

Appendix O

Constructive Notice and Demand

Reader's Notes:

Registered U.S. Mail
Return Receipt Requested
Postal Serial #

c/o Street/P.O. Box
City, State
zip code exempt
(DMM 122.32)

Date

District Director
Internal Revenue Service
Agents of Foreign Principals
City [ZIP code exempt]
STATE

Re: Constructive Notice, Demand, and Statement
Regarding IRS Request for Form 1040 Tax Return

Dear Mr. Director:

This correspondence addresses your agency's request that I file a Form 1040 tax return and pay a tax for which I am not made liable. Enclosed with your agency's request was IRS Notice 557, entitled "Who Must File a Federal Income Tax Return". Because you are in the initial stages of making a serious error with me regarding your lawful jurisdiction and authority in this "1040" matter, I hereby issue this constructive notice, demand and statement.

This constructive notice is to advise you of my *lawful* status as a Sovereign natural born free State Citizen under the U.S. Constitution (see 2:1:5), that is, a "non-taxpayer" under the law, and to demand that you comply with all due process requirements of the law and permanently curtail any further information collection requests and proceedings against my person and my property.

Be advised that I am **not** a "citizen of the United States" and I am **not** a "resident of the United States". I am and have always been a "nonresident alien" from birth (my *legal* status), as that term is now defined in the Internal Revenue Code (IRC) and its regulations. Among its other purposes, this letter now explicitly rebuts, retroactively to my date of birth, any erroneous presumptions and terminates any erroneous elections of "U.S. residence" which were established as a consequence of demonstrable mistakes, by me and others, which resulted in part from the vagueness that is evident in the IRC and its regulations, and in part from the actual and constructive frauds which have been perpetrated upon all Americans by the Congress and other federal officials at least since the year 1913.

To demonstrate the vagueness to which I refer, after an honest and a diligent search which now stretches over several years, I am still unable to find in the IRC any statute which defines the "intent" of that Code (see IRC 7701(a) *et seq.*), nor have I been able to find any statutory definition of the term "income", even though "gross income", "earned income" and "ordinary income" are defined. (For proof, see U.S. v. Ballard, 535 F.2d 400, 404, (1976)). My family obligations now demand that I stop searching for definitions which evidently do not exist, and shift to you, Mr. Director, the burden of finding and exhibiting these definitions. I stand on my rights to substantive due process, as guaranteed by the Bill of Rights, which nullify

any and all actions you and others in your agency may take under the presumed "authority" of vague and arbitrary statutes and their associated regulations.

To demonstrate the fraud to which I refer, there are now literally thousands of certified documents which constitute material evidence proving, beyond any reasonable doubt, that the so-called 16th Amendment was never ratified. Your agency can no longer rely on it as law, as was done by Commissioner Donald C. Alexander in The Federal Register of March 29, 1974, Volume 39, No. 62, page 11572. At that time, Mr. Alexander published his official statement about the IRS as follows:

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

[emphasis added]

Contrast this statement with the ruling of an Illinois State Court: "It is as much a nullity as if it had been the act or declaration of an unauthorized assemblage of individuals," (Ryan v. Lynch, 68 Ill. 160). Several District Courts of Appeal have been presented with the question of whether or not the so-called 16th Amendment was properly ratified. See:

<u>Miller v. United States</u> ,	868 F.2d	236	(1989,	7th Circuit)
<u>U.S. v. Sitka</u> ,	845 F.2d	43	(1988,	2nd Circuit)
<u>Stubbs v. Commissioner</u> ,	797 F.2d	936	(1986,	11th Circuit)
<u>United States v. Stahl</u> ,	792 F.2d	1438	(1986,	9th Circuit)
<u>United States v. Ferguson</u> ,	793 F.2d	828	(1986,	7th Circuit)
<u>Sisk v. Commissioner</u> ,	791 F.2d	58	(1986,	6th Circuit)

It has been well documented that Philander C. Knox knew that the so-called 16th Amendment had not been properly ratified by the 48 States in 1913, yet he certified its ratification anyway. **This is fraud.** The courts, when presented with this overwhelming problem, have decided that the fraud perpetrated upon the people was in the nature of a "political" question and, therefore, not proper for judicial review. The sole exception to this pattern has been the case of People v. Boxer, California Supreme Court No. S030016, December 1992, a petition for a Writ of Mandamus to which Senator Boxer failed to respond in any way; the meaning of her silence has been explained in U.S. v. Tweel, *infra*).

Since the so-called 16th Amendment has now been declared a "political" question, my "political" actions are deserving of the protection guaranteed by the First Amendment to the Constitution for the United States of America. Boycotting the Internal Revenue Service and the income tax, under the protection of the First Amendment, is definitely a part of our democratic political process, until such time as Congress (or the federal Courts) decide to resolve this political question once and for all.

Moreover, the federal government has committed further fraud, duress and coercion, exercised undue influence, and evidenced unlawful menace against the American people by representing the so-called 14th Amendment as a lawfully ratified amendment in the U.S. Constitution, when contrary proof, published court authorities and other competent legal scholars have now established that it was NOT lawfully ratified. (For conclusive proof, see State v. Phillips, 540 P.2d 936 (1975); Dyett v. Turner, 439 P.2d 266 (1968); 28 Tulane Law Review 22; 11 South Carolina Law Quarterly 484; House Congressional Record June 13, 1967, page 15641 *et seq.*)

This constructive notice to you is based upon legal advice which I have received from a number of attorneys, CPA's, income tax professionals, and upon in-depth research into the Internal Revenue Code, applicable regulations, court cases, the laws concerning "Delegation of Authority" (*i.e.*, the Federal Register Act and the Administrative Procedure Act), the Privacy Act, and the U.S. Constitution (the supreme law of the land).

One particularly revealing document (which I will emphasize herein) that proves my legal position is the Privacy Act Notice (Publication #609) which I obtained from the IRS, and which is also published in the IRS Instructions for Form 1040.

You are hereby advised that, as a Sovereign natural born free State Citizen under the U.S. Constitution (see 2:1:5), I explicitly reserve all my rights and waive none. I demand that you, in your capacities as a public servant and as an individual, comply with the law and afford me substantive and procedural due process at all times. **In order for you to afford me all due process in this matter, I now demand the following:**

DELEGATION OF AUTHORITY ORDERS

I hereby demand that you send me copies of the Delegations of Authority from the Secretary of the Treasury, all the way down to your position as District Director, which create and set forth your full and complete authority to function and act in your present capacity as an employee of the Internal Revenue Service.

I also demand to receive copies of the Delegations of Authority that have been handed down to any other case agent(s) who have assisted you in issuing the above mentioned documents. I also demand the full names of said agents.

Essentially, I demand to see the "chain" of authority delegations above yours, to determine if they are properly set forth and to determine if they have all been properly published in the Federal Register as required by the law (the Act of July 26, 1935, 49 Stat. 500) which created the Federal Register, and by the Administrative Procedure Act, Section 3.

Section 3 of the Administrative Procedure Act clearly commands that the following types of agency rules are to be published in the Federal Register:

Every agency shall separately state and currently publish in the Federal Register:

- (1) descriptions of its central and field organization including delegations by the agency of final authority and the established places at which, and the methods whereby the public may secure information or make submittals or requests;
- (2) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal or informal procedures available as well as forms and instructions as to the scope and content of all papers, reports, or examinations; and
- (3) substantive rules adopted as authorized by law and statements of general policy or interpretations formulated and adopted by the agency for guidance of the public, but not rules addressed to and served upon named persons in accordance with law

Both Sections 3 and 9 of the Act protect the public from an agency's failure to publish this required information:

No person shall in any manner be required to resort to organization or procedure not so published. ...

No sanction shall be imposed or substantive rule or order be issued except within jurisdiction delegated to the agency and as authorized by law.

Also, Section 7 of the Federal Register Act states:

No document required under section 5(a) to be published in the Federal Register shall be valid as against any person who has not had actual knowledge thereof.

Mr. District Director, the point here is due process of law. I demand full compliance. Do not send me any copies of delegation orders unless you can satisfy the entire request. A partial response by you will evidence your failure to satisfy this request and will fail to prove your lawful authority by any means.

It has come to my attention that the Office of the Federal Register has issued a statement indicating that Treasury Department Orders 150-10 and 150-37 (regarding taxation) were not published in the Federal Register. **Evidently, there are no published orders from the Secretary of the Treasury giving the Commissioner of Internal Revenue the requisite authority to enforce the Internal Revenue Code within the 50 States of the Union.** Furthermore, under Title 3, Section 103, the President of the United States, by means of Presidential Executive Order, has not delegated authority to enforce the Internal Revenue Code within the 50 States of the Union.

Very simply, Mr. District Director, you are required to present proof that the above mentioned orders have been published in the Federal Register prior to the date of your initial request for information, and prior to the issuance of any unilateral determinations, by you and/or your case agent(s), of my status as a "taxpayer" or a "nontaxpayer".

As proof that my request is valid and lawfully on point, I refer you to the following statutes and authorities that make it necessary for the Secretary of the Treasury to delegate authority to the Commissioner of Internal Revenue. First, by authority of the Internal Revenue Code, Section 7602, the Secretary is authorized to issue a summons. This section must be read in conjunction with Section 7701: "Definitions". Note, in particular, definitions (11) and (12) in order to identify individuals properly:

Section 7602. Examination of books and witnesses.

- (a) Authority to Summon, Etc. -- For the purpose of ascertaining the correctness of any return, making a return where none has been made, determining the liability of any person for any internal revenue tax or the liability at law or in equity of any transferee or fiduciary of any person in respect of any internal revenue tax, or collecting any such liability, the Secretary is authorized

Section 7701(a)(11) Secretary of the Treasury and Secretary.

- (A) Secretary of the Treasury. The term "Secretary of the Treasury" means the Secretary of the Treasury, personally, and shall not include any delegate of his.

Section 7701(12) Delegate

- (A) In General. The term "or his delegate":
 - (i) when used with reference to the Secretary of the Treasury, means any officer, employee, or agency of the Treasury Department duly authorized by the Secretary of the Treasury directly, or indirectly by one or more redelegations of authority, to perform the function mentioned or described in the context; and
 - (ii) when used with reference to any other official of the United States, shall be similarly construed.
- (B) Performance of Certain Functions in Guam or American Samoa. The term "delegate," in relation to the performance of functions in Guam or American Samoa with respect to taxes imposed by Chapters 1, 2, and 21, also includes any officer or employee of any other department or agency of the United States, or of any possession thereof, duly authorized by the Secretary (directly, or indirectly by one or more redelegations of authority) to perform such functions.

Further, Treasury Department Order No. 150-10 can be found in Commerce Clearinghouse Paragraph 6585 (unofficial publication). Section 5 reads as follows:

U.S. Territories and Insular Possessions. The Commissioner shall, to the extent of authority otherwise vested in him, provide for the administration of the United States internal revenue laws in the U.S. Territories and insular possessions and other authorized areas of the world.

Thus, the evidence available to me indicates that **the only authority delegated to the Internal Revenue Service is to enforce tax treaties with foreign territories, U.S. territories and possessions, and Puerto Rico.** To be consistent with the law, Treasury Department Orders, particularly TDO's 150-10 and 150-37, were deemed necessary to be published in the Federal Register. Thus, given the absence of published authority delegations within the 50 States of the Union, the obvious conclusion is that the various Treasury Department orders found in Internal Revenue Manual 1229 have absolutely no legal bearing, force or effect on Sovereign Citizens of these 50 States, such as myself.

Again, the Secretary of the Treasury delegates his authority to the different department heads by Treasury Department Orders, which require publication in the Federal Register pursuant to 44 U.S.C. 1501 *et seq.* Only when the Secretary of the Treasury properly delegates authority to the Commissioner of Internal Revenue, and said orders are duly published in the Federal Register, then and only then does the Commissioner have authority to re-delegate authority to his subordinates by issuing Commissioner's Delegation Orders, which become a part of Internal Revenue Manual 1229.

All orders affecting the rights and obligations of "citizens of the United States" and "residents of the United States" must be published in accordance with the proper authorities. Pursuant to 44 U.S.C. 1501 *et seq.*, no one can be adversely affected or bound by an unpublished order, and anyone may lawfully and safely ignore such an order with impunity. Of course, no one anywhere in the world can be affected if the proper and relevant delegation orders are not duly published.

Without lawful delegation of authority to issue, among other things, your "Request for Tax Return", to determine correctness of any return, to make a return where none has been made, to make and issue determinations of deficiencies for any internal revenue tax, and/or to file tax liens and institute levies, Mr. District Director, you cannot proceed further against me in this matter, particularly with your intent to collect information and, ultimately, to collect taxes.

Mr. District Director, if you are unable to comply with the demands in this letter on or before [date exactly 30 days hence], I will correctly conclude under law that you have absolutely no delegated authority, that you are acting under a covert, secret jurisdiction and, as such, that you are operating unlawfully under color of law and cannot proceed further in this matter, period. Moreover, after this deadline, **your failure to comply will mean that you are forever barred by the doctrine of estoppel by acquiescence from proceeding any further against me in this regard.**

JURISDICTION IS REQUIRED TO BE PROVEN

Your delegated authority must include, but not be limited to Constitutional, Statutory, Contract and/or Merchant Law(s), including treaties if any. If you claim the jurisdiction of statutory law as your authority, I demand that you disclose to me, in writing, how and in what precise manner I became the subject and/or the object of said statute.

If you claim the jurisdiction of contract and/or merchant law as your authority, I demand that you disclose to me, in writing, what contract or commercial agreement granted this jurisdiction to you, including but not limited to the title, date, witnesses thereto, and all parties thereto, whereby I have knowingly, intentionally, and voluntarily entered into a contract or commercial agreement which provides the legal basis for any such alleged jurisdiction. In equity, you can be compelled by a court of law to disclose fully, under oath, what contract or commercial agreement granted this jurisdiction to you.

Mr. District Director, the issue of whether I, as a Sovereign natural born free State Citizen under the Constitution (see 2:1:5), am liable by statute to file a 1040 Form and to pay a tax under some alleged "blanket tax law" is secondary to the issue of jurisdiction, because you must first prove that you have lawful jurisdiction over me. I am not aware of any facts on record upon which you could have made a valid determination that I am a "taxpayer/subject" pursuant to IRC Section 7701(a)(14), or to any other laws cited above, or that I have granted you jurisdiction. I submit that there are no conclusive facts nor any conclusive presumptions on the administrative record which have conferred jurisdiction to you upon myself or the subject matter.

Therefore, and pursuant to IRC Section 6110, you are hereby required to furnish me copies of the all documents upon which you have based your presumptive determination that I am a "taxpayer/subject" who is in a particular "taxable class" that lawfully authorizes you to issue your "Request(s) for a 1040 Tax Return" to me and to institute collection efforts against me.

There are numerous cases that speak to the status of a "nontaxpayer" as opposed to the status of a "taxpayer". The following are just a few relevant citations (see also Exhibit A for other relevant cases):

The term "taxpayer" in this opinion is used in the strict or narrow sense contemplated by the Internal Revenue Code and means a person who pays, overpays, or is subject to pay his own personal income tax. (See Section 7701(a)(14) of the Internal Revenue Code of 1954.) A "nontaxpayer" is a person who does not possess the foregoing requisites of a taxpayer.

[Economy Plumbing and Heating Co. v. U.S.]
[470 F.2d 585, note 3 at 590]

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

[Economy Plumbing and Heating Co. v. U.S.]
[470 F.2d 585, at 589]

Persons who are not taxpayers are not within the system and can obtain no benefit by following the procedures prescribed for taxpayers, such as the filing of claims or refunds.

[Economy Plumbing and Heating Co. v. U.S.]
[470 F.2d 585, at 589]

The income tax is, therefore, not a tax on income as such. It is an excise tax with respect to certain activities and privileges which is measured by reference to the income which they produce. The income is not the subject of the tax: it is the basis for determining the amount of the tax.

[House Congressional Record, March 27, 1943, at 2580]

It is a principle of law that, once challenged, the person asserting jurisdiction must prove that jurisdiction exists as a matter of law. For judicial support of this principle, see in particular the following cases:

Griffin v. Matthews, 310 F.Supp. 341; 423 F.2d 272
McNutt v.. G.M., 56 S.Ct. 780; 80 L.Ed 1135
Basso v.. U.P.L., 495 F.2d 906
Thomson v. Gaskiel, 62 S.Ct. 673; 873 L.Ed 111

To deny me knowledge of jurisdiction and equal protection is to deny me due process of law. Such is a violation by you of 42 U.S.C. 1983, and/or 18 U.S.C. 241 and 242, under which section I may sue you, should you willfully deny me any right to due process and unlawfully move forward to collect information, to assess, to collect monies, and/or to institute a lien or levy action upon any of my property. Mr. District Director, I do hope that you understand the extreme liability and punishment that you face under the law in the event of such violations.

NOTICE OF PERSONAL LIABILITY

As you are aware, Mr. District Director, if you, as an individual or as a government employee/public servant, act outside your lawful capacity, with no delegated authority, you can be held personally liable for each and every violation that you commit. However, at this point, you need simply comply with the law. The burden is now rightfully and lawfully upon you to produce.

However, be further advised that my possible future remedies will include the filing of a complaint against you and your superior(s) with a U.S. Magistrate and the Federal Bureau of Investigation, and/or a formal complaint with a U.S. Magistrate under Rule 3 of the Federal Rules of Criminal Procedure demanding that a Summons be issued upon you to show cause why you should not be formally charged with a violation of IRC Sections 7214(a)(1), (3), (6), and (7), for starters.

There could be charges filed against you for unauthorized and unlawful disclosure under the Internal Revenue Code (IRC 6103) as well for your failure to provide due process. See, for example, Husby v. United States, 672 F. Supp. 442, and Rorex v. Traynor, 771 F.2d 383. IRC Section 7431(a)(1) states as follows:

Disclosure by Employee of the United States. If any officer or employee of the United States knowingly, or by reason of negligence, discloses any return or return information with respect to a taxpayer in violation of any provision of section 6103, such taxpayer may bring a civil action for damages against the United States in a district court of the United States.

IRC Section 7431(c) provides for damages:

Damages. In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of ---

- (1) the greater of --
 - (A) \$1,000.00 for each act of unauthorized disclosure of a return or return information with respect to which such defendant is found liable, or
 - (B) the sum of --
 - (i) the actual damages sustained by the plaintiff as a result of such unauthorized disclosure, plus
 - (ii) in the case of a willful disclosure or a disclosure which is the result of gross negligence, punitive damages, plus
- (2) the costs of the action.

A lawsuit for unlawful disclosure against you personally can be extremely damaging and costly to you and your agency, because the \$1,000 fine can be multiplied a thousand-fold under certain conditions.

Other charges can include fraud, theft and criminal conspiracy to deprive a Sovereign State Citizen of rights guaranteed to him by the U.S. Constitution. Keep in mind that you personally enjoy absolutely no personal immunity for acts committed outside your capacity as a public servant. Furthermore, the Anti-Injunction Act will not protect you as long as there is no valid information request, no valid notice, or no valid assessment with respect to me, in addition to your lack of delegated authority.

Please note well the ruling in the following court case, particularly as it affects agents who are unaware of the limitations upon their authority:

Whatever the form in which the Government functions, anyone entering into an arrangement with the Government takes the risk of having accurately ascertained that he who purports to act for the Government stays within the bounds of his authority ... and this is so even though as here, the agent himself may have been unaware of the limitations upon his authority.

[Federal Crop Ins. Corp. v. Merrill, 332 U.S. 380]

LEGAL ADVICE RELIED UPON

During the past years, I have conducted diligent research and have received and relied upon legal advice from independent tax professionals who all advised me in writing that the law does not make me liable to file income tax returns, no matter how much money I make. Some of my counsel also advised me of your agency's violations with regard to Delegations of Authority, and have pointed out and proven many other serious problems and violations. Thus, in a prudent sense, I have every reason to rely fully on the legal advice I have received from tax professionals.

Also, Article 1, Section 10 of the U. S. Constitution secures my right to contract. Obviously, I enjoy the unalienable right to free association through contract. My relationship with all those with whom I choose to associate is by private contract which cannot be impaired by you or anyone else. "Unalienable" rights are rights that cannot be surrendered or transferred without my consent. (See Exhibit A for relevant court cases.)

IRS PRIVACY ACT NOTICE SUPPORTS MY NON-FILER STATUS

Furthermore, the IRS Privacy Act Notice #609 which your agency sent to me supports my legal position that I am not liable for sending you information on a Form 1040. I am advised by professionals that your Notice is deceptively written to trick all individuals into believing that they are "liable", and therefore it is a shameful and vicious fraud. Careful legal analysis has brought forth the real explanation and proof. Your Notice first refers to IRC Section 6001, which states in part:

Whenever in the judgement of the Secretary it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such **statements**, or keep such records, as the Secretary deems sufficient to show whether or not such person is liable for tax under this title.

[emphasis added]

Your Notice 609 continues to Section 6011, which states in part:

When required by regulations prescribed by the Secretary any person made liable for any tax imposed by this title, or with respect to the collection thereof, shall make a return or **statement** according to the forms and regulations prescribed by the Secretary.

[emphasis added]

I am advised that to be "liable" for a tax means that one is responsible to provide information relative to such taxes on the appropriate "information collection request" form. Neither of the above Code sections states that all individuals are liable to make a return, and no specific forms are mentioned either. This defect is in sharp contrast to other types of taxes enumerated in the Code, all of which clearly have a Code section specifically describing who is liable to fill out the return, to submit it and to pay any tax that is owed. In this latter regard, the law is crystal clear to me; but with regard to "income" taxes, the law and its regulations are anything but crystal clear.

I must first be an individual who is subject to, and made liable for, a particular type of tax under the IRC, e.g., income tax. Since I am neither subject to, nor liable for, any particular type of tax under the IRC, there is absolutely no requirement to comply with your request for information, for the filing of a Form 1040, or even for payment of any income tax.

Finally, my tax professionals all advise me that Section 6012 of your Privacy Act Notice does not apply to me; it only applies to those who are made liable or subject to, either by statute or by having volunteered to be liable for, the filing of your tax form.

However, notwithstanding the facts that Sections 6001 and 6011 of your Privacy Act Notice do not make me liable for the tax, and fail to even cross-reference a Code section in Subtitle A that would make me liable to file, as a purely voluntary act on my part and to prove my good faith in resolving this matter, here is my "statement":

In good faith, I have determined from written, reliable, legal advice from tax professionals and further research into the law, that I am not liable or subject to or for any tax under the IRC, and nothing I receive is subject to tax under Subtitle A. I am not a "taxpayer" as defined in Section 7701(a)(14), and as defined in Section 1313(b). Nor am I that "person" as defined in Section 7343. And, I am not engaged in any revenue taxable activity under the IRC, and I have no valid contracts with your agency, direct or quasi. Thus, you have no lawful jurisdiction to proceed further in this matter.

I have unalienable, God-given rights which I will not waive at any time, and you are prohibited from violating my absolute right to due process by instituting unlawful assessments, levies or seizures. Essentially, your "income tax" and the Internal Revenue Code simply do not apply to me, as an individual with free Sovereign natural born Citizen status, inhabiting a Sovereign State of the Union.

In addition, your Privacy Act Notice constitutes a "Miranda Warning" to me, because it states that "the information may be given to the Department of Justice and to other federal agencies, as provided by law." The 5th Amendment protects me from revealing any and all information which you may give to the Justice Department and other federal agencies, because this amendment provides that NO PERSON SHALL BE COMPELLED TO BE A WITNESS AGAINST HIMSELF. Please be advised that this right of mine is not negotiable under any circumstances. I have never waived any of my rights knowingly, intentionally, or voluntarily. I have never committed any knowingly

intelligent acts which, to my knowledge, could or would be construed as waiving any of my rights.

Again, Mr. District Director, you have asked me for information, including a 1040 Income Tax Return, and it appears impossible for me to give you any information whatsoever without waiving one or more of my God-given unalienable rights, which rights are explicitly guaranteed by the Constitution for the United States of America. In further support of my right to claim the protection of the 5th Amendment, I refer specifically to your own IRS Special Agent's Handbook, Section 342.11(2), which states as follows:

The right to refuse to answer incriminating questions applies not only to court trials, but to all kinds of criminal or civil proceedings, including administrative investigations.

[George Smith v. U.S., 337 S.Ct. 1000]
[U.S. v. Harold Gross, 276 F.2d 816]
[Councilman v. Hitchcock]
[McCarthy v. Arndstein]

Further, the 4th Amendment right is likewise relevant here, because it follows that a violation of the 5th Amendment, and any forcible extraction of information or property against my will, constitute an illegal search and seizure. There is no "probable cause", as required by the 4th Amendment, because jurisdiction has not been proven.

The famous case of Miranda v. Arizona sums up the relevant strength of my rights as a Sovereign State Citizen, as follows:

Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them.

You also compound your fraud upon the inhabitants of the 50 States of the Union by implying that all individuals (without exception) are required to file a tax return, when it is well settled that federal income taxes are completely and totally voluntary for nonresident aliens who live and work outside areas of exclusive federal legislative jurisdiction, unless their income derives from a source that is inside a federal area (see the authorities at 1:8:17 and 4:3:2 in the United States Constitution, Treasury Decision 2313 and the case cited therein).

Your ADP and IDRS document 6209 classifies the W-2 and W-4 in a number five (#5) tax class. This indicates that the form is only for a gift tax. This also confirms that the tax is a voluntary tax; when individuals fill out these forms, they are voluntarily giving a gift. There is also a problem with your W-4 in that there must first be a tax imposed upon an individual *before* that individual can incur a tax liability. For most individuals, no section of the Code can be found which imposes an income tax on them and therefore makes them liable, hence they "incurred no liability for income tax imposed under subtitle A of the Code"

Another problem with the W-4 form is that it does not allow you to claim exemptions, but only allowances. Therefore, whenever you attempt to claim exemptions, you are automatically falsifying the form. Yet another problem with the W-4 form is its title. It does not purport to be an Employee's Withholding Exemption Certificate. It purports to be an Employee's Withholding Allowance Certificate.

The end result of what the Internal Revenue Service has accomplished is the promulgation of a plethora of regulations to govern a form which simply does not exist (see 26 CFR Secs. 31.3402(f)(1)-1(e)(2), 3402(n), 31.3402(f)(5)-1(b)(1).)

In summary, for a Sovereign State Citizen such as myself, providing information and proceeding to pay taxes pursuant to a 1040 form is entirely voluntary. The voluntary nature of the tax system is clearly proven by the following statement by the U.S. Supreme Court:

Our system of taxation is based on **voluntary** assessment and payment, not upon distraint.

[U.S. v. Flora, 362 U.S. 176]
[emphasis added]

CONCLUSIONS

The above jurisdictional challenge and constructive notice are made in good faith. My sincere intent is to uphold the Supreme Law of the Land, the U.S. Constitution, and all relevant laws that are consistent with the Constitution, and to simply resolve this matter quickly by getting to the truth of the law and the facts as outlined above for the record. And you, Mr. District Director, in your capacity as a public servant and as an individual as well, also have a clear obligation to uphold the United States Constitution and the relevant laws as stated above. I demand that you follow all the rules and afford me all due process. In the case of Robinson v. U.S., 920 F.2d 1157, the Appellate Court stated that this is an IRS game that is being played and, therefore, the IRS must play according to the rules:

The procedural provisions of the Code appear to be the creation of a scholastic, but whimsical mind. In general, however, the Courts take them literally; the game must be played according to the rules. In the factual situation here, the IRS broke the rules.

[Johnson, An Inquiry into the Assessment Process]
[35 Tax L. Rev. 285, 286 (1980)]

The burden of proof is now entirely upon you, Mr. District Director. As time is of the essence, do not ignore this notice and demand. In regard to your decision to reply or not, please bear in mind the following quote from the U.S. Court of Appeals:

Silence can only be equated with fraud where there is a legal or moral duty to speak or where an inquiry left unanswered would be intentionally misleading. ... We cannot condone this shocking conduct by the IRS. Our revenue system is based upon the good faith of the taxpayers and the taxpayers should be able to expect the same from government in its enforcement and collection activities.... This sort of deception will not be tolerated and if this is the "routine" it should be corrected immediately.

[U. S. v. Tweel, 550 F.2d 297, 299 (1977), emphasis added]
[quoting U.S. v. Prudden, 424 F.2d 1021, 1032 (1970)]

Silence is a species of conduct, and **constitutes an implied representation of the existence of the state of facts in question**, and the estoppel is accordingly a species of estoppel by misrepresentation. [cite omitted] When silence is of such a character and under such circumstances that it would become a fraud upon the other party to permit the party who has kept silent to deny what his silence has induced the other to believe and act upon, it will operate as an estoppel.

[Carmin v. Bowen, 64 A. 932 (1906), emphasis added]

Obviously, Mr. District Director, your response must be in writing. To be sure that I receive it, I require you to send it via either Certified or Registered Mail, return receipt requested. There is abundant case law that sets forth the following axiom of law:

When jurisdiction is challenged in writing, it must be answered in writing.

[emphasis added]

I hereby demand that you comply with this constructive notice and demand, and that you take corrective actions by simply curtailing any and all "information collection actions" that you currently have in process relative to me. Your failure to take this action will prove bad faith, that is, a willful intent on your part to violate the law.

You have hereby been given my constructive notice and demands under law. You now have full personal knowledge of my lawful status as a Sovereign nontaxpayer. Therefore, Mr. District Director, **I expect to receive your written response on or before [date exactly 30 days hence] to resolve and formally terminate this case and to permanently close my file for lack of agency jurisdiction and for rampant violations of the law.**

For your information, I am now obliged to forward copies of this letter, with substantial documentation, including legal opinions, to higher officials within your agency, including the Secretary of the Treasury and the Commissioner of Internal Revenue, as well as my Representatives in the House and Senate. I will do this so as to exhaust all my administrative remedies. Over the years, our community has become very interested in the subject of IRS abuses and violations of due process, and I will not hesitate to print

cogent letters about these IRS abuses and violations of due process in any and all publication media available to me.

Lastly, as mentioned above, I have legal opinions which have advised me that I am not liable or subject to, or for, the "income tax", and none of your Notices, including Notice 557, applies to me. Again, Notice 557 applies only to those who are subject to, or liable for, the tax. In order to "reduce paper", I am not sending you copies of these legal opinions at this time, since I believe it is unnecessary to do so. As I mentioned above, this is a two-part matter. You must first satisfy the issues of jurisdiction and delegation of authority.

Thank you very much for your prompt attention to this important matter.

Sincerely yours,

/s/ John Q. Doe

All Rights Reserved Without Prejudice

enclosures: copy of IRS letter dated ___ /___ /___

attachment: Exhibit A: Supreme Court decisions

California All-Purpose Acknowledgement

CALIFORNIA STATE/REPUBLIC)
)
COUNTY OF MARIN)

On the _____ day of _____, 199_ Anno Domini, before me personally appeared **John Q. Doe**, personally known to me (or proved to me on the basis of satisfactory evidence) to be the Person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in His authorized capacity, and that by His signature on this instrument the Person, or the entity upon behalf of which the Person acted, executed the instrument. Purpose of Notary Public is for identification only, and not for entrance into any foreign jurisdiction.

WITNESS my hand and official seal.

Notary Public

Exhibit A

Decisions of the Supreme Court
of the United States

"There is a clear distinction in this particular case 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 right 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 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 refusal to incriminate himself, and the immunity of himself and his property from arrest or seizure except under a warrant of law. He owes nothing to the public so long as he does not trespass upon their rights."

[Hale v. Henkel, 201 U.S. 43]

"The individual, unlike the corporation, cannot be taxed for the mere privilege of existing. The corporation is an artificial entity which owes its existence and charter powers to the state; but, the individual's rights to live and own property are natural rights for the enjoyment of which an excise cannot be imposed."

[Redfield v. Fisher, 292 P. 813, at 819]

"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 such contracts is that of personal employment, by which labor and other services are exchanged for money or other forms of property."

[Coppage v. Kansas, 236 U.S. 1, at 14]

"The common business and callings of life, the ordinary trades and pursuits, which are innocuous in themselves, and which have been followed in all communities from time immemorial, must, therefore, be free in this country to all alike upon the same conditions. The right to pursue them, without let nor hindrance, except that which is applied to all persons of the same age, sex, and condition, is a distinguishing privilege of citizens of the United States, and an essential element of that freedom which they claim as their birthright."

[Butchers Union Co. v. Crescent City Co.]

NOTE: The above Supreme Court decisions have never been overturned. Further, Kenneth W. Starr, Solicitor General, on February 1, 1990, made the following statement in a letter to a United States Senator:

It is well established that the decisions of the United States Supreme Court interpreting federal law are binding on lower courts, both state and federal, until such time as the Supreme Court overrules its decision, or federal statutory provision in question is amended or repealed.

[see generally Cooper v. Aaron, 358 U.S. 1]

Reader's Notes: