

**FEDERAL AND STATE TAX WITHHOLDING OPTIONS  
FOR PRIVATE EMPLOYERS**

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**1. We don't pay "taxes" to the federal government, we pay "protection money" and subsidize socialism**

Below is a definition of the word "taxation" by the U.S. Supreme Court that is very enlightening. It succinctly reveals the proper meaning and function of the word "tax" from a legal perspective:

*"The power to tax is, therefore, the strongest, the most pervading of all powers of government, reaching directly or indirectly to all classes of the people. It was said by Chief Justice Marshall, in the case of McCulloch v. Md., 4 Wheat. 431, that the power to tax is the power to destroy. A striking instance of the truth of the proposition is seen in the fact that the existing tax of ten per cent, imposed by the United States on the circulation of all other banks than the National Banks, drove out of existence every \*state bank of circulation within a year or two after its passage. This power can be readily employed against one class of individuals and in favor of another, so as to ruin the one class and give unlimited wealth and prosperity to the other, if there is no implied limitation of the uses for which the power may be exercised.*

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

**Nor is it taxation. 'A tax,' says Webster's Dictionary, 'is a rate or sum of money assessed on the person or property of a citizen by government for the use of the nation or State.' 'Taxes are burdens or charges imposed by the Legislature upon persons or property to raise money for public purposes.' Cooley, Const. Lim., 479.**

*Coulter, J., in Northern Liberties v. St. John's Church, 13 Pa. St., 104 says, very forcibly, 'I think the common mind has everywhere taken in the understanding that **taxes are a public imposition, levied by authority of the government for the purposes of carrying on the government in all its machinery and operations—that they are imposed for a public purpose.**' See, also Pray v. Northern Liberties, 31 Pa.St., 69; Matter of Mayor of N.Y., 11 Johns., 77; Camden v. Allen, 2 Dutch., 398; Sharpless v. Mayor, supra; Hanson v. Vernon, 27 Ia., 47; Whiting v. Fond du Lac, supra."*

[Loan Association v. Topeka, 20 Wall. 655 (1874)]

Here's another saying by the U.S. Supreme Court along the same lines:

*"A tax, in the general understanding of the term and as used in the constitution, signifies an exaction for the support of the government. The word has never thought to connote the expropriation of money from one group for the benefit of another."*

[U.S. Supreme Court in United States v. William M. Butler, 297 U.S. 1 (1936)]

Black's Law Dictionary also defines the word "tax" as follows:

**"Tax: A charge by the government on the income of an individual, corporation, or trust, as well as the value of an estate or gift. The objective in assessing the tax is to generate revenue to be used for the needs of the public.**

*A pecuniary [relating to money] burden laid upon individuals or property to support the government, and is a payment exacted by legislative authority. In re Mytinger, D.C.Tex. 31 F.Supp. 977,978,979. **Essential characteristics of a tax are that it is NOT A VOLUNTARY PAYMENT OR DONATION, BUT AN ENFORCED CONTRIBUTION, EXACTED PURSUANT TO LEGISLATIVE AUTHORITY.** Michigan Employment Sec. Commission v. Patt, 4 Mich.App. 228, 144 N.W.2d 663, 665. ..."*

[Black's Law Dictionary, 6<sup>th</sup> Edition, page 1457]

So in order to be legitimately called a "tax" or "taxation", the money we pay to the government must fit all of the following criteria:

1. The money must be used ONLY for the support of government.
2. The subject of the tax must be "liable", and responsible to pay for the support of government under the force of law.
3. The money must go toward a "public purpose" rather than a "private purpose".

4. The monies paid cannot be described as wealth transfer between two people or classes of people within society
5. The monies paid cannot aid one group of private individuals in society at the expense of another group, because this violates the concept of equal protection of law for all citizens found in section 1 of the Fourteenth Amendment

If the monies demanded by government do not fit all of the above requirements, then they are being used for a “private” purpose and cannot be called “taxes” or “taxation”, according to the Supreme Court. Actions by the government to enforce the payment of any monies that do not meet all the above requirements can therefore only be described as:

