STOP! IRS Liens and Levies
Know The Truth

Many of us are only too familiar with the story of a friend or family member who went to an ATM machine to take out some cash only to discover that their balance had somehow dropped to "$0.00." The IRS, without warning, had emptied their bank account. Others may have had their weekly paycheck "attached" by the IRS. Such individuals, in describing their intense feelings of anger and frustration over the apparent outright theft of their personal property, speak of having been "robbed", yet seemingly have no legal recourse.

In fact, there is recourse under the law for those Americans willing to pursue their constitutional protected rights to their property - namely, their money, and the heard-earned fruits of their labor. The Internal Revenue Code (Title 26) is the body of law that contains the legal authority for the Secretary of the Treasury to administer provisions pertaining to the collection of income taxes. It is, however, not unusual for the Service to cite the Internal Revenue Manual as their legal authority for various aspects of a collection procedure. At least six Courts have now ruled that the Manual is only "directory" in nature and that it does not convey any such legal authority. how devastating such rulings are to the IRS.

It will also relate the specific effect that this will have on agency employees who fail to recognize the limited nature of their authority and other provisions pertaining to, for example, liens and levies.

Affirmati, non neganti incumbit probation defined: The proof lies upon him who affirms, not on him who denies.

The Levy
It goes without saying that one of the most dreaded forms that any person can receive from the IRS is the Form 668-W. This form is the "Notice of Levy" that is sent to third parties for the purpose of collecting taxes that are allegedly owed. The legal authority for its use is extremely limited, but since the general public is unaware of the statutory provisions for "levying" upon the wages, accrued salary, or other property of people, the legal impotence of the IRS is unknown to them.

The reason is: when the form was designed, the cite of authority that would reveal its limited application was conveniently omitted - a cite that must, by law, accompany the notice. But, then again, if the IRS actually cited the authority for the levy on the form, it is doubtful they could coerce people into honoring the levy. The individual who actually receives the "Notice of Levy" is, of course, a third party [i.e., a bank manager]. But rarely, if ever, does that third party realize the responsibility for correctly determining that the validity of the levy is theirs. Nor do they fully realize the importance of making a correct legal determination, since an incorrect determination can lead to a personal liability. Even worse, it could lead to a criminal charge called "conversion of property."

The majority of people have little or no understanding of the law and so they are not cognizant of the requisite statutory authority or its limitations. As far as the "Notice of Levy" is concerned, most people assume that the responsibility for these determinations rests with the IRS. It naturally follows, in their mind, that the IRS is then legally responsible for that "determination." What they fail to consider, is that, since they are in possession of the property, it is they who are ultimately responsible for any determination having to do with its disposition, not the IRS.

The agent who sends a levy is merely acting on "presumption" that the authority may be valid. If the agent was knowledgeable, it might be considered unethical, but unless the agent had full knowledge of all of the circumstances and the actual limitation of the authority in question, his or her actions could be considered to be within the law. It is easy for someone who is cognizant of the limitations to jump to conclusions and assume that such action is illegal. Maybe it is, but did the IRS agent ever suggest that the authority for the levy was valid or applicable? Probably not! Nor did he or she necessarily suggest that the property of the individual that was under the control of the third party was "subject to levy." For that matter, the agent was probably as ignorant of the law as the third party who received the levy! It was not the agent's responsibility to tell the third party that the levy was invalid without the necessary court order, and more than likely, the agent didn't even know that himself. Rather, because the third party is in control of the
property, it is their responsibility to know the law and act in accordance with the law, or, if unfamiliar with the law, to seek competent legal advice (assuming any can be found).

The bottom line is, were it not for the many parties involved and the various legal aspects that seem to confuse the average attorney, it would be impossible for the IRS to seize property under the guise of collecting taxes. The question that most people ask is: who is to blame? Is the agent at fault because his or her training was incomplete? Was it their instructor's fault, or was the instructor only doing what he or she was told? To a large degree the "misperceptions" discussed here result from ignorance that has been perpetuated as much by natural processes as by any design, and it has gone on for such a long time that no one is willing to admit that they really can not explain why certain actions and procedural anomalies (for which they may be responsible) seem to conflict with the law. The best that any IRS employee can hope to do, is pretend that they know what they're doing and hope that they can convince everyone else that what they have been doing is proper and lawful. Is the third party to blame? Perhaps, but then, how can anyone expect the average person to understand these limitations when the agents themselves do not understand?

