

# SECRETS OF THE U.S. TAX CODE (in 10 Easy Segments)

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## Segment I

Will your eyes glaze over and will you run for the exit if I broach the subject of the income tax? You will if you're like most folks in the U.S.A.

Secrets? What Secrets? Consider for the moment that anything you've not heard of before is a secret—until you learn the facts of whatever the topic is. In this case, the topic is the tax on incomes that the federal and most State governments stick you with each year.

You may also consider this to be the most little-to-be-done-about-it subject that I might choose to write about. You might hate paying the tax, might wish you could get away from paying it, but you're convinced you must pay it because “that's just the way it is.” You're also likely to be scared to death of the IRS, but essentially you're a good citizen, and you may even believe you've got a patriotic duty to “pay your fair share.”

The further fact is, however, that more and more American—just like you—are discovering that, as with so many of its other operations, the federal government has been withholding the truth about the income tax. It's actually a benign but grossly misunderstood *excise* that affects only a small percentage of the American public.

Don't be afraid of that word, “excise.” You'll see why a little further on here.

The federal government prefers that the public remains deaf, dumb, and scared as hell about it—probably like you are now. Their attitude is that it's not their job to educate you about the tax. Just shut up and pay.

I hope you'll hear me out here. You won't read this or hear it from your “tax adviser,” even if you ask him/her point blank. That person is as much in the dark as you are!

It is this widespread ignorance of basic tax law that leads to you being victimized every payday, first by the system, then by your equally uninformed boss at work, and *his* CPA, and—unfortunately—by the Internal Revenue Service, which is happy to take your money even when you owe them nothing.

To be fair, the IRS annually deals with hundreds of scams and nutty ideas about how to avoid or escape paying the tax. You might consider what I'm writing here to be in that same category: a scheme, or some crackpot idea. Nevertheless, I urge you to read on here, because what I'm about to reveal to you is the absolute, proven truth—as I'll detail to you. Even the IRS—albeit not happily—admits that it is the truth!

Little by little, mostly by word of mouths like mine—person to person—the facts are getting out into the public, despite the best efforts of the IRS to keep a lid on it. Many hundreds of thousands have learned these facts and have freed themselves--quite legitimately--from the paying the tax. Now it's your turn to hear and weigh the facts.

We must start at the beginning: the United States Constitution, the basic law of the land. It all begins there. If you're like most others, you've likely never seen a copy of the Constitution, let alone read it.

It's not all that long, and not all that complicated. Over the years, politicians and courts have punched it into a shape more to their liking, but, even so, it remains the fundamental law of the land. Without the Constitution, there is no United States of America.

All federal and State laws must be seen and read in the light of the Constitution and its 27 amendments. The Bill of Rights is comprised of the first ten Amendments. *In my opinion*, everything that is wrong with the U.S.A. today can be traced to politicians and some jurists either ignoring the Constitution entirely, or "interpreting" its contents to suit their various political or economic fancies.

Over the years, the people have been led into believing that it was the Sixteenth Amendment that authorized the income tax, and that the tax covers any and all income, except what is specifically exempted. That is simply not true, but the IRS doesn't mind that most people believe it. It suits their purpose to keep the people both scared and ignorant.

So here's the beginning of what you don't know: Notwithstanding the Sixteenth Amendment (which actually did not amend the Constitution at all!), the Constitution plainly establishes that there are only two types of federal taxes permitted in the U.S.A. One is a capitation tax (per head) or direct tax—provided that such a tax is levied uniformly through the 50 States according to population. That's called "apportionment."

The other type of permitted tax is indirect, in the form of duties, imposts, and excises, provided they are uniform in nature.

We know that the federal income tax is not a direct tax (because it is not apportioned). It is therefore an excise tax—which means that it is based on privileged activity. It is a "piece of the action" tax stemming from income necessarily having a connection to the federal government in some way that has been taken advantage of. In other words, it's NOT all-pervasive. It does not cover "all that comes in."

**"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 tax."** (F. Morse Hubbard, Treasury Department legislative draftsman, House Congressional Record, March 27<sup>th</sup> 1943, page 2580)

Now, think of the tax you are paying on your income at work. Are you or the place where you work connected by privilege or activity to the federal government? If not, why are you then paying an income tax?

The reason you pay the tax—let's face it—is that you probably volunteered to pay it! Do you remember volunteering?

Well, you did. When you first went to work, you filled out "enrollment" forms. You didn't know it at the time, but in completing and signing those forms, you enrolled yourself to pay the excise tax on your personal earnings.

Your boss too has been led to believe that he MUST have you complete the paperwork. So that's what you did, in a very routine way. That's not because you are dumb, but because you (and he) didn't know any better.

That enrollment procedure has become so ingrained, so unthinkingly done, that it has become routine, and all-pervasive. “Everybody does it.” However, it wasn’t always that way. Back before World War II, hardly anyone paid the excise on earnings. There were no enrollment forms.

I won’t go into the why and how of all that just yet. First, you need to digest the fact that all of that talk about “taxing the rich” and “paying your fair share,” meaningless federal budgets, raising or lowering marginal tax rates and the rest of the political claptrap, is merely smoke screen. You can choose to believe it or not. But the legal fact of the matter is that if the enterprise that hired you (or you yourself if you work for yourself!) has no connection to the federal government in some privileged way, and if other of your earnings also have no connection to the federal government, then you are not obligated by law to pay the tax, no matter how much you are earning!