- Theft and robbery by the government in the guise of “taxation”
- Government by decree rather than by law
- Extortion under the color of law in violation 18 U.S.C. §872.
- Tyranny
- Socialism
- Mob rule and a tyranny by the “have-nots” against the “haves”
- [18 U.S.C. §241](#): Conspiracy against rights. The IRS shares tax return information with states of the union, so that both of them can conspire to deprive you of your property.
- [18 U.S.C. §242](#): Deprivation of rights under the color of law. The Fifth Amendment says that people in states of the Union cannot be deprived of their property without due process of law or a court hearing. Yet, the IRS tries to make it appear like they have the authority to just STEAL these people’s property for a fabricated tax debt that they aren’t even legally liable for.
- [18 U.S.C. §247](#): Damage to religious property; obstruction of persons in the free exercise of religious beliefs
- [18 U.S.C. §872](#): Extortion by officers or employees of the United States.
- [18 U.S.C. §876](#): Mailing threatening communications. This includes all the threatening notices regarding levies, liens, and idiotic IRS letters that refuse to justify why government thinks we are “liable”.
- [18 U.S.C. §880](#): Receiving the proceeds of extortion. Any money collected from Americans through illegal enforcement actions and for which the contributors are not "liable" under the law is extorted money, and the IRS is in receipt of the proceeds of illegal extortion.
- [18 U.S.C. §1581](#): Peonage, obstructing enforcement. IRS is obstructing the proper enforcement of the tax laws, which require that they respect those who choose NOT to volunteer to participate in the federal donation program identified under subtitle A of the I.R.C.
- [18 U.S.C. §1583](#): Enticement into slavery. IRS tries to enlist “nontaxpayers” to rejoin the ranks of other peons who pay taxes they aren’t demonstrably liable for, which amount to slavery.
- [18 U.S.C. §1589](#): Forced labor. Being forced to expend one’s personal time responding to frivolous IRS notices and pay taxes on my labor that I am not liable for.

In order to prove that what we pay the IRS under Subtitle A of the Internal Revenue Code isn’t a “tax” in the legal sense, all we have to show is that any part of the income tax revenues are spent for social welfare or wealth transfer payments. At that point, the monies are being used for “wealth transfer” and the government becomes a thief and a Robinhood, because it is using public money for private purposes. It is committing robbery disguised as taxation if it takes public funds (also called the “General fund”) and puts them into the pocket of private individuals who did not earn them with their labor or compensated services. Understanding these facts helps explain some of the following interesting observations:

1. Social Security is called O.A.S.D.I., or Old Age Survivor’s Disability Insurance. It isn’t a “tax”, it is “insurance”, which is why it doesn’t appear anywhere under Title 26, Subtitle A “Income Taxes”. Instead, it appears under [42 U.S.C. Chapter 7](#) entitled “Social Security”. All insurance must be voluntary so it can’t be called a tax.
2. Medicare also isn’t a “tax” because it too goes to private individuals. This is a form of insurance and is found in [42 U.S.C. Chapter 7, Subchapter XVIII](#) rather than in the Internal Revenue Code. Once again, participation is voluntary and cannot be compelled because the funds are used for private purposes.

The best place to go to find out how your tax dollars are spent is the Treasury Financial Management Service (FMS) Website. We compiled a detailed breakdown of all federal receipts and expenditures earlier in section 1.11 using this website, which is located at:

<http://www.fms.treas.gov/fr/index.html>

If you download the latest financial report of the U.S. Government for 2002 and examine page 69, there is an analysis of “Trust Fund Financing”. The trust funds are the individual social programs maintained by the U.S. government, including Social

Security (called Old Age Survivors Disability Insurance, or OASDI), Medicare, FICA unemployment, and Railroad Retirement. This analysis shows that there are certain socialist programs which are running a deficit, which means that they must be financed from the General Fund. The General Fund means the individual income tax, as the report explains. Below is a summary of the various wealth redistribution programs that are funded from general revenues:

- Unemployment (FICA): 12 Billion dollar deficit for 2003. This is based on expected economic conditions. See page 87 of the 2002 report.
- Medicare Part B: Expenditures come entirely from the general fund. See page 82 of the report.

Another good place to look is on expenditures for welfare. You have to dig for these but basically, they are paid by the Department of Health and Human Services (DHHS) under a program called Temporary Assistance for Needy Families (TANF). The statistics on spending for this program may be found on the web at:

<http://www.acf.dhhs.gov/programs/ofs/data/index.html>

The total federal expenditures in 2002 for the TANF program was approximately 23 Billion dollars, and all of the money to pay for this welfare program came from the funding for DHHS, which in turn came from the General Fund. The General Fund, in turn, is paid for mostly out of personal income taxes, which means that your income tax pays for socialism and charity.

