

1 KATHRYN KENEALLY
Assistant Attorney General

2 CHARLES M. DUFFY
3 Trial Attorney, Tax Division
4 U.S. Department of Justice
5 P.O. Box 683
6 Ben Franklin Station
7 Washington, D.C. 20044-0683
8 Telephone: (202) 307-6406
9 Email: charles.m.duffy@usdoj.gov
10 Western.taxcivil@usdoj.gov
11 *Attorneys for the United States of America*

12 ANN SCHEEL
13 Acting United States Attorney
14 District of Arizona
15 *Of Counsel*

16 IN THE UNITED STATES DISTRICT COURT
17 DISTRICT OF ARIZONA

18 UNITED STATES OF AMERICA,

19 Plaintiffs,

20 v.

21 JAMES LESLIE READING, CLARE L.
22 READING, FOX GROUP TRUST,
23 MIDFIRST BANK, CHASE, FINANCIAL
24 LEGAL SERVICES, STATE OF ARIZONA

25 Defendants.

Civ. No. 11-0698-PHX-FJM

DECLARATION OF DEBBIE VAHE

26 I, DEBBIE VAHE, declare that:

- 27 1. I am a Revenue Officer for the Internal Revenue Service ("IRS") in Phoenix, Arizona.
- 28 2. As part of my duties as an IRS Revenue Officer I have personal knowledge concerning facts, described below, relating to James Reading and Clare Reading (hereafter "the Readings").
3. Attached hereto as Exhibit A is a true and correct copy of the 1993 federal income tax return and accompanying documents that the Readings submitted to the Internal Revenue Service ("IRS").

1 4. Attached hereto as Exhibit B is a true and correct copy of the 1994 federal income tax
2 return and accompanying documents that the Readings submitted to the IRS.

3 5. Attached hereto as Exhibit C is a true and correct copy of the 1995 federal income tax
4 return and accompanying documents that the Readings submitted to the IRS.

5 6. Attached hereto as Exhibit D is a true and correct copy of the 2008 federal income tax
6 return and accompanying documents that the Readings submitted to the IRS.

7 7. Attached hereto as Exhibit E is a true and correct copy of a Notice of Deficiency that
8 was mailed by certified mail by the IRS to James Reading on November 15, 2000 regarding his 1993,
9 1994 and 1995 income tax years.

10 8. Attached hereto as Exhibit F is a true and correct copy of a Notice of Deficiency that
11 was mailed by certified mail by the IRS to Clare Reading on November 15, 2000 regarding her 1994
12 and 1995 income tax years. Also included in Exhibit F are copies of other IRS documents that relate
13 to the referenced Notice of Deficiency.

14 9. Attached hereto as Exhibit G is a true and correct copy of a Notice of Deficiency that
15 was mailed by certified mail by the IRS to James Reading on February 16, 2010 regarding his 2008
16 income tax year. Also included in Exhibit G are copies of other IRS documents that relate to the
17 referenced Notice of Deficiency.

18 10. Attached hereto as Exhibits H-1 through H-10 are true and correct copies of all or part
19 of the 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005 and 2006 federal income tax returns
20 and accompanying documents that Clare Reading filed with the IRS.

21 11. The federal income tax returns, true and correct copy of which are attached as Exhibits
22 D and H-1 to H-10 are the basis for the IRS's frivolous return penalty assessments that were made
23 under 26 U.S.C. § 6702 against Clare Reading and that are at issue in the Fifth Claim of the
24 complaint filed herein for her 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006 and 2008
25 tax years.

26 12. Attached hereto as Exhibits I-1 through I-9 are true and correct copies of all or part of
27 the 1997, 1998, 1999, 2000, 2002, 2003, 2004, 2005 and 2006 federal income tax returns and
28

1 accompanying documents that James Reading filed with the IRS.

2 13. The federal income tax returns, true and correct copy of which are attached as Exhibits
3 D and I-1 to I-9 are the basis for the IRS's frivolous return penalty assessments that were made under
4 26 U.S.C. § 6702 against James Reading and that are at issue in the Fourth Claim of the complaint
5 filed herein for his 1997, 1998, 1999, 2000, 2002, 2003, 2004, 2005, 2006 and 2008 tax years.

6 14. The documents attached hereto as Exhibits A, B, C, D, E, F, G, H and I are true and
7 correct copies of documents contained in the IRS's administrative files that relate to one or both of
8 the Readings.

9 15. Attached hereto as Exhibits J-1 through J-4 are copies of the Form INTST calculations
10 for the income tax and related assessments made for James Reading's 1993, 1994, 1995 and 2008
11 tax years. Exhibit J-1 relates to the 1993 tax year, Exhibit J-2 relates to the 1994 tax year, Exhibit
12 J-3 relates to the 1995 tax year and Exhibit J-4 relates to the 2008 tax year. The "balance due" set
13 forth on each of the attached Form INTST calculations reflects the outstanding balance for each of
14 the referenced periods as of May 1, 2012. The aggregate amounts of balances as of that date are as
15 follows:

16	1993	\$118,162.63
17	1994	262,505.58
18	1995	167,776.69
19	2008	8,426.73

20 16. Attached hereto as Exhibits K-1 through K-2 are copies of the Form INTST
21 calculations for the income tax and related assessments made for Clare Reading's 1994 and 1995 tax
22 years. Exhibit K-1 relates to the 1994 tax year and Exhibit K-2 relates to the 1995 tax year. The
23 "balance due" set forth on each of the attached Form INTST calculations reflects the outstanding
24 balance for each of the referenced periods as of May 1, 2012. The aggregate amounts of the
25 balances as of that date are as follows:

26	1994	\$ 66,746.54
27	1995	49,886.42

28 17. Attached hereto as Exhibit L-1 is a true and correct copy of the certified copy of the
certified mailing list that indicates that on November 15, 2000 IRS notices of deficiency were sent

1 by certified mail to James L. Reading and Clare Reading.

2 18. Attached hereto as Exhibit L-2 is a true and correct copy of the certified copy of the
3 certified mailing list that indicates that on February 16, 2010, IRS notices of deficiency were sent
4 by certified mail to James Leslie Reading and his power of attorney Michael A. Bigley.

5 19. Attached hereto as Exhibits M-1, M-2, M-5 and M-7 are copies of the Form INTST
6 calculations for the frivolous return penalty assessments made against James Reading for his 1997,
7 1998, 2005 and 2008 tax years. Exhibit M-1 relates to the 1997 tax year, Exhibit M-2 relates to the
8 1998 tax year, Exhibit M-5 relates to the 2005 tax year and Exhibit M-7 relates to the 2008 tax year.
9 The "balance due" set forth on each of the attached Form INTST calculations reflects the outstanding
10 balance for each of the referenced periods as of May 1, 2012. The balances as of that date are as
11 follows:

12	1997	\$	633.42
13	1998		633.42
14	2005		634.40
	2008		5,542.90

15 20. Attached hereto as Exhibits M-3, M-4 and M-6 are COMPAD interest calculations
16 relating to the frivolous return penalty assessments made against James Reading for his 1999, 2000,
17 2002, 2003, 2004 and 2006 tax years. Exhibit M-3 relates to the 1999 tax year, Exhibit M-4 relates
18 to the 2000, 2002, 2003 and 2004 tax years and M-6 relates to the 2006 tax year. The "balance due"
19 set forth on each of the attached COMPAD calculations reflects the outstanding balance for each of
20 the referenced periods as of May 1, 2012. The balances as of that date are as follows:

21	1999	\$	633.42
22	2000		634.40
23	2002		634.40
	2003		634.40
	2004		634.40
	2006		6,124.02

24 21. Attached hereto as Exhibits N-1, N-2, N-5 and N-7 are copies of the Form INTST
25 calculations for the frivolous return penalty assessments made against Clare Reading for her 1997,
26 1998, 2005 and 2008 tax years. Exhibit N-1 relates to the 1997 tax year, Exhibit N-2 relates to the
27 1998 tax year, Exhibit N-5 relates to the 2005 tax year and Exhibit N-7 relates to the 2008 tax year.

1 The "balance due" set forth on each of the attached Form INTST calculations reflects the outstanding
 2 balance for each of the referenced periods as of May 1, 2012. The balances as of that date are as
 3 follows:

4	1997	\$	677.28
	1998		639.28
5	2005		639.28
6	2008		5,542.90

7 22. Attached hereto as Exhibits N-3, N-4 and N-6 are COMPAD interest calculations
 8 relating to the frivolous return penalty assessments made against Clare Reading for her 1999, 2000,
 9 2001, 2002, 2003, 2004 and 2006 tax years. Exhibit N-3 relates to the 1999, 2000, 2001 and 2002
 10 tax years, Exhibit N-4 relates to the 2003 and 2004 tax years and N-6 relates to the 2006 tax year.
 11 The "balance due" set forth on each of the attached COMPAD calculations reflects the outstanding
 12 balance for each of the referenced periods as of May 1, 2012. The balances as of that date are as
 13 follows:

14	1999	\$	639.28
	2000		639.28
15	2001		639.28
	2002		639.28
16	2003		636.33
	2004		636.33
17	2006		6,124.02

18 23. On July 21, 2011, the IRS mistakenly released Notices of Federal Tax Lien ("NFTL")
 19 that relate to the income tax and related assessments made against James Reading for his 1993, 1994
 20 and 1995 income tax years and the income tax and related assessments made against Clare Reading
 21 for her 1994 and 1995 tax years.

22 24. The IRS has not mistakenly or otherwise released the NFTL's, copies of which are
 23 attached hereto as Exhibits O-1, O-2, O-3, O-5, O-7, O-8 and O-9.

24 25. The liens for the Form 1040 liabilities for the 1993, 1994 and 1995 (and 1996 tax year,
 25 which is not at issue in this case) that are referenced in the NFTL's, copies of which are attached
 26 hereto as Exhibits O-4 and O-6, were released based on the mistaken release described in paragraph
 27 23, above. However, the liens for the other liabilities set forth on Exhibits O-4 and O-6 were not
 28

1 released.

2 26. On May 4, 2012 the IRS revoked the release of the NFTL's that are described in
3 paragraph 23, above.

4 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and
5 correct.

6
7 5/8/2012
8 Date

Debbie Vahe
Debbie Vahe
IRS Revenue Officer
Phoenix, Arizona

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of May, 2012, I served the foregoing through the Court’s electronic filing system:

ROBERT P. VENTRELLA
Assistant Attorney General
1275 West Washington Street
Phoenix, Arizona 85007-2926

PAUL M. LEVINE, ESQUIRE
LAKSHMI JAGANNATH, ESQUIRE
McCarthy, Holthus, Levine Law Firm
8502 E. Via de Ventura, Suite 200
Scottsdale, Arizona 85258

TOMMY K. CRYER
Attorney at Law
7330 Fern Avenue
Shreveport, Louisiana 71105

/s/ Charles M. Duffy
Charles M. Duffy
Trial Attorney, Tax Division
U.S. Department of Justice

EXHIBITS TO DECLARATION OF DEBBIE VAHE (INDEX)

Exhibit A	Form 1040 filed for 1993
Exhibit B	Form 1040 filed for 1994
Exhibit C	Form 1040 filed for 1995
Exhibit D	Form 1040 filed for 2008
Exhibit E	Notice of Deficiency and Related Document (1993-1995)
Exhibit F	Notice of Deficiency and Related Documents (1994-1995)
Exhibit G	Notice of Deficiency and Related Documents (2008)
Exhibit H-1	1997 Return (Clare Reading)
Exhibit H-2	1998 Return (Clare Reading)
Exhibit H-3	1999 Return (Clare Reading)
Exhibit H-4	2000 Return (Clare Reading)
Exhibit H-5	2001 Return (Clare Reading)
Exhibit H-6	2002 Return (Clare Reading)
Exhibit H-7	2003 Return (Clare Reading)
Exhibit H-8	2004 Return (Clare Reading)
Exhibit H-9	2005 Return (Clare Reading)
Exhibit H-10	2006 Return (Clare Reading)
Exhibit I-1	1997 Return (James Reading)
Exhibit I-2	1998 Return (James Reading)
Exhibit I-3	1999 Return (James Reading)
Exhibit I-4	2000 Return (James Reading)
Exhibit I-5	2002 Return (James Reading)
Exhibit I-6	2003 Return (James Reading)
Exhibit I-7	2004 Return (James Reading)
Exhibit I-8	2005 Return (James Reading)
Exhibit I-9	2006 Return (James Reading)
Exhibits J and K	IRS interest computations
Exhibits L-1 and L-2	Certified mail lists
Exhibits M and N	IRS interest computations
Exhibit O	IRS Notices of Federal Tax Liens

**DEBBIE VAHE DECLARATION
EXHIBIT A**

For the year Jan. 1–Dec. 31, 1993, or other tax year beginning , 1993, ending , 19

OMB No. 1545-0074

Label

(See instructions on page 12.)

