Chapter 5:
What State Are You In?

Answer:
Mostly liquid, some solid, and occasional gas!

This answer is only partially facetious. In something as important as a Congressional statute, one would think that key terms like "State" would be defined so clearly as to leave no doubt about their meaning. Alas, this is not the case in the Internal Revenue Code ("IRC") brought to you by Congress. The term "State" has been deliberately defined so as to confuse the casual reader into believing that it means one of the 50 States of the Union, even though it doesn't say "50 States" in so many words. For the sake of comparison, we begin by crafting a definition which is deliberately designed to create absolutely no doubt or ambiguity about its meaning:

> For the sole purpose of establishing a benchmark of clarity, the term "State" means any one of the 50 States of the Union, the District of Columbia, the territories and possessions belonging to the Congress, and the federal enclaves lawfully ceded to the Congress by any of the 50 States of the Union.

Now, compare this benchmark with the various definitions of the word "State" that are found in Black's Law Dictionary and in the Internal Revenue Code. Black's is a good place to start, because it clearly defines *two different kinds* of "states". The first kind of state defines a member of the Union, *i.e.*, one of the 50 States which are united by and under the U.S. Constitution:

> The section of territory occupied by **one of** the United States***. One of the component commonwealths or states of the **United States of America**.
>
> [emphasis added]

The second kind of state defines a federal state, which is entirely *different* from a member of the Union:

> Any state of the United States**, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession **subject to the legislative authority of the United States**. Uniform Probate Code, Section 1-201(40).
>
> [emphasis added]

Notice carefully that a member of the Union is not defined as being "subject to the legislative authority of the United States". Also, be aware that there are also several *different* definitions of "State" in the IRC, depending on the context. One of the most important of these is found in a chapter specifically dedicated to providing definitions, that is, Chapter 79 (not exactly the front of the book). To de-code the Code, read it backwards! In this chapter of definitions, we find the following:

> When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof -- ...
>
> (10) State. -- The term **"State" shall be construed to include the District of Columbia**, where such construction is necessary to carry out provisions of this title.
>
> [IRC 7701(a)(10), emphasis added]

Already, it is obvious that this definition leaves much to be debated because it is ambiguous and it is not nearly as clear as our "established benchmark of clarity" (which will be engraved in marble a week from Tuesday). Does the definition restrict the term "State" to mean only the District of Columbia? Or does it expand the term "State" to mean the District of Columbia *in addition to* the 50 States of the Union? And how do we decide?

Even some harsh critics of federal income taxation, like Otto Skinner, have argued that ambiguities like this are best resolved by interpreting the word "include" in an expansive sense, rather than in a restrictive sense. To support his argument, Skinner cites the definitions of "includes" and "including" that are actually found in the Code:

> Includes and Including. -- The terms "includes" and "including" when used in a definition contained in this title **shall not be deemed to exclude other things otherwise within the meaning of the term defined**.
>
> [IRC 7701(c), emphasis added]

Skinner reasons that the Internal Revenue Code provides for an *expanded* definition of the term "includes" when it is used in other definitions contained in that Code. Using his logic, then, the definition of "State" at IRC Sec. 7701(a)(10) must be interpreted to mean the District of Columbia, *in addition to* other things. But what other things? Are the 50 States to be included also? What about the territories and possessions? And what about the federal enclaves ceded to Congress by the 50 States? If the definition itself does not specify any of these things, then where, pray tell, are these other things "distinctly expressed" in the Code? If these other things *are* distinctly expressed elsewhere in the Code, is their expression in the Code manifestly compatible with the intent of that Code? Should we include also a state of confusion to our understanding of the Code?

Quite apart from the meaning of "includ**es**" and "includ**ing**", defining the term "include" in an expansive sense leads to an absurd result that is manifestly incompatible with the Constitution. If the expansion results in defining the term "State" to mean the District of Columbia *in addition to* the 50 States of the Union, then these 50 States must be situated *within* the federal zone. Remember, the federal zone is the area of land over which the Congress has unrestricted, exclusive legislative jurisdiction. But, the Congress does not have unrestricted, exclusive legislative jurisdiction over any of the 50 States. It is bound by the chains of the Constitution in this other zone, to paraphrase Thomas Jefferson. Specifically, **Congress is required to apportion direct taxes which it levies inside the 50 States**. This is a key limitation on the power of Congress; it has never been expressly repealed (as Prohibition was repealed).