In conclusion, a significant amount of money contributed under Subtitles A and C of the Internal Revenue Code DOES go to support wealth transfer, which means that the income tax cannot be classified as a “tax” according to the Supreme Court. The Treasury Financial Management Service (FMS) report above also reveals that there are massive future shortfalls predicted for Medicare and Social Security, which means that an increasing amount of individual income tax revenues will have to subsidize these programs over the next several years in order to ensure their viability. The problem is therefore predicted to get MUCH worse, not better in the future if current trends and rates of expenditures continue.

Because what we pay cannot be properly classified as “taxes” based on the definition of “taxes” by the Supreme Court, then the only thing we can honestly call it is “protection money”. We are paying the government for the “privilege” of being “left alone” by the IRS, and to not be illegally harassed by them. Under these circumstances:

1. We are violating the written federal and state law.
2. The “de facto”, unlawful band of thieves in control of our government has become our new “god”, because it is the only entity within society that can “steal” from people without being punished by the law. The ten commandments say “though shalt not steal”. They don’t say “Though shalt not steal, unless you work for the federal government. A “god” is simply anything or anyone that has superior powers above and beyond those of ordinary men. “Religion” is defined as the worship of such “superior beings”.

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

*Second, it must be recognized that in any culture the source of law is the god of that society. If law has its source in man's reason, then reason is the god of that society. If the source is an oligarchy, or in a court, senate, or ruler, then that source is the god of that system.”*

*[Institutes of Biblical Law, Rousas John Rushdoony, 1973, The Craig Press, Library of Congress Catalog Card Number 72-79485, pp. 4-5, Emphasis added]*

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

3. We are subsidizing thievery and extortion and contributing to the tyranny and delinquency of our public “servants”.
4. We are subsidizing “socialism”. Socialism is simply government ownership and/or control of everything, including people’s labor in this case.

5. We have instituted slavery and involuntary servitude in violation of the Thirteenth Amendment.
6. Calling monies that we pay “taxes” amounts to constructive fraud.
7. There will *never* be an end to how much the politicians can or will take out of our paycheck. We already surrendered if we cooperate with their extortion in any way. We’re already “whores”. We’re just negotiating price. The eventual result will be a complete disintegration of the society, because it punishes work and bribes voters with loot that was stolen from the entrepreneurs and producers of society. Here is what the Supreme Court said on this subject about the very first income tax law when it declared the law unconstitutional:

*“Here I close my opinion. I could not say less in view of questions of such gravity that they go down to the **very foundations of the government**. If the provisions of the Constitution [against direct taxes on people of the kind at issue here] can be set aside by an act of Congress [or by the IRS], **where is the course of usurpation to end?**”*

*The present **assault upon capital** is but the beginning. **It will be but the stepping stone to others larger and more sweeping**, until our political contest will become war of the poor against the rich; a war of growing intensity and bitterness.”*

*Pollock v. Farmers’ Loan & Trust Co., 157 U.S. 429, 158 U.S. 601 (1895)*

By subsidizing and practicing socialism, we are committing treason against the Constitution and betraying our country. Here is what one enlightened scholar said on this subject.

*“A democracy cannot exist as a permanent form of government. It can only exist until the voters discover that they can vote themselves money from the Public Treasury. From that moment on, the majority always votes for the candidate promising the most benefits from the Public Treasury with the result that a democracy always collapses over loose fiscal policy always followed by dictatorship.” Alexander Fraser Tyler, “The Decline and Fall of the Athenian Republic”*

## **2. Federal tax “Scheme”:**

Federal employment withholding laws under Subtitle C of the Internal Revenue Code only apply to elected or appointed officers of the United States government, as revealed under [26 U.S.C. §6331\(a\)](#), [26 U.S.C. §3401\(c\)](#), and [26 CFR §31.3401\(c\)-1](#) and only in directly in connection with their federal employment. They do not apply to private employers, who do not meet the definition of “employer” found in [26 CFR §31.3121\(d\)-2](#) entitled “Who are employers”. An “employer”, under federal law, is simply anyone who has “employees”, and “employees” work for the federal government as elected or appointed officers of that government.

Similarly, the provisions of the Internal Revenue Code, Subtitles A (income tax), and Subtitle C (employment tax) only apply within a state of the union on federal land ceded to the federal government as required under [40 U.S.C. §255](#). This is a consequence of the separation of powers doctrine documented by the U.S. Supreme Court in *U.S. v. Lopez*, [514 U.S. 549](#) (1995). Hence, private employers in private industry *do not* come under the purview of federal employment withholding law in Subtitle C of the Internal Revenue Code except as they *volunteer* to. There is no federal law requiring them to participate in withholding of payroll taxes, Social Security, FICA, OASDI, Medicare, or even state tax withholding.

## **3. State tax “Scheme”:**

All state income tax withholding is dependent on federal withholding. In order to have a state tax “liability” under [Subtitle A of the Internal Revenue Code](#), a person must first have a federal “liability”. State tax withholding is authorized under the [Buck Act, 4 U.S.C. §105-111](#).

Withholding of state income taxes is implemented under the authority of the Buck Act within [5 U.S.C. 5517](#) entitled “Withholding State Income Taxes”. The “State” mentioned in [5 U.S.C. 5517](#) is a federal “State”, which is defined in [4 U.S.C. §110\(d\)](#) to mean a territory or possession of the United States, all of which are listed under Title 48 of the U.S. Code. Note that states of the Union do NOT appear in Title 48 of the U.S. code as “territories and possessions” of the United States. Therefore, our scheme of state income taxation is completely unconstitutional and breaks down the separation of powers between the state and federal governments. In short, it amounts to a conspiracy against the property rights to enslave and oppress people in states of the Union by making them into involuntary federal and state serfs. This violates the [Thirteenth Amendment](#) prohibition against involuntary servitude and federal law found in [42 U.S.C. §1994](#) and [18 U.S.C. §1581](#).

#### **4. Who are “Employers” under the Internal Revenue Code?**

IRS Publication 15, Circular E, *Employer’s Tax Guide* indicates on page 6 what the definition of “employer” is. It only lists federal agencies and “States” as employers. Remember that “States” in the Internal Revenue Code means territories and possessions of the United States as defined in 26 U.S.C. §7701(a)(10) and 4 U.S.C. §1101(d). Private employers do not appear anywhere in the booklet. One of our readers did an FOIA request asking the IRS for the forms and publications that private employers should use. Guess what the response said:

*“We have no documents responsive to your request.”*

Do you get it? The federal income tax and employment withholding taxes *only* apply to the federal government or territories of the United States, which are classified as “States” in federal statutes and “acts of Congress”. Private employers aren’t covered by the Internal Revenue Code, and the only reason that any of them think otherwise is because they never bothered to read the Internal Revenue Code or Publication 15, Circular E for themselves and simply were reacting to authority that the IRS in fact did not have.

The term “withholding agent” is defined as follows in the Internal Revenue Code:

The term “withholding agent” is defined as follows in the Internal Revenue Code:

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

[Sec. 7701](#). - Definitions

(a)(16) Withholding agent

*The term “withholding agent” means any person required to deduct and withhold any tax under the provisions of section 1441, 1442, 1443, or 1461.*

Now if you look up each of the above four statutes mentioned in the above definition, here is what you end up with:

**Table 1: Statutes authorizing “withholding agents”**

<b>26 U.S.C./ I.R.C. section</b>	<b>Title of section</b>	<b>Object of tax</b>
<a href="#">1441</a>	Withholding of tax on nonresident aliens	Nonresident aliens
<a href="#">1442</a>	Withholding of tax on foreign corporations	Foreign corporations
<a href="#">1443</a>	Foreign tax-exempt organizations	Tax-exempt organizations
<a href="#">1461</a>	Liability for withheld tax	Nonresident aliens and foreign corporations (see title of Chapter 3 of Subtitle A).

So the question is: “Which one of the above are you as a person working for a private, non-federal employer?”. The answer is **NONE OF THE ABOVE!** So the question then becomes: “By what lawful authority does my *private* employer deduct and withhold taxes on my wages and is he even defined as an ‘employer’ in the Internal Revenue Code?” We’ll now answer that question.

The Internal Revenue Code provisions under Subtitle C, Employment Taxes, is based on the Public Salary Tax Act of 1939. That act only lawfully taxed “Public Salaries”, which is to say salaries of elected or appointed officers of the United States Government *only*. Below is the definition of “employee” right from the code:

[26 U.S.C. Sec. 3401\(c\) Employee](#)

*For purposes of this chapter, the term “employee” includes [is limited to] an officer, employee, or elected official of the United States, a State, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term “employee” also includes an officer of a corporation.*

And below is the regulation that interprets the above section for clarification:

*26 CFR § 31.3401(c) Employee:*

*"...the term [employee] includes[is limited to] officers and employees, whether elected or appointed, of the United States, a [federal] State, Territory, Puerto Rico or any political subdivision, thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term 'employee' also includes an officer of a corporation."*

And the only definition of “employee” that we are aware of that has ever been published in the Federal Register reads as follows:

**8 Federal Register, Tuesday, September 7, 1943, §404.104, pg. 12267**

*Employee: “The term employee specifically includes officers and employees whether elected or appointed, of the United States, a state, territory, or political subdivision thereof or the District of Columbia or any agency or instrumentality of any one or more of the foregoing.”*

Any way you slice it, Subtitle A income taxes are indirect excise taxes or taxes on elected or appointed officers of the federal United States corporation who are in receipt of federal privileges. Even the U.S. Congress agrees with this conclusion in their “*Frequently Asked Questions Concerning the Federal Income Tax*”, Congressional Research Service Report 97-59A.

When private employers apply for an Employer Identification Number (EIN), they in effect are volunteering to act as a federal employer for the purposes of the Internal Revenue Code, and the government will treat them that way, even if the law doesn’t allow the IRS to do this.

**5. What is our the proper federal tax status of private, nonfederal employees?**

People who are born in states of the Union are “nationals but not citizens of the United States”, which is defined in [8 U.S.C. §1408](#)(2) and [8 U.S.C. §1452](#)(b). That simply means that they owe allegiance to the federal government but do not come under the jurisdiction of federal law because they do not reside on federal property and were not born there. For tax purposes, these people are “nonresident aliens” are defined in [26 U.S.C. §7701](#)(b)(1)(B).

[26 U.S.C. §7701\(b\)\(1\)\(B\) Nonresident alien](#)

*An individual is a nonresident alien if such individual is neither a citizen of the United States nor a resident of the [federal] United States (within the meaning of subparagraph (A)).*

A “nonresident alien” is *not* responsible for income tax withholding under [Subtitle C of the Internal Revenue Code](#) or for federal income taxes under [Subtitle A of the Internal Revenue Code](#) as follows:

**Table 2: Attributes of Nonresident aliens**

<i>Characteristic</i>	<i>Authority</i>
Do not need an SSN or Taxpayer Identification Number (TIN)	<a href="#">26 CFR § 301.6109-1</a> (g). This section does not say they are required to have numbers. Older versions of this regulation explicitly said they did not need a number.
File for W-8 to stop employment withholding	<i>W-8 form, which says: “Use Form W-8 or a substitute form containing a substantially similar statement to the payer..that you are a nonresident alien individual, foreign entity, or exempt foreign person not subject to certain U.S. information return reporting or backup withholding rules.”</i>
Are exempt from self-employment taxes	<a href="#">26 U.S.C. §1402</a> (b)(1) <a href="#">26 CFR § 1.1402</a> (b)-1(a)
Must file an affidavit of citizenship status with their employer	8 Fed. Register Pg. 12266 §404.102(g)
If they file federal returns, do not do so in the local IRS Service Center, but instead send them to the International Branch in Philadelphia, PA	<a href="#">26 U.S.C. §6091</a> (b)(1)(B)(iv)
Earnings from within the 50 states of the Union of natural persons are not subject to withholding and need not file returns	<a href="#">26 CFR § 1.1441-3</a> (a). “Income” as defined in this section means “corporate profit”. See: <a href="http://famguardian.org/TaxFreedom/CitesByTopic/income.htm">http://famguardian.org/TaxFreedom/CitesByTopic/income.htm</a>

**6. What about the IRS Publications?**

When people read this pamphlet, they frequently ask:

*“What about the IRS Publications? What you are saying conflicts with what they say and what the IRS tells me on the telephone. Who should I listen to?”*

The federal courts and the IRS’ own Internal Revenue Manual answer this question quite forcefully, and the answer is NOT THE IRS OR ITS PUBLICATIONS! This may sound hard to believe, but our corrupt federal courts refuse to hold the IRS accountable for any of the following:

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

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

**Table 3: Things IRS is NOT responsible or accountable for**

<i>Not responsible for:</i>	<i>Controlling Case(s)</i>
Following procedures in the <a href="#">Internal Revenue Manual (IRM)</a>	<a href="#">U.S. v. Will, 671 F.2d 963 (1982)</a>
Following procedural regulations found in <a href="#">26 CFR Part 601</a>	1. <a href="#">Einhorn v. Dewitt, 618 F.2d 347 (5th Cir. 06/04/1980)</a> 2. <a href="#">Luhring v. Glotzbach, 304 F.2d 560 (4th Cir. 05/28/1962)</a>
Oral agreements or statements	<a href="#">Boulez v. C.I.R., 258 U.S.App. D.C. 90, 810 F.2d 209 (1987)</a>

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

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

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

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

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

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

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

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

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

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

## **7. Legal Requirements Pertaining to Private Employers**

Private employers have no legal duty whatsoever to do anything within the Internal Revenue Code. We now know that. Even if they have an Employer Identification Number (EIN), they are still technically not part of the federal government under federal law, so they don't fit the description of being an "employer" under the Internal Revenue Code and the people who work for them are not "employees" under federal law either.

Obviously, the government has no lawful authority to interfere with the right to contract of private employees and employers, and doing so amounts to slavery, extortion under the color of law, and theft if there is no law authorizing it. Our government is an organized crime ring, because there is no law authorizing them to do what they do. Let's face it: The only reason private employers comply with the edicts of an out-of-control government and IRS is because:

1. The courts are corrupted and will side with the government.
2. The legal consequences of challenging the authority of the government could cause litigation and legal bills that most employers don't want to deal with.
3. Fear of what the IRS might do if they question authority.
4. Being too busy running the business to be bothered by yet one more annoyance and harassment from the IRS.

When a private employer is approached by one of their workers, and if that private, nonfederal employer "thinks" they are acting as a federal employer because they have Employer Identification Numbers (EINs), then the IRS will treat them as though they have an obligation to deduct and withhold, even if they don't. Under those provisions, they must do two things:

1. Collect an "identifying number", if appropriate, from the employee.
2. Accept the withholding form chosen by the employee.

3. Not make any changes to the withholding form of the “employee”. Doing that would be coercion and cause the form to no longer be “voluntary”. If the employer insists on changing the form, the employer is acting as an agent of illegal extortion on the part of the government.
4. Withhold the proper amount of revenues based on the withholding form submitted and send it to the federal government. These withholdings, technically.

Note that it is a federal crime to compel an employee to use or disclose a Social Security Number if federal law does not require it:

*TITLE 42 - THE PUBLIC HEALTH AND WELFARE  
CHAPTER 7 - SOCIAL SECURITY  
SUBCHAPTER II - FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS*

[Sec. 408. Penalties](#)

*(a) In general  
Whoever -...*

*(8) discloses, uses, or compels the disclosure of the social security number of any person in violation of the laws of the United States; shall be guilty of a felony and upon conviction thereof shall be fined under title 18 or imprisoned for not more than five years, or both.*

Likewise, the requirement for identifying numbers appears in [26 U.S.C. §6109](#). The implementing regulations for that section say that the only number the IRS can demand is a “Taxpayer Identification Number”:

[26 CFR § 301.6109-1\(b\)](#)

*(b) Requirement to furnish one's own number--(1) U.S. persons. Every U.S. person who makes under this title a return, statement, or other document must furnish **its** own taxpayer identifying number as required by the forms and the accompanying instructions.*

Notice the word “its”. This should clue you into the fact that the tax code doesn’t apply to flesh and blood people, who are called “natural persons” in laws like that above. If they had meant to refer to such a natural person, the word “it’s” would have said “his” or “her”. Consequently, the only type of “person”, they can be referring to is a privileged corporation involved in foreign commerce.

According to [26 U.S.C. §7701\(a\)\(30\)](#), a “U.S. person” is either an alien or a federal “U.S. citizen”. Here is the definition:

[TITLE 26 > Subtitle F > CHAPTER 79 > Sec. 7701.](#)

[Sec. 7701. - Definitions](#)

*(a)(30) United States person  
The term “United States person” means -*

- (A) a [corporate] citizen or resident [alien] of the [federal] United States,*
- (B) a domestic partnership,*
- (C) a domestic corporation,*
- (D) any estate (other than a foreign estate, within the meaning of paragraph (31)), and*
- (E) any trust if -
  - (i) a court within the United States is able to exercise primary supervision over the administration of the trust, and*
  - (ii) one or more United States persons have the authority to control all substantial decisions of the trust.**

This means that if such the “person” is a “citizen” under [26 CFR § 1.1-1\(c\)](#) or under [8 U.S.C. §1401](#), they must have been born in the federal “United States\*\*/federal zone, which is limited only to the District of Columbia or U.S. territories. Don’t let the word “citizen” above fool you either, because corporations within law are “citizens” as well and they are “born” at the instant when they are officially “incorporated” by the Secretary of State of the jurisdiction where they are domiciled. Congress wants to deceive you into believing that the term “citizen” means a natural persons (people), but in the Internal Revenue Code subtitle A, this term ONLY refers to corporations because “income”, is defined by our Constitution and by the Supreme court to be limited only to monies earned by federal corporations in the conduct of foreign commerce! This is also consistent with the use of the word “it’s” as used above in [26 CFR § 301.6109-1\(b\)](#), where the only “U.S. persons” in the IRC who can have TINs are corporations. Here is some more proof of that to whet your appetite to read later sections:

19 C.J.S., Corporations §886 [Legal encyclopedia]

"A corporation is a citizen, resident, or inhabitant of the state or country by or under the laws of which it was created, and of that state or country only."

[19 Corpus Juris Secundum, Corporations, §886]

The other very interesting result of the above regulation at [26 CFR § 301.6109-1\(b\)](#) is the use of the word "Taxpayer Identification Number", which is called a "TIN" for short. This is a VERY important word, folks! Here is the meaning of that word from the Treasury regulations:

[26 CFR §301.6109-1\(d\)\(3\)](#)

(3) IRS individual taxpayer identification number -- (i) Definition. **The term IRS individual taxpayer identification number means a taxpayer identifying number issued to an alien individual by the Internal Revenue Service, upon application, for use in connection with filing requirements under this title. The term IRS individual taxpayer identification number does not refer to a social security number or an account number for use in employment for wages. For purposes of this section, the term alien individual means an individual who is not a citizen or national of the United States.**

So anyone who has or uses a TIN is an "alien", and a Social Security Number is NOT a Taxpayer Identification Number (TIN) according to the regulations. We learned earlier in [26 CFR § 301.6109-1\(b\)](#) that the only thing you are required to provide on a tax return is a "Taxpayer Identification Number" (TIN) and we learned above that a Social Security Number (SSN) is NOT a TIN. Further confirmation of these conclusions can be found by looking at the forms used to obtain "Taxpayer Identification Numbers". Form W-7 is used to get a TIN while a Social Security form SS-5 is used to obtain a Social Security Number: two totally different forms. **Consequently, you can't be and aren't required to provide your SSN on a tax return or on any federal tax withholding form!** Amazing, isn't it? This is another way of saying that you aren't the proper subject of Subtitle A of the Internal Revenue Code and aren't a "taxpayer" folks!

Even more interestingly, under [26 CFR § 301.6109-1\(g\)](#), having a social security number creates a "presumption" that you are a federal "U.S.\*\* citizen" under [8 U.S.C. §1401](#). Here is what the law says about the requirement to provide a social security number when furnishing returns:

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

Unless you refute this presumption of federal U.S.\*\* citizenship with proof, then the courts will treat you as a federal U.S.\*\* citizen. As a presumed federal "U.S.\*\* citizen" or a "U.S.\*\* person", you have NO Constitutional rights according to the U.S. Supreme Court in *Downes v. Bidwell*, 182 U.S. 244 (1901)! We must therefore rebut the false presumption that we are a "U.S. citizen" or a "U.S. person" whenever we correspond with the IRS and continually emphasize instead that we are a "national of the United States" and a "nonresident alien". The way to do this is by following the regulation above and requesting a change in the status of your Social Security Number with the IRS! We must also do this by submitting the proper withholding form, which in this case is the IRS form W-8, to our employer.

## **8. Withholding Options for Private Employers**

A person who does not work for the federal government cannot sign a W-4 form without committing perjury. The form says "employee" in the upper left corner, and the only definition of "employee" found in the Internal Revenue Code is that of an elected or appointed officer of the United States government, as we explained in section 1 above. Any private, nonfederal employer who compels their workers to sign such a form is enticing that person into federal slavery, in violation of [18 U.S.C. §1583](#) and the [Thirteenth Amendment](#).

For people who are born in states of the Union and who do not work for the federal government, the proper form to file with private employers is instead the IRS form W-8, which is called "*Certificate of Foreign Status*". IRS does not currently provide this form because they don't want people escaping our feudal tax system. However, you can get it from:

<http://famguardian.org/TaxFreedom/Forms/IRS/IRSFormW8.PDF>

When a person submits an IRS form W-8 to the payroll department of their private employer, they become a “nonresident alien” for income tax withholding purposes. “nonresident aliens” are defined in [26 U.S.C. §7701\(b\)\(1\)\(B\)](#). The new version of this form, the W-8BEN, creates false presumptions about withholding by forcing everyone to perjure themselves by claiming that they are “beneficial owners”. Here is what the description of the IRS Form 2-8BEN form says in the 2003 IRS Published Products Catalog:

**W-8BEN**

**Beneficial Owner’s Certificate of Foreign Status for U.S. Tax Withholding**

*Purpose of Form. Foren persons are subject to U.S. tax at 30% rate of income they receive from U.S. sources that consists of; interests, dividends, rents, royalties, premiums, annuities, compensation of services performed, substitute payments in an securities lending transactions or other fixed or determinable annual or periodical gains, profits, or income.*

*[IRS published products catalog, p. F-3]*

What the IRS doesn’t tell you is the definition of either “income” or “U.S. sources”. When you investigate the maning of these terms, you will find that a “U.S. source” is defined in [26 U.S.C. §861](#) and [26 CFR §1.861-8\(f\)](#) to mean only profits in connection with foreign trade by a Domestic International Sales Corporation (DISC) or a Foreign Sales Corporation (FSC) which is earned within the federal United States. You will also find that the Constitution forbids Congress from defining the word “income” according to the Supreme Court in *Eisner v. Macomber*, [252 U.S. 189](#) (1920), and that the only definition ever given was by the U.S. Supreme Court and that definition is “corporate profit”. See:

<http://famguardian.org/TaxFreedom/CitesByTopic/income.htm>

The IRS obviously doesn’t want to provide people with a legal way to escape subsidizing federal extortion and racketeering, so they had to pull these little tricks to fool the sheep.

However, even if an private employee who wants to use the W-8, if you can’t find the one on our website, then he/she can always submit an affidavit stating that they are the following under federal law:

1. A “nonresident alien”
2. A “foreign person” under federal law
3. Not a “beneficial owner”
4. Not subject to any federal or state withholding

Upon receipt of such an affidavit, private employers become liable if they withhold against the wishes of their employees.

The table below summarizes options available for those private employees and private, nonfederal employers who have a conscience and want to avoid risk, but at the same time respect the property rights of their employees and treat them with respect and dignity in a lawful manner. The options are listed in decreasing order of desirability for the private employee, where lower numbered items are most preferred. Anything other than option 1 is, at best, a compromise to a ruthless, lawless extortionary conqueror, the United States government.

**Table 4: Federal/State tax withholding options**

#	Filing status	Withholding form submitted	Result	Notes
1	Nonresident alien	Notarized affidavit of citizenship and tax withholding	No withholding	Formal, notarized letter.
1	Nonresident alien	W-8	No withholding	Older version of IRS W-8BEN form. This form is no longer available.
2	Nonresident alien	W-8BEN modified to remove presumptions	No withholding	Current IRS form, modified to remove false presumptions and prevent perjury.

#	<i>Filing status</i>	<i>Withholding form submitted</i>	<i>Result</i>	<i>Notes</i>
3	Nonresident alien	Unmodified W-8BEN	Withholding at 30%	Signing this form without modifications is perjury for the average American.
4	Federal “employee”	W-4 Exempt with attached affidavit	No withholding	“Exempt status” is not allowed unless one is an “employee”, and this status has very specific requirements under <a href="#">26 U.S.C. §7701(b)(5)</a> that most people do not meet. Therefore, this form would also amount to perjury.
5	Federal “employee”	W-4	Regular federal/state withholding	Signing this form is also perjury for the average American, because they are not “employees” under federal law.