The lawyers that are called upon to give legal advice concerning levies have virtually no experience in tax law and end up calling the very agents that were just mentioned because they don't know either. Ironically, everyone seems to have a sincere desire to obey the law, even many of the agents. They just refuse to believe that what they've been doing for years is outside the law -- surely there must be some other law that would permit them to continue doing things the way they were told! Like the children’s fairy tale about the emperor who had no clothes, the people involved just can't believe their own eyes. The lower level agents believe their supervisors wouldn't lie to them, and the supervisors believe that what they have been told is correct and on up the ladder it goes. In the case of the fairy tale emperor, the people just couldn't believe that the emperor was really as naked as their eyes would seem to suggest. After all, there must be some other explanation. Surely he (or in this case the average IRS agent) wasn't that gullible! The real problem is that none of the authorities involved are willing to admit the possibility that they are wrong. That would be dangerously close to admitting that they had been needlessly destroying the lives of their fellow countryman, and the more evidence that surfaces to prove or disprove the various points in contention, the more obsessive the bureaucrats desire to blindly, and without basis, insist otherwise.

The funny thing about a lie, is that, the more a person repeats it, the greater the tendency there is to believe it. For some, the misapplication of the income tax has been a nightmare, not a fairy tale, but it has been perpetuated by what in some cases seem to be well meaning, yes, bureaucrats. Consider former Commissioner Shirley Peterson's speech at Southern Methodist University. She blasted the income tax and said that it must be done away with, echoing none other than former President Jimmy Carter's own words when he said, "the income tax is a disgrace to the human race." It was once difficult for us to believe that officials as high as Ms. Peterson were capable of such gross ignorance of the law, but in a recent court ordered interrogatory, she stated that "wages" and "salaries" were clearly includable in "section 61(a)" (gross income). We pointed out to the commissioner that not only were "wages" and "salaries" not mentioned in the text of section 61, which is Subtitle A, but that they were by definition, strictly limited to Subtitle C. Moreover, a person cannot even have what is legally defined as a "wage" unless he has applied to participate in the entitlement programs.

We added that: knowing she would not deliberately lie to the court, her statements could only result from gross ignorance of the law. That being the case, it may be that even the highest level officials within the IRS may be under the false impression that they are in compliance with the law (as hard as that may be for some to believe). In the fairy tale, you may recall, it was the innocent admission of a young boy who pointed to the emperor and asked where his clothes were. The boy was unconcerned with any potential fear of reprisal and his candid observation "exposed" the bare truth for all to see. Of course, everyone already knew that the royal rascal was buck-naked because they could see it with their own eyes. They were just unwilling to admit it because they were afraid of what the emperor might do. Everyone was astounded by the youngster's honesty and when everyone began to admit the truth, the emperor had no choice but to realize he had been rather foolish.
The binding psychological principle that is at work here is not dissimilar with the authority, the misapplication, and the subsequent "I'm just doing what I was told" response that is usually received when government employees are confronted with the facts in question. Pride, fear, and confusion do not allow the ego-driven authoritarian (i.e. in this case, the professional bureaucrat) to admit that they are wrong. To do so, would be to subject themselves to the embarrassment and ridicule that would deflate the ego-trip that is the driving force behind this type of individual, and to admit to such utter negligence or ignorance is simply unthinkable. But just like in the fairy tale, when everyone was forced to confront the naked truth, the emperor had no recourse but to admit that he had been the fool. So just how naked is the emperor?

The Authority For The Levy
The authority to levy is restricted to and contained within Section 6331(a) of the Internal Revenue Code. IRC 6331 - Levy and distraint, (a) Authority of Secretary. If any person liable to pay any tax neglects or refuses to pay the same within 10 days after notice and demand, it shall be lawful for the Secretary to collect such tax (and such further sum as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under section 6334) belonging to such person or on which there is a lien provided in this chapter for the payment of such tax. Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such officer, employee, or elected official. If the Secretary makes a finding that the collection of such tax is in jeopardy, notice and demand for immediate payment of such tax may be made by the Secretary and, upon failure or refusal to pay such tax, collection thereof by levy shall be lawful without regard to the 10-day period provided in this section. [Emphasis Added]

Section 6331 is the only authority in the entire IR Code that provides for the levy of wages and salaries etc., and the "limitation" of that authority should be rather obvious since it pertains ONLY to certain officers, employees, and elected officials of the government and of course, their employer, the government.