Unlike the Brushaber case, other federal cases can be cited to support the conclusions that taxes on "income" are direct taxes, and that the 16th Amendment actually *removed* this apportionment rule from direct taxes laid on "income". Sorry, but the U.S. Supreme Court is not always consistent in this area, and the Appellate Courts are even *less* consistent. These other cases are highly significant, if only because they provide essential evidence of other attempts by federal courts to isolate the exact effects of a ratified 16th Amendment. The following ruling by the Sixth Circuit Court of Appeals is unique, among *all* the relevant federal cases, for its clarity and conciseness on this question:

> **The constitutional limitation upon direct taxation was modified by the Sixteenth Amendment insofar as taxation of income was concerned**, but the amendment was restricted to income, leaving in effect the limitation upon direct taxation of principal.
>
> [Richardson v. United States, 294 F.2d 593, 596 (1961)]
> [emphasis added]

The constitutional limitation upon direct taxes is apportionment. By inference, if income taxes were controlled by the apportionment rule *prior to* the 16th Amendment, then they must be direct taxes. It is not difficult to find Supreme Court decisions which arrived at similar conclusions about the 16th Amendment, long before the Richardson case:

> ... [I]t does not extend the taxing power to new or excepted subjects, but merely **removed all occasion, which otherwise might exist, for an apportionment** among the states of taxes laid on income, whether it be derived from one source or another.
>
> [Peck & Co. v. Lowe, 247 U.S. 165 (1918)]
> [emphasis added]

And, in what is arguably one of the most significant Supreme Court decisions to define the precise meaning of "income", the Eisner Court simply paraphrased the Peck decision when it attributed the exact same effect to the 16th Amendment, namely, income taxes had become direct taxes relieved of apportionment:

> As repeatedly held, this did not extend the taxing power to new subjects, but merely **removed the necessity** which otherwise might exist **for an apportionment** among the States of taxes laid on income. ...
>
> A proper regard for its genesis, as well as its very clear language, requires also that this Amendment shall not be extended by loose construction, so as to repeal or modify, **except as applied to income**, those provisions of the Constitution that require an apportionment according to population for direct taxes upon property, real and personal.
>
> [Eisner v. Macomber, 252 U.S. 189, 205-206 (1919)]
> [emphasis added]

Contrary to statements about it in the Brushaber decision, the earlier Pollock case, without any doubt, defined income taxes as *direct* taxes. It also overturned an Act of Congress **precisely because** that Act had levied a *direct* tax without apportionment:

> 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 the opinion that **taxes on personal property, or on the income of personal property, are likewise direct taxes**.
>
> [Pollock v. Farmers' Loan & Trust Co.]
> [158 U.S. 601 (1895), emphasis added]

Another U.S. Supreme Court decision is worthy of note, not only because it appears to attribute the exact same effect to the 16th Amendment, but also because it fails to clarify which meaning of the term "United States" is being used. The Plaintiff was Charles B. Shaffer, an Illinois Citizen and resident of Chicago:

> No doubt is suggested (**the former requirement of apportionment having been removed by constitutional amendment**) as to the power of Congress thus to impose taxes upon incomes produced within the borders of the United States [?] or arising from sources located therein, **even though the income accrues to a nonresident alien**.
>
> [Shaffer v. Carter, 252 U.S. 37, 54 (1920)]
> [emphasis and question mark added]

In the Shaffer decision, it is obvious that Justice Pitney again attributed the same effect to the 16th Amendment. However, if he defined "United States" to mean the federal zone, then he must have believed that Congress also had to apportion direct taxes within that zone before the 16th Amendment was "declared" ratified. Such a belief contradicts the exclusive legislative authority which Congress exercises over the federal zone:

> In exercising this power [to make all needful rules and regulations respecting territory or other property belonging to the United States**], **Congress is not subject to the same constitutional limitations**, as when it is legislating for the United States***.
>
> [Hooven & Allison Co. v. Evatt, 324 U.S. 652 (1945)]
> [emphasis added]

On the other hand, if Justice Pitney defined "United States" to mean the several States of the Union, he as much admits that **the Constitution needed amending to authorize an unapportioned direct tax on income** produced or arising from sources within the borders of those States. Unfortunately for us, Justice Pitney did not clearly specify which meaning he was using, and we are stuck trying to make sense of Supreme Court decisions which contradict each other. For example, compare the rulings in Peck, Eisner, Pollock and Shaffer (as quoted above) with the rulings in Brushaber and Stanton v. Baltic Mining Co., and also with the ruling In re Becraft (a

recent Appellate case). To illustrate, the Stanton court ruled as follows:

> ... [T]he Sixteenth Amendment **conferred no new power of taxation** but simply **prohibited the** previous complete and plenary **power of income taxation** possessed by Congress from the beginning **from being taken out of the category of indirect taxation to which it inherently belonged** ....
>
> [Stanton v. Baltic Mining Company, 240 U.S. 103 (1916)]
> [emphasis added]

Now, contrast the Stanton decision with a relatively recent decision of the Ninth Circuit Court of Appeals in San Francisco. In re Becraft is classic because that Court sanctioned a seasoned defense attorney $2,500 for raising issues which the Court called "patently absurd and frivolous", sending a strong message to *any* licensed attorney who gets too close to breaking the "Code". First, the Court reduced attorney Lowell Becraft's position to "one elemental proposition", namely, that the 16th Amendment does not authorize a direct non-apportioned income tax on resident United States** citizens, and thus such citizens are not subject to the federal income tax laws. Then, the 9th Circuit dispatched Becraft's entire argument with exemplary double-talk, as follows:

