise the possibility that powerful incentives might lead both federal and state officials to view departures from the federal structure to be in their personal interests.***
> *[New York v. United States, 505 U.S. 144 (1992)]*

YOUR ANSWER (circle one): Admit/Deny

25. Admit that no judge has the authority to enlarge or expand a definition to include things not explicitly stated in the statute itself.

YOUR ANSWER (circle one): Admit/Deny

26. Admit that a judge who extends the meaning of a term beyond that clearly stated in the statute is effectively "legislating from the bench" and exceeding his or her Constitutionally delegated authority.

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

27. Admit that when the word "include" is used within a statutory definition in its context of meaning "in addition to", the other things that it ***adds*** to must also be specified in another section of the statutes as well or the statute is void for vagueness.

YOUR ANSWER (circle one): Admit/Deny

28. Admit that when the interpretation of a statute or regulation is unclear or ambiguous, then by the rules of statutory construction, the doubt must be resolved "most strongly against the government and in favor of the citizen" (not "taxpayer", but "citizen") as indicated in the cite from the Supreme Court below:

> *"In the interpretation of* ***statutes levying taxes****, it is the established rule* ***not to*** *extend their provisions by implication beyond the clear import of the language used, or to enlarge their operations so as to embrace matters not specifically pointed out. In case of doubt they are construed most strongly against the government and in favor of the citizen."*
> *[Gould v. Gould, 245 U.S. 151 (1917)]*

YOUR ANSWER (circle one): Admit/Deny

Affirmation:

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

Name (print):_____

Signature:_____

Date:_____

Witness name (print):_____

Witness Signature:_____

Witness Date:_____