

CAPITATION

LOST HORIZONS

A tax on any kind of earnings or gains which are undistinguished by any special character; a tax on earnings or gains from common occupations and activities; a tax on anything done by right (as opposed to by privilege).

Capitations must be apportioned; any earnings or gains within the capitation definition (above) cannot be "income" taxable under the "income tax"

Best Sources: US Supreme Court, *Pollock v. Farmers' Loan and Trust*, 157 U.S. 429, 569-570 (1895); Albert Gallatin, 'Sketch of the Finances Of the United States' (1796); Adam Smith, 'An Inquiry into the Nature and Causes of the Wealth of Nations', Book V, Ch. II, Art. IV (1776)

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APPORTIONMENT

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The distribution of a tax burden among the political units to which it applies, with each unit being liable for a percentage of the total equal to its percentage of the overall number of citizens affected by the tax.

For instance, if a tax is laid on all beachfront resorts within the several states at \$10 per, and there are 100 such resorts, the total tax will be \$1,000. If Maryland has 1% of the population of the several states, Maryland will be liable for \$10 of the tax (1% of \$1,000).

“Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers...”

United States Constitution, Article 1, Section 2, Clause 3

See <http://losthorizons.com/Documents/Appportionment.pdf> for more.

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EXCISE TAX

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An indirect, unapportioned tax on the happening of an event.

Because no unapportioned federal tax can be laid on general activities conducted as a matter of right or the revenues they produce (since a tax on such things would be a capitation or other direct tax, and therefore would require apportionment) all unapportioned federal taxes are necessarily on distinguishable events involving an exercise of federal privilege. Federal excises must be uniform.

“The terms ‘excise’ tax and ‘privilege’ tax are synonymous....”
Amer. Airways, Inc. v. Wallace, 57 F.2d 877, 880 (M.D. Tenn. 1937)

Best Sources: US Supreme Court, *Brushaber v. Union Pacific R. Co.*, 240 U.S. 1 (1916); <http://losthorizons.com/Documents/AnExciseTaxIsAPrivilegeTax.pdf>

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PRIVILEGE



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Privilege: A special opportunity, not inherently available to anyone as a matter of right. In the context of excise taxation, a taxable privilege is gainful conduct which arises from, or is dependent on, a connection to the taxing entity. All such privileged conduct is amenable to the tax (though not all such conduct is necessarily subjected to the tax).

"The 'Government' is an abstraction, and its possession of property largely constructive. Actual possession and custody of Government property nearly always are in someone who is not himself the Government but acts in its behalf and for its purposes. He may be an officer, an agent, or a contractor. His personal advantages from the relationship by way of salary, profit, or beneficial personal use of the property may be taxed..."

United States v. County of Allegheny, 322 US 174 (1944).

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INCOME



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"Income": Federally-exercise-taxable activities or events.

"Income" activities or events are measured by the gains they produce, which gains are themselves typically referred-to as "income".

"Income" activities or events can be conducted directly, or indirectly-- such as by ownership of stock in an "income"-active entity.

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PRESUMPTION

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Presumption: A fact considered to implied or inferable based on another fact in evidence, though not itself proven. A presumption will be treated by courts as fact unless and until rebutted by contrary evidence.

"In a civil case, unless a federal statute or these rules provide otherwise, the party against whom a presumption is directed has the burden of producing evidence to rebut the presumption. But this rule does not shift the burden of persuasion, which remains on the party who had it originally." Federal Rules of Evidence, Rule 301

TYRANNY



LOST HORIZONS

The exercise of control over the property or person of another without the owner's voluntarily delegated authority to do so, whether under a form of law or not, other than in defense against an act of aggression; the assumption of ownership of any property or thing of value-- tangible or otherwise-- produced by the labor of another, other than by the laborer's voluntary agreement.

Resistance to tyrants is obedience to God.

-Thomas Jefferson

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