> For over 75 years, the Supreme Court and the lower federal courts have both implicitly and explicitly recognized the **Sixteenth Amendment's authorization of a non-apportioned direct income tax** on United States** citizens residing in the United States*** and thus the validity of the federal income tax laws as applied to such citizens. *See, e.g., Brushaber* .... [M]uch of Becraft's reply is also devoted to a discussion of the limitations of federal jurisdiction to **United States**** **territories and the District of Columbia** and thus the inapplicability of the federal income tax laws to a resident of **one of the states***** [from footnote 2].
>
> [In re Becraft, 885 F.2d 547, 548 (1989)]
> [emphasis added]

Here, the 9th Circuit credits the 16th Amendment with authorizing a **non-apportioned direct tax**, *completely contrary to* Brushaber. Then, the term "United States" is used *two different ways* in the same sentence; we know this to be true because a footnote refers to "one of the [50] states". The Court also uses the term "resident" to mean something *different* from the statutory meaning of "resident" and "nonresident", thus exposing another key facet of their fraud (see Chapter 3). Be sure to recognize what's missing here, namely, any mention whatsoever of State Citizens.

For the lay person, doing this type of comparison is a daunting if not impossible task, and demonstrates yet another reason why federal tax law should be nullified for vagueness, if nothing else. If Appellate and Supreme Court judges cannot be clear and consistent on something as fundamental as a constitutional amendment, then nobody can. And their titles are Justice. Are you in the State of Confusion yet?

When it comes to federal income taxes, we are thus forced to admit the existence of separate *groups* of Supreme Court decisions that flatly contradict each other. One group puts income taxes into the class of indirect taxes; another group puts them into the class of direct taxes. One group argues that a ratified 16th Amendment did not change or repeal any other clause of the Constitution; another group argues that it relieved income taxes from the apportionment rule. Even experts disagree. To illustrate the wide range of disagreement on such fundamental constitutional issues, consider once again the conclusion of legal scholar Vern Holland, quoted in a previous chapter:

> [T]he Sixteenth Amendment did not amend the Constitution. The United States Supreme Court by unanimous decisions determined that the amendment did not grant any new powers of taxation; that a direct tax cannot be relieved from the constitutional mandate of apportionment; and **the only effect of the amendment was to overturn the theory advanced in the Pollock case** which held that a tax on income, was in legal effect, a tax on the sources of the income.
>
> [The Law That Always, page 220]
> [emphasis added]

Now consider an opposing view of another competent scholar. After much research and much litigation, author and attorney Jeffrey A. Dickstein offers the following concise clarification:

> A tax imposed on all of a person's annual gross receipts is a direct tax on personal property that must be apportioned. A tax imposed on the "income" derived from those gross receipts is also a direct tax on property, **but as a result of the Sixteenth Amendment, Congress no longer has to enact legislation calling for the apportionment of a tax on that income**.
>
> [Judicial Tyranny and Your Income Tax, pages 60-61]
> [emphasis added]

Recall now that 17,000 State-certified documents have been assembled to prove that the 16th Amendment was never ratified. As a consistent group, the Pollock, Peck, Eisner and Richardson decisions leave absolutely no doubt about the consequences of the failed ratification: the necessity **still** exists for an apportionment among the 50 States of *all* direct taxes, and income taxes are direct taxes. Using common sense as our guide, an expansive definition of "include" results in defining the term "State" to mean the District of Columbia *in addition to* the 50 States. This expansive definition puts the 50 States *inside* the federal zone, where Congress has no restrictions on its exclusive legislative jurisdiction. But, just a few sentences back, we proved that the rule of apportionment still restrains Congress inside the 50 States. This is an absurd result: it is not possible for the restriction to exist, and not to exist, at the same time, in the same place, for the same group of people, for the same laws, within the same jurisdiction. Congress cannot have its cake and eat it too, as much as it would like to! Absurd results are manifestly incompatible with the intent of the IRC (or so we are told).

Other problems arise from Skinner's reasoning. First of all, like so much of the IRC, the definitions of "includes" and "including" are outright deceptions in their own right. A grammatical approach can be used to demonstrate that these definitions are thinly disguised tautologies. Note, in particular, where the Code states that these terms "shall **not** be deemed to **exclude** other things". This is a double negative. Two negatives make a positive. This phrase, then, is equivalent to saying that the terms "shall be deemed to include other things". Continuing with this line of reasoning, the definition of "includes" includes "include", resulting in an obvious tautology. (We just couldn't resist.) Forgive them, for they know not what they do.