Moral Responsibility vs. Legal Obligation
It could be said that the IRS has a moral responsibility, however, in reality, there is a difference between a moral responsibility, and a legal obligation. Therefore, ethical questions may be reduced to the actual "intent" or the "frame of mind" of any given agent who mistakenly exercises such authority. Certainly, the IRS agent has a moral responsibility to refrain from misusing authority, but if he or she is unaware of the limitations of that authority, then technically, the actual legal obligation to make a correct determination and accept that authority (if appropriate) or not accept that authority (if inappropriate) remains that of the third party.

It is equally important to understand that despite this ethical "loop hole" which would seem to exonerate and provide an escape for an agent errantly exercising a "presumed" authority, there are other provisions that do hold him responsible for its administration. Specifically, these provisions deal with what are called "delegation orders" because no agent may administer a provision of law without a proper order delegating such authority.

The Delegation Order
The authority to "administer" the provisions of Section 6331, regardless of its applicability, is further restricted by national and local "delegation orders" designed to ensure agency compliance with the limited application of the law.

As with all authority under the IR Code, it is the Secretary who must administer the provisions for the levy or delegate the authority if and when appropriate. The "delegation orders" that do exist for liens and levies are remarkably limited. Interestingly, the back of the levy form itself also shows a similar peculiarity. On the 668-W levy form, the authority listed includes 6331(b) through 6331(e) but omits the elusive 6331(a) which is the actual authority for a levy and the Section upon which the others rely and refer to. Why is it not cited on the form?

In the "delegation order," the remainder of the cite references the "Internal Revenue Manual" which is of
course only "directive" in nature. Since it is not the law, it cannot possibly convey actual legal authority. It can only clarify, for the benefit of agents seeking to identify such authority, what that authority is or how it is limited, and whether they would be acting within their authority when administering its provisions. A search of each "delegation order" nationwide reveals that Section 6331(a) has indeed been omitted from each and every one, but then again, if the authority for the levy pertains only to government agencies within the territories (which is what it actually says), then it should certainly come as no surprise that "delegation orders" pertaining to service centers and district offices within the 50 states cannot authorize such a levy. If an agent is puzzled by this, his only other source for clarification is the "Internal Revenue Manual."

The Internal Revenue Manual
As long as there is some illusion of authority, it is easy for an IRS agent to justify (in his or her own mind) that certain actions are within the scope of their authority, and as mention previously, the "delegation orders" do list another "authority," specifically the "IR Manual." But now that research has revealed that at least 6 courts have ruled that the Manual does not have the force of law, these agents are going to have to swallow one more wake-up pill.

The courts have correctly ruled that the provisions of the "Internal Revenue Code" are only "directory in nature" and NOT mandatory. [See Lurhing v. Glotzbach, 304 F.2d 360 (4th Cir. 1962); Einhorn v. DeWitt, 618 F.2d 347 (5th Cir. 1980); and United States v. Goldstein, 342 F. Supp. 661 (E.D.N.Y. 1972)]. Courts have also held that the provisions of the "Internal Revenue Manual" are not mandatory and lack the force of law. [See Boulez v. C.I.R., 810 F.2d 209 (D.C. Cir. 1987); United States v. Will, 671 F.2d 963, 967,(6th Cir. 1982)]. These decisions are of course absolutely correct. The fact is, the Manual may not be relied upon as the legal authority for any part of a collection action. The only problem is, that leaves Section 6331(a), as the sole authority for a levy, and as we've just seen, this Section is rather severely limited. So it would seem that the awesome nonjudicial collection powers of the IRS are not as awesome as some IRS officials would like the public to believe. Or is it just another case of the emperor deluding himself. Either way, it doesn't end there! The "Notice and Demand" is another nail in the coffin.

The “Notice And Demand”
The "nonjudicial" collection authority is wholly dependent upon a statute (Section 6321) which provides for a lien to automatically arise when a taxpayer fails to make payment of a tax that is demanded via a "Notice and Demand" under Section 6303. If such "demand" is not, or cannot be made, then a lien cannot automatically arise and subsequent collection activity cannot occur. All of the available case law confirms this. In Linwood Blackstone et.al., v. United States of America, (778 F.Supp 244 [D. Md. 1991]), the Court held that: "The general rule is that no tax lien arises until the IRS makes a demand for payment. "Without a valid notice and demand, there can be no tax lien; without a tax lien, the IRS cannot levy against the taxpayer's property ... this Court concludes, consistent with the views expressed in Berman, Marvel, and Chila that the appropriate "sanction" against the IRS for its failure to comply with the 6303(a) notice and demand requirement is to take away its awesome nonjudicial collection powers," Myrick v. United States, [62-1 USTC 9112], 296 F 2d 312 (5th Cir. 1961).

The Internal Revenue Code section 6303 is the law that requires a "Notice and Demand" to be issued, however, the IRS does not issue such notices for reasons, which are beyond the scope of this article. IRC 6303 - Notice and demand for tax. (a) General Rule ... the Secretary shall ... give notice to each person liable for unpaid tax, stating the amount and demanding payment thereof.

As evident from the Court case just mentioned, it would be, and is, impossible for the IRS to move forward with the legal action that is required by Section 7403 if they have not issued a "Notice and Demand."
The "Notice of Levy" that is given to a third party, in most (if not all cases), falsely states that a "Notice and Demand" has been issued, but if the IRS errs by failing to issue the required "Notice and Demand" pursuant to IRC 6303, then they can not possibly obtain the necessary legal sanction through a court of law to enforce the levy. Why? Because in order to obtain the sanction of the court they would need to produce a copy of the "Notice and Demand" that was referenced on the levy form, and they can't do that if it doesn't exist. If the IRS is unable to send the "Notice and Demand," then it naturally
follows that it would be impossible to obtain the necessary Court Order.

Throughout this explanation, it is important to keep in mind that no single IRS official is necessarily guilty of fraud. It is more accurate to say that the process itself is constructively fraudulent. In other words, it is not necessarily intentional. Whether it was designed with that in mind is not for us to say. It is sufficient to explain that there are many IRS employees involved and that the employee responsible for any given part of the "presumed correctness" of any given action, rarely, if ever, has any communication with any of the other employees who then act on those "presumptions." Those who have worked in a typical busy office environment know that the responsibility for getting things done often falls to a low level employee who is trying to do the work of 10 people. The shortcuts they teach their fellow workers are not necessarily in the best interest of their employer but since they are unfamiliar with the details of their companies inner workings, the reason that it is a detriment is beyond their understanding. Of course, if there is no economic detriment to their actions, the likelihood that their ingenious "procedure" will be corrected by a superior is slim.

When new employees are hired, they learn the same defective way of doing things. The government is more prone to this situation than any business in the private sector because its employees are generally less productive. In the situation we are examining, the law is written to protect people from these inadvertent "shortcuts" made by lower level employees, and that is why a Court Order is necessary to affect levy.

Court Order Necessary

Page 57(16) of the Internal Revenue Manual entitled "Legal Reference Guide for Revenue Officers" confirms (in the upper right hand corner of the page) that a Court Order (warrant of distraint) is necessary. We say "confirms" because the Manual is merely referring to established principles of law, it is not in and off itself the law that requires it. Moreover, the IR Manual shows that the IRS even agrees with those established principles and encourages their agents to abide by those principles by citing the authority of United States v. O'Dell which says that a proper levy against amounts held as due and owing by employers, banks, stockbrokers, etc., must issue from a warrant of distraint (Court Order) and not by mere notice. The O'Dell Court specifically stated that:

"The method of accomplishing a levy ... is the issuing of warrants of distraint ..."

and that the Internal Revenue Service must also serve
"... with the notice of levy, [a] copy of the warrants of distraint and [the] notice of lien."

The court emphasized that the
"... Levy is not effected by mere notice."

Agents who bother to read the Manual know that the "warrant of distraint" mentioned above, is the Court Order, which is required pursuant to IRC 7403.

IRC 7403 - Action to enforce lien or to subject property to payment of tax (c) Adjudication and decree:
The court shall, after the parties have been duly notified of the action, proceed to adjudicate all matters involved therein and finally determine the merits of all claims to and liens upon the property.

In a more recent decision involving the tax indebtedness of Stephens Equipment Co., Inc., debtor," (54 BR, 626 [D.C. 1985]), the court said:
"The role of the district court in issuing an order for the seizure of property in satisfaction of tax indebtedness is substantially similar to the court's role in issuing a criminal search warrant. In either case, there must be a sufficient showing of probable cause."

More importantly, the court held that in order to substantiate such an Order, the IRS must present the court with certain validation. The court stated that
"... to effect a levy on the taxpayer's property [an Order] must contain specific facts providing the following information:
An assessment of tax has been made against the taxpayer, including the date on which the assessment was
made, the amount of the assessment, and the taxable period for which the assessment was made; Notice and demand have been properly made, including the date of such notice and demand and the manner in which notice was given and demand made; The taxpayer has neglected or refused to pay said assessment within ten days after notice and demand; ...Property, subject to seizure and particularly described presently exists at the premises sought to be searched and that said property either belongs to the taxpayer or is property upon which a lien exists for the payment of the taxes; and Facts establishing that probable cause exists to believe that the taxpayer is liable for the tax assessed.

Is it any wonder that the IRS cannot seek a Court Order? Nevertheless, the "Court Order" is a statutory requirement for the levy procedure because it establishes the validity of the IRS's claim to the third party to whom the levy is presented. Proper procedures assure the third party that the lien and subsequent levy have been executed in a lawful manner. The "Court Order" also protects the third party from a liability which may arise under C.F.R. 26 (Code of Federal Regulations) 301.6332-1(c) which states in part: "... Any person who mistakenly surrenders to the United States property or rights to property not properly subject to levy [i.e., the bank manager] is not relieved from liability to a third party who owns the property ..."

And, the Court Order prevents some agent from taking a "shortcut" as previously discussed. These details were brought to the attention of a corporation who had received a "Notice of Levy" on one its employees by the Fellowship's National Worker's Rights Committee (NWRC).

The NWRC not only wrote to the employer, but in a telephone conversation, one of our paralegals explained the limited nature of the authority of Section 6331(a). The president of the corporation was amazed and wrote to the IRS agent who had issued the levy to inform him that they were not a federal "employer" as mentioned within that Section and that they could not honor a levy without proper authority. The agent began to harass the president of the corporation by paying a visit to each of his neighbors but the president would not budge. Instead, the president of the corporation informed the agent that if he did not stop harassing him, he would sue the agent, whereupon, the agent backed off. It is amazing what happens when people insist that the IRS obey the law, but what is more amazing is that more and more people are doing this each and every day and the political pressure is now becoming impossible for the IRS to ignore. According to former Commissioner Shirley Peterson in a speech before the National Association of Enrolled Agents in Nevada, on August 26, 1993, as of this year, 1 in 5 people have now stopped filing and the situation is out of control. We would say just the opposite - it is finally becoming controllable because the public seems to have developed the will to know the law and confine the IRS within the law.

Summary
In this article we have reviewed the nature of, confusion surrounding, and authority for the levy. We have examined it in light of its application, the pertinent "Delegation Orders," the missing "Notice and Demand" that is the cornerstone of the process leading up to the lien/levy procedure, and we have shown why the IRS may not obtain the necessary "Court Order" without it. And finally, we have given an example of what happens when a third party becomes knowledgeable enough to insist that the IRS obey the law.

If we have been incorrect by assuming that high ranking IRS officials know they are in violation of the law, then perhaps former Commissioner Shirley Peterson summed it up best in her speech at Southern Methodist University when she quoted former President Warren G. Harding who said:

"I can't make a damn thing out of this tax problem. I listen to one side and they seem right, and then ... I listen to the other side and they seem right ... . I know somewhere there is a book that will give me the truth, but I couldn't read the book. I know somewhere there is an economist who knows the truth, but I don't know where to find him and haven't the sense to know him and trust him when I find him ..."

What a job!"

Warren G. Harding conversation, 1922; reported in Joseph R. Conlin's, "The Morrow Book of Quotations in American History" and quoted in David F. Bradford's,
"Untangling the Income Tax".

Officials, like former Commissioner Peterson, may feel the same way. However, regardless of whether Ms. Peterson is correct or incorrect, she is at least far sighted enough to see what will happen in the next few years if the government does not do something. If they can't or won't reign in the ropes on IRS employees who refuse to obey the letter of the law, then perhaps doing away with the law is the only answer. Public sentiment against the income tax, those who administer its provisions, and government in general (for not addressing the problem) has become so overwhelming that even the highest-ranking officials within the IRS are looking for a way to get off the sinking ship. They know the situation is out of control. Ms. Peterson's speech is just one of many that will echo the same sentiments. No man's conscience would allow such a thing to continue?

The limitation pertaining to the authority to levy that was examined in this article is just one minor puzzle that they can't explain per their own errant understanding of the law, and it is one more chink in the armor of those who would ignorantly or intentionally misapply the law. The only alternative is for the IRS to bow out gracefully and support plans for an alternative system of taxation, and in case you haven't heard, that is exactly what they are doing.

Whereas defined pursuant to; Levy and Distraint: (a) Authority of Secretary, . . . Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such officer, employee, or elected official).

I am not an officer, employee, or elected official of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia.

Who is an officer, employee or elected official or officer of the United States?

Whereas defined pursuant to; Title 26 U.S.C. - "Internal Revenue Code" Subtitle C - Employment Taxes Chapter 24 - Collection of Income Tax at Source on Wages 26 USC Sec. 3401. Definitions: (a) Wages: For purposes of this chapter, the term "wages" means all remuneration (other than fees paid to a public official) for services performed by an employee for his employer.

(c) Employee: For purposes of this chapter, the term "employee" includes* an officer, employee, or elected official of the United States, a State, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term "employee" also includes an officer of a corporation.

*"Include (Lat. Includere), to shut in, keep within. To confine within, hold as in an enclosure, take in, attain, shut up, contain, enclose, comprise, comprehend, embrace, involve." Black's Law Dictionary 4th Ed. (Comment - As in the case of a restaurant menu, the price of a steak dinner includes a salad, potato, and a vegetable; those things that are not included, i.e. a drink and desert, being not included in the dinner description, are excluded.)

(d) Employer: For purposes of this chapter, the term "employer" means the person for whom an individual performs or performed any service, of whatever nature, as the employee of such person,

Are you an Employer? You are not my Employer. Nor am I your employee.

Whereas defined pursuant to Title 26 U.S.C. Sec. 3401(c), It is clear that I have no liability and I am immune.

Whereas defined pursuant to; "A private law is one which is confined to particular individuals, associations, or corporations": 50 Am.Jur.: 12 p 28. In the instant case the revenue code pertains to taxpayers.
The distinction between public and private acts is not always sharply defined when published statutes are printed in their final form: pursuant to; Case v. Kelly, 133 US 21 (1890). Statutes creating corporations are private acts: pursuant to; 20 Am.Jur. 35, p 60. In this connection, the Federal Reserve Act is private law.

Federal Reserve banks derive their existence and corporate power from the Federal Reserve Act: defined pursuant to; Armano v. Federal Reserve Bank, 468 F.Supp. 674 (1979).

A private act may be published as a public law when the general public is afforded the opportunity of participating in the operation of the private law. The Internal Revenue Code is an example of private law which does not exclude the voluntary participation of the general public. Had the Internal Revenue Code been written as substantive public law, the code would be repugnant to the Constitution, since no one could be compelled to file a return and thereby become a witness against himself.

Under the fifty titles listed on the preface page of the United States Code, the Internal Revenue Code (26 USC) is listed as having not been enacted as substantive public law, conceding that the Internal Revenue Code is private law. Bouvier declares that private law “relates to private matters which do not concern the public at large.” It is the voluntary use of private credit, which imposes upon the user the quasi-contractual or implied obligation to make a return of income.

Whereas pursuant to; Supreme Court Annotated Statute: Pollock v. Farmer’s Loan & Trust Co., 158 US 601 (1895), the Supreme Court had declared the income tax of 1894 to be repugnant to the Constitution, holding that taxation of rents, wages and salaries must conform to the rule of apportionment.

Whereas defined pursuant to; 26 USC § 7206 - Fraud and false statements; Any person who—(1) Declaration under penalties of perjury Willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter; or (2) Aid or assistance Willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under, the internal revenue laws, of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document; or (3) Fraudulent bonds, permits, and entries Simulates or falsely or fraudulently executes or signs any bond, permit, entry, or other document required by the provisions of the internal revenue laws, or by any regulation made in pursuance thereof, or procures the same to be falsely or fraudulently executed, or advises, aids in, or connives at such execution thereof; or (4) Removal or concealment with intent to defraud Removes, deposits, or conceals, or is concerned in removing, depositing, or concealing, any goods or commodities for or in respect whereof any tax is or shall be imposed, or any property upon which levy is authorized by section 6331, with intent to evade or defeat the assessment or collection of any tax imposed by this title; or (5) Compromises and closing agreements In connection with any compromise under section 7122, or offer of such compromise, or in connection with any closing agreement under section 7121, or offer to enter into any such agreement, willfully—(A) Concealment of property Conceals from any officer or employee of the United States any property belonging to the estate of a taxpayer or other person liable in respect of the tax, or (B) Withholding, falsifying, and destroying records Receives, withholds, destroys, mutilates, or falsifies any book, document, or record, or makes any false statement, relating to the estate or financial condition of the taxpayer or other person liable in respect of the tax; shall be guilty of a felony and, upon conviction thereof, shall be fined not more than $100,000 ($500,000 in the case of a corporation), or imprisoned not more than 3 years, or both, together with the costs of prosecution.

Whereas defined pursuant to; 26 USC § 7214 - Offenses by officers and employees of the United States (a) Unlawful acts of revenue officers or agents Any officer or employee of the United States acting in connection with any revenue law of the United States— (1) who is guilty of any extortion or willful oppression under color of law; or (2) who knowingly demands other or greater sums than are authorized by law, or receives any fee, compensation, or reward, except as by law prescribed, for the performance of any duty; or (3) who with intent to defeat the application of any provision of this title fails to perform any of the
duties of his office or employment; or (4) who conspires or colludes with any other person to defraud the United States; or (5) who knowingly makes opportunity for any person to defraud the United States; or (6) who does or omits to do any act with intent to enable any other person to defraud the United States; or (7) who makes or signs any fraudulent entry in any book, or makes or signs any fraudulent certificate, return, or statement; or (8) who, having knowledge or information of the violation of any revenue law by any person, or of fraud committed by any person against the United States under any revenue law, fails to report, in writing, such knowledge or information to the Secretary; or (9) who demands, or accepts, or attempts to collect, directly or indirectly as payment or gift, or otherwise, any sum of money or other thing of value for the compromise, adjustment, or settlement of any charge or complaint for any violation or alleged violation of law, except as expressly authorized by law so to do; shall be dismissed from office or discharged from employment and, upon conviction thereof, shall be fined not more than $10,000, or imprisoned not more than 5 years, or both. The court may in its discretion award out of the fine so imposed an amount, not in excess of one-half thereof, for the use of the informer, if any, who shall be ascertained by the judgment of the court. The court also shall render judgment against the said officer or employee for the amount of damages sustained in favor of the party injured, to be collected by execution. (c) Cross reference

For penalty on collecting or disbursing officers trading in public funds or debts of property, see 18 U.S.C. 1901.

Whereas defined pursuant to; 18 USC § 1901 - Collecting or disbursing officer trading in public property Whoever, being an officer of the United States concerned in the collection or the disbursement of the revenues thereof, carries on any trade or business in the funds or debts of the United States, or of any State, or in any public property of either, shall be fined under this title or imprisoned not more than one year, or both; and shall be removed from office, and be incapable of holding any office under the United States.

Whereas defined pursuant to; 26 USC § 7101 - Form of bonds Whenever, pursuant to the provisions of this title (other than section 7485), or rules or regulations prescribed under authority of this title, a person is required to furnish a bond or security—(1) General rule Such bond or security shall be in such form and with such surety or sureties as may be prescribed by regulations issued by the Secretary. (2) United States bonds and notes in lieu of surety bonds The person required to furnish such bond or security may, in lieu thereof, deposit bonds or notes of the United States as provided in section 9303 of title 31, United States Code.

Whereas defined pursuant to; Supreme Court Annotated Statute: HALE V. HENKEL 201 U.S. 43 at 89 (1906): Hale v. Henkel was decided by the united States Supreme Court in 1906. The opinion of the court states: "The "individual" may stand upon "his Constitutional Rights" s a CITIZEN. He is entitled to carry on his "private" business in his own way. "His power to contract is unlimited." He owes no duty to the State or to his neighbors to divulge his business, or to open his doors to an investigation, so far as it may tend to incriminate him. He owes no duty to the State, since he receives nothing there from, beyond the protection of his life and property. "His rights" are such as "existed" by the Law of the Land (Common Law) "long antecedent" to the organization of the State", and can only be "taken from him by "due process of law", and "in accordance with the Constitution." He owes nothing" to the public so long as he does not trespass upon their rights."

Whereas defined pursuant to; Supreme Court Annotated Statue: “Knowing failure to disclose material information necessary to prevent statement from being misleading, or making representation despite knowledge that it has no reasonable basis in fact, are actionable as fraud under law.” Rubinstein v. Collins, 20 F.3d 160, 1990

Whereas defined pursuant to; Supreme Court Annotated Statute: Under federal Law, which is applicable to all states, the U.S. Supreme Court stated that "if a court is without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void, and form no bar to a recovery sought, even prior to a reversal in opposition to them. They constitute no justification and all persons concerned in executing such judgments or sentences are considered, in law, as trespassers." Griffin v. Mathews, 310 Supp. 341, 423 F. 2d 272

Hagans v. Lavine, 415 U.S. 528
Federal Law and Supreme Court Cases apply to State Court Cases.

The laws and Supreme Court Rulings that bind officers and officials, employees, including but not limited to; the lower courts, all judges, all attorneys, the state legislature, all federal, state, city, county, municipal officials, etc.

Since all Federal Crimes are statutory [see United States** v Hudson, 11 U.S. 3 L. Ed 259 (1812)] and all criminal prosecutions in the Federal courts are based on acts of Congress.”

In order to define the jurisdiction of the Federal courts to conduct criminal prosecutions, one would have to find out what the special definitions of “Act of Congress” means. One finds such a definition in Rule 54C of the FRCrP, wherein defined, “Act of Congress.” Rule 54C states:

“Act of Congress” includes any act of Congress locally applicable to and in force in the District of Columbia, in Puerto Rico, in a territory or in an insular possession.”

Although, Congress did create federal regions, territories: AL AK AZ AR CA CO CT DE FL GA HI ID IL IN IA KS KY LA ME MD MA MI MN MS MO MT NE NV NH NJ NM NY NC ND OH OK OR PA RI SC SD TN TX UT VT VA WA WV WI WY So Congress can rule the federal regions, territories, enclaves and insular possessions but Congress cannot rule the 50 Union states.

The definition of the "United States" is limited to its territories:
1) The District of Columbia
2) Commonwealth of Puerto Rico
3) U.S. Virgin Islands
4) Guam
5) American Samoa
6) Northern Mariana Islands
7) Trust Territory of the Pacific Islands
8) Military bases within the several states
9) Federal agencies within the several states
It does not include the 50 Union states, as is confirmed by the following cites:

"We have in our political system a Government of the United States and a government of each of the several States. Each one of these governments is distinct from the others, and each has citizens of its own who owe it allegiance, and whose rights, within its jurisdiction, it must protect. The same person may be at the same time a citizen of the United States and a Citizen of a State, but his rights of citizenship under one of these governments will be different from those he has under the other.” Slaughter House Cases United States vs. Cruikshank, 92 U.S. 542 (1875).

The premise that the Commissioner has delegated authority to summons State Citizens pursuant to IRC Section 7602, and Commissioner’s Delegated Order No. 4 as set fourth in IR Manual 1229 is flawed, since these are merely prima facie evidence of such authority.

"THE UNITED STATES GOVERNMENT IS A FOREIGN CORPORATION WITH RESPECT TO A STATE." [emphasis added] Volume 20: Corpus Juris Sec. §1785: NY re: Merriam 36 N.E. 505 1441 S.Ct.1973, 41 L.Ed.287. This is further confirmed by the following quote from the Internal Revenue Service:

Federal jurisdiction "includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa." - Internal Revenue Code Section 312(e).

In legal terminology, the word "includes" means "is limited to."

When referring to this "District" United States, the Internal Revenue Code uses the term "Within" the
United States. When referring to the 50 Union states, the Internal Revenue Code uses the term "Without" the United States.

Dozens, perhaps hundreds, of court cases prove that federal jurisdiction is limited to the few federal territory areas above indicated. For example, in two Supreme Court cases, it was decided:

"The laws of Congress in respect to those matters do not extend into the territorial limits of the states, but have force only in the District of Columbia, and other places that are within the exclusive jurisdiction of the national government," Caha v. United States, 152 U.S., at 215.

"We think a proper examination of this subject will show that the United States never held any municipal sovereignty, jurisdiction, or right of soil in and to the territory, of which any of the new 50 Union states were formed..."

"[B]ecause, the United States has no constitutional capacity to exercise municipal jurisdiction, sovereignty, or eminent domain, within the limits of any 50 Union states or elsewhere, except in the cases in which it is expressly granted..."

"Illinois is therefore entitled to the sovereignty and jurisdiction over all the territory within her limits, subject to the common law," Pollard v. Hagan, 44 U.S. 221, 223, 228, 229.

Likewise, Title 18 of the United States Code at §7 specifies that the "territorial jurisdiction" of the United States extend only outside the boundaries of lands belonging to any of the 50 Union states.