There are no tax brackets to be applied if your income is not of the type to be taxable in the first place.

The basic law of the land holds your private property as sacrosanct, and the most important property right you have is to determine for yourself who you are and what you are. That encompasses the right to sell your labor in order to make a living. No one can tax you for doing that. That’s because you own yourself and have an unabridged right to enter or not enter into a contract.

If you were taxed on your right of free speech, would you object? Of course you would, and rightly so. But what about being taxed by “the system” on your right to make a living?

## Segment 2 – What About the Sixteenth Amendment?

You say, look here Mr. Smarty Pants, the Sixteenth Amendment says plainly that

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

That certainly seems to state very clearly that the Sixteenth is the legal source of the income tax—that it allows a direct tax on your income. But, if that's true, then why is it that the very first income tax in America was levied in 1862, by the Lincoln administration, 51 years before the Sixteenth Amendment came into being? That first tax was not declared unconstitutional. No one found legal fault with it, because it was recognized in its day as an excise tax that relatively few people had to deal with. In fact, parts of it are still on the books, while other segments have been reworded but with the same result. It is still the same excise tax it was in Lincoln's time. The basics of it have not changed a bit.

To get it all into historical perspective, you need to know that in 1895, due to a Supreme Court case resulting from the revival of the income tax in 1894, the court ruled that the earnings from a certain private property could not be taxed because doing so would be tantamount to a capitation, a direct tax, which is prohibited by the Constitution. Whereupon the court threw out the entire 1894 law. It was ruled unconstitutional.

While that circumstance delighted certain business elements and their international banker cronies, giving them hefty tax breaks, the general public didn't like that at all and raised a widespread ruckus about it. Eventually, in 1910, a Republican Congress responded to populist sentiment and passed the Sixteenth Amendment. It was ratified--somewhat mysteriously--by a minimum number of States in 1913 and became law. In the same year, the excise tax connected to some incomes was re-activated as an addendum to a bill that lowered the duties on imports.

A man named Brushaber didn't like the way things were going, and he sued to prevent paying the tax. The lawsuit [*Brushaber v. Union Pacific Railroad*] reached the Supremes in 1916. Their unanimous ruling declared that the Sixteenth Amendment hadn't changed anything fundamental about taxation at all. Direct taxation without apportionment is still forbidden. The work of the amendment—what it does accomplish—said the court, is to assure that a certain category of earnings remains in the indirect category subject to the excise tax. In other words, the practical purpose of the Sixteenth Amendment was to correct the basic error made by the 1895 court.

Several other Supreme Court rulings have since substantiated Brushaber; so it is well-established law. Treasury Ruling 2303 states it very succinctly:

**The provisions of the Sixteenth Amendment conferred no new power of taxation but simply prohibited the 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.**

So, let's get beyond the Sixteenth Amendment. It's of little relevance to our main discussion here; namely, that the federal income tax attaches only to privileged earnings that have a direct connection to the federal government. That's what an *excise* tax is.

Here's an apt analogy about it: if you open a lemonade stand on a corner of land owned or controlled

by the feds, the profits you make can be taxed by the feds, because they are entitled to a piece of your action. But if you open the same lemonade stand on private property, directly across the street, the feds have no claim on your profits, regardless of how much you might take in.

**“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 tax.”** (F. Morse Hubbard, Treasury Department legislative draftsman, House Congressional Record, March 27<sup>th</sup> 1943, page 2580)

Are you getting a clearer picture now?

The Constitution is your friend. It keeps the government off your back—or at least its purpose is to do that. When you are ignorant of its provisions, you allow yourself to be swept into the incorrect conventional practices now controlling income tax procedure, as well as the adventurism and social theories of political wing-nuts in Congress. You unknowingly cooperate with the robbery of your earnings, and also your loss of freedom to retain and control your personal earnings and properties.

How does that make you feel?

(**Note:** Almost all State income taxes are based on the federal income tax. If you do not have federally taxable income, then most probably you do not have State taxable income either—no matter how they slice and dice it. Six States have no tax on incomes at all.....

### Segment 3 – Those Pesky Terms of Art

If some crook robbed you of your money at gun point, no doubt you would call the cops and raise hell. Strangely, however, when Uncle Sam does the robbing, *even when you know he's a crook*, your all-too-typical reaction is that you don't want to anger the IRS or your boss by standing up for yourself. Better to pay "your fair share" like a good little citizen.

All that can be said to that is, if you don't do anything to stop the thievery through the simple expedient of obeying the law, you really are a sad sack, aren't you! You may as well be in a North Korean labor camp!

I want to say something else here—concerning the notion that if you're one of the 49% who for one reason or another do not pay any federal income tax, then you are somehow a rat-fink crook who should be ashamed of yourself. That's an absolutely crazy notion. Why pay a tax—any tax—when there is no lawful obligation to pay it?

**The federal income tax is perfectly constitutional—let's get that straight right away. If you have taxable income, you must report it and pay whatever tax is due on it.**

But, do you have taxable income? That is the central question to be answered.

And now I'm going to tell you the secret that is unknown to millions and millions of Americans just like you: How the government operates to have you volunteer your earnings as the type affected by the income excise tax.

The feds accomplish that by remaining totally silent about the tax code's plentiful use of "terms of art." So-called tax experts of the income tax industry (more about them later) aren't told either. So it becomes a matter of the blind leading the blind.

A "term of art" is a legal term that is defined in the law itself. Such terms must be understood in their legal sense—not their dictionary meanings. Here are some examples of income tax terms of art: "employee," "employer," "wages," "United States," "State," "Taxpayer," "trade or business," "U.S. Person," "includes/including" and many more. These seem to be ordinary words, but each of those has a special definition provided within the tax code itself, and much different from their ordinary dictionary meaning! They become legal Terms of Art.

You may think that you are an "employee" working for an "employer" and being paid "wages," but most probably you are not. If you or the company you work for has no connection to the federal government, then you are actually NOT an "employee" as that term is defined in tax law, and are NOT being paid "wages," also as defined in tax law. In that case, what you are being paid is simply earnings. The feds have no legal right to tax those earnings under the income tax unless you volunteer yourself into their grasp. That's most probably what you've been doing.

Another example: If you are one who works for himself, then the legal definition of "**trade or business**" comes actively into play. Item 26 of Section 7701 defines that term as the "**...performance of the functions of a public office.**" A public office is like your lemonade stand on government property. It's the connection to the federal government. Without that connection, no excise tax applies.

Where do you find these legal definitions? One particular section of the tax code is entirely devoted to

a bunch of them [26 USC, Section 7701(a)]. Others are sprinkled about here and there within the tax code. Certain of these terms of art are repeated often throughout the code, and you simply have to know them, because, as you've often heard, "ignorance of the law is no excuse." To complicate things still more, the definition of one term quite often contains other terms which also must be looked up in order to arrive at a full legal meaning. Furthermore, some of these defined terms have still other special meanings that apply only to certain portions of the law.

**It is through the use of these unheralded Terms, hidden away within the 3.5 million word tax code, that permits the government to maintain the Constitutionality of the income tax while at the same time convincing the general public that the tax applies to "all that comes in."**

Anyone with an Internet connection can now locate and see these things for himself. Once you see how the game is played, then all else falls into place. The picture becomes clear: For the past 80 or so years, the public—(that's you!)--has been hoodwinked.

The income tax system siphons billions of dollars into government coffers each year, precisely because the public is kept ignorant of these terms of art. It amounts to artful thievery—in the same way that a pickpocket takes your wallet without you knowing it. Except that the pickpocket in this case keeps right on doing it to you, every payday.

## Segment 4--How You Volunteered

So, how did you volunteer yourself into paying an excise tax on your innate right to make a living?

When virtually everyone has been vacuumed into the system, there's little chance that you would consider yourself to be different from every one else. It becomes routine, punctuated by news stories of this or that hare-brained tax protester being jailed—just in case you get any smart ideas. Fortunately, it's not a case of once in, always in. Each year's earnings are distinct from another year's earnings. Situations can and do change.

One of the surprising basic facts to become aware of is that the entire tax code applies only to “**taxpayers**.” That's another legal term, defined as “any person subject to any internal revenue tax.”

If there were no particular importance to it, why does the “**taxpayer**” term even exist? Why is a distinction in the code needed at all? But since it is clear (or should be) to you by now that the tax on income is an excise tax, then it stands to reason as well as to fact that it does not apply to everybody.

Maybe *you* are not a “**taxpayer**.” Nevertheless, you are given forms to complete that are designed for use only by “**taxpayers**.”

The feds assume that you are aware of that fact. They don't regard it as their responsibility to tell you or educate you. So, when you unthinkingly fill out a form designed for “**employees**,” you thereby create the presumption that you are an “**employee**” working for an “**employer**” and are being paid “**wages**.” You are taken at your word. You're enrolled! The IRS attitude then becomes: “Now pay up and shut up or we'll come and do all sorts of nasty things to you.”

Before you begin working for some enterprise, you are routinely given enrollment forms to complete. The two most noteworthy of them are IRS forms titled “W-4” and “W-9.” Both are designed only for “**taxpayer**” use, and include terms. But there is no indication anywhere on those forms about those terms. There is no highlighting of the terms, no underlining, no italics, no footnotes. They're just there. Without a second thought, you fill out the forms and sign them under penalty of perjury. And that's the moment you volunteer yourself into the tax system—right up to your eyeballs.

After you sign them, they are in effect and operational. To escape their grasp, you must take steps to unwind or cancel them, and withdraw from them. That's often hard to do, requiring the cooperation of the company you work for. But once your boss also understands that he too has been hornswoggled, the pathway out of the system's grasp opens to you. You don't complete any government forms (not needed), there is no withholding of funds from your pay (not needed), and no informational returns to IRS (also not needed).

If your position with your boss is that he won't hear of making any changes, then your alternative is to counteract the sworn information reports he sends to IRS each January. There is no room in this brief report to suggest methods or ways to do that. However, that information is available from other sources at your request.

Obviously, when you filled out your work forms, you didn't know what you were doing to yourself. You didn't spend any time delving through the tax statutes. Who does that, after all? You simply take someone's word for it that “it's necessary” or “The law requires it.” But no one tells you about those terms of art. This is probably the first you have heard about them.

Here's another surprise: Among the 50 "titles" referencing all of the laws of the United States, only half of them have been passed into law by the Congress and signed by the President. Title 26, the one that includes the income tax, is among the titles that have never themselves been passed into law.

Title 26 contains a rewriting, a codification, of the "Statutes at Large," each of which was indeed passed by Congress. Each and every word of the Statutes at Large has marked significance that may not be changed by anyone.

A codification is an attempt to re-order the Statutes into more readable form. They are then supposedly easier to read and understand. However, the revamped writings lose their prime legal status and must be considered, at best, only an important clue as to the underlying laws. Further "clarifications" or "amplifications" are attempted by the Secretary of the Treasury in the form of regulations relating to some sections. However, it is a principle of law that both the tax code and Treasury regulations are always subordinate to the Statutes at Large.

There have been four major rewrites of the code over the years, supposedly to simplify its language, but in fact code sections have become ever more verbose. None of the rewrites has changed the basics of the income tax: it remains an excise tax on privileged earnings.

The tax code has millions of words in it. It's a hodge-podge of words and terms and cross-references, in no particular order. How on earth is anyone supposed to make heads or tails of it?

If it weren't for the fact that, a few years ago, somebody thought to scan the tax code into computer language, we'd all still be in the dark about it. But now, thanks to deep-digging Internet search programs, the code is easily penetrated and its "secrets" finally revealed for anyone to seek out. There is no longer any excuse—except laziness and cowardice—to continue being deaf, dumb, and blind about the income tax.

Maybe this is your wake-up call! Remember that movie in which a main character, an enraged TV newsman, urged his viewers to go to their windows and yell out, "I'm mad as hell and I'm not going to take it any more!"? Ring a bell?

## Segment 5 – Falling Into the IRS Trap!

There are many surprises in store for you when you begin to discover the several ways and times over the years that the government has contrived slyly and bit by bit to circumvent the Constitution. The basic law of the land (the Constitution) lists 17 things which the federal government was empowered by the States to handle. Seventeen—that's all—like running the post office, coining money, determining correct weights and measures, and raising an army and navy.

You will look in vain for anything in the Constitution about education, about TV signals, about housing, about central banking, about labor, about medical insurance. Virtually everything the federal government does today is derived from an emanation, an extension, a figurative assumption—however remote—either of one of the 17 named items of responsibility listed in Section 8 of the Constitution, or from the “Welfare” or “Interstate Commerce” clauses.

The Great Crash of 1929, when the stock market plummeted to virtually nothing over a few days, opened the door to the Franklin Roosevelt administration in 1932. FDR was born to riches and grew up imbued with the “progressive” ideals of Woodrow Wilson, the architect of the nation's World War I adventures. Faced with millions out of work, FDR moved to have his administration “do something” to create jobs, provide old-age pensions and other benefits for the populace. Sound familiar? FDR called it the New Deal, and it included the Social Security benefit package.

It was like giving food and candy to starving children. It was “the right thing to do,” and government was the proper tool to do it with, according to FDR and his progressives. He was greatly popular, as Santa Claus always is.

The big problem for FDR was that there was nothing in the Constitution that permitted the federal government to concern itself with social welfare applicable to the 50 States. There still isn't. However, the Constitution *does* allow the federal government to exercise municipal authority within its boundaries of the District of Columbia, and any U.S. territory (such as Puerto Rico and Guam), and to subject anyone acting with its permission to related duties and obligations. Popular understanding of these limits had faded over the early years of the 20th Century (in fact, that understanding was under constant assault by Liberal/Progressives over that whole period, extending even to today).

So FDR's social security program, and later the federal programs of Medicare and, arguably, Obamacare, were carefully written to properly confine themselves to those reachable by federal authority, and were only made voluntary for the populace within the 50 States. Yes, you read that correctly: *voluntary*. But strenuous efforts have been made to convince the American public otherwise, and to trick people into “volunteering.” There's actually nothing in the social security law that says you and I must take part in that program. We can elect to participate if we want to. However, Congress has contrived over the years to make it very difficult for anyone to survive in society without giving the appearance of having “volunteered” themselves into those programs. Try going without a social security number for about two minutes nowadays.

Because the “system” is designed to suck us into the tax swamp, it can be a chore to stop volunteering for it even when we know what's going on. But, it's doable chore, and oh so nice when accomplished.

Tens of thousands have already disassociated themselves quite legally from the personal and business tax scheme, especially since about 2003, when these truths about the tax were finally fathomed and began to gain public notice. Tens of thousands just like you began asking for all of their withheld

payroll tax money back—and *receiving it!*

The key to extricating yourself is knowing about those “terms of art,” and then taking steps to align yourself with the law. It’s not always an easy process, because you are flying in the face of conventional beliefs and practices, especially when you go to confront the person or company who hires and pays you. You rarely will find those people sympathetic. Instead they will almost inevitably hide behind their accountant’s advice. That’s the “My CPA makes me do it” excuse.

A major part of the scheme is the matter of the annual IRS Information trap:

At the end of each calendar year, the company or individual you work for reports to the IRS that you have been paid “**wages**,” and that certain amounts of taxes were withheld from your pay, as per your Form W-4 request. Your “employer” reports it all to IRS under penalty of perjury, and his reports are then held as sworn testimony that you have been paid earnings subject to the income tax.

Forms W-2, 1099’s, K-1’s, and W-2G’s are called information returns. They are not the final word about your earnings, but they become the basis of the IRS’s tax collection operations.

*If you then don’t own up to—or rebut—these information return allegations on your annual tax return, IRS comes looking for you with its full array of penalties and interest—especially if they deem you to be acting “frivolously” while attempting to extricate yourself from them.*

***(There is a way out of this dilemma, through the educated use of your own tax return—which, by the way, supersedes the information forms sent to IRS. By law, your personal sworn tax return has legal precedence over any information form.)***

Certified Public Accountants, tax attorneys, outfits like H&R Block, and tax preparation software programs like TurboTax are all part of the multi-billion dollar income tax industry. They earn millions of dollars in fees to maintain the charade. These folks have passed tests to earn IRS credentials, but 99.9% of their training deals entirely with the practices, procedures, and allowable deductions concerning the payment of the tax to the government. But they are taught nothing about the terms of art in the tax code! And they have no incentive to want to change their ways. In fact, IRS awards them brownie points for closely adhering to IRS dictates.

From personal experience, I know that you will receive quizzical looks from your CPA if you ask him/her about this—like you are out of your mind. You will likely be told, “Don’t listen to that guy—he’ll only get you into trouble.”

But it is also true that once an “expert” learns these truths (and a growing number are learning them and spreading the word), they find that they can no longer complete tax forms for clients as they did before—not if they’re true to their professional oaths.

## Segment 6— Troubles with W-4 and W-9

The easiest way to avoid the tax system's traps is to become an independent contractor; i.e., work for yourself. Hire yourself. Be your own boss. In fact, that's good advice at any time, taxes or no. Create your own job—go into business for yourself. Just don't open your "lemonade stand" on federal government property.

Note that I didn't say to become "**self-employed**," because that too is a term of art. You can work for yourself and not be "self-employed." But if you operate your lemonade stand on federal property, so to speak, then you are indeed "self-employed." IRS then is entitled to a piece of your action.

Working for yourself eliminates the troublesome enrollment form, the W-4. However, another IRS information form may come into play: the 1099-MISC. Those are issued by businesses for which you did some work, saying that you were paid a listed amount of "taxable income." But 1099s are much easier to deal with, and you even get the support of the IRS in doing so. All you need do is refer to the IRS instructions for those issuing 1099-MISC, 1099-INT, and 1099-DIV where it says, "Use (forms 1099) only for reporting funds paid out from your trade or business."

Well, of course, "**trade or business**" is a legal term, and now that you know that, it becomes very easy to rebut an information form from someone purporting to be a "**trade or business**" contrary to fact. When your own enterprise is not a "**trade or business**," you are the only one with first-hand information about it.

The other problem form that IRS uses is the W-9, in spite of the fact that it is not an official form (no OMB number on it), and IRS doesn't want anything to do with it after you fill it out. It is a strange sort of beast, but it does complicate things.

Reduced to its basics, the W-9 asks for two things: one is your tax identification number, which in most cases is your social security number. The second is in two parts: one is that you are asked to certify that you are not subject to withholding because of some income tax problem you may have previously been involved with. The second part is that you are asked to certify that you are a "**U.S. Person**."

A "**U.S. Person**" is another of those pesky "terms of art." The typical (uneducated) response is, sure, I'm a U.S. Person, born right here in this State. So you quickly answer "yes." However, your "yes" answer actually means a good deal more than that, and things not strictly true—since "U.S. Person" is one of those custom-defined terms. You can be an American while not being a "U.S. Person" as the term is meant in that question.

An irony about the W-9 is that it specifically instructs that the form is not to be returned to the IRS. Businesses, as well as banks and investment firms, are required to ask for tax I.D. numbers from enrollees, but there is nothing in the law that requires enrollees to complete the form. However, over the years the process has shifted from a properly permissive one to a mandatory one. Nowadays, if you refuse to complete the form, you will not be hired or be allowed to open a bank or investment account.

On the other hand, some bosses and some banks will permit you to expand the "**U.S. Person**" answer from a simple checkmark. After all, the form does remain in their hands. You may then write in wording to the effect that, no, you are not a "U.S. Person" as that term is defined in the tax code, but you were born in California, or Kentucky, or whatever the case may be. That will satisfy the bank's need to be able to certify (for Homeland Security purposes) that you are a citizen of your State, not an alien.

While the W-4 and W-9 are troublesome, the most important form of all is the Form 1040, your tax return. You definitely are required to file a United States tax return for any year in which you have taxable earnings in excess of a stipulated minimum, the amount of which changes each year according to a formula. That is true whether you owe any tax or not. At the same time, it is in your interest to file a return anytime anyone else has said (usually on one of those W-2, 1099, K-1 “information returns” discussed earlier) that you had taxable earnings above that specified minimum, even if not true. Doing so is your means, specified by law, for rebutting erroneous allegations that what you earned was from the conduct of a taxable activity.

Nothing in the law requires use of the Form 1040 itself for filing a return. Any sworn document containing the exact same information may be used. However, using the 1040 is the simplest way to go about it. Either way, filing a return requires you to swear under penalty of perjury that the information you’ve entered on the form is true, accurate, and complete to the best of your knowledge and belief. By law, then, the contents are accepted by IRS as your sworn testimony, unless those worthies have first-hand knowledge that some entry or other is in error. Burden of proof for that falls on the government. Who else but you can have first-hand knowledge of your earnings status?

You’re at IRS’ not-so-tender mercies if you aren’t aware of the “terms of art” and how to apply their legal meanings for your own benefit. However, armed with that and other procedural knowledge, you can quite properly regain your controlling position in respect to the federal excise tax on certain income.

You again are in control.

Having said that, I need to advise you specifically that you need to know much more about all of this than I have space to tell you here.

## Segment 7– So What Do You Do Now?

The previous six segments, I hope, have made you aware of the central facts concerning the federal income tax. To make use of this new knowledge—to put yourself right with the tax code—requires that you do much more self-educating on the subject. I have provided only the broad strokes here, but not all the specifics you need to have. It's not a simple subject—there is a lot to know and understand. **Don't look to your CPA or tax preparer for help. Most all of those people are well-meaning, but totally ignorant of any of this. They're part of the problem.**

There is no doubt at all that your life will be less complicated if you “go with the flow,” just as you have been doing. Go along to get along, is the saying. However, “going along” in this case means that you cooperate with what amounts to outright thievery by continuing to be forced to volunteer your hard-earned money to the IRS extortion process. Maybe you do not mind doing that, but many do mind.

**There is also absolutely no doubt that the IRS and others in the Department of Treasury know full well that the income tax is an excise tax, and that they have knowingly colluded to operate it as a direct tax on your income. They have accomplished that mainly by the critical use of terms of art and deliberately remaining silent about them.**

That silence is accompanied by a deliberate program of instilling fear of penalties and prosecution, and also of deliberately fudging the legalities surrounding their use of levies and liens. That's another part of the story I have not covered here.

Even if your total earnings and deductions and exemptions already put you into the zero tax category, and you're not paying any tax at all, it's empowering to know about the terms of art and how they serve to make dupes out of all those who do pay taxes not actually owed. You can then spread the word and help boost knowledge of and the basic importance of the Constitution to your personal freedoms.

As a bonus, in the process you'll also learn similar vital truths about capital gains taxes and federal estate transfer taxes—because the matter of terms of art applies to them too. That's an allied subject, worthy of attention all by itself.

If you dismiss what you've read here, and shrug it off as nonsense, then there's little hope for you. You live to be taken advantage of. Stay out of poker games.....

On the other hand, if you have some backbone and want to stop the extortion of your earnings, then you need to learn how to swing the weight of law behind you. That's a very comfortable position to be in!

The really good news is that IRS finally does accede to the law, as it must. They just hope that the general public doesn't find out what's really going on, because then the wheels will come off the tax goodies cart. **Americans will regain their lawful freedom to earn and to keep what they earn.** Because I've only covered the surface of the subject here, you need to read the “bible” about it all, a book titled ***Cracking the Code—the Fascinating Truth About Taxation in America***, in its 15<sup>th</sup> printing as this is written. Author is Peter E. Hendrickson. It's being promulgated by word of mouth, person to person, and it is an eye-opener.

Hendrickson's book is available at [www.losthorizons.com](http://www.losthorizons.com) and nowhere else. Read and re-read it until you become totally conversant with the entire subject. There is also a wealth of information on that website, including the photocopies of more than 1,300 checks and documents showing specifically and

actually how the IRS and States have acceded to the demands for full return of over \$13 Million in taxes previously paid due to ignorance of the truths and facts underlying the U.S. income tax.

What do you have to lose?

**A Caveat:**

**The reader of the foregoing pages should understand that none of what I have presented here is a protest of the income tax itself. Anyone who has taxable income is obliged by law to report it and pay whatever tax is due upon it, and that certainly should be done. My sole purpose is to alert the reader to the fact that the tax, as it is written and practiced, is widely misconstrued, and that these widespread misunderstandings are knowingly and actively encouraged by the federal government and the Congress, and especially by the IRS, in order to induce payment of taxes not owed. That is the shameful truth about the federal income tax, as well as all of the State income taxes based on the federal model.**

## Segment 8—Why It’s Important.....

This is a follow-up segment, to shine further light on what I’ve presented to you.

I became interested in all of this taxation stuff way back in 1982, when I was studying for my Chartered Financial Consultant designation from American College in Bryn Mawr, Pennsylvania. One of the 13 courses dealt with the “practical aspects” of the federal income tax. It was presented in textbooks having the imprimatur of the Internal Revenue Service. In other words, I learned about taxes from the IRS standpoint—which (wrongly, as you know now) is the assumption that whatever you earn or are paid is reportable and taxable, except for allowable deductions. That’s all that IRS cares about.

The emphasis for tax practitioners was on which deductions and exemptions are proper and allowable and which forms are to be completed at what time. There was nothing whatever in there about how to determine whether personal and business earnings are taxable in the first place. There was nothing about the use of Terms of Art in the code.

In those days, we were dealing with the most recent (1954) version of the tax code. As I studied the material I noticed some odd things that prodded for further answers. One of the biggies for me was why the system requires tax returns to be signed and submitted to IRS under penalty of perjury, with the information entered open to any of many government and foreign agencies to be used against you for whatever purpose they might have. What happened to the Fifth Amendment protection against self-incrimination?

No answer anywhere.

Another was some weird wording I kept running into. As, for instance, where a code section says something like, “Persons required under this title to do such and such...” That indicated to me logically that there must then be some people who are NOT required to do such and such under this title. What about them?

No answer anywhere.

Those were the days before the entire tax code was scanned into computer language accessible to anyone with a computer. Before then, all research into the code had to be done manually, plowing through literally millions of words in the code with only a bare-bones index to help out. It was a time-consuming, daunting task. Who had time and patience for that sort of thing? I certainly didn’t.

So I went a long time without finding any substantial answers. Then, in 2006, I stumbled on Peter Hendrickson’s book. Wow! Here was a scholarly guy who spent many months on his computer, digging deeply into all aspects of the tax code, checking out each and every cross-reference (scores of those!) and the underlying Statutes at Large that the code is based upon. I speed-read his book cover to cover in a couple of hours, and then read it again slowly, underlining passages and writing notes in the margins. I verified all of his references for myself and for my full understanding. At the time, the book was in its fourth printing. As I said earlier, it’s now in its 15<sup>th</sup> printing!

At last I had the answers I had looked for all those years. Now I understood, and now I could tell others about “my” find. The answers, in “*Cracking the Code...*,” also led me to realizations about many other financial matters in which the federal government is a heavy-handed, often-corrupt player. It’s not a pretty picture.

It is now clear to me that the federal government has become the King Kong gorilla in the room, not at all what the Founding Fathers intended in the Declaration of Independence and the Constitution. Americans today have lost aspects of the liberties guaranteed by the Constitution. Sadly, they have become conditioned to their status—too readily believing that government is the fundamental source of help and good in their lives.

That's why this is important... Personally, I am adamant that I won't play tax patsy to the federal government, nor can I remain quiet about it all with my clients and friends.

Back before World War II, very few paid the income tax, or even knew it existed. There were no payroll taxes, no withholdings. What you earned is what you got. Doctors made house calls. I remember gasoline at 14 cents a gallon.

However, FDR needed money to finance the World War II. The government began begging the public to volunteer to buy war bonds regularly. I can remember Donald Duck ads urging people to buy war bonds and help fight Hitler and Tojo. To make volunteering easier, a pay-as-you-go method (first seen in Lincoln's day) was re-introduced, wherein individuals authorized certain amounts to be withheld from their paychecks for the purchase of war bonds, as well as to pay the few cents required for enrollees in FDR's social security program.

You paid \$18.75 for a war bond, and after 10 years, you cashed it in for \$25. America responded with great enthusiasm throughout the war time. It was the patriotic thing to do.

After the war—probably in the late 40's—it occurred to some bright lights in government that since the people responded so well to the withholding idea, why not continue to keep the money ball rolling. And so it was. Gradually, requesting withholding of payroll funds for paying the tax “as you go” became unquestioned routine. It is now mandatory for “employees.”

But, now you know better.....

## Segment 9 – A Question about Information Returns

One of my correspondents asks for a fuller explanation of why Forms W-2 and 1099 are issued and why they can create an IRS trap for her. Let's start by also showing clearly, by example, how ignorance of Terms of Art trap you into the income tax system. Here is an important one—in boldface and underlined. Section 6041 is cited as the authority in the tax code that requires businesses to send earnings information to IRS.

26 USC Section 6041. Information at source

(a) Payments of \$600 or more

All persons engaged in a **trade or business** and making payment in the course of such **trade or business** to another person, of rent, salaries, **wages**, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable **gains, profits and income** (other than payments to which Section 6042(a)(1), 6044(a)(1), 6047(e), or 6049(a) applies, and other than payments with respect to which a statement is required under the authority of Section 6042(a)(2), 6044(a)(2), or 6045), of \$600 or more in any taxable year, or, in the case of such payments made by the **United States**, the officers or **employees** of the **United States** having information as to such payments and required to make returns in regard thereto by the regulations hereinafter provided for, shall render a true and accurate return to the Secretary, under such regulations and in such form and manner and to such extent as may be prescribed by the Secretary, setting forth the amount of such **gains, profits, and income**, and the name and address of the recipient of such payment.

Whew! First of all, you see there an example of the verbosity of the tax code. That's all just one sentence! Second of all, while the bold-faced and underlined Terms here alert you that those terms have special meanings, they are not presented to the public in that way in the code. They are not set in bold face and underlined, as I have done for you here, so they appear as ordinary words. Unless they and their special definitions are known and recognized, they will mislead you.

It's critically important to note also that the governing phrase in that section is "*All persons engaged in a trade or business...*" Two Terms of Art are contained in there. The governing one is "**trade or business**." That Term is defined in the code to mean: "the performance of the functions of a public office." A public office is an officially designated entity connected to an element of the federal government.

Thus, anyone educated in the tax code and its terms of art knows immediately that the entire Section 6041 does not apply if the subject enterprise is NOT a "trade or business," no matter how many regulations the Secretary may attach to it! The code section could fill several pages (as some do) and none of it applies unless a "**trade or business**" is involved.

So, unless your boss's enterprise falls into that "trade or business" category, he/she should not be reporting your earnings as "self-employment income" or "employee compensation," assuming they amount to \$600 or more. It is illegal, and they can be held financially liable for doing so, once they are notified of their error, but refuse to stop doing it.

When IRS receives a false information return (the great majority of them!) from a business entity, IRS treats it as positive evidence of taxable earnings, because when submitting those forms, business owners swear under penalty of perjury that their enterprise is a "trade or business" and has paid taxable income to the people named. If that's you, you then need either to pay the tax on the amounts entered on the W-

2 or 1099 (which is what you've been doing), or to rebut the information given.

Rebutting the incorrect information on your personal tax return must be done in such a way that you don't end up compounding the original problem. You're just getting started here.....

## Segment 10 – What About Capital Gains?

*Q. In Segment 7, you mentioned capital gains but didn't go into it at all. If I sell some stocks or other properties and make a profit, isn't that taxable?*

Just like anything else involving the federal tax code, the matter of Terms of Art is a determining factor of the subject of capital gains, just as for the earnings you make from your work. I had intended to cover the subject of capital gains in a separate paper, but since you ask about it here, I'll do that now.

IRS and the income tax industry would have you believe that if you have a property of some sort—whether it's real estate or not—and sell it at a profit, you must pay a tax on the gain involved. If you sell that property at a loss, then you must consider whether it's a short-term loss or a long-term loss to determine how the loss may be deducted from earnings. Etc. Etc. CPA's love it, because then they can show off how knowledgeable they are about tax deductions.

In actuality, the first thing to be determined is whether the property involved is subject to the capital gains law in the first place. Chances are good that the capital gains provision in the tax code does not apply to your stock shares *because they are outside the purview of the tax code*. Selling those for a gain or loss is outside the Federal reach.

As you consider this, you must always remember that the Constitution prohibits any direct tax unless it is apportioned by population through the 50 States. Indirect taxes are allowed, as an impost, a duty, or an excise. However, these types of taxes can only apply to things with a privileged nexus to the federal government—i.e., earnings derived from or because of near association to the federal government.

There are several sections of the tax code that deal with various aspects of capital gains. Each of them includes Terms of Art limiting the things to which the sections apply to those connected with the federal government, in one way or another. The general rules for determining capital gains are to be found in Section 1222 of the code. So, that's the first place to look.

There we see that capital gains concern the “sale or exchange of a **capital asset**.” Therefore, unless what is sold or exchanged is a capital asset, as defined in the tax code, the gain or loss is not subject to capital gain levies.

So next we must check the definition for “**capital asset**” to see if your stock shares fit the bill. We find the definition in Section 1221(a). Its wording includes other terms of art that we must also check out. Here's how it reads:

“For purposes of this subtitle [income tax], the term “**capital asset**” means property held by the **taxpayer** (whether or not connected with his **trade or business**), but does not [my emphasis] include

(1) stock in trade of the **taxpayer** or other property of a kind which would properly be included in the inventory of the **taxpayer**...or property held by the **taxpayer** primarily for sale to customers in the ordinary course of his **trade or business**.

(2) property, used in his **trade or business**, of a character which is subject to the allowance for depreciation provided in Section 167, or real property used in his **trade or business**.

The term “**trade or business**” is of particular distinction in any reference to capital gains. But there's another term that takes precedence: “**taxpayer**.”

We must ask ourselves why the code writers thought it necessary to repeat the term “**taxpayer**” four times in the section defining a **capital asset**. “**Taxpayer**” is defined in Section 7701(a)(14) as “any person subject to any internal revenue tax.”

Using a bit of logic, we can conclude that if there are “**taxpayers**,” there must also be “**non-taxpayers**.” In other words, the code sections concerning capital gains are for **taxpayers** only. That would be any entity with earnings derived from some sort of connection to the federal government. If you are one of those, then the other terms of art in there come into play.

When you read Section 1221 in its entirety, you can become bamboozled by its verbosity, cross references, and double negatives. It’s a difficult read because the tax code writers didn’t much give a damn if what they wrote is immediately comprehensible. Their primary chore is not clarity, but to keep the tax law Constitutional—which it is. However, their meaning becomes clear when you apply the tax code’s definitions of the terms of art.

What Section 1221 amounts to is this: If you are not a **taxpayer**, then a property such as stock or real estate or article of personal ownership, is not a **capital asset** and therefore not subject to any federal taxation!

Just to be clear about the meaning of “**taxpayer**” in the tax code, it refers to anyone who is obligated for an internal revenue tax, such as “income” taxes and certain other specific excises. You might pay any number and amount of other types of taxes, and still not be a “taxpayer” to whom a capital gains levy applies. I couldn’t find a Supreme Court ruling about it, but a federal court’s ruling in Montana in 1922 still stands and serves to further clarify the term for us:

**“The revenue laws are a code or system in regulation of tax assessment and collection. They relate to taxpayers, and not to non-taxpayers. The latter are without their scope. No procedure is prescribed for non-taxpayers, and no attempt is made to annul any of their rights and remedies in due course of law. With them Congress does not assume to deal, and they are neither of the subject nor of the object of the revenue laws....”**

Long v. Rasmussen, Collector of Internal Revenue, et al.  
--District Court, D. Montana (281 F. 236 [1922])