The definitions of "includes" and "including" can now be rewritten so as to "include other things otherwise within the meaning of the term defined". **So, what things are otherwise within the meaning of the term "State", if those things are not distinctly expressed in the original definition?** You may be dying to put the 50 States of the Union among those things that are "otherwise within the meaning of the term", but *you* are using common sense. The Internal Revenue Code was not written with common sense in mind; it was written with deception in mind. The rules of statutory construction apply a completely different standard. Author Ralph Whittington has this to say about the specialized definitions that are exploited by lawyers, attorneys, lawmakers, and judges:

> The Legislature means what it says. If the definition section states that whenever the term "white" is used (within that particular section or the entire code), the term includes "black," it means that "white" is "black" and you are not allowed to make additions or deletions at your convenience. You must follow the directions of the Legislature, NO MORE -- NO LESS.
>
> [Omnibus, Addendum II, p. 2]

Unfortunately for Otto Skinner and others who try valiantly to argue the expansive meaning of "includes" and "including", Treasury Decision No. 3980, Vol. 29, January-December 1927, and some 80 court cases have adopted the restrictive meaning of these terms:

> The supreme Court of the State ... also considered that the word "including" was used as a word of enlargement, the learned court being of the opinion that such was its ordinary sense. **With this we cannot concur**. It is its exceptional sense, as the dictionaries and cases indicate.
>
> [Montello Salt Co. v. State of Utah, 221 U.S. 452 (1911)]
> [emphasis added]

An historical approach yields similar results. Without tracing the myriad of income tax statutes which Congress has enacted over the years, it is instructive to examine the terminology found in a revenue statute from the Civil War era. The definition of "State" is almost identical to the one quoted from the current IRC at the start of this chapter. On June 30, 1864, Congress enacted legislation which contained the following definition:

> The word "State," when used in this Title, shall be construed to include the Territories and the District of Columbia, where such construction is necessary to carry out its provisions.
>
> [Title 35, Internal Revenue, Chapter 1, page 601]
> [Revised Statutes of the United States**]
> [43rd Congress, 1st Session, 1873-74]

Aside from adding "the Territories", the two definitions are nearly identical. The Territories at that point in time were Washington, Utah, Dakota, Nebraska, Colorado, New Mexico, and the Indian Territory.

One of *the* most fruitful and conclusive methods for establishing the meaning of the term "State" in the IRC is to trace the history of changes to the United States Codes which occurred when Alaska and Hawaii were admitted to the Union. Because other authors have already done an exhaustive job on this history, there is no point in re-inventing their wheels here.

It *is* instructive to illustrate these Code changes as they occurred in the IRC definition of "State" found at the start of this chapter. The first Code amendment became effective on January 3, 1959, when Alaska was admitted to the Union:

> Amended 1954 Code Sec. 7701(a)(10) by striking out "Territories", and by substituting "Territory of Hawaii".
>
> [IRC 7701(a)(10)]

The second Code amendment became effective on August 21, 1959, when Hawaii was admitted to the Union:

> Amended 1954 Code Sec. 7701(a)(10) by striking out "the Territory of Hawaii and" immediately after the word "include".
>
> [IRC 7701(a)(10)]

Applying these code changes in reverse order, we can reconstruct the IRC definitions of "State" by using any word processor and simple "textual substitution" as follows:

Time 1:	Alaska is a U.S.** Territory Hawaii is a U.S.** Territory
7701(a)(10):	The term "State" shall be construed to include the Territories and the District of Columbia, where such construction is necessary to carry out provisions of this title.

Alaska joins the Union. Strike out "Territories" and substitute "Territory of Hawaii":

> Time 2: Alaska is a State of the Union
> Hawaii is a U.S.** Territory
>
> 7701(a)(10): The term "State" shall be construed to include the Territory of Hawaii and the District of Columbia, where such construction is necessary to carry out provisions of this title.

Hawaii joins the Union. Strike out "the Territory of Hawaii and" immediately after the word "include":

> Time 3: Alaska is a State of the Union
> Hawaii is a State of the Union
>
> 7701(a)(10): The term "State" shall be construed to include the District of Columbia, where such construction is necessary to carry out provisions of this title.

Author Lori Jacques has therefore concluded that the term "State" now includes *only* the District of Columbia, because the former Territories of Alaska and Hawaii have been admitted to the Union, Puerto Rico has been granted the status of a Commonwealth, and the Philippine Islands have been granted their independence (see United States Citizen versus National of the United States, page 9, paragraph 5). It is easy to see how author Lori Jacques could have overlooked the following reference to Puerto Rico, found near the end of the IRC:

> Commonwealth of Puerto Rico. -- Where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, references in this title to possessions of the United States** shall be treated as also referring to the Commonwealth of Puerto Rico.
>
> [IRC 7701(d)]

In order to conform to the requirements of the Social Security scheme, a completely *different* definition of "State" is found in the those sections of the IRC that deal with Social Security. This definition was also amended on separate occasions when Alaska and Hawaii were admitted to the Union. The first Code amendment became effective on January 3, 1959, when Alaska was admitted:

> Amended 1954 Code Sec. 3121(e)(1), as it appears in the amendment note for P.L. 86-778, by striking out "Alaska," where it appeared following "includes".
>
> [IRC 3121(e)(1)]

The second Code amendment became effective on August 21, 1959, when Hawaii was admitted to the Union:

> Amended 1954 Code Sec. 3121(e)(1), as it appears in the amendment note for P.L. 86-778, by striking out "Hawaii," where it appeared following "includes".
>
> [IRC 3121(e)(1)]

Applying these code changes in reverse order, as above, we can reconstruct the definitions of "State" in this section of the IRC as follows:

Time 1:	Alaska is a U.S.** Territory Hawaii is a U.S.** Territory
3121(e)(1):	The term "State" includes Alaska, Hawaii, the District of Columbia, Puerto Rico, and the Virgin Islands.

Alaska joins the Union. Strike out "Alaska," where it appeared following "includes":

Time 2:	Alaska is a State of the Union Hawaii is a U.S.** Territory
3121(e)(1):	The term "State" includes Hawaii, the District of Columbia, Puerto Rico, and the Virgin Islands.

Hawaii joins the Union. Strike out "Hawaii," where it appeared following "includes":

Time 3:	Alaska is a State of the Union Hawaii is a State of the Union
3121(e)(1):	The term "State" includes the District of Columbia, Puerto Rico, and the Virgin Islands.

Puerto Rico becomes a Commonwealth. For services performed after 1960, Guam and American Samoa are added to the definition:

Time 4:	Puerto Rico becomes a Commonwealth Guam and American Samoa join Social Security
3121(e)(1):	The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

Notice carefully how Alaska and Hawaii only fit these definitions of "State" before they joined the Union. It is most revealing that these Territories became States when they were admitted to the Union, and yet the United States Codes had to be changed because Alaska and Hawaii were defined in those Codes as "States" *before* admission to the Union, but *not afterwards*. This apparent anomaly is perfectly clear, once the legal and deliberately misleading definition of "State" is understood. The precise history of changes to the Internal Revenue Code is detailed in Appendix B of this book. The changes made to the United States Codes when Alaska joined the Union were assembled in the Alaska Omnibus Act. The changes made to the federal Codes when Hawaii joined the Union were assembled in the Hawaii Omnibus Act.

The following table summarizes the sections of the IRC that were affected by these two Acts:

IRC Section changed:	Alaska joins:	Hawaii joins:	
2202	X	X	
3121(e)(1)	X	X	
3306(j)	X	X	
4221(d)(4)	X	X	
4233(b)	X	X	
4262(c)(1)	X	X	
4502(5)	X	X	
4774	X	X	
7621(b)	X		**<-- Note!**
7653(d)	X	X	
7701(a)(9)	X	X	
7701(a)(10)	X	X	

Section 7621(b) sticks out like a sore thumb when the changes are arrayed in this fashion. The Alaska Omnibus Act modified this section of the IRC, but the Hawaii Omnibus Act did not. Let's take a close look at this section and see if it reveals any important clues:

> Sec. 7621. Internal Revenue Districts.
>
> (a) Establishment and Alteration. -- The President shall establish convenient internal revenue districts for the purpose of administering the internal revenue laws. The President may from time to time alter such districts.
>
> [IRC 7621(a)]

Now witness the chronology of amendments to IRC Section 7621(b), entitled "Boundaries", as follows:

Time 1: Alaska is a U.S.** Territory.
<1/3/59 Hawaii is a U.S.** Territory. ("<" means "before")

> 7621(b): Boundaries. -- For the purpose mentioned in subsection (a), the President may subdivide any State, Territory, or the District of Columbia, or may unite two or more States or Territories into one district.

Time 2: Alaska is a State of the Union.
1/3/59 Hawaii is a U.S.** Territory.

> 7621(b): Boundaries. -- For the purpose mentioned in subsection (a), the President may subdivide any State, Territory, or the District of Columbia, or may unite into one District two or more States or a Territory and one or more States.

Time 3: Alaska is a State of the Union.
2/1/77 Hawaii is a State of the Union.

> 7621(b): Boundaries. -- For the purpose mentioned in subsection (a), the President may subdivide any State or the District of Columbia, or may unite into one district two or more States.

The reason why the Hawaii Omnibus Act did not change section 7621(b) is not apparent from reading the statute, nor has time permitted the research necessary to determine why this section was changed in 1977 and not in 1959. After Alaska joined the Union, Hawaii was technically the only remaining Territory. This may explain why the term "Territories" was changed to "Territory" at Time 2 above. However, this is a relatively minor matter, when compared to the constitutional issue that is involved here. There is an absolute constitutional restriction against subdividing or joining **any** of the 50 States, or **any parts** thereof, without the consent of Congress **and** of the Legislatures of the States affected. This restriction is very much like the restriction *against* direct taxes within the 50 States without apportionment:

> New States may be admitted by the Congress into this Union; but **no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States**, without the Consent of the Legislatures of the States concerned as well as of the Congress.
>
> [Constitution for the United States of America]
> [Article 4, Section 3, Clause 1, emphasis added]

This point about new States caught the keen eye of author and scholar Eustace Mullins. In his controversial and heart-breaking book entitled A Writ for Martyrs, Mullins establishes the all-important link between the Internal Revenue Service and the Federal Reserve System, and does so by charging that Internal Revenue Districts are "new states" unlawfully established within the jurisdiction of legal States of the Union, as follows:

> The income tax amendment and the Federal Reserve Act were passed in the same year, 1913, because they function as an essential team, and were planned to do so. **The Federal Reserve districts and the Internal Revenue Districts are "new states," which have been established within the jurisdiction of legal states of the Union.**
>
> [see Appendix "I", page I-12, emphasis added]

Remember, the federal zone is the area of land over which the Congress exercises an unrestricted, exclusive legislative jurisdiction. The Congress does not have unrestricted, exclusive legislative jurisdiction over *any* of the 50 States. It is bound by the chains of the Constitution. **This point is so very important, it bears repeating throughout the remaining chapters of this book.** As in the apportionment rule for direct taxes and the uniformity rule for indirect taxes, Congress cannot join or divide any of the 50 States without the explicit approval of the Legislatures of the State(s) involved. This means that Congress cannot unilaterally delegate such a power to the President. Congress cannot lawfully exercise (nor delegate) a power which it

simply does not have.

How, then, is it possible for section 7621(b) of the IRC to give this power to the President? The answer is very simple: the territorial scope of the *Internal* Revenue Code is the federal zone. The IRC only applies to the land that is *internal* to that zone. Indeed, a leading legal encyclopedia leaves no doubt that the terms "municipal law" and "internal law" are equivalent:

> *International law* and *Municipal or internal law*.
>
> ... [P]ositive law is classified as international law, the law which governs the interrelations of soverign states, and **municipal law**, which is, when used in contradistinction to international law, **the branch of the law which governs the internal affairs of a sovereign state**.
>
> However, the term "municipal law" has several meanings, and **in order to avoid confusing these meanings authorities have found more satisfactory Bentham's phrase "internal law," this being the equivalent** of the French term "droit interne," **to express the concept of internal law of a sovereign state.**
>
> The phrase "municipal law" is derived from the Roman law, and when employed as indicating the internal law of a sovereign state **the word "municipal" has no specific reference to modern municipalities, but rather has a broader, more extensive meaning**, as discussed in the C.J.S. definition Municipal.
>
> [52A C.J.S. 741, 742 ("Law")]
> [emphasis added]

If the territorial scope of the IRC were the 50 States of the Union, then section 7621(b) would, all by itself, render the entire Code unconstitutional for violating clause 4:3:1 of the Constitution (see above). Numerous other constitutional violations would also occur if the territorial scope of the IRC were the 50 States. A clear and unambiguous definition of "State" must be known before status and jurisdiction can be decided with certainty. The IRC should be nullified for vagueness; this much is certain.

After seeing and verifying all of the evidence discussed above, the editors of a bulletin published by the Monetary Realist Society wrote the following long comment about the obvious problems it raises:

> A serious reader could come to the conclusion that **Missouri, for example, is not one of the United States referred to in the code. This conclusion is encouraged by finding that the code refers to Hawaii and Alaska as states of the United States before their admission to the union!** Is the IRS telling us that the only states over which it has jurisdiction are Guam, Washington D.C., Puerto Rico, the Virgin Islands, etc.? Well, why not write and find out? Don't expect an answer, though. Your editor has asked this question and sought to have both of his Senators and one Congresswoman prod the IRS for a reply when none was forthcoming. Nothing.

> And isn't that strange? It would be so simple for the service to reply, "Of course Missouri is one of the United States referred to in the code" if that were, indeed, the case. **What can one conclude from the government's refusal to deal with this simple question except that the government cannot admit the truth about United States citizenship?** I admit that the question sounds silly. Everybody knows that Missouri is one of the United States, right? Sure, like everybody knows what a dollar is! But the IRS deals with "silly" questions every day, often at great length. After all, the code occupies many feet of shelf space, and covers almost any conceivable situation. It just doesn't seem to be able to cope with the simplest questions!
>
> ["Some Thoughts on the Income Tax"]
> [The Bulletin of the Monetary Realist Society]
> [March 1993, Number 152, page 2]
> [emphasis added]

Although this book was originally intended to focus on the Internal Revenue Code, the other 49 United States Codes contain a wealth of additional proof that the term "State" does not always refer to one of the 50 States of the Union. Just to illustrate, the following statutory definition of the term "State" was found in Title 8, the Immigration and Nationality Act, as late as the year 1987:

> (36) The term "State" includes **(except as used in section 310(a) of title III [8 USCS Section 1421(a)])** the District of Columbia, Puerto Rico, Guam, and the Virgin Islands of the United States.
>
> [8 U.S.C. 1101(a)(36), circa 1987]
> [emphasis added]

The "exception" cited in this statute tells the whole story here. In section 1421, Congress needed to refer to courts of the 50 States, because their own local constitutions and laws have granted to those courts the requisite jurisdiction to naturalize. For this reason, Congress made an explicit exception to the standard, *federal* definition of "State" quoted above. The following is the paragraph in section 1421 which contained the *exceptional* uses of the term "State" (*i.e.* Union State, not federal state):

> **1421. Jurisdiction to naturalize**
>
> (a) Exclusive jurisdiction to naturalize persons as citizens of the United States** is hereby conferred upon the following specified courts: District courts of the United States now existing, or which may hereafter be established by Congress **in any State** ... **also all courts of record in any State** or Territory now existing, or which may hereafter be created, **having a seal, a clerk, and jurisdiction in actions at law or equity, or law and equity**, in which the amount in controversy is unlimited.
>
> [8 U.S.C. 1421(a), circa 1987]
> [emphasis added]

In a section entitled "State Courts", the interpretive notes and decisions for this statute contain clear proof that the phrase "in any State" here refers to any State of the Union (*e.g.* New York):

> Under 8 USCS Section 1421, jurisdiction to naturalize was conferred upon **New York State** Supreme Court by virtue of its being court of record and having jurisdiction in actions at law and equity. *Re Reilly* (1973) 73 Misc 2d 1073, 344 NYS2d 531.
>
> [8 USCS 1421, Interpretive Notes and Decisions]
> [Section II. State Courts, emphasis added]

Subsequently, Congress *removed* the reference to this exception in the amended definition of "State", as follows:

> (36) The term "State" includes the District of Columbia, Puerto Rico, Guam, and the Virgin Islands of the United States.
>
> [8 U.S.C. 1101(a)(36), circa 1992]

Two final definitions prove, without any doubt, that the IRC can also define the terms "State" and "United States" to mean the 50 States as well as the other federal states. **The very existence of multiple definitions provides convincing proof that the IRC is intentionally vague, particularly in the section dedicated to general definitions** (IRC 7701(a)). The following definition is taken from Subtitle D, Miscellaneous Excise Taxes, Subchapter A, Tax on Petroleum (which we all pay taxes *at the pump* to use):

> In General. -- The term "United States" **means the 50 States**, the District of Columbia, the Commonwealth of Puerto Rico, any possession of the United States, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. [!!]
>
> [IRC 4612(a)(4)(A), emphasis added]

Notice that this definition uses the term "means". Why is this definition so clear, in stark contrast to other IRC definitions of the "United States"? Author Ralph Whittington provides the simple, if not obvious, answer:

> The preceding is a true Import Tax, as allowed by the Constitution; **it contains all the indicia of being Uniform, and therefore passes the Constitutionality test and can operate within the 50 Sovereign States.** The language of this Revenue Act is simple, specific and definitive, and it would be impossible to attach the "Void for Vagueness Doctrine" to it.
>
> [The Omnibus, page 83, emphasis added]

The following definition of "State" is required only for those Code sections that deal with the sharing of tax return information between the federal government and the 50 States of the Union. In this case, the 50 States need to be mentioned in the definition. So, the lawmakers can do it when they *need* to (and *not* do it, in order to put the rest of us into a *state* of confusion, within a State of the Union):

(5) State -- The term "State" **means** -- [!!]

(A) **any of <u>the 50 States</u>**, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands ....

[IRC 6103(b)(5), emphasis added]

It is noteworthy [!!] that these sections of the IRC also utilize the term "means" instead of the terms "includes" and "including", and instead of the phrase "shall be construed to include". It is certainly not impossible to be clear. If it *were* impossible to be clear, then just laws would not be possible at all, and the Constitution could never have come into existence anywhere on this planet. Authors like The Informer (as he calls himself) consider the very existence of multiple definitions of "State" and "United States" to be highly significant proof of fluctuating statutory intent, even though a definition of "intent" is nowhere to be found in the Code itself. Together with evidence from the Omnibus Acts, **these fluctuating definitions also expose perhaps the greatest fiscal fraud that has ever been perpetrated upon any people at any time in the history of the world**.

Having researched all facets of the law in depth for more than ten full years, The Informer summarizes what we have learned thus far with a careful precision that was unique for its time:

> The term "States" in 26 USC 7701(a)(9) is referring to the federal states of Guam, Virgin Islands, Etc., and NOT the 50 States of the Union. Congress cannot write a **municipal law** to apply to the individual nonresident alien inhabiting the States of the Union. Yes, the IRS can go into the States of the Union by Treasury Decision Order, to seek out those "taxpayers" who are subject to the tax, be they a class of individuals that are **United States** citizens**, or **resident aliens**. They also can go after nonresident aliens that are under the regulatory corporate jurisdiction of the United States**, when they are **effectively connected with a trade or business** with the United States** or have made **income from a source within the United States**** ....
>
> [<u>Which One Are You?</u>, page 98, emphasis added]

Nevertheless, despite a clarity that was rare, author Lori Jacques has found good reasons to dispute even this statement. In a private communication, she explained that the Office of the Federal Register has issued a statement indicating that Treasury Department Orders ("TDO") 150-10 and 150-37 (regarding taxation) were not published in the <u>Federal Register</u>. **Evidently, there are <u>still</u> 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 IRC within the 50 States of the Union. Treasury Department Order No. 150-10 can be found in Commerce Clearinghouse Publication 6585 (an 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 available evidence 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, needed to be published in the Federal Register. Thus, given the absence of published authority delegations within the 50 States, the obvious conclusion is that the various Treasury Department orders found at Internal Revenue Manual 1229 have absolutely no legal bearing, force, or effect on sovereign Citizens of the 50 States. Awesome, yes? Our hats are off, once again, to Lori Jacques for her superb legal research.

The astute reader will notice another basic disagreement between authors Lori Jacques and The Informer. Lori Jacques concludes that the term "State" now includes *only* the District of Columbia, a conclusion that is supported by IRC Sec. 7701(a)(10). The Informer, on the other hand, concludes that the term "States" refers to the federal states of Guam, Virgin Islands, etc. These two conclusions are obviously incompatible, because singular and plural must, by law, refer to the same things. (See Title 1 of the United States Code for rules of federal statutory construction).

It is important to realize that both conclusions were reached by people who have invested a great deal of earnest time and energy studying the relevant law, regulations, and court decisions. **If these honest Americans can come to such diametrically opposed conclusions, after competent and sincere efforts to find the truth, this is all the more reason why the Code should be declared null and void for vagueness.**

Actually, this is all the more reason why we should all be pounding nails into its coffin, by every lawful method available to boycott this octopus. The First Amendment guarantees our fundamental right to boycott arbitrary government, by our words and by our deeds.

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

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

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

> [1] That the terms of a penal statute creating a new offense must be sufficiently explicit to inform those who are subject to it what conduct on their part will render them liable to its penalties is a well-recognized requirement, consonant alike with ordinary notions of fair play and the settled rules of law; and **a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application violates the first essential of due process of law**.
>
> [Connally *et al.* v. General Construction Co.]
> [269 U.S 385, 391 (1926), emphasis added]

The debate that is currently raging over the correct scope and proper application of the IRC is obvious, empirical proof that men of common intelligence are differing with each other. For example, The Informer's conclusions appear to require definitions of "includes" and "including" which are expansive, not restrictive. The matter could be easily decided if the IRC would instead exhibit sound principles of statutory construction, state clearly and directly that "includes" and "including" are meant to be used in the *expansive* sense, and *itemize* those specific persons, places, and/or things that are "otherwise within the meaning of the terms defined". If the terms "includes" and "including" must be used in the *restrictive* sense, the IRC should explain, clearly and directly, that expressions like "includes only" and "including only" must be used, to eliminate vagueness completely.

Alternatively, the IRC could exhibit sound principles of statutory construction by explaining clearly and directly that "includes" and "including" are always meant to be used in the *restrictive* sense.

Better yet, abandon the word "include" entirely, together with all of its grammatical variations, and use instead the word "means" (which does not suffer from a long history of semantic confusion). It would also help a lot if the 50 **S**tates were consistently capitalized and the federal **s**tates were not. The reverse of this convention can be observed in the regulations for Title 31 (see 31 CFR Sections 51.2 and 52.2 in the Supreme Law Library).

These, again, are excellent grounds for deciding that the IRC is vague and therefore null and void. Of course, if the real intent is to expand the federal zone in order to subjugate the 50 **s**tates under the dominion of Federal **S**tates (defined along something like ZIP code boundaries *a la* the Buck Act, codified in Title 4), and to replace the sovereign Republics with a monolithic socialist dictatorship, carved up into arbitrary administrative

"districts", that is another problem altogether. Believe it or not, the case law which has interpreted the Buck Act admits to the existence of a "State within a state"! So, which State within a state are you in? Or should we be asking this question: "In the State within which state are you?" (Remember: a preposition is a word you should never end a sentence with!)

The absurd results which obtain from expanding the term "State" to mean the 50 States, however, are problems which will not go away, no matter how much we clarify the definitions of "includes" and "including" in the IRC. There are 49 other U.S. Codes which have the exact same problem. Moreover, **the mountain of material evidence impugning the ratification of the so-called 16th Amendment should leave no doubt in anybody's mind that Congress must *still* apportion all direct taxes levied inside the sovereign borders of the 50 States**. The apportionment restrictions have never been repealed.

Likewise, Congress is not empowered to delegate unilateral authority to the President to subdivide or to join *any* of the 50 States. There are many other constitutional violations which result from expanding the term "State" to mean the 50 States of the Union. In this context, the mandates and prohibitions found in the Bill of Rights are immediately obvious, particularly as they apply to Union State Citizens (as distinct from United States** citizens a/k/a federal citizens). Clarifying the definitions of "includes" and "including" in the IRC is one thing; clarifying the exact extent of sovereign jurisdiction is quite another. Congress is just not sovereign within the borders of the 50 States.

Sorry, all you Senators and Representatives. When you took office, you did *not* take an oath to uphold and defend the Ten Commandments. You did *not* take an oath to uphold and defend the Uniform Commercial Code. You did *not* take an oath to uphold and defend the Communist Manifesto. You *did* take an oath to uphold and defend the Constitution for the United States of America.

It should be obvious, at this point, that capable authors like Lori Jacques and The Informer do agree that the 50 States do *not* belong in the standard definition of "State" because they are in a class that is *different* from the class known as federal states. Remember the Kennelly letter?

Within the borders of the 50 States, the "geographical" extent of exclusive federal jurisdiction is strictly confined to the federal enclaves; this extent does not encompass the 50 States themselves.

We cannot blame the average American for failing to appreciate this subtlety. The confusion that results from the vagueness we observe is inherent in the Code and evidently intentional, which raises some very serious questions concerning the *real* intent of that Code in the first place. Could money have anything to do with it? That question answers itself.

# # #

Reader's Notes: