The Children Are Free

An Excursus on the American Income Tax
The Greatest Financial Crime in World History

Part 1

By Drake Shelton, the Southern Israelite

4/14/2021

Mat. 17: 25…Jesus prevented him, saying, What thinkest thou, Simon? of whom do the kings of the earth take custom or tribute? of their own children, or of strangers? 26 Peter saith unto him, Of strangers. Jesus saith unto him, Then are the children free.

I would like to thank Dave Champion, the author of *Income Tax: Shattering the Myths* (Dave Champion, 2010, Second Printing: March, 2012). His decades of research and legal battles have laid the foundations for this work. What took him 25 years to learn took me a month and a half to learn so you can learn it in a couple hours. He dispelled over 20 years of Patriot garbage I have heard which was unconvincing and landed a lot of people in jail. (Deep State Dreyfus Affair intensifies)

I. Labor and the making of contracts is a right not a privilege taxable by the state.

i. Labor and the making of contracts is a right

- **U.S. SUPREME COURT** - Butchers' Union Co. v. Crescent City Co., 111 U.S. 746, 757 (1884),

  "It has been well said that

  "the property which every man has in his own labor, as it is the original foundation of all other property, so it is the **most sacred and inviolable**. The patrimony of the poor man lies in the strength and dexterity of his own hands, and to hinder his employing this strength and dexterity in what manner he thinks proper, without injury to his neighbor, is a plain violation of this most sacred property. It is a manifest encroachment upon the just liberty both of the workman and of those who might be disposed to employ him. As it hinders the one from working at what he thinks proper, so it hinders the others from employing whom they think

proper." Smith, Wealth of Nations, Bk. I, c. 10.

- **U.S. SUPREME COURT** - Coppage v. Kansas, 236 U.S. 1, 2 (1915),

"Included in the right of personal liberty and the right of private property, partaking of the nature of each is the right to make contracts for the acquisition of property, chief among which is that of personal employment by which labor and other services are exchanged for money or other forms of property."

- **U.S. SUPREME COURT** - Adair v. United States, 208 U.S. 161, 172 (1908),

"The first inquiry is whether the part of the tenth section of the act of 1898 upon which the first count of the indictment was based is repugnant to the Fifth Amendment of the Constitution declaring that no person shall be deprived of liberty or property without due process of law. In our opinion, that section, in the particular mentioned, is an invasion of the personal liberty, as well as of the right of property, guaranteed by that Amendment. Such liberty and right embraces **the right to make contracts for the purchase of the labor of others and equally the right to make contracts for the sale of one's own labor**; each right, however; being subject to the fundamental condition that no contract, whatever its subject matter, can be sustained which the law, upon reasonable grounds, forbids as inconsistent with the public interests or as hurtful to the public order or as detrimental to the common good."

- **U.S. SUPREME COURT** - Hale v. Henkel, 201 U.S. 43, 74 (1906),

"If, whenever an officer or employee of a corporation were summoned before a grand jury as a witness, he could refuse to produce the books and documents of such corporation upon the ground that they would incriminate the corporation itself, it would result in the failure of a large number of cases where the illegal combination was determinable only upon the examination of such papers. Conceding that the witness was an officer of the corporation under investigation, and that he was entitled to assert the rights of corporation with respect to the production of its books and papers, we are of the opinion **that there is a clear distinction in this particular between an individual and a corporation**, and that the latter has no right to refuse to submit its books and papers for an examination at the suit of the State. The individual may stand upon his constitutional rights as a citizen. He is entitled to carry on his private business in his own way. His power to contract is unlimited. **He owes no duty to the State or to his neighbors to divulge his business, or to open his doors to an investigation, so far as it may tend to criminate him. He owes no such duty to the State, since he receives nothing therefrom beyond the protection of his life and property**. His rights are such as existed by the law of the land long antecedent to the organization of the State, and can only be taken from him by due process of law, and in accordance with the Constitution. Among his rights are a refusal to incriminate himself and the

immunity of himself and his property from arrest or seizure except under a warrant of the law. **He owes nothing to the public so long as he does not trespass upon their rights**."

ii. The Income tax is an excise tax denoting the exercise of a privilege not a right.

To begin this vital portion of the discourse we must orient ourselves with the fundamentals of tax law:

U.S Constitution, Article 1:

> "Section 2, Representatives and direct Taxes **shall be apportioned** among the several States which may be included within this Union, according to their respective Numbers"
>
> Section 8 "The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;
>
> Section 9, "No Capitation, or other direct tax, [Capitation is a kind of direct tax - DS] shall be laid, unless in Proportion to the Census or enumeration herein before directed to be taken."

So there are two kinds of taxes: 1. Direct Tax(unavoidable), 2. Indirect tax- Duties/imposts and excises(avoidable, i.e. gas tax, toll road) - **Hylton v. United States**, 3 U.S. 171, 176 (1796)

A. Direct tax: Deals with land and slaves not native-born U.S. citizens.

Hylton v. United States, 3 U.S. 171, 176, 177 (1796),

> "The Constitution declares that a capitation tax is a direct tax, and both in theory and practice **a tax on land** is deemed to be a direct tax. In this way, the terms "direct taxes" and "capitation and other direct tax" are satisfied…**The provision was made in favor of the southern states. They possessed a large number of slaves**; they had extensive tracts of territory, thinly settled and not very productive. A majority of the states had but few slaves, and several of them a limited territory, well settled, and in a high state of cultivation. The southern states, if no provision had been introduced in the Constitution, would have been wholly at the mercy of the other states. Congress in such case might tax slaves at discretion or arbitrarily, and land in every part of the Union after the same rate or measure: so much a head in the first instance, and so much an acre in the second. **To guard them against imposition in these particulars was the reason of introducing the clause in the Constitution which directs that representatives and direct taxes shall be apportioned among the states according to their respective numbers**".

Here is the problem:

POLLOCK v. FARMERS' LOAN & TRUST CO. et al. HYDE v. CONTINENTAL TRUST CO. OF CITY OF NEW YORK et al. 158 U.S. 601 (1895), Sections 60-62,

> "Our conclusions may therefore be summed up as follows:
>
> First. We adhere to the opinion already announced,—that, taxes on **real estate** being indisputably direct taxes, taxes on the rents or income of real estate are equally direct taxes.
>
> Second. We are of opinion that taxes on personal property, **or on the income of personal property**, are likewise direct taxes."
>
> https://www.law.cornell.edu/supremecourt/text/158/601

Hylton v United States only allows direct taxes on land and slaves. Pollock directly asserts that a tax on the income of property(in this context not an income tax in the sense we use it today) is a direct tax. The conclusion is elementary: **if direct taxes only apply to land and slaves in American law then no income tax can be imposed upon free native born American citizens**(as long as they are not withholding agents or earning foreign sources income). The children are free!

As far reaching and foundational as the Hylton case is the Landmark case in this entire debate is **Brushaber v. Union Pacific R. Co**., 240 U.S. 1 (1916) which expounds upon the Hylton case.

At 14 we read,

> "Without stating the minor differences, it may be said with substantial accuracy that the divergent reasoning was this: on the one hand, that the tax was not in the class of direct taxes requiring apportionment, **because it was not levied directly on property because of its ownership, but rather on its use**, and was therefore **an excise, duty, or impost**, and on the other, that, in any event, the class of direct taxes included only taxes directly levied **on real estate** because of its ownership."

At 15,

> "In the first place this is shown by the fact that, wherever (and there were a number of cases of that kind) a tax was levied directly on **real estate or slaves** because of ownership, it was treated as coming within the **direct class and apportionment was provided for**, **while no instance of apportionment as to any other kind of tax is afforded**."

Justice White tells us the whole purpose of the apportionment clause at 16-17:

> "concluding that the classification of direct was adopted for the purpose of **rendering it impossible to burden by taxation accumulations of property, real or personal, except subject to the regulation of apportionment**, it was held that the duty existed to fix what was a direct tax in the constitutional sense so as to accomplish this purpose contemplated by the Constitution… Moreover, in addition, the conclusion reached in the Pollock case did not in any degree involve holding that income taxes generically and necessarily came within the class of direct taxes on property, but, on the contrary, **recognized the fact that taxation on income was in its nature an excise entitled to be enforced as such unless and until it was concluded that to enforce it would amount to accomplishing the result which the requirement as to apportionment of direct taxation was adopted to prevent**, in which case the duty would arise to disregard form and consider substance alone, and hence subject the tax to the regulation as to apportionment which otherwise as an excise would not apply to it."

Champion,

> "when the enforcement (also known as 'administration') of tax law becomes such that an excise is being enforced as if it were a direct tax, then the government has violated a constitutional prohibition."(pgs. 64-65)

So is the Income tax direct or and excise? Champion states on pg. 28 of his *Income Tax Shattering the Myths*,

> "White is saying that an income tax – which is imposed as an excise – is 100% constitutional, BUT if that tax is enforced (aka; administrated) in such a way that it runs afoul of the intent of the apportionment clause, then the tax must be declared direct because it is then burdening 'by taxation accumulations of property, real or personal"

Though there is contention on this issue of whether the Income Tax is direct or an excise, half the circuit courts have ruled that the income tax is an excise. Others disagree.

Champion, "Everyone who understands the income tax and looks at its **enforcement** knows that it is being **enforced** as a direct tax."(pg. 251)

Apportionment: The right of the state to receive the taxable income of a Business depending on whether or not the Business resides in its own territory, which would 100% or if the Business resides in multiple states, the tax is apportioned among the States.

Duties/Imposts: tax on bringing foreign products into the U.S.

Excises: "The terms "excise" tax and "privilege" tax are synonymous, and the two are often used interchangeably." - **American Airways v. Wallace**, 57 F.2d 877, 880 (M.D. Tenn. 1932)

Modern American Law is codified in the Code of Federal Regulations. In America Income Tax is 26 USC subtitle "A" and Employment Tax 26 USC Subtitle "C".

- The Bill of Rights are not the only Rights acknowledged in American Law. *Amendment IX reads,* "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

- If congress has a right to tax your income what keeps them from taxing it 100%?

Privilege: Bouvier's Law Dictionary (1856 Edition), "PRIVILEGE, rights. This word, taken its active sense, is a particular law, or a particular disposition of the law, which grants certain special prerogatives to some persons, **contrary to common right.** In its passive sense, it is the same prerogative granted by the same particular law."

The 16th Amendment – Is this tax an excise or direct?

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

The 16th Amendment was ratified to do away with the Pollock decision:

> "that is, of determining **whether a tax on income was direct** not by a consideration of the burden placed on the taxed income upon which it directly operated, but **by taking into view the burden which resulted on the property from which the income was derived**, since, in express terms, the Amendment provides that income taxes, from whatever source the income may be derived, shall not be subject to the regulation of apportionment."- **Brushaber v. Union Pacific R. Co**., 240 U.S. 1, 18 (1916)

Champion glosses Justice White pace **Brushaber v. Union Pacific R. Co**., 240 U.S. 1, 18 (1916),

> **"all income taxes are excises and it is for that reason, and that reason alone, that they do not require apportionment."(pg. 33)**

Stanton v. Baltic Mining Co., 240 U.S. 103, 107, 110-112 (1916),

> "MR. CHIEF JUSTICE WHITE delivered the opinion of the Court…
>
> Without attempting minutely to state every possible ground of attack which might be deduced from the averments of the bill, but in substance embracing every material grievance therein asserted and pressed in argument upon our attention in the elaborate briefs which have been submitted, we come to separately dispose of the legal propositions advanced in the bill and arguments concerning the two classes…

Class B. Under this class, these propositions are relied upon:

(1) That, as **the Sixteenth Amendment authorizes only an exceptional direct income tax without apportionment**, to which the tax in question does not conform, it is therefore not within the authority of that Amendment.

(2) Not being within the authority of the Sixteenth Amendment, the tax is therefore, within the ruling of Pollock v. Farmers' Loan & Trust Co., 157 U. S. 429, a direct tax and void for want of compliance with the regulation of apportionment. **As the first proposition is plainly in conflict with the meaning of the Sixteenth Amendment as interpreted in the Brushaber case, it may also be put out of view**."

Justice White clearly rejected the idea that the 16th Amendment authorized a direct tax without apportionment!

He continues, at 112-113,

"But, aside from the obvious error of the proposition, intrinsically considered, it manifestly disregards the fact that, by the previous ruling, it was settled that the provisions of the Sixteenth Amendment conferred **no new power of taxation**...Mark, of course, in saying this we are not here considering a tax not within the provisions of the Sixteenth Amendment -- that is, one in which the regulation of apportionment or the rule of uniformity is wholly negligible because the tax is one entirely beyond the scope of the taxing power of Congress, and where consequently no authority to impose a burden, either direct or indirect, exists."

The Income Tax Does Not Apply to Everyone Whatsoever

William E. Peck & Co. V. Lowe, No. 234, 172-173 (1918),

"The Sixteenth Amendment, although referred to in argument, has no real bearing and may be put out of view. As pointed out in recent decisions, it does not extend the taxing power to new or **excepted subjects**, but merely removes all occasion, which otherwise might exist, for an apportionment among the states of taxes [247 U.S. 165, 173] laid on income, whether it be derived from one source or another. Brushaber v. Union Pacific R. R. Co., 240 U.S. 1 , 17-19, 36 Sup. Ct. 236, Ann. Cas. 1917B, 713, L. R. A. 1917D, 414; Stanton v. Baltic Mining Co., 240 U.S. 103 , 112-113, 36 Sup. Ct. 278."

If there were excepted subjects coming into the 16th Amendment and the 16th Amendment "conferred no new power of taxation" then the excepted subjects are excepted today!

First National Bank of Emlenton, Pa. v. U.S., 161 F. Supp. 844 (W.D. Pa. 1958),

> "The revenue laws are a code or system in regulation of tax assessment and collection. They relate to taxpayers and not to non-taxpayers."

We see again some men are not liable: *26 U.S. Code § 6001.Notice or regulations requiring records, statements, and special returns,*

> "to show **whether or not** such person is liable for tax under this title."

Translated: whether or not such a person is enjoying a privilege.

South Carolina v. Baker, 485 U.S. 505 (1988) footnote 13,

> "The legislative history merely shows that the words "from whatever source derived" of the Sixteenth Amendment were not affirmatively intended to authorize Congress to tax state bond interest **or to have any other effect on which incomes were subject to federal taxation**, and that **the sole purpose of the Sixteenth Amendment was to remove the apportionment requirement for whichever incomes were otherwise taxable**."

Here again we see that the 16th amendment does not give the Government the right to tax whatever income it wants but to remove the apportionment requirement from taxes imposed upon persons enjoying **PRIVILEGES, BECAUSE EXCISE TAXES ARE UNIFORM NOT APPORTIONED!**

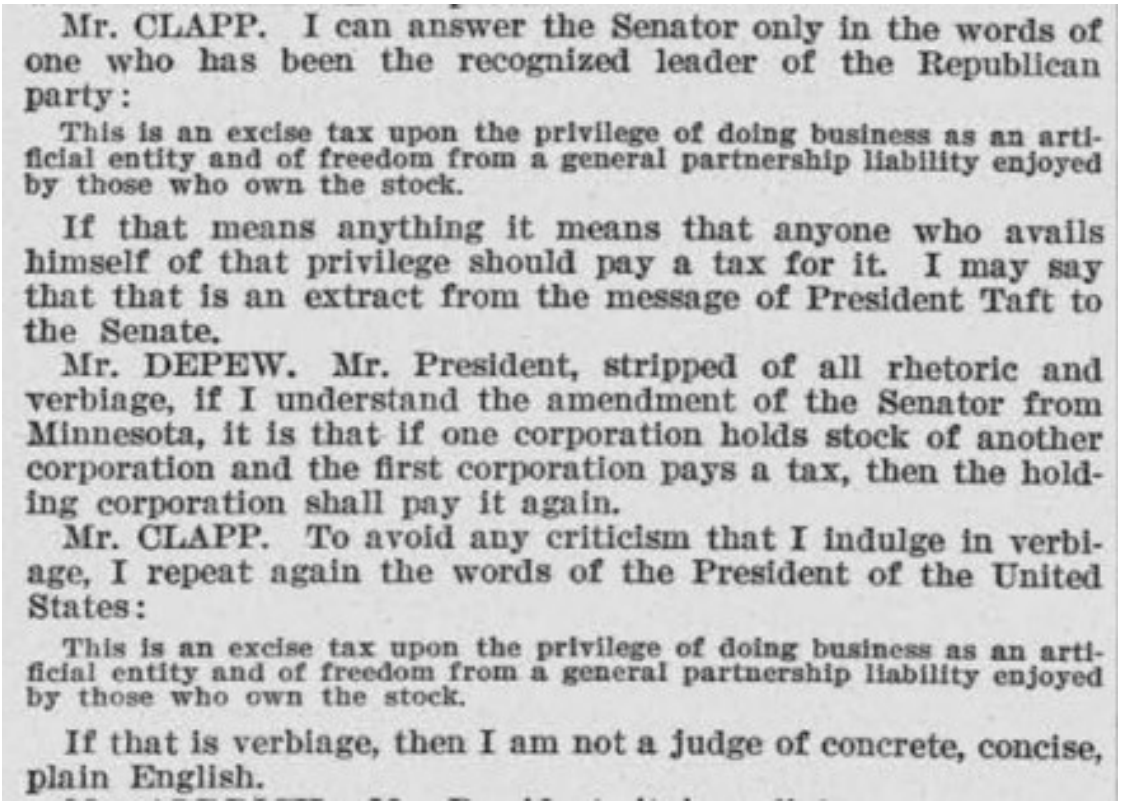
Thus, the 16th Amendment prevented an excise tax from being a direct tax. It was harmonizing the government's taxing powers, not changing them.[1] However, we must remember that this does not confine excise taxes to the 16th Amendment. The Government has a right to impose whatever excise taxes it wants to upon those enjoying privileges. It can also tax property as a direct tax subject to apportionment. Champion states,

> "the 16th Amendment did not and could not, convert your right to property and the fruits of that property into a privilege. The 16th Amendment simply made 'the privilege of carrying on any activity or owning any property which produces income" taxable by the federal government **concerning those for whom such activity is a privilege**."(pg. 273)

26 U.S. Code § 1 - Tax imposed, "There is hereby imposed **on the taxable income**". **Not on the man. This denotes a privilege.**

July 7, 1909, CONGRESSIONAL RECORD—SENATE page 4231,

[1] Champion, pg. 55



Mr. CLAPP. I can answer the Senator only in the words of one who has been the recognized leader of the Republican party:

This is an excise tax upon the privilege of doing business as an artificial entity and of freedom from a general partnership liability enjoyed by those who own the stock.

If that means anything it means that anyone who avails himself of that privilege should pay a tax for it. I may say that that is an extract from the message of President Taft to the Senate.

Mr. DEPEW. Mr. President, stripped of all rhetoric and verbiage, if I understand the amendment of the Senator from Minnesota, it is that if one corporation holds stock of another corporation and the first corporation pays a tax, then the holding corporation shall pay it again.

Mr. CLAPP. To avoid any criticism that I indulge in verbiage, I repeat again the words of the President of the United States:

This is an excise tax upon the privilege of doing business as an artificial entity and of freedom from a general partnership liability enjoyed by those who own the stock.

If that is verbiage, then I am not a judge of concrete, concise, plain English.

https://www.govinfo.gov/content/pkg/GPO-CRECB-1909-pt4-v44/pdf/GPO-CRECB-1909-pt4-v44-18.pdf

Taft again in CONGRESSIONAL RECORD - SENATE - JUNE 16, 1909 [From Pages 3344 – 3345,

> "The decision of the Supreme Court in the case of Spreckels Sugar Refining Company against McClain (192 U.S., 397), seems clearly to establish the principle that such a tax as this **is an excise tax** **upon privilege** and not a direct tax on property, and is within the federal power without apportionment according to population."

Murphy v. I.R.S 2006 proved that the Government cannot simply call anything it wants income under the 16th Amendment.

The Income Tax Admittedly an Excise

INTERNAL REVENUE ACTS
OF THE
UNITED STATES
1909 - 1950
LEGISLATIVE HISTORIES,
LAWS,
AND
ADMINISTRATIVE DOCUMENTS

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THE REVENUE BILL OF 1941

JULY 24, 1941.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

Mr. DOUGHTON, from the Committee on Ways and Means, submitted the following

REPORT

[To accompany H. R. 5417]

The Committee on Ways and Means, to whom was referred the bill (H. R. 5417) to provide revenue and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

NEED FOR THE LEGISLATION

The united effort on the part of the American people adequately to defend this Nation has placed a tremendous financial burden upon the Government.

0

Constitutionality of proposal.

It seems clear that Congress has the constitutional power to enact this proposed amendment. Generically an income tax is classed as an excise (*Brushaber* v. *Union Pac. R. R.*, 240 U. S. 1). The only express constitutional limitation upon such taxes is that they be geographically uniform. The only other possible limitations upon this kind of exercise of the taxing power are those imposed by the broad outlines of the due process clause of the fifth amendment. Obviously the proposed amendment does not run counter to the constitutional mandate of uniformity. With respect to the possible application of the due process clause, the problem revolves essentially around the power of Congress to classify income for purposes of taxation. May Congress place married persons who live together in a

H. Rept. 1040, 77-1°——2

[pg. 17]

Jeffrey T. Maehr, Petitioner v. United States (2019),

> "72. The 16th Amendment doesn't transform the "income tax" into a direct tax, nor modify, repeal, revoke or affect the apportionment requirement for capitations and other direct taxes. It simply prohibits the courts from using the overruled reasoning of the Pollock decision to shield otherwise excisable dividends and rents from the tax. The Treasury Department's legislative draftsman, F. Morse Hubbard, summarizes the amendment's effect for Congress in hearing testimony in 1943: "[T]he amendment made it possible to bring investment income within the scope of the general income-tax law, but did not change the character of the tax. It is still fundamentally an excise or duty..." (pg. 27)
>
> https://www.supremecourt.gov/DocketPDF/19/19-5151/107766/20190712104505729_20190712-103152-95746969-00000606.pdf

So what is this privilege and who is enjoying it as to be liable to the Income Tax?

II. The Income Tax is Imposed on Foreigners or Americans Involved in Payments to Foreigners not Native-Born Americans Making American Dollars Uninvolved with Foreign Affairs.

i. The "Individual" is a foreigner.

26 U.S. Code § 1 - Tax imposed reads that the Income tax is imposed upon *individuals*.[2]

26 U.S. Code § 7701 – Definitions does not contain a definition for *individual*. The only definition we have is from:

> "26 CFR § 1.1441-1 - Requirement for the deduction and withholding of tax on payments to foreign persons.

[2] See also: "26 CFR § 1.1-1 - Income tax on individuals.

§ 1.1-1 Income tax on individuals.

(a) General rule.

(1) Section 1 of the Code imposes an income tax on the income of every individual who is a citizen or resident of the United States and, to the extent provided by section 871(b) or 877(b), on the income of a nonresident alien individual…

(b) Citizens or residents of the United States liable to tax. In general, all citizens of the United States, wherever resident, and all resident alien individuals are liable to the income taxes imposed by the Code whether the income is received from sources within or without the United States."

"(c)…(3) Individual -

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

Nonresident alien individual. The term nonresident alien individual means persons described in section 7701(b)(1)(B), alien individuals who are treated as nonresident aliens pursuant to § 301.7701(b)-7 of this chapter for purposes of computing their U.S. tax liability, or an alien individual who is a resident of Puerto Rico, Guam, the Commonwealth of Northern Mariana Islands, the U.S. Virgin Islands, or American Samoa as determined under § 301.7701(b)-1(d) of this chapter. An alien individual who has made an election under section 6013(g) or (h) to be treated as a resident of the United States is nevertheless treated as a nonresident alien individual for purposes of withholding under chapter 3 of the Code and the regulations thereunder."

26 U.S. Code § 7701 – Definitions. (b)Definition of resident alien and nonresident alien. (6)Lawful permanent resident pertains entirely to a man from a foreign country outside of the united states that has immigrated to this country. The term *foreign* is used in the phrase "foreign country" and this foreign country is contrasted with "the United States" and this man is called an *individual*. This use of the word *foreign* is in perfect harmony with the Constitution and traditional Law Dictionaries:

US Constitution, Art. 1, Sec. 8,

"To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes"

Black's Law Dictionary, 1910,

FOREIGN. Belonging to another nation or country; belonging or attached to another jurisdiction; made, done, or rendered in another state or jurisdiction; subject to another jurisdiction; operating or solvable in another territory; extrinsic; outside; extraordinary.

Bouvier's Law Dictionary (1856 Edition),

"FOREIGN. That which belongs to another country; that which is strange. 1 Peters, R. 343.

2. Every nation is foreign to all the rest, and the several states of the American Union are foreign to each other, with respect to their municipal laws. 2 Wash. R. 282; 4 Conn. 517; 6 Conn. 480; 2 Wend. 411 1 Dall. 458, 463 6 Binn. 321; 12 S. & R. 203; 2 Hill R. 319 1 D. Chipm. 303 7 Monroe, 585 5 Leigh, 471; 3 Pick. 293.

3. But the reciprocal relations between the national government and the several states composing the United States are not considered as foreign, but domestic. 9 Pet. 607; 5 Pet. 398; 6 Pet. 317; 4 Cranch, 384; 4 Gill & John. 1, 63. Vide Attachment, for foreign attachment; Bill of exchange, for foreign bills of exchange; Foreign Coins; Foreign Judgment; Foreign Laws; Foreigners."

See also below ***ix. Only foreigners must supply the ss#*** where one clearly defined as foreign is called the generic term *individual* with no other qualifiers in the context.

ii. Of the three categories upon which the income tax is imposed none are Native-Born Americans making American dollars uninvolved with Foreign affairs.

"26 CFR § 601.101 - Introduction.

General. The Internal Revenue Service is a bureau of the Department of the Treasury under the immediate direction of the Commissioner of Internal Revenue. The Commissioner has general superintendence of the assessment and collection of all taxes imposed by any law providing internal revenue. The Internal Revenue Service is the agency by which these functions are performed. Within an internal revenue district the internal revenue laws are administered by a district director of internal revenue. **The Director, Foreign Operations District, administers the internal revenue laws applicable to [1]taxpayers residing or doing business abroad, [2]foreign taxpayers deriving income from sources within the United States, and [3]taxpayers who are required to withhold tax on certain payments to nonresident aliens and foreign corporations, provided the books and records of those taxpayers are located outside the United States**."

Notice the word "foreign" is only used in 2.

iii. The withholding agent/Payor is a native-born American man involved in foreign affairs.

- *26 U.S. Code § 7701 – Definitions*,

"(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.[All these provisions refer to payments made to foreigners - DS]

- *26 CFR § 1.1441-1 - Requirement for the deduction and withholding of tax on payments to foreign persons,*

"(c) ***Definitions...***(19) ***Payor.*** The term *payor* is defined in § 31.3406(a)-2 of this chapter and § 1.6049-4(a)(2) and generally includes a **withholding agent**, as defined in § 1.1441-7(a). The term also includes any person that makes **a payment to an intermediary, flow-through entity, or U.S. branch that is not treated as a U.S. person to the extent the intermediary, flow-through**, or U.S. branch provides a Form W-9 or other appropriate information relating to a payee so that the payment can be reported under chapter 61 of the Internal Revenue Code and, if required, subject to backup withholding under section 3406. This latter rule does not preclude the intermediary, flow-through entity, or U.S. branch from also being a payor."

The flow through entity must pay money he withheld from the foreigner not his own money unless he made a mistake.

- "26 CFR § 601.104 - Collection functions.

  (a)(2) Withholding of tax at source. Withholding at the source of income payments is an important method used in collecting taxes. For example, in the case of wage earners, the income tax is collected in large part through the withholding by employers of taxes on wages paid to their employees. The tax withheld at the source on wages is applied as a credit in payment of the individual's income tax liability for the taxable year. In no case does withholding of the tax relieve an individual from the duty of filing a return otherwise required by law. **The chief means of collecting the income tax due from nonresident alien individuals and foreign corporations having United States source gross income which is not effectively connected with the conduct of a trade or business in the United States is the withholding of the tax by the persons paying or remitting the income to the recipients. The tax withheld is allowed as a credit in payment of the tax imposed on such nonresident alien individuals and foreign corporations."**

- **"26 CFR § 31.3406(a)-2 Definition of payors obligated to backup withhold.**

  In general. Payor means the person that is required to make an information return under section 6041, 6041A(a), 6042, 6044, 6045, 6049, 6050A, 6050N, or 6050W with respect to any reportable payment (as described in section 3406(b)), or that is described in paragraph (b) of this section."

- Treasury Decision 8734,

  "Final regulations relate to the withholding of income tax under sections 1441, 1442, and 1443 of the Code on certain U.S. source income **paid to foreign persons**, related tax deposit and reporting requirements, and related requirements governing collection, refunds, and credits of withheld amounts....

Section 1441.—Withholding of Tax on Nonresident Aliens(pg. 5)…

The tax liability imposed under sections 871(a) and 881(a) is generally collected by way of withholding at source under chapter 3 of the Code pursuant to section 1441(a) (for payments to nonresident alien individuals and foreign partnerships), section 1442(a) (for payments to foreign corporations), or section 1443(a) (for payments of certain income to foreign tax-exempt entities." (pg. 6)

https://www.irs.gov/pub/irs-irbs/irb97-44.pdf

iv. Income tax on interest from the bonds and dividends on stocks also confined to foreigners:

Treasury decision 2313(scrubbed from the internet; also not mentioned in the IRS publication: *THE TRUTH ABOUT FRIVOLOUS TAX ARGUMENTS*)

"Under the decision of the Supreme Court of the United States in the case of Brushaber v. Union Pacific Railway Co., decided January 24, 1916, it is hereby held that income accruing to nonresident aliens in the form of interest from the bonds and dividends on the stock of domestic corporations is subject to the income tax imposed by the act of October 3, 1913."

v. Internal Revenue districts also only apply to foreign trade.

Internal Revenue districts(foreign trade):

"19 CFR § 101.0 - Scope.

This part sets forth general regulations governing the authority of Customs officers, and the location of Customs ports of entry, service ports and Customs stations. It further sets forth regulations concerning the entry and clearance of vessels at Customs stations and a listing of Customs preclearance offices in foreign countries. In addition, this part contains provisions concerning the hours of business of Customs offices, the Customs seal, and the identification cards issued to Customs officers and employees."

vi. Failure to file cases are overseen by the Overseas Compliance Project Systems at the Department of Treasury and IRS managed by the Assistant Commissioner International!

The Privacy Act of 1974
5 U.S.C. 552a as amended
REFERENCE MATERIAL

Internet Address:
http://www.access.gpo.gov/su_docs/aces/1997_pa.html

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

TREASURY/IRS 49.007

SYSTEM NAME:

Overseas Compliance Projects System—Treasury/IRS.

SYSTEM LOCATION:

The central files for this system are maintained at the Office of the Assistant Commissioner (International), 950 L'Enfant Plaza, SW., Fourth Floor, Washington, DC 20024. A corresponding system of records is separately maintained by the foreign posts located in: (1) Bonn, Germany; (2) Sydney, Australia; (3) London, England; (4) Mexico City, Mexico; (5) Santiago, Chile; (6) Paris, France; (7) Rome, Italy; (8) Singapore and (9) Tokyo, Japan. Inquiries concerning this system of records maintained by the foreign posts should be addressed to the Assistant Commissioner (International).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

United States Citizens, Resident Aliens, Nonresident Aliens.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents and factual data relating to: (1) Personal expenditures or investments not commensurate with known income and assets; (2) receipt of significant unreported income; (3) improper deduction of significant capital or personal living expenses; (4) failure to file required returns or pay tax due; (5) omission of assets or improper

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Disposition Handbooks. IRM 1(15)59.1 through IRM 1(15)59.32. Generally, records are disposed of after 3 years.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner (International), 950 L'Enfant Plaza, SW., Fourth Floor, Washington, DC 20024.

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Documents and data relating to income and expense items concerning income, Estate and Gift tax returns.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

[redacted] been designated as exempt from certain provisions of the

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence from taxpayers, foreign post personnel and the Office of the Assistant Commissioner (International) headquarters offices in Washington, DC.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801, and 7802.

PURPOSE(S):

The purpose of this of records is to control correspondence received from taxpayers concerning tax law and account related inquiries.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records.

RETRIEVABILITY:

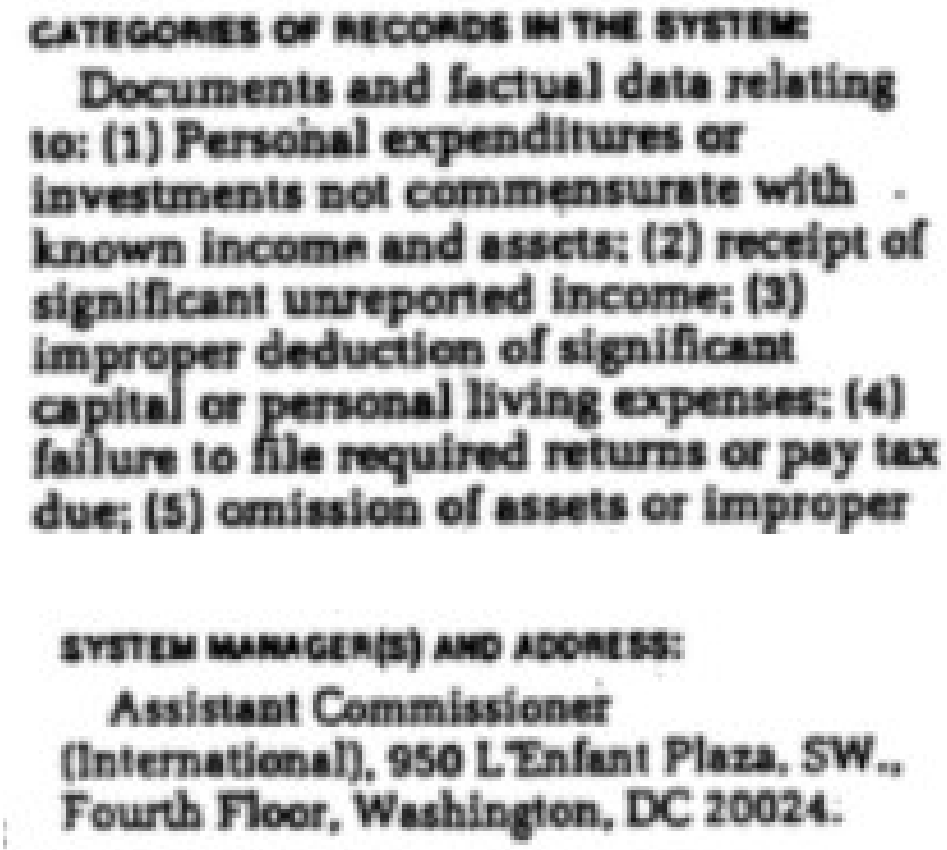
By taxpayer name.

SAFEGUARDS:

Access controls will not be less than those provided for by Managers Security Handbook, IRM 1(16)12 and the Automated Information System Security Handbook, IRM 2(10)00.

RETENTION AND DISPOSAL:

Records are maintained in accordance



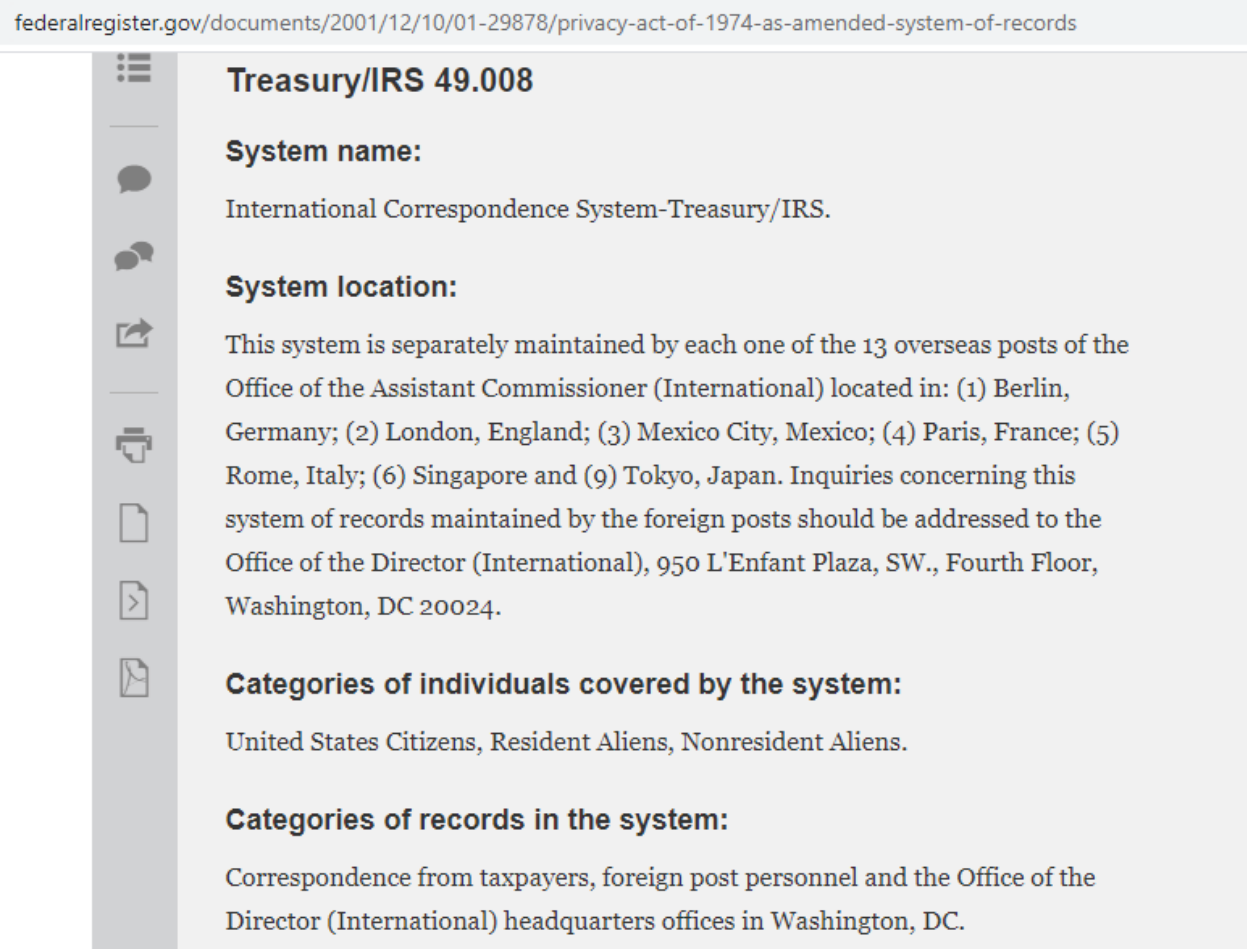
CATEGORIES OF RECORDS IN THE SYSTEM:

Documents and factual data relating to: (1) Personal expenditures or investments not commensurate with known income and assets; (2) receipt of significant unreported income; (3) improper deduction of significant capital or personal living expenses; (4) failure to file required returns or pay tax due; (5) omission of assets or improper

SYSTEM MANAGER(S) AND ADDRESS:

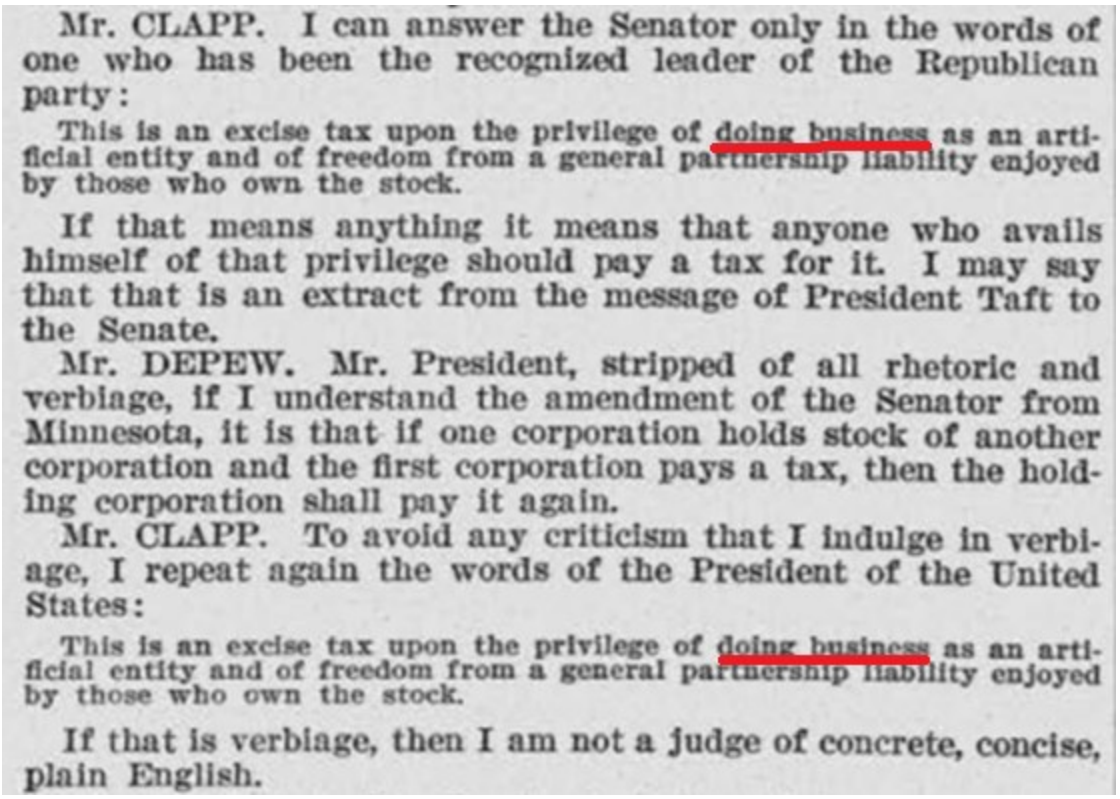
Assistant Commissioner (International), 950 L'Enfant Plaza, SW., Fourth Floor, Washington, DC 20024.

vii. Correspondence with taxpayers is also maintained by **the Assistant Commissioner International!**



viii. Corporate Income Tax is only on Foreign Corporations:

President Taft's comments can be seen in the July 7, 1909, CONGRESSIONAL RECORD—SENATE page 4231,



Mr. CLAPP. I can answer the Senator only in the words of one who has been the recognized leader of the Republican party:

> This is an excise tax upon the privilege of doing business as an artificial entity and of freedom from a general partnership liability enjoyed by those who own the stock.

If that means anything it means that anyone who avails himself of that privilege should pay a tax for it. I may say that that is an extract from the message of President Taft to the Senate.

Mr. DEPEW. Mr. President, stripped of all rhetoric and verbiage, if I understand the amendment of the Senator from Minnesota, it is that if one corporation holds stock of another corporation and the first corporation pays a tax, then the holding corporation shall pay it again.

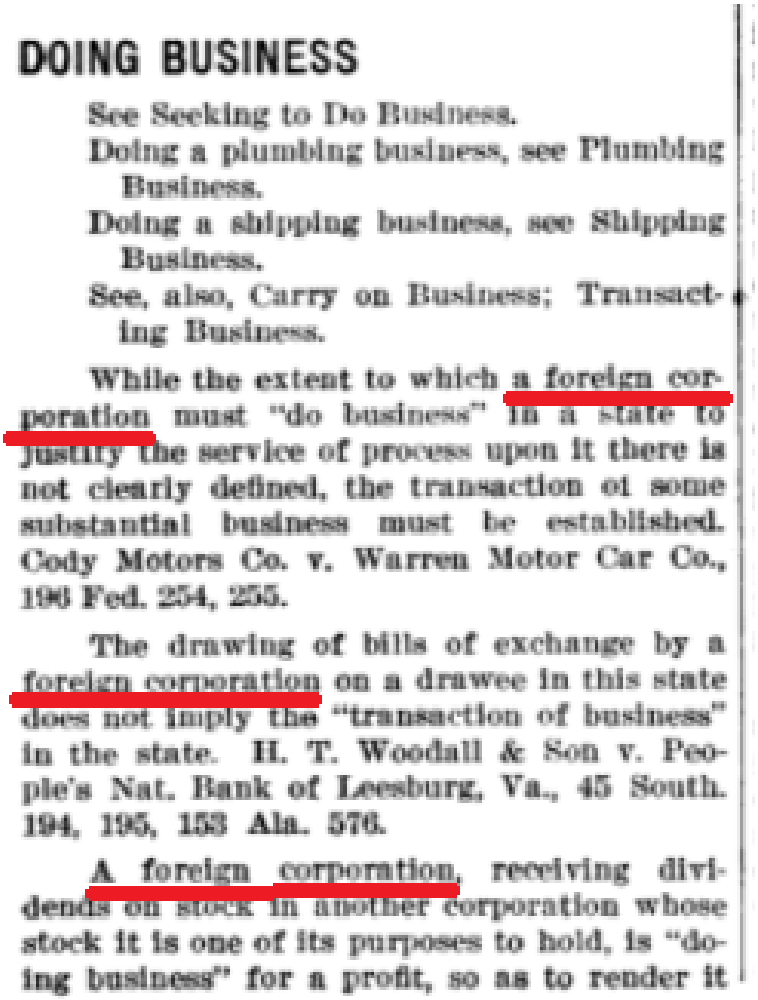
Mr. CLAPP. To avoid any criticism that I indulge in verbiage, I repeat again the words of the President of the United States:

> This is an excise tax upon the privilege of doing business as an artificial entity and of freedom from a general partnership liability enjoyed by those who own the stock.

If that is verbiage, then I am not a judge of concrete, concise, plain English.

https://www.govinfo.gov/content/pkg/GPO-CRECB-1909-pt4-v44/pdf/GPO-CRECB-1909-pt4-v44-18.pdf

What does *Doing Business* mean? The *Judicial and Statutory Definitions of Words and Phrases,* Volume 2(1914) reads,



DOING BUSINESS

See Seeking to Do Business.
Doing a plumbing business, see Plumbing Business.
Doing a shipping business, see Shipping Business.
See, also, Carry on Business; Transacting Business.

While the extent to which a foreign corporation must "do business" in a state to justify the service of process upon it there is not clearly defined, the transaction of some substantial business must be established. Cody Motors Co. v. Warren Motor Car Co., 196 Fed. 254, 255.

The drawing of bills of exchange by a foreign corporation on a drawee in this state does not imply the "transaction of business" in the state. H. T. Woodall & Son v. People's Nat. Bank of Leesburg, Va., 45 South. 194, 195, 153 Ala. 576.

A foreign corporation, receiving dividends on stock in another corporation whose stock it is one of its purposes to hold, is "doing business" for a profit, so as to render it

PG. 108

ix. Only foreigners must supply the ss#.

- T.D. 8734(only applies to foreigners – see above),

"The form is filed with the IRS and a copy is furnished to the recipient of the payment. In addition, section 3406 requires those same U.S. payees to furnish a taxpayer identifying number (TIN) to the payor, generally on a Form W–9, and, for reportable interest and dividends, a certification that the payee is not subject to notified payee underreporting."(pg. 6)

https://www.irs.gov/pub/irs-irbs/irb97-44.pdf

- *26 CFR § 301.7701-11 - Social security number.*

"For purposes of this chapter, the term **social security number** means **the taxpayer identifying number** of an **individual or estate** which is assigned pursuant to section 6011(b) or corresponding provisions of prior law, or pursuant to section 6109, and in which nine digits are separated by hyphens as follows: 000-00-0000. Such term does not include a number with a letter as a suffix which is used to identify an auxiliary beneficiary under the social security program. **The terms "account number" and "social security number" refer to the same number."**

- *§ 301.7701-12 Employer identification number,*

"For purposes of this chapter, the term employer identification number means the taxpayer identifying number of an **individual or other person** (whether or not an employer) which is assigned pursuant to section 6011 (b) or corresponding provisions of prior law, or pursuant to section 6109, and in which nine digits are separated by a hyphen, as follows: 00-0000000. The terms "employer identification number" and "identification number" (defined in § 31.0-2(a)(11) of this chapter (Employment Tax Regulations)) refer to the same number."

- **26 CFR § 301.6109-1 - Identifying numbers.**

"(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. A U.S. person whose number must be included on a document filed by another person must give the taxpayer identifying number so required to the other person on request. For penalties for failure to supply taxpayer identifying numbers, see sections 6721 through 6724. For provisions dealing specifically with the duty of employees with respect to their social security numbers, see § 31.6011(b)-2 (a) and (b) of this chapter (Employment Tax Regulations). For provisions dealing specifically with the duty of employers with respect to employer identification numbers, see § 31.6011(b)-1 of this chapter (Employment Tax Regulations)."

…

"(2) Foreign persons. The provisions of paragraph (b)(1) of this section regarding the furnishing of one's own number shall apply **to the following foreign persons**…

(c) Requirement to furnish another's number. Every person required under this title to make a return, statement, or other document must furnish such taxpayer identifying numbers of other U.S. persons[**withholding flow**

through agent - DS] **and foreign persons** that are described in paragraph (b)(2)(i), (ii), (iii), (vi), (vii), or (viii) of this section as required by the forms and the accompanying instructions."

The Response of the Legal Society

A. The IRS states on page 13 of *THE TRUTH ABOUT FRIVOLOUS TAX ARGUMENTS*,

"2. Contention: Only foreign-source income is taxable.

Some individuals and groups maintain that there is no federal statute **imposing a tax** on income derived from sources within the United States by citizens or residents of the United States. They argue instead that federal income taxes **[taxes plural?-DS]** are excise taxes imposed **only** on nonresident aliens and foreign corporations for the privilege of receiving income from sources within the United States. The premise for this argument is a misreading of sections 861, et seq., and 911, et seq., as well as the regulations under those sections. These frivolous assertions are contrary to well-established legal precedent.

The Law: As stated above, for federal income tax purposes, "gross income" means all income from whatever source derived and includes compensation for services. I.R.C. § 61. Further, Treas. Reg. § 1.1-1(b) provides, "[i]n general, all citizens of the United States, wherever resident, and all resident alien individuals are liable to the income taxes imposed by the Code whether the income is received from sources within or without the United States." Sections 861 and 911 define the sources of income (U.S.- versus non-U.S. source income) for such purposes as the prevention of double taxation of income that is subject to tax by more than one country. These sections neither specify whether income is taxable nor determine or define gross income."

Notice how they said, "there is no federal statute imposing a tax on income". Notice how they did not mention who owns the income? Notice how they juxtaposed citizen resident income vs non-resident aliens and foreign corporations. We have seen multiple times that both U.S. resident withholding agents and native-born Americans earning foreign sourced income are made liable(not to be confused with imposed upon) to the Income Tax. Also notice how they used the word *taxes* plural not *income tax* singular. This is deliberate stealth. Alcohol and tobacco taxes would also apply to foreigners. Not just the income tax. See *26 U.S. Code Subtitle E—Alcohol, Tobacco, and Certain Other Excise Taxes*:

https://www.law.cornell.edu/uscode/text/26/subtitle-E

B. Judges(or possibly agents who have infiltrated patriot movements to spread dis-info) will falsely represent us as saying:

> **“individuals in states must be "nonresident aliens" under the Internal Revenue Code because they are on state land, not federal land… “There is nothing in Brushaber or Treasury Decision 2313 to support David's position that citizens are nonresident aliens under the Internal Revenue Code.” - Yuska v. Internal Revenue Serv Bankruptcy No. 14-01504 (Bankr. N.D. Iowa Feb. 13, 2017)**

That is not our argument. Our argument is not that native-born Americans are non-resident aliens under Internal revenue code because they are on state land not federal land. Our argument is that native-born Americans are **treated** as non-resident aliens under Internal Revenue code because they ignorantly and under duress fill out W-2s, W-9s and other tax forms forming contracts as nonresident aliens under the Internal Revenue Code.