Use the IRS label.

Otherwise, please print or type.

Presidential Election Campaign (See page 12.)

Personal information section including names (JAMES L. READING, CLARE L. READING), address (2425 E FOX, MESA, ARIZONA), and social security numbers.

Your social security number: 8531. Spouse's social security number: 4550.

For Privacy Act and Paperwork Reduction Act Notice, see page 4.

Checkboxes for privacy act notice: Yes/No with 'Note: Checking "Yes" will not change your tax or reduce your refund.'

Filing Status

(See page 12.)

Check only one box.

Filing status options: 1 Single, 2 Married filing joint return (checked), 3 Married filing separate return, 4 Head of household, 5 Qualifying widow(er).



Exemptions

(See page 13.)

If more than six dependents, see page 14.

Exemption section with checkboxes for Yourself, Spouse, and Dependents. Includes a table for dependents with columns for name, age, social security number, relationship, and months lived in home.

Summary of exemptions: No. of boxes checked on 6a and 6b (2), No. of children on 6c who lived with you (0), Dependents on 6c not entered above (0), Add numbers entered on lines above (2).

Income

Attach Copy B of your Forms W-2, W-2G, and 1099-R here.

If you did not get a W-2, see page 10.

If you are attaching a check or money order, put it on top of any Forms W-2, W-2G, or 1099-R.

Income section with lines 7 through 23. Includes categories like Wages, interest income, dividends, and other income.

Summary of income: Total income reported on line 23 is 0.

Adjustments to Income

(See page 20.)

Adjustments to income section with lines 24a through 29, including IRA deductions, self-employment tax, and health insurance.

Summary of adjustments: Total adjustments on line 30 are 0.

Adjusted Gross Income

Line 31: Subtract line 30 from line 23. This is your adjusted gross income. Total adjusted gross income is 0.

Tax Computation

(See page 23.)

If you want the IRS to figure your tax, see page 24.

32 Amount from line 31 (adjusted gross income) 32 0
33a Check if: You were 65 or older, Blind; Spouse was 65 or older, Blind.
b If your parent (or someone else) can claim you as a dependent, check here
c If you are married filing separately and your spouse itemizes deductions or you are a dual-status alien, see page 24 and check here.
34 Enter the larger of your: Itemized deductions from Schedule A, line 26, OR Standard deduction shown below for your filing status. But if you checked any box on line 33a or b, go to page 24 to find your standard deduction.
35 Subtract line 34 from line 32 35 0
36 If line 32 is \$81,350 or less, multiply \$2,350 by the total number of exemptions claimed on line 6e. If line 32 is over \$81,350, see the worksheet on page 25 for the amount to enter 36 4700
37 Taxable income. Subtract line 36 from line 35. If line 36 is more than line 35, enter -0- 37 0
38 Tax. Check if from a Tax Table, b Tax Rate Schedules, c Schedule D Tax Worksheet, or d Form 8615 (see page 25). Amount from Form(s) 8814 e
39 Additional taxes (see page 25). Check if from a Form 4970 b Form 4972
40 Add lines 38 and 39. 40 0

Credits

(See page 25.)

41 Credit for child and dependent care expenses. Attach Form 2441 41
42 Credit for the elderly or the disabled. Attach Schedule R. 42
43 Foreign tax credit. Attach Form 1116 43
44 Other credits (see page 26). Check if from a Form 3800 b Form 8396 c Form 8801 d Form (specify) 44
45 Add lines 41 through 44 45
46 Subtract line 45 from line 40. If line 45 is more than line 40, enter -0- 46 0

Other Taxes

47 Self-employment tax. Attach Schedule SE. Also, see line 25. 47
48 Alternative minimum tax. Attach Form 6251 48
49 Recapture taxes (see page 26). Check if from a Form 4255 b Form 8611 c Form 8828 49
50 Social security and Medicare tax on tip income not reported to employer. Attach Form 4137 50
51 Tax on qualified retirement plans, including IRAs. If required, attach Form 5329 51
52 Advance earned income credit payments from Form W-2 52
53 Add lines 46 through 52. This is your total tax. 53 0

Payments

Attach Forms W-2, W-2G, and 1099-R on the front.

54 Federal income tax withheld. If any is from Form(s) 1099, check 54
55 1993 estimated tax payments and amount applied from 1992 return 55
56 Earned income credit. Attach Schedule EIC 56
57 Amount paid with Form 4868 (extension request) 57
58a Excess social security, Medicare, and RRTA tax withheld (see page 28) 58a
b Deferral of additional 1993 taxes. Attach Form 8841 58b
59 Other payments (see page 28). Check if from a Form 2439 b Form 4136 59
60 Add lines 54 through 59. These are your total payments 60 0

Refund or Amount You Owe

61 If line 60 is more than line 53, subtract line 53 from line 60. This is the amount you OVERPAID. 61
62 Amount of line 61 you want REFUNDED TO YOU. 62
63 Amount of line 61 you want APPLIED TO YOUR 1994 ESTIMATED TAX 63
64 If line 53 is more than line 60, subtract line 60 from line 53. This is the AMOUNT YOU OWE. For details on how to pay, including what to write on your payment, see page 29 64 0
65 Estimated tax penalty (see page 29). Also include on line 64 65

Sign Here

Keep a copy of this return for your records.

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your signature: James Leslie Reading Date: 12/24/08 Your occupation: N/A
Spouse's signature: Mary Louise Reading Date: 12/24/08 Spouse's occupation:

Paid Preparer's Use Only

Preparer's signature: Date: Check if self-employed Preparer's social security no.
Firm's name (or yours if self-employed) and address: E.I. No. ZIP code

9595

VOID

CORRECTED

PAYER'S name, street address, city, state, ZIP code, and telephone no. Pilot Temporary Services, Inc. PO Box 91299 Mobile, AL 36691		1 Rents \$	OMB No. 1545-0115 1993 Form 1099-MISC	Miscellaneous Income
PAYER'S federal identification number [REDACTED] 8154		2 Royalties \$	3 Other income \$	
RECIPIENT'S name James L. Reading		4 Federal income tax withheld \$	5 Fishing boat proceeds \$	Copy A For Internal Revenue Service Center File with Form 1096.
Street address (including apt. no.) 2425 E. Fox St.		6 Medical and health care payments \$	7 Nonemployee compensation \$ - 0 -	
City, state, and ZIP code Mesa, AZ 85213-5320		8 Substitute payments in lieu of dividends or interest \$	9 Payer made direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale <input type="checkbox"/>	For Privacy Act and Paperwork Reduction Act Notice, see the 2008 General Instructions for Forms 1099, 1098, 5498, and W-2G.
Account number (see instructions)		10 Crop insurance proceeds \$	11	
2nd TIN not. <input type="checkbox"/>		12	13 Excess golden parachute payments \$	14 Gross proceeds paid to an attorney \$
15a Section 409A deferrals \$	15b Section 409A income \$	16 State tax withheld \$	17 State/Payer's state no.	
		18 State income \$		

Form 1099-MISC

Cat. No. 14425J

Department of the Treasury - Internal Revenue Service

This corrected Form 1099-MISC is submitted to rebut a document known to have been submitted by the party identified above as 'PAYER' which erroneously alleges a payment to the party identified above and on the attached Form 1040X as 'RECIPEINT' of "gains, profit or income" made in the course of a "trade or business".

Under penalty of perjury, I declare that I have examined this statement and to the best of my knowledge and belief, it is true, correct and complete.

James Leslie Reading
James Leslie Reading

12/24/2008
Date

9595

VOID CORRECTED

PAYER'S name, street address, city, state, ZIP code, and telephone no. Pilot & Associates, Inc. PO Box 91299 Mobile, AL 36691		1 Rents \$	OMB No. 1545-0115 1993	Miscellaneous Income
PAYER'S federal identification number [REDACTED] 7253		2 Royalties \$	Form 1099-MISC	
RECIPIENT'S identification number		3 Other income \$	4 Federal income tax withheld \$	Copy A For Internal Revenue Service Center File with Form 1096.
RECIPIENT'S name James L. Reading		5 Fishing boat proceeds \$	6 Medical and health care payments \$	
Street address (including apt. no.) 2425 E. Fox St.		7 Nonemployee compensation \$ - 0 -	8 Substitute payments in lieu of dividends or interest \$	For Privacy Act and Paperwork Reduction Act Notice, see the 2008 General Instructions for Forms 1099, 1098, 5498, and W-2G.
City, state, and ZIP code Mesa, AZ 85213-5320		9 Payer made direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale <input type="checkbox"/>	10 Crop insurance proceeds \$	
Account number (see instructions)		11	12	
2nd TIN not. <input type="checkbox"/>		13 Excess golden parachute payments \$	14 Gross proceeds paid to an attorney \$	
15a Section 409A deferrals \$	15b Section 409A income \$	16 State tax withheld \$	17 State/Payer's state no.	18 State income \$

Form 1099-MISC

Cat. No. 14425J

Department of the Treasury - Internal Revenue Service

This corrected Form 1099-MISC is submitted to rebut a document known to have been submitted by the party identified above as 'PAYER' which erroneously alleges a payment to the party identified above and on the attached Form 1040X as 'RECIPEINT' of "gains, profit or income" made in the course of a "trade or business".

Under penalty of perjury, I declare that I have examined this statement and to the best of my knowledge and belief, it is true, correct and complete.

James Leslie Reading
James Leslie Reading

12/24/2008
Date

9595

VOID CORRECTED

PAYER'S name, street address, city, state, ZIP code, and telephone no. Pilot Catastrophe Services, Inc. 708 Oak Cir DR W Mobile, AL 36609		1 Rents \$	OMB No. 1545-0115 1993 Form 1099-MISC	Miscellaneous Income
PAYER'S federal identification number [REDACTED] 2513		2 Royalties \$	4 Federal income tax withheld \$	
RECIPIENT'S name James L. Reading		3 Other income \$	6 Medical and health care payments \$	
RECIPIENT'S identification number		5 Fishing boat proceeds \$	8 Substitute payments in lieu of dividends or interest \$	
Street address (including apt. no.) 2425 E. Fox St.		7 Nonemployee compensation \$ - 0 -	9 Payer made direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale <input type="checkbox"/>	Copy A For Internal Revenue Service Center File with Form 1096. For Privacy Act and Paperwork Reduction Act Notice, see the 2008 General Instructions for Forms 1099, 1098, 5498, and W-2G.
City, state, and ZIP code Mesa, AZ 85213-5320		10 Crop insurance proceeds \$	11	
Account number (see instructions)		12	13 Excess golden parachute payments \$	
15a Section 409A deferrals \$	15b Section 409A income \$	14 Gross proceeds paid to an attorney \$	16 State tax withheld \$	17 State/Payer's state no.
		18 State income \$		

Form 1099-MISC

Cat. No. 14425J

Department of the Treasury - Internal Revenue Service

This corrected Form 1099-MISC is submitted to rebut a document known to have been submitted by the party identified above as 'PAYER' which erroneously alleges a payment to the party identified above and on the attached Form 1040X as 'RECIPEINT' of "gains, profit or income" made in the course of a "trade or business".

Under penalty of perjury, I declare that I have examined this statement and to the best of my knowledge and belief, it is true, correct and complete.

James Leslie Reading
James Leslie Reading

12/24/2008
Date

**DEBBIE VAHE DECLARATION
EXHIBIT B**

From:

James Leslie Reading
Clare Louise Reading
2425 East Fox Street
Mesa, Arizona 85213-5320

To:

Department of the Treasury
Internal Revenue Service
Fresno, CA 93888-0002



Enclosures:

1994 1040 2 pages
1994 Corrected 1099-MISC Pilot Catastrophe Services, Inc. 1 page
1994 Corrected 1099-MISC Pilot & Associates, Inc. 1 page
AMCAP Fund & Fundamental Investors report 1994 showing loss 5 pages

For the year Jan. 1–Dec. 31, 1994, or other tax year beginning 1994, ending 19 OMB No. 1545-0074

Label

(See instructions on page 12.)

Use the IRS label.

Otherwise, please print or type.

Presidential Election Campaign

(See page 12.)

LABEL HERE	Your first name and initial JAMES L.	Last name READING
	If a joint return, spouse's first name and initial CLARE L.	Last name READING
	Home address (number and street). If you have a P.O. box, see page 12. 2425 E. FOX	
	City, town or post office, state, and ZIP code. If you have a foreign address, see page 12. MESA, ARIZONA	

Your social security number

8531

Spouse's social security number

4550

For Privacy Act and Paperwork Reduction Act Notice, see page 4.

Yes	No	Note: Checking "Yes" will not change your tax or reduce your refund.
	<input checked="" type="checkbox"/>	
	<input checked="" type="checkbox"/>	

Filing Status

(See page 12.)

Check only one box.

1	<input type="checkbox"/>	Single
2	<input checked="" type="checkbox"/>	Married filing joint return (even if only one had income)
3	<input type="checkbox"/>	Married filing separate return. Enter spouse's social security no. above and full name here. ▶
4	<input type="checkbox"/>	Head of household (with qualifying person). (See page 13.) If the qualifying person is a child but not your dependent, enter this child's name here. ▶
5	<input type="checkbox"/>	Qualifying widow(er) with dependent child (year spouse died ▶ 19). (See page 13.)

Exemptions

(See page 13.)

If more than six dependents, see page 14.

6a Yourself. If your parent (or someone else) can claim you as a dependent on his or her tax return, do not check box 6a. But be sure to check the box on line 33b on page 2.

6b Spouse

c Dependents:	(2) Check if under age 1	(3) If age 1 or older, dependent's social security number	(4) Dependent's relationship to you	(5) No. of months lived in your home in 1994	No. of boxes checked on 6a and 6b	No. of your children on 6c who:
(1) Name (first, initial, and last name)					2	<input type="checkbox"/> lived with you <input type="checkbox"/> didn't live with you due to divorce or separation (see page 14)
						0
						0
						0
						0

d If your child didn't live with you but is claimed as your dependent under a pre-1985 agreement, check here

e Total number of exemptions claimed **2**

Income

Attach Copy B of your Forms W-2, W-2G, and 1099-R here.

If you did not get a W-2, see page 15.

Enclose, but do not attach, any payment with your return.

7	Wages, salaries, tips, etc. Attach Form(s) W-2	7	0	-
8a	Taxable interest income (see page 15). Attach Schedule B if over \$400	8a		
b	Tax-exempt interest (see page 16). DON'T include on line 8a	8b		
9	Dividend income. Attach Schedule B if over \$400	9		
10	Taxable refunds, credits, or offsets of state and local income taxes (see page 16)	10		
11	Alimony received	11		
12	Business income or (loss). Attach Schedule C or C-EZ	12		
13	Capital gain or (loss). If required, attach Schedule D (see page 16)	13	0	-
14	Other gains or (losses). Attach Form 4797	14		
15a	Total IRA distributions	15a		
b	Taxable amount (see page 17)	15b		
16a	Total pensions and annuities	16a		
b	Taxable amount (see page 17)	16b		
17	Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E	17		
18	Farm income or (loss). Attach Schedule F	18		
19	Unemployment compensation (see page 18)	19		
20a	Social security benefits	20a		
b	Taxable amount (see page 18)	20b		
21	Other income. List type and amount—see page 18	21		
22	Add the amounts in the far right column for lines 7 through 21. This is your total income	22	0	-

Adjustments to Income

Caution: See instructions

23a	Your IRA deduction (see page 19)	23a		
b	Spouse's IRA deduction (see page 19)	23b		
24	Moving expenses. Attach Form 3903 or 3903-F	24		
25	One-half of self-employment tax	25		
26	Self-employed health insurance deduction (see page 21)	26		
27	Keogh retirement plan and self-employed SEP deduction	27		
28	Penalty on early withdrawal of savings	28		
29	Alimony paid. Recipient's SSN ▶	29		
30	Add lines 23a through 29. These are your total adjustments	30		

Adjusted Gross Income

31	Subtract line 30 from line 22. This is your adjusted gross income. If less than \$25,296 and a child lived with you (less than \$9,000 if a child didn't live with you), see "Earned Income Credit" on page 27	31	0	-
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Tax Computation

(See page 23.)

If you want the IRS to figure your tax, see page 24.

32	Amount from line 31 (adjusted gross income)	32	0
33a	Check if: <input type="checkbox"/> You were 65 or older, <input type="checkbox"/> Blind; <input type="checkbox"/> Spouse was 65 or older, <input type="checkbox"/> Blind. Add the number of boxes checked above and enter the total here	33a	
b	If your parent (or someone else) can claim you as a dependent, check here	33b	
c	If you are married filing separately and your spouse itemizes deductions or you are a dual-status alien, see page 23 and check here	33c	
34	Enter the larger of your: { Itemized deductions from Schedule A, line 29, OR Standard deduction shown below for your filing status. But if you checked any box on line 33a or b , go to page 23 to find your standard deduction. If you checked box 33c , your standard deduction is zero. • Single—\$3,800 • Head of household—\$5,600 • Married filing jointly or Qualifying widow(er)—\$6,350 • Married filing separately—\$3,175	34	6350
35	Subtract line 34 from line 32	35	0
36	If line 32 is \$83,850 or less, multiply \$2,450 by the total number of exemptions claimed on line 6e. If line 32 is over \$83,850, see the worksheet on page 24 for the amount to enter	36	4900
37	Taxable income. Subtract line 36 from line 35. If line 36 is more than line 35, enter -0-	37	0
38	Tax. Check if from a <input type="checkbox"/> Tax Table, b <input type="checkbox"/> Tax Rate Schedules, c <input type="checkbox"/> Capital Gain Tax Worksheet, or d <input type="checkbox"/> Form 8615 (see page 24). Amount from Form(s) 8814 e _____	38	
39	Additional taxes. Check if from a <input type="checkbox"/> Form 4970 b <input type="checkbox"/> Form 4972	39	
40	Add lines 38 and 39	40	0

Credits

(See page 24.)

41	Credit for child and dependent care expenses. Attach Form 2441	41	
42	Credit for the elderly or the disabled. Attach Schedule R	42	
43	Foreign tax credit. Attach Form 1116	43	
44	Other credits (see page 25). Check if from a <input type="checkbox"/> Form 3800 b <input type="checkbox"/> Form 8396 c <input type="checkbox"/> Form 8801 d <input type="checkbox"/> Form (specify) _____	44	
45	Add lines 41 through 44	45	
46	Subtract line 45 from line 40. If line 45 is more than line 40, enter -0-	46	0

Other Taxes

(See page 25.)

47	Self-employment tax. Attach Schedule SE	47	
48	Alternative minimum tax. Attach Form 6251	48	
49	Recapture taxes. Check if from a <input type="checkbox"/> Form 4255 b <input type="checkbox"/> Form 8611 c <input type="checkbox"/> Form 8828	49	
50	Social security and Medicare tax on tip income not reported to employer. Attach Form 4137	50	
51	Tax on qualified retirement plans, including IRAs. If required, attach Form 5329	51	
52	Advance earned income credit payments from Form W-2	52	
53	Add lines 46 through 52. This is your total tax	53	0

Payments

Attach Forms W-2, W-2G, and 1099-R on the front.

54	Federal income tax withheld. If any is from Form(s) 1099, check <input type="checkbox"/>	54	
55	1994 estimated tax payments and amount applied from 1993 return	55	
56	Earned income credit. If required, attach Schedule EIC (see page 27). Nontaxable earned income: amount _____ and type _____	56	
57	Amount paid with Form 4868 (extension request)	57	
58	Excess social security and RRTA tax withheld (see page 32)	58	
59	Other payments. Check if from a <input type="checkbox"/> Form 2439 b <input type="checkbox"/> Form 4136	59	
60	Add lines 54 through 59. These are your total payments	60	0

Refund or Amount You Owe

61	If line 60 is more than line 53, subtract line 53 from line 60. This is the amount you OVERPAID	61	
62	Amount of line 61 you want REFUNDED TO YOU	62	
63	Amount of line 61 you want APPLIED TO YOUR 1995 ESTIMATED TAX	63	
64	If line 53 is more than line 60, subtract line 60 from line 53. This is the AMOUNT YOU OWE . For details on how to pay, including what to write on your payment, see page 32	64	0
65	Estimated tax penalty (see page 33). Also include on line 64	65	

Sign Here

Keep a copy of this return for your records.

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your signature <i>James L. Keating</i>	Date 12/24/2008	Your occupation N/A
Spouse's signature. If a joint return, BOTH must sign. <i>Clare Anne Keating</i>	Date 12/24/08	Spouse's occupation —

Paid Preparer's Use Only

Preparer's signature	Date	Check if self-employed <input type="checkbox"/>	Preparer's social security no.
Firm's name (or yours if self-employed) and address	E.I. No.	Zip code	

9595

VOID CORRECTED

PAYER'S name, street address, city, state, ZIP code, and telephone no. Pilot Catastrophe Services, Inc. 708 Oak Cir DR W Mobile, AL 36609		1 Rents \$	OMB No. 1545-0115 1994		Miscellaneous Income
		2 Royalties \$	Form 1099-MISC		
PAYER'S federal identification number [REDACTED] 2513		RECIPIENT'S identification number		3 Other income \$	4 Federal income tax withheld \$
RECIPIENT'S name James L. Reading		5 Fishing boat proceeds \$	6 Medical and health care payments \$	Copy A For Internal Revenue Service Center File with Form 1099. For Privacy Act and Paperwork Reduction Act Notice, see the 2008 General Instructions for Forms 1099, 1098, 5498, and W-2G.	
Street address (including apt. no.) 2425 E. Fox St.		7 Nonemployee compensation \$ - 0 -	8 Substitute payments in lieu of dividends or interest \$		
City, state, and ZIP code Mesa, AZ 85213-5320		9 Payer made direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale <input type="checkbox"/>	10 Crop insurance proceeds \$		
Account number (see instructions)		2nd TIN not <input type="checkbox"/>	11	12	
		13 Excess golden parachute payments \$	14 Gross proceeds paid to an attorney \$		
15a Section 409A deferrals \$	15b Section 409A income \$	16 State tax withheld \$	17 State/Payer's state no.	18 State income \$	

Form 1099-MISC

Cat. No. 14425J

Department of the Treasury - Internal Revenue Service

This corrected Form 1099-MISC is submitted to rebut a document known to have been submitted by the party identified above as 'PAYER' which erroneously alleges a payment to the party identified above and on the attached Form 1040X as 'RECIPEINT' of "gains, profit or income" made in the course of a "trade or business".

Under penalty of perjury, I declare that I have examined this statement and to the best of my knowledge and belief, it is true, correct and complete.

James Leslie Reading
James Leslie Reading

12/24/2008
Date

9595 VOID CORRECTED

PAYER'S name, street address, city, state, ZIP code, and telephone no. Pilot & Associates, Inc. PO Box 91299 Mobile, AL 36691		1 Rents \$	OMB No. 1545-0115 1994 Form 1099-MISC	Miscellaneous Income Copy A For Internal Revenue Service Center File with Form 1096. For Privacy Act and Paperwork Reduction Act Notice, see the 2008 General Instructions for Forms 1099, 1098, 5498, and W-2G.
PAYER'S federal identification number [REDACTED] 7253		2 Royalties \$	4 Federal income tax withheld \$	
RECIPIENT'S identification number		3 Other income \$	5 Fishing boat proceeds \$	
RECIPIENT'S name James L. Reading		6 Medical and health care payments \$	7 Nonemployee compensation \$ - 0 -	
Street address (including apt. no.) 2425 E. Fox St.		8 Substitute payments in lieu of dividends or interest \$	9 Payer made direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale <input type="checkbox"/>	10 Crop insurance proceeds \$
City, state, and ZIP code Mesa, AZ 85213-5320		11	12	
Account number (see instructions)		2nd TIN not <input type="checkbox"/>	13 Excess golden parachute payments \$	14 Gross proceeds paid to an attorney \$
15a Section 409A deferrals \$	15b Section 409A income \$	16 State tax withheld \$	17 State/Payer's state no.	18 State income \$

Form 1099-MISC Cat. No. 14425J Department of the Treasury - Internal Revenue Service

This corrected Form 1099-MISC is submitted to rebut a document known to have been submitted by the party identified above as 'PAYER' which erroneously alleges a payment to the party identified above and on the attached Form 1040X as 'RECIPEINT' of "gains, profit or income" made in the course of a "trade or business".

Under penalty of perjury, I declare that I have examined this statement and to the best of my knowledge and belief, it is true, correct and complete.

James Leslie Reading
James Leslie Reading

12/24/2008
Date

**DEBBIE VAHE DECLARATION
EXHIBIT C**

Form 1040

Department of the Treasury—Internal Revenue Service U.S. Individual Income Tax Return

1995

(99) IRS Use Only—Do not write or staple in this space.

For the year Jan. 1–Dec. 31, 1995, or other tax year beginning 1995, ending 19 OMB No. 1545-0074

Label

(See instructions on page 11.)

Use the IRS label.

Otherwise, please print or type.

Presidential Election Campaign (See page 11.)

Label HERE: Your first name and initial (JAMES L.), Last name (READING), Spouse's first name and initial (CLARE L.), Last name (READING), Home address (2425 E. FOX), City, town or post office, state, and ZIP code (MESA ARIZONA)

Your social security number 8531

Spouse's social security number 4550

For Privacy Act and Paperwork Reduction Act Notice, see page 7.

Yes No Note: Checking "Yes" will not change your tax or reduce your refund.

Filing Status

(See page 11.)

Check only one box.

Filing Status: 1 Single, 2 Married filing joint return (checked), 3 Married filing separate return, 4 Head of household, 5 Qualifying widow(er)



Exemptions

(See page 12.)

If more than six dependents, see page 13.

Exemptions: 6a Yourself (checked), 6b Spouse (checked), Dependents table with columns for name, SSN, relationship, and months lived.

Income

Attach Copy B of your Forms W-2, W-2G, and 1099-R here.

If you did not get a W-2, see page 14.

Enclose, but do not attach, your payment and payment voucher. See page 33.

Income: 7 Wages, salaries, tips, etc. 8a Taxable interest income 8b Tax-exempt interest 9 Dividend income 10-14 Other income 15a-16a IRA and pension distributions 17-19 Rental, farm, and unemployment income 20a-20b Social security benefits 21 Other income 22 Total income

Adjustments to Income

Adjustments to Income: 23a-23b IRA deductions 24 Moving expenses 25 Self-employment tax 26-29 Health insurance, Keogh, and alimony deductions 30 Total adjustments

Adjusted Gross Income

31 Subtract line 30 from line 22. This is your adjusted gross income.

Tax Computation

(See page 23.)

If you want the IRS to figure your tax, see page 35.

32	Amount from line 31 (adjusted gross income)	32	0
33a	Check if: <input type="checkbox"/> You were 65 or older, <input type="checkbox"/> Blind; <input type="checkbox"/> Spouse was 65 or older, <input type="checkbox"/> Blind. Add the number of boxes checked above and enter the total here	33a	
b	If your parent (or someone else) can claim you as a dependent, check here	33b	<input type="checkbox"/>
c	If you are married filing separately and your spouse itemizes deductions or you are a dual-status alien, see page 23 and check here	33c	<input type="checkbox"/>
34	Enter the larger of your: Itemized deductions from Schedule A, line 28, OR Standard deduction shown below for your filing status. But if you checked any box on line 33a or b, go to page 23 to find your standard deduction. If you checked box 33c, your standard deduction is zero. • Single—\$3,900 • Married filing jointly or Qualifying widow(er)—\$6,550 • Head of household—\$5,750 • Married filing separately—\$3,275	34	6560
35	Subtract line 34 from line 32	35	0
36	If line 32 is \$86,025 or less, multiply \$2,500 by the total number of exemptions claimed on line 6e. If line 32 is over \$86,025, see the worksheet on page 23 for the amount to enter	36	5000
37	Taxable income. Subtract line 36 from line 35. If line 36 is more than line 35, enter -0-	37	0
38	Tax. Check if from a <input type="checkbox"/> Tax Table, b <input type="checkbox"/> Tax Rate Schedules, c <input type="checkbox"/> Capital Gain Tax Worksheet, or d <input type="checkbox"/> Form 8615 (see page 24). Amount from Form(s) 8814	38	
39	Additional taxes. Check if from a <input type="checkbox"/> Form 4970 b <input type="checkbox"/> Form 4972	39	
40	Add lines 38 and 39	40	0

Credits

(See page 24.)

41	Credit for child and dependent care expenses. Attach Form 2441	41	
42	Credit for the elderly or the disabled. Attach Schedule R	42	
43	Foreign tax credit. Attach Form 1116	43	
44	Other credits (see page 25). Check if from a <input type="checkbox"/> Form 3800 b <input type="checkbox"/> Form 8396 c <input type="checkbox"/> Form 8801 d <input type="checkbox"/> Form (specify)	44	
45	Add lines 41 through 44	45	
46	Subtract line 45 from line 40. If line 45 is more than line 40, enter -0-	46	0

Other Taxes

(See page 25.)

47	Self-employment tax. Attach Schedule SE	47	
48	Alternative minimum tax. Attach Form 6251	48	
49	Recapture taxes. Check if from a <input type="checkbox"/> Form 4255 b <input type="checkbox"/> Form 8611 c <input type="checkbox"/> Form 8828	49	
50	Social security and Medicare tax on tip income not reported to employer. Attach Form 4137	50	
51	Tax on qualified retirement plans, including IRAs. If required, attach Form 5329	51	
52	Advance earned income credit payments from Form W-2	52	
53	Household employment taxes. Attach Schedule H	53	
54	Add lines 46 through 53. This is your total tax	54	0

Payments

Attach Forms W-2, W-2G, and 1099-R on the front.

55	Federal income tax withheld. If any is from Form(s) 1099, check <input type="checkbox"/>	55	
56	1995 estimated tax payments and amount applied from 1994 return	56	
57	Earned income credit. Attach Schedule EIC if you have a qualifying child. Nontaxable earned income: amount and type	57	
58	Amount paid with Form 4868 (extension request)	58	
59	Excess social security and RRTA tax withheld (see page 32)	59	
60	Other payments. Check if from a <input type="checkbox"/> Form 2439 b <input type="checkbox"/> Form 4136	60	
61	Add lines 55 through 60. These are your total payments	61	0

Refund or Amount You Owe

62	If line 61 is more than line 54, subtract line 54 from line 61. This is the amount you OVERPAID.	62	
63	Amount of line 62 you want REFUNDED TO YOU.	63	
64	Amount of line 62 you want APPLIED TO YOUR 1996 ESTIMATED TAX	64	
65	If line 54 is more than line 61, subtract line 61 from line 54. This is the AMOUNT YOU OWE. For details on how to pay and use Form 1040-V, Payment Voucher, see page 33	65	0
66	Estimated tax penalty (see page 33). Also include on line 65	66	

Sign Here

Keep a copy of this return for your records.

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your signature	Date	Your occupation
<i>James Leslie Reading</i>	12/24/08	N/A
Spouse's signature. If a joint return, BOTH must sign.	Date	Spouse's occupation
<i>Chore Louise Reading</i>	12/24/08	

Paid Preparer's Use Only

Preparer's signature	Date	Check if self-employed <input type="checkbox"/>	Preparer's social security no.
Firm's name (or yours if self-employed) and address	EIN	ZIP code	

9595

VOID

CORRECTED

PAYER'S name, street address, city, state, ZIP code, and telephone no. Pilot Catastrophe Services, Inc. 708 Oak Cir DR W Mobile, AL 36609		1 Rents \$	OMB No. 1545-0115 1995 Form 1099-MISC		Miscellaneous Income
PAYER'S federal identification number [REDACTED] 2513		2 Royalties \$	3 Other income \$	4 Federal income tax withheld \$	
RECIPIENT'S identification number		5 Fishing boat proceeds \$	6 Medical and health care payments \$	Copy A For Internal Revenue Service Center File with Form 1096. For Privacy Act and Paperwork Reduction Act Notice, see the 2008 General Instructions for Forms 1099, 1098, 5498, and W-2G.	
RECIPIENT'S name James L. Reading		7 Nonemployee compensation \$ - 0 -	8 Substitute payments in lieu of dividends or interest \$		
Street address (including apt. no.) 2425 E. Fox St.		9 Payer made direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale <input type="checkbox"/>	10 Crop insurance proceeds \$		
City, state, and ZIP code Mesa, AZ 85213-5320		11	12		
Account number (see instructions)	2nd TIN not. <input type="checkbox"/>	13 Excess golden parachute payments \$	14 Gross proceeds paid to an attorney \$		
15a Section 409A deferrals \$	15b Section 409A income \$	16 State tax withheld \$	17 State/Payer's state no.	18 State income \$	

Form 1099-MISC

Cat. No. 14425J

Department of the Treasury - Internal Revenue Service

This corrected Form 1099-MISC is submitted to rebut a document known to have been submitted by the party identified above as 'PAYER' which erroneously alleges a payment to the party identified above and on the attached Form 1040X as 'RECIPEINT' of "gains, profit or income" made in the course of a "trade or business".

Under penalty of perjury, I declare that I have examined this statement and to the best of my knowledge and belief, it is true, correct and complete.

James Leslie Reading
James Leslie Reading

12/24/2008
Date

**DEBBIE VAHE DECLARATION
EXHIBIT D**

246

7/10/12

Form 1040EZ Department of the Treasury—Internal Revenue Service Income Tax Return for Single and Joint Filers With No Dependents (99) 2008 OMB No. 1545-0074

Label (See page 9.) Use the IRS label. Otherwise, please print or type. Presidential Election Campaign (page 9) Your first name and initial Last name Your social security number Spouse's social security number Home address (number and street). If you have a P.O. box, see page 9. Apt. no. City, town or post office, state, and ZIP code. If you have a foreign address, see instructions.



Check here if you, or your spouse if a joint return, want \$3 to be withheld from your federal income tax. You Spouse

Income table with rows 1-6. Includes wages, taxable interest, unemployment compensation, and adjusted gross income. Total AGI is 17,900.

Payments and tax table with rows 7-11. Includes federal income tax withheld, earned income credit, and total payments. Total tax is 48.

Refund section (12a-d) with routing and account numbers. Total refund is 20.

Amount you owe (13) If line 11 is larger than line 10, subtract line 10 from line 11. This is the amount you owe. For details on how to pay, see page 19.

Third party designee section with fields for name, phone, and PIN.

Sign here section with signatures of James Leslie Reading and Clare L. Reading, dated 4/15/2009.

Paid preparer's use only section with fields for preparer's name, date, and EIN.

CONSIDERED IN EXAM

Form **4852**
 (Rev. January 2007)
 Department of the Treasury
 Internal Revenue Service

Substitute for Form W-2, Wage and Tax Statement, or Form 1099-R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.
 Attach to Form 1040, 1040A, 1040-EZ, or 1040X.

OMB No. 1545-0074

1 Type or print your first name and middle initial. Last name **2** Social security number (SSN)
 James L Reading ██████████ 8531

3 Address
 2425 E FOX ST MESA, ARIZONA 85213

4 Enter year in space provided and check one box. For the tax year ending December 31, 2008,
 I have been unable to obtain (or have received an incorrect) Form W-2 OR Form 1099-R.

I have notified the IRS of this fact. The amounts shown on line 7 or line 8 are my best estimates for all wages or payments made to me and tax withheld by my employer or payer named on line 5.

5 Employer's or payer's name, address, and ZIP code **6** Employer's or payer's identification number (if known)
 WHITEGUARD ROOF COATING & WATERPR ██████████ 0774

7 Form W-2. Enter wages, tips, other compensation, and taxes withheld.

a Wages, tips, and other compensation	0	g State income tax withheld	
b Social security wages	0	(Name of state)	
c Medicare wages and tips	0	h Local income tax withheld	
d Advance EIC payment		(Name of locality)	
e Social security tips		i Social security tax withheld	39.06
f Federal income tax withheld		j Medicare tax withheld	9.14

8 Form 1099-R. Enter distributions from pensions, annuities, retirement/profit-sharing plans, IRAs, insurance contracts, etc.

a Gross distribution		f Federal income tax withheld	
b Taxable amount		g State income tax withheld	
c Taxable amount not determined	<input type="checkbox"/>	h Local income tax withheld	
d Total distribution	<input type="checkbox"/>	i Employee contributions	
e Capital gain (included in 8b)		j Distribution codes	

9 How did you determine the amounts on lines 7 and 8 above?
 Company provided records and the statutory language under IRC sections 3401, 3121 and others.

10 Explain your efforts to obtain Form W-2, Form 1099-R, or Form W-2c, Corrected Wage and Tax Statement.
 Company refuses to issue forms correctly listing payments of "wages as defined in 3401(a) and 3121(a)" for fear of IRS retaliation. The amounts listed as withheld on the W-2 by the Company are correct, however.

Sign Here Under penalties of perjury, I declare that I have examined this statement, and to the best of my knowledge and belief, it is true, correct, and complete.
 Signature James Leslie Reading Date 4/15/2009

Purpose of form. Form 4852 serves as a substitute for Forms W-2, W-2c, and 1099-R and is completed by taxpayers or their representatives when (a) their employer or payer does not give them a Form W-2 or Form 1099-R, or (b) when an employer or payer has issued an incorrect Form W-2 or Form 1099-R. Attach this form to your income tax return.
 You should always attempt to get Form W-2 or Form 1099-R from your employer or payer before contacting the IRS or filing Form 4852. After February 14, you may call the IRS at 1-800-829-1040 if you still have not received Form W-2 or Form 1099-R. Generally, do not file Form 4852 before April 15.
 If you received an incorrect Form W-2 or Form 1099-R, you should always attempt to have your employer or payer issue a corrected form before filing Form 4852.
Note. Retain a copy of Form 4852 for your records. Check your Social Security Statement (received at least a full year after the date shown on line 4) against Form 4852. If the earnings you reported on Form 4852 are not shown in the statement, you should contact the Social Security Administration (SSA) at the telephone number shown on the statement. Alternatively, after

September 30 following the date shown on line 4, you may contact your local SSA office to verify wages reported by your employers.
Will I need to amend my return? If you receive a Form W-2, Form W-2c, or Form 1099-R, after your return is filed with Form 4852, and the information differs from the information reported on your return, you must amend your return by filing Form 1040X, Amended U.S. Individual Income Tax Return.
Penalties. The IRS will challenge the claims of individuals who attempt to avoid or evade their federal tax liability by using Form 4852 in a manner other than as prescribed. Potential penalties for the improper use of Form 4852 include:
 • Accuracy-related penalties equal to 20 percent of the amount of taxes that should have been paid,
 • Civil fraud penalties equal to 75 percent of the amount of taxes that should have been paid, and
 • A \$5,000 civil penalty for filing a frivolous return or submitting a specified frivolous submission as described by section 6702 of the Internal Revenue Code.

Form 1099-MISC MISCELLANEOUS INCOME 16-033 1690 VOID CORRECTED TO BE FILED WITH FEDERAL INCOME TAX RETURN IF NECESSARY

CALENDAR YEAR 2008	PAYER'S Federal identification number 8430	RECIPIENT'S identification number 8531	Account number (see instructions) 0441-T266 - 779 09016		2nd TIN Not. <input type="checkbox"/>
PAYER'S name, street address, city, state, and ZIP code COLONIAL CLAIMS CORP 2200 BAYSHORE BLVD DUNEDIN FL 34698		RECIPIENT'S name, street address, city, state, and ZIP code JAMES L READING 2425 E. FOX STREET MESA AZ 85213			This is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if this income is taxable and the IRS determines that it has not been reported.
1 Rents \$	2 Royalties \$	3 Other income \$		4 Federal income tax withheld \$	
5 Fishing boat proceeds \$	6 Medical and health care payments \$	7 Nonemployee compensation \$ 0		8 Substitute payments in lieu of dividends or interest \$	
9 Payer made direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale <input type="checkbox"/>	10 Crop insurance proceeds \$	11	12	13 Excess golden parachute payments \$	14 Gross proceeds paid to an attorney \$
15a Section 409A deferrals \$	15b Section 409A income \$	16 State tax withheld \$	17 State/Payer's state no.		18 State income \$

This corrected Form 1099-MISC is submitted to rebut a document known to have been submitted by the party identified above as 'PAYER' which erroneously alleges a payment to the party identified above and on the attached Form 1040 as 'RECIPIENT' of "gains, profit or income" made in the course of a "trade or business".

Under penalty of perjury, I declare that I have examined this statement and to the best of my knowledge and belief, it is true, correct and complete.

James Leslie Reading
James Leslie Reading

4/15/2009
Date

**DEBBIE VAHE DECLARATION
EXHIBIT E**

Department of the Treasury
Internal Revenue Service

Date: FEB 13 2001

Taxpayer Identification Number: [REDACTED] 8531

Form: 1040

Person to Contact: Ms. Bowers

Telephone Number: (602) 207- 8339

Employee Identification Number: [REDACTED] 6162

Refer Reply to: Letter 531

Last Day to File a Petition With
the United States Tax Court: FEB 13 2001



JAMES L. READING
2425 EAST FOX
MESA, AZ 85213-5320 254

Tax Year Ended:	12/31/1993	12/31/1994	12/31/1995
Deficiency:			
Increase in tax	\$ 54,595.00	\$ 63,049.00	\$ 41,938.00
Penalties			
IRC 6651(a)(1)	\$ 12,909.00	\$ 15,762.00	\$ 10,484.00
IRC 6654	2,150.00	3,272.00	2,274.00

NOTICE OF DEFICIENCY

Dear TAXPAYER:

We have determined that you owe additional tax or other amounts, or both, for the tax year(s) identified above. This letter is your NOTICE OF DEFICIENCY, as required by law. The enclosed statement shows how we figured the deficiency.

If you want to contest this determination in court before making any payment, you have 90 days from the date of this letter (150 days if this letter is addressed to you outside of the United States) to file a petition with the United States Tax Court for a redetermination of the deficiency. You can get a copy of the rules for filing a petition and a petition form you can use by writing to the address below:

United States Tax Court
400 Second Street, NW
Washington, DC 20217

The Tax Court has a simplified procedure for small tax cases when the amount in dispute is \$50,000 or less for any one tax year. You can also get information about this procedure by writing to the Tax Court.

Send the completed petition form, a copy of this letter, and copies of all statements and/or schedules you received with this letter to the Tax Court at the above address. The Court cannot consider your case if the petition is filed late. The petition is considered timely filed if the postmark date falls within the prescribed 90 to 150 day period and the envelope containing the petition is properly addressed with the correct postage.

The time you have to file a petition with the court is set by law and cannot be extended or suspended. Thus, contacting the Internal Revenue Service (IRS) for more information, or receiving other correspondence from the IRS won't change the allowable period for filing a petition with the Tax Court.

210 E. Earll Drive, Stop 4021PHX, Phoenix, AZ 85012

Letter 531 (Rev. 12-98)

As required by law, separate notices are sent to husbands and wives. If this letter is addressed to both husband and wife, and both want to petition the Tax Court, both must sign and file the petition or each must file a separate petition. If more than one tax year is shown above, you may file one petition form showing all of the years you are contesting.

You may represent yourself before the Tax Court, or you may be represented by anyone admitted to practice before the Tax Court.

If you decide not to file a petition with the Tax Court, please sign the enclosed waiver form and return it to us at the IRS address found on the bottom of the first page of this letter. This will permit us to assess the deficiency quickly and can help limit the accumulation of interest.

If you decide not to sign and return the waiver, and you do not file a petition with the Tax Court within the time limit, the law requires us to assess and bill you for the deficiency after 90 days from the date of this letter (150 days if this letter is addressed to you outside the United States).

NOTE: If you are a C-Corporation, section 6621(c) of the Internal Revenue Code requires that we charge an interest rate two percent higher than the normal rate on large corporate underpayments of \$100,000 or more.

If you have questions about this letter, you may write to or call the contact person whose name, telephone number, and IRS address are shown on the front of this letter. If you write, please include your telephone number, the best time for us to call you if we need more information, and a copy of this letter to help us identify your account. Keep the original letter for your records. If you prefer to call and the telephone number is outside your local calling area, there will be a long distance charge to you.

The contact person can access your tax information and help you get answers. You also have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures such as the formal appeals process. The Taxpayer Advocate is not able to reverse legally correct tax determinations, nor extend the time fixed by law that you have to file a petition in the U.S. Tax Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. If you want Taxpayer Advocate assistance, please contact the Taxpayer Advocate for the IRS office that issued this notice of deficiency. See the enclosed Notice 1214, Helpful Contacts for Your "Notice of Deficiency", for Taxpayer Advocate telephone numbers and addresses.

Thank you for your cooperation.

Sincerely,

Charles O. Rossotti
Commissioner
By



Norman McDowell
Reviewer

Enclosures:
Explanation of tax changes
Waiver
Notice 1214

Letter 531 (Rev. 12-98)

Prod0002

US05814

Name and Address of Taxpayer JAMES L. READING	SS or EI Number: [REDACTED] 8531		Return Form No. 1040
	Person with whom examination changes were discussed	Name and Title	
1. Adjustments to Income	Period End 12/31/1993	Period End 12/31/1994	Period End 12/31/1995
A. 1099MISC-PILOT & ASSOC.	\$ 25,628.00	\$ 44,574.00	\$ 117,648.00
B. 1099MISC-PILOT CATASTROPH	14,935.00	112,015.00	
C. CAPITAL GAIN OR LOSS	85,889.00	11,948.00	
D. DIVIDEND INCOME	338.00	59.00	
E. EXEMPTIONS			(1,400.00)
F. INTEREST INCOME	96.00		
G. SE AGI ADJUSTMENT	(1,833.00)	(5,854.00)	(5,370.00)
H. STANDARD DEDUCTION	(3,100.00)	(3,175.00)	(3,275.00)
I. WAGES-PILOT TEMP. SERVICE	36,796.00		
J.			
K.			
L.			
M.			
N.			
O.			
P.			
Q.			
R.			
S.			
2. Total Adjustments	158,749.00	159,567.00	107,603.00
3. Taxable Income Per Return or as Previously Adjusted	0.00	0.00	0.00
4. Corrected Taxable Income	158,749.00	159,567.00	107,603.00
Tax Method	SCHEDULE D	TAX RATE	TAX RATE
Filing Status	MARRIED SEPARATE	MARRIED SEPARATE	MARRIED SEPARATE
5. Tax	50,929.00	51,341.00	31,198.00
6. Additional Taxes			
7. Corrected Tax Liability	50,929.00	51,341.00	31,198.00
8. Less Credits			
A.			
B.			
C.			
D.			
9. Balance (Line 7 less total of lines 8A through 8D)	50,929.00	51,341.00	31,198.00
10. Plus			
A. SELF EMPLOYMENT TAX	3,666.00	11,708.00	10,748.00
Other			
Taxes			
11. Total Corrected Tax Liability (Line 9 + lines 10A to 10D)	54,595.00	63,049.00	41,938.00
12. Total Tax Shown on Return or as Previously Adjusted	0.00	0.00	0.00
13. Adjustments to			
A. Special Fuels Credit			
B.			
14. Deficiency - Increase in Tax or (Overassessment - Decrease in tax) (Line 11 less Line 12 adjusted by Line 13)	54,595.00	63,049.00	41,938.00
15. Adjustments to Prepayment Credits	2,959.00		
16. Balance Due or Overpayment (Line 14 Adjusted by Line 15) (Excluding Interest and penalties)	\$ 51,636.00	\$ 63,049.00	\$ 41,938.00

The Internal Revenue Service has agreements with State tax agencies under which information about Federal tax, including increases or decreases, is exchanged with the States. If this change affects the amount of your State income tax, you should file the State form.

You may be subject to backup withholding if you underreport your interest, dividend, or patronage dividend income and do not pay the required tax. The IRS may order backup withholding at 31 percent after four notices have been issued to you over a 120-day period and the tax has been assessed and remains unpaid.

Name of Taxpayer: JAMES L. READING	SS or EI Number: ████████-8531	Return Form No. 1040
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17. Penalties	Period End 12/31/1993	Period End 12/31/1994	Period End 12/31/1995
A. DELQ-IRC 6651(a)(1)	\$ 12,909.00	\$ 15,762.25	\$ 10,484.50
B. ESTIMATED TAX-IRC 6654	2,149.74	3,271.72	2,274.00
C.			
D.			
E.			
F.			
G.			
H.			
I.			
J.			
K.			
L.			
M.			
N.			
18. Total Penalties	15,058.74	19,033.97	12,758.50
19. Underpayment attributable to negligence: (1981 - 1987) An Addition to the tax of 50 percent of the interest due on this underpayment will accrue until paid or assessed.			
20. Underpayment attributable to fraud: (1982 - 1987) An addition to the tax of 50 percent of the interest due on this underpayment will accrue until paid or assessed.			
21. Underpayment attributable to Tax Motivated Transactions: TMT Interest will accrue and be assessed at 120 percent of the underpayment rate in accordance with IRC 6621(c).			
Summary of Taxes, Penalties and Interest:			
A. Balance due or Overpayment of Taxes (line 16, page 1)	51,636.00	63,049.00	41,938.00
B. Penalties (line 18, page 2) (computed to 04/27/2000)	15,058.74	19,033.97	12,758.50
C. Interest (IRC 6601) (computed to 04/27/2000)	18,000.00	22,000.00	14,000.00
D. TMT Interest (computed to 04/27/2000 on TMT underpay)	66,694.74	82,082.97	54,696.50
E. Amount due or refund (sum of lines A, B, C, and D.)	10,000.00	10,000.00	10,000.00

Other Information:

Examiner's Signature	District Southwest	Date 03/28/2000
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**DEBBIE VAHE DECLARATION
EXHIBIT F**

Department of the Treasury
Internal Revenue Service
DISTRICT DIRECTOR

DEFAULTED

Date: **NOV 15 2000**

Taxpayer Identification Number: [REDACTED] 4550

Form: 1040

Person to Contact: Ms. Bowers

Telephone Number: (602) 207- 8339

Employee Identification Number: [REDACTED] 6162

Refer Reply to: Letter 531

Last Day to File a Petition With
the United States Tax Court: **FEB 13 2001**



CLARE READING
2425 EAST FOX STREET
MESA, AZ 85213-5320 254

Tax Year Ended:	12/31/1994	12/31/1995
Deficiency:		
Increase in tax	\$ 23,243.00	\$ 12,489.00
Penalties		
IRC 6651(a)(1)	\$ 5,811.00	\$ 3,122.00
IRC 6654	1,206.00	677.00

NOTICE OF DEFICIENCY

Dear TAXPAYER:

We have determined that you owe additional tax or other amount above. This letter is your NOTICE OF DEFICIENCY, as required by law how we figured the deficiency.

If you want to contest this determination in court before making a the date of this letter (150 days if this letter is addressed to you outside with the United States Tax Court for a redetermination of the deficiency filing a petition and a petition form you can use by writing to the address:

United States Tax Cou
400 Second Street, NV
Washington, DC 2021

The Tax Court has a simplified procedure for small tax cases whe less for any one tax year. You can also get information about this proce

Send the completed petition form, a copy of this letter, and copies you received with this letter to the Tax Court at the above address. The the petition is filed late. The petition is considered timely filed if the pos 90 to 150 day period and the envelope containing the petition is properl

The time you have to file a petition with the court is set by law and Thus, contacting the Internal Revenue Service (IRS) for more information, or receiving other correspondence from the IRS won't change the allowable period for filing a petition with the Tax Court.

Z 096 928 396

TPW

US Postal Service
Receipt for Certified Mail
No Insurance Coverage Provided.
Do not use for International Mail (See reverse)

Sent to	
Street & Number	
Post Office, State, & ZIP Code	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage & Fees	\$
Postmark or Date	

PS Form 3800, April 1995

Department of the Treasury
 Internal Revenue Service
 DISTRICT DIRECTOR

DEFAULTED

Date: **NOV 15 2000**

Taxpayer Identification Number: [REDACTED] 4550

Form: 1040

Person to Contact: Ms. Bowers

Telephone Number: (602) 207- 8339

Employee Identification Number: [REDACTED] 6162

Refer Reply to: Letter 531

Last Day to File a Petition With
 the United States Tax Court: **FEB 13 2001**

CLARE READING
 2425 EAST FOX STREET
 MESA, AZ 85213-5320 254

Tax Year Ended:	12/31/1994	12/31/1995
Deficiency:		
Increase in tax	\$ 23,243.00	\$ 12,489.00
Penalties		
IRC 6651(a)(1)	\$ 5,811.00	\$ 3,122.00
IRC 6654	1,206.00	677.00

NOTICE OF DEFICIENCY

Dear TAXPAYER:

We have determined that you owe additional tax or other amounts, or both, for the tax year(s) identified above. This letter is your NOTICE OF DEFICIENCY, as required by law. The enclosed statement shows how we figured the deficiency.

If you want to contest this determination in court before making any payment, you have 90 days from the date of this letter (150 days if this letter is addressed to you outside of the United States) to file a petition with the United States Tax Court for a redetermination of the deficiency. You can get a copy of the rules for filing a petition and a petition form you can use by writing to the address below:

United States Tax Court
 400 Second Street, NW
 Washington, DC 20217

The Tax Court has a simplified procedure for small tax cases when the amount in dispute is \$50,000 or less for any one tax year. You can also get information about this procedure by writing to the Tax Court.

Send the completed petition form, a copy of this letter, and copies of all statements and/or schedules you received with this letter to the Tax Court at the above address. The Court cannot consider your case if the petition is filed late. The petition is considered timely filed if the postmark date falls within the prescribed 90 to 150 day period and the envelope containing the petition is properly addressed with the correct postage.

The time you have to file a petition with the court is set by law and cannot be extended or suspended. Thus, contacting the Internal Revenue Service (IRS) for more information, or receiving other correspondence from the IRS won't change the allowable period for filing a petition with the Tax Court.

-2-

As required by law, separate notices are sent to husbands and wives. If this letter is addressed to both husband and wife, and both want to petition the Tax Court, both must sign and file the petition or each must file a separate petition. If more than one tax year is shown above, you may file one petition form showing all of the years you are contesting.

You may represent yourself before the Tax Court, or you may be represented by anyone admitted to practice before the Tax Court.

If you decide not to file a petition with the Tax Court, please sign the enclosed waiver form and return it to us at the IRS address found on the bottom of the first page of this letter. This will permit us to assess the deficiency quickly and can help limit the accumulation of interest.

If you decide not to sign and return the waiver, and you do not file a petition with the Tax Court within the time limit, the law requires us to assess and bill you for the deficiency after 90 days from the date of this letter (150 days if this letter is addressed to you outside the United States).

NOTE: If you are a C-Corporation, section 6621(c) of the Internal Revenue Code requires that we charge an interest rate two percent higher than the normal rate on large corporate underpayments of \$100,000 or more.

If you have questions about this letter, you may write to or call the contact person whose name, telephone number, and IRS address are shown on the front of this letter. If you write, please include your telephone number, the best time for us to call you if we need more information, and a copy of this letter to help us identify your account. Keep the original letter for your records. If you prefer to call and the telephone number is outside your local calling area, there will be a long-distance charge to you.

The contact person can access your tax information and help you get answers. You also have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures such as the formal appeals process. The Taxpayer Advocate is not able to reverse legally correct tax determinations, nor extend the time fixed by law that you have to file a petition in the U.S. Tax Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. If you want Taxpayer Advocate assistance, please contact the Taxpayer Advocate for the IRS office that issued this notice of deficiency. See the enclosed Notice 1214, Helpful Contacts for Your "Notice of Deficiency", for Taxpayer Advocate telephone numbers and addresses.

Thank you for your cooperation.

Sincerely,

Charles O. Rossotti
Commissioner
By

Norman McDowell

Norman McDowell
Reviewer

Enclosures:
Explanation of tax changes
Waiver
Notice 1214

- 2 -

Instructions for Form 4089

Note:

If you consent to the assessment of the amounts shown in this waiver, please sign and return it in order to limit the accumulation of interest and expedite our bill to you. Your consent will not prevent you from filing a claim for refund (after you have paid the tax) if you later believe you are entitled to a refund. It will not prevent us from later determining, if necessary, that you owe additional tax; nor will it extend the time provided by law for either action.

If you later file a claim and the Internal Revenue Service disallows it, you may file suit for refund in a district court or in the United States Claims Court, but you may not file a petition with the United States Tax Court.

Who Must Sign:

If this waiver is for any years(s) for which you filed a joint return, both you and your spouse must sign the original and duplicate of this form. Sign your name exactly as it appears on the return. If you are acting under power of attorney for your spouse, you may sign as agent for him or her.

For an agent or attorney acting under a power of attorney, a power of attorney must be sent with this form if not previously filed

For a person acting in the fiduciary capacity (executor, administrator, trustee) file Form 56, Notice Concerning Fiduciary Relationship, with this form if not previously filed.

For a corporation, enter the name of the corporation followed by the signature and title of the officer(s) authorized to sign.

Optional Paragraphs:

A check in the block to the left of a paragraph below indicates that the paragraph applies to your situation.

- The amount shown as the deficiency may not be billed, since all or part of the refund due has been held to offset all or a portion of the amount of the deficiency. The amount that will be billed, if any, is shown on the attached examination report.
- The amount shown, as the deficiency may not be billed, since the refund due will be reduced by the amount of the deficiency. The new refund due is shown on the attached examination report.

Department of the Treasury - Internal Revenue Service
Income Tax Examination Changes

Name and Address of Taxpayer CLARE READING	SS or EI Number: [REDACTED] 4550		Return Form No. 1040
	Person with whom examination changes were discussed	Name and Title	
1. Adjustments to Income	Period End 12/31/1994	Period End 12/31/1995	Period End
A. 1999MISC-PILOT & ASSOC.	\$ 22,287.00	\$	\$
B. 1999MISC-PILOT CATASTROPH	56,008.00	58,824.00	
C. CAPITAL GAIN OR LOSS	11,948.00		
D. DIVIDEND INCOME	59.00		
E. EXEMPTIONS	(2,156.00)	(2,500.00)	
F. STANDARD DEDUCTION	(3,175.00)	(3,275.00)	
G.			
H.			
I.			
J.			
K.			
L.			
M.			
N.			
O.			
P.			
Q.			
R.			
S.			
2. Total Adjustments	84,971.00	53,049.00	
3. Taxable Income Per Return or as Previously Adjusted	0.00	0.00	
4. Corrected Taxable Income	84,971.00	53,049.00	
Tax Method	TAX TABLE	TAX TABLE	
Filing Status	MARRIED SEPARATE	MARRIED SEPARATE	
5. Tax	23,243.00	12,489.00	
6. Additional Taxes			
7. Corrected Tax Liability	23,243.00	12,489.00	
8. Less Credits			
A.			
B.			
C.			
D.			
9. Balance (Line 7 less total of lines 8A through 8D)	23,243.00	12,489.00	
10. Plus Other Taxes			
A.			
B.			
C.			
D.			
11. Total Corrected Tax Liability (Line 9 + lines 10A to 10D)	23,243.00	12,489.00	
12. Total Tax Shown on Return or as Previously Adjusted	0.00	0.00	
13. Adjustments to A. Special Fuels Credit			
B.			
14. Deficiency - Increase in Tax or (Overassessment - Decrease in tax) (Line 11 less Line 12 adjusted by Line 13)	23,243.00	12,489.00	
15. Adjustments to Prepayment Credits			
16. Balance Due or Overpayment (Line 14 Adjusted by Line 15) (Excluding Interest and penalties)	\$ 23,243.00	\$ 12,489.00	\$

The Internal Revenue Service has agreements with State tax agencies under which information about Federal tax, including increases or decreases, is exchanged with the States. If this change affects the amount of your State income tax, you should file the State form.

You may be subject to backup withholding if you underreport your interest, dividend, or patronage dividend income and do not pay the required tax. The IRS may order backup withholding at 31 percent after four notices have been issued to you over a 120-day period and the tax has been assessed and remains unpaid.

Department of the Treasury - Internal Revenue Service
Income Tax Examination Changes

Name of Taxpayer: CLARE READING		SS or EI Number: [REDACTED]-4550	Return Form No. 1040
17. Penalties		Period End 12/31/1994	Period End 12/31/1995
		Period End	
A. DELQ-IRC 6651(a)(1)		\$ 5,810.75	\$ 3,122.25
B. ESTIMATED TAX-IRC 6654		1,206.09	677.18
C.			
D.			
E.			
F.			
G.			
H.			
I.			
J.			
K.			
L.			
M.			
N.			
18. Total Penalties		7,016.84	3,799.43
19. Underpayment attributable to negligence: (1981 - 1987) An Addition to the tax of 50 percent of the interest due on this underpayment will accrue until paid or assessed.			
20. Underpayment attributable to fraud: (1982 - 1987) An addition to the tax of 50 percent of the interest due on this underpayment will accrue until paid or assessed.			
21. Underpayment attributable to Tax Motivated Transactions: TMT Interest will accrue and be assessed at 120 percent of the underpayment rate in accordance with IRC 6621(c).			
Summary of Taxes, Penalties and Interest:			
A. Balance due or Overpayment of Taxes (line 16, page 1)		23,243.00	12,489.00
B. Penalties (line 18, page 2) (computed to 04/27/2000)		7,016.84	3,799.43
C. Interest (IRC 6601) (computed to 04/27/2000)		1,017.50	6,000.00
D. TMT Interest (computed to 04/27/2000 on TMT underpay)		30,259.84	16,288.43
E. Amount due or refund (sum of lines A. B. C. and D.)		58,257.13	28,287.99

Other Information:

Examiner's Signature	District Southwest	Date 03/28/2000
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Form 886-A		Department of the Treasury - Internal Revenue Service		Schedule No. or Exhibit	
		Explanation of Items			
Name of Taxpayer				Year/Period Ended	
READING, CLARE				DEC. 31, 1994	
EIN: ██████████ 4550				DEC. 31, 1995	
1A. 1099MISC-PILOT & ASSOC.					
Since you were married and domiciled in a community property state, we have adjusted your gross receipts in accordance with community property laws. Accordingly, your income from Pilot & Associates, Inc. is increased \$22,287 for the taxable period ended December 31, 1994.					
		Pilot & Assoc. income		\$44,574.00	
		Less: 50% allocation to Spouse		22,287.00	
		Adjustment		\$22,287.00	
1B. 1099MISC-PILOT CATASTROPH					
Since you were married and domiciled in a community property state, we have adjusted your gross receipts in accordance with community property laws. Accordingly, your income from Pilot Catastrophe Services, Inc. is increased \$56,008 for the taxable period ended December 31, 1994 and \$58,824 for ended December 31, 1995. Accordingly, your taxable income from Pilot Catastrophe Services, Inc is increased \$56,008 and \$58,008 for the taxable periods ended December 31, 1994 and 1995, respectively.					
				1994	1995
		Pilot Catastrophic Services income		\$112,015.00	\$117,648.00
		Less: 50% allocated to Spouse		\$56,007.50	\$58,824.00
		Adjustment		\$56,007.50	\$58,824.00
1C. CAPITAL GAIN AND LOSS					
Since you were married and domiciled in a community property state, we have adjusted your gross receipts in accordance with community property laws. Accordingly, your income as listed below is increased \$11,948 for the taxable period ended December 31, 1994. Accordingly, your taxable income is increased \$11,948 for the taxable period ended December 31, 1994.					
		SOURCE		AMOUNT	
		1 Merrill Lynch Pierce Fenner & Smith		\$8,359.00	
		2 American services Company		\$15,537.00	
		Total		\$23,896.00	
		Less: Allocation to Spouse		\$11,948.00	
		Adjustment		\$11,948.00	
1D. DIVIDEND INCOME					
Since you were married and domiciled in a community property state, we have adjusted your gross receipts in accordance with community property laws. Accordingly, your income as listed below is increased \$59 for the taxable period ended December 31, 1994. Accordingly, your taxable income is increased \$59 for the taxable period ended December 31, 1994.					
		SOURCE		AMOUNT	
		1 General Motors		\$68.00	
		2 American Funds Service Co.		\$50.00	
		Total		\$118.00	
		Less: Allocation to Spouse		\$59.00	
		Adjustment		\$59.00	
1E. EXEMPTIONS					
It is determined that you are entitled to one exemption for the taxable periods ended December 31, 1994 and 1995.					
1F. STANDARD DEDUCTION					
It is determined that you are entitled to a standard deduction for the taxable periods ended December 31, 1994 and 1995.					
5 TAX					
Your tax is computed by use of married-separate tax rates, since you have not established that you meet the requirements for any other filing status for the taxable periods December 31, 1994 and December 31, 1995.					

Name Of Taxpayer:	CLARE READING		03/28/2000
Identification Number:	[REDACTED] 4550	TOTAL	4.60.00

199412 PERSONAL EXEMPTION WORKSHEET

1. Multiply \$2,450.00 by the total number of exemptions claimed on Form 1040, line 6e	2,450.00
2. Adjusted Gross Income (Form 1040, line 32)	90,302.00
3. Limitation based on Filing Status	83,850.00
4. Subtract line 3 from line 2	6,452.00
5. Divide line 4 by \$2,500 (\$1,250 if married filing separate)	6.00
6. Multiply line 5 by 2% and enter the result as a decimal	0.12
7. Multiply line 1 by line 6	294.00
8. Deduction for exemptions (Subtract line 7 from line 1)	2,156.00

Name of Taxpayer:	CLEARE READING		03/28/2000
Identification Number:	██████████-4550	TOTAL	4.60.00

199412 SCHEDULE D - CAPITAL GAINS AND LOSSES

1. Short-term capital gain or loss	0.00	
2. Short-term capital loss carryover	0.00	
3. Net Short-term Gain or Loss (Add line 1 and 2)		0.00
4. Long-term capital gain or loss	11,948.00	
5. Long-term capital loss carryover	0.00	
6. Net long-term Gain or Loss (Add line 4 and 5)		11,948.00
7. Sum of lines 3 and 6 - Net Capital Gain or Loss		11,948.00
8. Capital loss limitation		0.00
9. Capital Gain or Loss - As Corrected	11,948.00	
10. Capital Gain or Loss - Per Return		0.00
11. Line 9 less line 10 - Adjustment to Income		11,948.00

CORRECTED CARRYOVER

12. Short-term Carryover to Subsequent Year	0.00
13. Long-term Carryover to Subsequent Year	0.00

COMPUTATION OF ALTERNATIVE TAX

14. Taxable Income	84,971.00
15. Lesser of Long-Term Gain or Net Capital Gain	0.00
16. Line 14 less line 15	0.00
17. Alternative amount based on filing status	19,000.00
18. Greater of line 16 or line 17	0.00
19. Line 14 less line 18	0.00
20. Tax on line 18 using Rate Schedule	0.00
21. Line 19 multiplied by 28%	0.00
22. Line 21 plus line 20 - Alternative Capital Gain Tax	0.00

Name of Taxpayer:	CLARE READING		03/28/2000
Identification Number:	██████████-4550	TOTAL	4.60.00

EXPLANATION OF THE DELINQUENCY PENALTY

Since your income tax return was not filed within the time limit prescribed by law and/or the tax was not paid, and you have not shown that such failure was due to reasonable cause, an addition to the tax is charged as shown below, in accordance with Section 6651(a)(1) and/or Section 6651(a)(2) of the Internal Revenue Code.

199412 - DELINQUENCY PENALTY

1. Delinquency penalty abated		0.00
2. Date return due	04/15/1995	
3. Date return filed	03/28/2000	
4. Failure to File penalty rate	0.250	
5. Failure to Pay penalty rate	0.000	
6. Total corrected tax, Form 4549, line 11		23,243.00
7. Payments on or prior to due date of return		0.00
8. Line 6 less line 7		23,243.00
9. Failure to File Penalty - line 8 multiplied by line 4		5,810.75
10. Minimum penalty if over 60 days delinquent		100.00
11. Failure to File Penalty - Greater of line 9 or line 10		5,810.75
12. Previously assessed Failure to File Penalty		0.00
13. Net Failure to File Penalty - line 11 less line 12		5,810.75
14. Failure to Pay Penalty - line 8 multiplied by line 5		0.00
15. Previously assessed Failure to Pay Penalty		0.00
16. Net Failure to Pay Penalty - line 14 less line 15		0.00
17. Total Delinquency Penalty - Sum of line 13 and 16		5,810.75

Name of Taxpayer: ARE READING 03/28/2000
 Identification Number: ██████████ 4550 TOTAL 4.60.00

EXPLANATION OF THE DELINQUENCY PENALTY

Since your income tax return was not filed within the time limit prescribed by law and/or the tax was not paid, and you have not shown that such failure was due to reasonable cause, an addition to the tax is charged as shown below, in accordance with Section 6651(a)(1) and/or Section 6651(a)(2) of the Internal Revenue Code.

199512 - DELINQUENCY PENALTY

1. Delinquency penalty abated		0.00
2. Date return due	04/15/1996	
3. Date return filed	03/28/2000	
4. Failure to File penalty rate	0.250	
5. Failure to Pay penalty rate	0.000	
6. Total corrected tax, Form 4549, line 11		12,489.00
7. Payments on or prior to due date of return		0.00
8. Line 6 less line 7		12,489.00
9. Failure to File Penalty - line 8 multiplied by line 4		3,122.25
10. Minimum penalty if over 60 days delinquent		100.00
11. Failure to File Penalty - Greater of line 9 or line 10		3,122.25
12. Previously assessed Failure to File Penalty		0.00
13. Net Failure to File Penalty - line 11 less line 12		3,122.25
14. Failure to Pay Penalty - line 8 multiplied by line 5		0.00
15. Previously assessed Failure to Pay Penalty		0.00
16. Net Failure to Pay Penalty - line 14 less line 15		0.00
17. Total Delinquency Penalty - Sum of line 13 and 16		3,122.25

Name of Taxpayer:	CLARE READING	03/28/2000
Identification Number:	██████████-4550	TOTAL 4.60.00

199412 - EXPLANATION OF THE ESTIMATED TAX PENALTY

Since you did not pay sufficient estimated tax, addition to the tax is charged as shown below, in accordance with Section 6654(a) of the Internal Revenue Code.

1. Total corrected tax liability, Form 4549, line 11 (Tax Per Return, if a return was filed)					23,243.00
2. Withholding taxes					0.00
3. Line 1 less line 2 (if less than \$500, estimated penalty does not apply)					23,243.00
4. 90% of line 1					20,918.70
5. Prior year tax liability (110% of tax if AGI was more than \$150,000. or if MFS more than \$75,000.)					0.00
6. The smaller of line 4 or 5 (as adjusted)					20,918.70
7. Payment Due Date					
	Apr 15, 1994	Jun 15, 1994	Sep 15, 1994	Jan 15, 1995	
8. Payment Required	5,229.68	5,229.68	5,229.68	5,229.68	5,229.68
9. Payments & Credits	0.00	0.00	0.00	0.00	0.00
10. Overpayment from Line 16		0.00	0.00	0.00	0.00
11. Total of Lines 9 & 10		0.00	0.00	0.00	0.00
12. Previous Qtr Underpayment		5,229.68	10,459.36	15,689.04	
13. 11 minus 12	0.00	0.00	0.00	0.00	0.00
14. Remaining Underpayment		5,229.68	10,459.36		
15. Underpayment	5,229.68	5,229.68	5,229.68	5,229.68	5,229.68
16. Overpayment	0.00	0.00	0.00	0.00	0.00

CALCULATION OF QUARTERLY PENALTIES ATTACHED

17. Penalty	437.85	376.67	273.37	118.20
18. Previously Assessed Penalty				0.00
19. Estimated Tax Penalty				1,206.09

Name of Taxpayer: CLARE READING
 Identification Number: [REDACTED]-4550

TOTAL

03/28/2000
 4.60.00

199412 - CALCULATION OF THE ESTIMATED TAX PENALTY

1st Quarter Underpayment: 5,229.68

Payment Amt	Date Due	Payment Applied	No. of Days	Int. Rate	Penalty
5,229.68	04/15/1994-04/15/1995		076	7%	76.22
5,229.68	04/15/1994-04/15/1995		092	8%	105.45
5,229.68	04/15/1994-04/15/1995		092	9%	118.63
5,229.68	04/15/1994-04/15/1995		090	9%	116.06
5,229.68	04/15/1994-04/15/1995		015	10%	21.49
1st Quarter Total \$					437.85

2nd Quarter Underpayment: 5,229.68

Payment Amt	Date Due	Payment Applied	No. of Days	Int. Rate	Penalty
5,229.68	06/15/1994-04/15/1995		015	7%	15.04
5,229.68	06/15/1994-04/15/1995		092	8%	105.45
5,229.68	06/15/1994-04/15/1995		092	9%	118.63
5,229.68	06/15/1994-04/15/1995		090	9%	116.06
5,229.68	06/15/1994-04/15/1995		015	10%	21.49
2nd Quarter Total \$					376.67

3rd Quarter Underpayment: 5,229.68

Payment Amt	Date Due	Payment Applied	No. of Days	Int. Rate	Penalty
5,229.68	09/15/1994-04/15/1995		015	8%	17.19
5,229.68	09/15/1994-04/15/1995		092	9%	118.63
5,229.68	09/15/1994-04/15/1995		090	9%	116.06
5,229.68	09/15/1994-04/15/1995		015	10%	21.49
3rd Quarter Total \$					273.37

4th Quarter Underpayment: 5,229.68

Payment Amt	Date Due	Payment Applied	No. of Days	Int. Rate	Penalty
5,229.68	01/15/1995-04/15/1995		075	9%	96.71
5,229.68	01/15/1995-04/15/1995		015	10%	21.49
4th Quarter Total \$					118.20

Total Estimated Tax Penalty \$ 1,206.09

Name of Taxpayer:	CARE READING		03/28/2000
Identification Number:	██████████-4550	TOTAL	4.60.00

199512 - EXPLANATION OF THE ESTIMATED TAX PENALTY

Since you did not pay sufficient estimated tax, addition to the tax is charged as shown below, in accordance with Section 6654(a) of the Internal Revenue Code.

1. Total corrected tax liability, Form 4549, line 11 (Tax Per Return, if a return was filed)					12,489.00
2. Withholding taxes					0.00
3. Line 1 less line 2 (if less than \$500, estimated penalty does not apply)					12,489.00
4. 90% of line 1					11,240.10
5. Prior year tax liability (110% of tax if AGI was more than \$150,000. or if MFS more than \$75,000.)					0.00
6. The smaller of line 4 or 5 (as adjusted)					11,240.10
7. Payment Due Date					
	Apr 15, 1995	Jun 15, 1995	Sep 15, 1995	Jan 15, 1996	
8. Payment Required	2,810.03	2,810.03	2,810.03	2,810.03	2,810.03
9. Payments & Credits	0.00	0.00	0.00	0.00	0.00
10. Overpayment from Line 16		0.00	0.00	0.00	0.00
11. Total of Lines 9 & 10		0.00	0.00	0.00	0.00
12. Previous Qtr Underpayment		2,810.03	5,620.06	8,430.09	
13. 11 minus 12	0.00	0.00	0.00	0.00	0.00
14. Remaining Underpayment		2,810.03	5,620.06		
15. Underpayment	2,810.03	2,810.03	2,810.03	2,810.03	2,810.03
16. Overpayment	0.00	0.00	0.00	0.00	0.00

CALCULATION OF QUARTERLY PENALTIES ATTACHED

17. Penalty	258.09	211.13	146.23	61.73
18. Previously Assessed Penalty				0.00
19. Estimated Tax Penalty				677.18

Name of Taxpayer: CLARE READING
 Identification Number: [REDACTED] 4550 TOTAL

03/28/2000
 4.60.00

199512 - CALCULATION OF THE ESTIMATED TAX PENALTY

1st Quarter Underpayment: 2,810.03

Payment Amt	Date Due	Payment Applied	No. of Days	Int. Rate	Penalty
2,810.03	04/15/1995-04/15/1996		076	10%	58.51
2,810.03	04/15/1995-04/15/1996		184	9%	127.49
2,810.03	04/15/1995-04/15/1996		091	9%	62.88
2,810.03	04/15/1995-04/15/1996		015	8%	9.21

1st Quarter Total \$ 258.09

2nd Quarter Underpayment: 2,810.03

Payment Amt	Date Due	Payment Applied	No. of Days	Int. Rate	Penalty
2,810.03	06/15/1995-04/15/1996		015	10%	11.55
2,810.03	06/15/1995-04/15/1996		184	9%	127.49
2,810.03	06/15/1995-04/15/1996		091	9%	62.88
2,810.03	06/15/1995-04/15/1996		015	8%	9.21

2nd Quarter Total \$ 211.13

3rd Quarter Underpayment: 2,810.03

Payment Amt	Date Due	Payment Applied	No. of Days	Int. Rate	Penalty
2,810.03	09/15/1995-04/15/1996		107	9%	74.14
2,810.03	09/15/1995-04/15/1996		091	9%	62.88
2,810.03	09/15/1995-04/15/1996		015	8%	9.21

3rd Quarter Total \$ 146.23

4th Quarter Underpayment: 2,810.03

Payment Amt	Date Due	Payment Applied	No. of Days	Int. Rate	Penalty
2,810.03	01/15/1996-04/15/1996		076	9%	52.52
2,810.03	01/15/1996-04/15/1996		015	8%	9.21

4th Quarter Total \$ 61.73

Total Estimated Tax Penalty \$ 677.18

Name of Taxpayer:	C. RE READING		03/28/2000
Identification Number:	[REDACTED]-4550	TOTAL	4.60.00

PAYMENT OR INSTALLMENT PLAN

If you agree with our proposed adjustment, to avoid additional interest charges, it is to your advantage to pay the full amount due now. If you are unable to pay the full amount at this time, you may make a partial payment and request, in writing, an installment plan.

Upon receipt of your request, we will either approve a monthly installment plan or ask you to fill out a financial statement that will help us understand your financial condition and ability to pay.

Installment plans are subject to some conditions, such as making payments on time, paying all other Federal taxes on time, and giving current financial information when requested. If we approve an installment plan, we will send you the additional information you will need.

Although the monthly installment plan may be approved, the penalties and interest will continue to accrue on the unpaid balance until the total amount due is paid.

Form 886-A	U.S. Treasury Department-Internal Revenue Service EXPLANATION OF ITEMS	Schedule No. or Exhibit 1040
Name of Taxpayer Clare Reading		Year / Period Ended 1994, 1995,

Issue:

1099Misc –Pilot & Associates

1994

Per Return	0
Per Exam	22,287
Adjustment	22,287

Facts:

Taxpayer has not filed tax returns for tax years 1994 and 1995. Taxpayer choose not to participate in audit process. During tax years 1994 and 1995 taxpayer's spouse had earnings from services provided as a claims adjuster.

Law:

Internal Revenue Code Section 61 states;

Except as otherwise provided, gross income means all income from whatever source derived, including (but not limited to) the following items:

- (1) Compensation for services, including fees, commissions, fringe benefits, and similar items
- (2) Gross income derived from business;
- (3) Gains derived from dealings in property
- (4) Interest
- (5) Rents
- (6) Royalties
- (7) Dividends
- (8) Alimony and separate maintenance payments;
- (9) Annuities;
- (10) Income from life insurance and endowment contracts;
- (11) Pensions;
- (12) Income from discharge of indebtedness;
- (13) Distributive share of partnership gross income;
- (14) Income in respect of a decedent; and
- (15) Income from an interest in an estate or trust.

Conclusion:

Taxpayer has taxable income in the amounts shown above under the community property laws.

Taxpayer's Position:

Not Available at this time.

Form 886-A	U.S. Treasury Department-Internal Revenue Service EXPLANATION OF ITEMS	Schedule No. or Exhibit 1040
Name of Taxpayer Clare Reading		Year / Period Ended 1994, 1995,

Issue:

1099Misc –Pilot Catastrophe Services

	<u>1994</u>	<u>1995</u>
Per Return	0	0
Per Exam	56,008	58,824
Adjustment	56,008	58,824

Facts:

Taxpayer has not filed tax returns for tax years 1994 and 1995. Taxpayer choose not to participate in audit process. During tax years 1994 and 1995 taxpayer's spouse had earnings from services provided as a claims adjuster.

Law:

Internal Revenue Code Section 61 states;

Except as otherwise provided, gross income means all income from whatever source derived, including (but not limited to) the following items:

- (1) Compensation for services, including fees, commissions, fringe benefits, and similar items
- (2) Gross income derived from business;
- (3) Gains derived from dealings in property
- (4) Interest
- (5) Rents
- (6) Royalties
- (7) Dividends
- (8) Alimony and separate maintenance payments;
- (9) Annuities;
- (10) Income from life insurance and endowment contracts;
- (11) Pensions;
- (12) Income from discharge of indebtedness;
- (13) Distributive share of partnership gross income;
- (14) Income in respect of a decedent; and
- (15) Income from an interest in an estate or trust.

Conclusion:

Taxpayer has taxable income in the amounts shown above under the community property laws. Taxpayer has not filed tax returns for tax years 1994 and 1995. Taxpayer choose not to participate in audit process. During tax years 1994 and 1995 taxpayer's spouse had earnings from services provided as a claims adjuster.

Taxpayer's Position:

Not Available at this time.

Form 886-A	U.S. Treasury Department-Internal Revenue Service EXPLANATION OF ITEMS	Schedule No. or Exhibit 1040
Name of Taxpayer Clare Reading		Year / Period Ended 1994, 1995,

Issue:

Sale of Stock (Capital Gain

	<u>1994</u>
Per Return	0
Per Exam	11,934
Adjustment	11,934

Facts:

Taxpayer has not filed tax returns for tax years 1994 and 1995. Taxpayer choose not to participate in audit process. In 1994 taxpayer and spouse sold with a gross sales price of 23,868 of which under the community property rules only 11,934 is recognized by taxpayer. Taxpayer failed to provide verification of adjusted basis of stock sold therefore gain computed on entire sales price.

Law:

Internal Revenue Code Section 61 states;

Except as otherwise provided, gross income means all income from whatever source derived, including (but not limited to) the following items:

- (1) Compensation for services, including fees, commissions, fringe benefits, and similar items
- (2) Gross income derived from business;
- (3) Gains derived from dealings in property
- (4) Interest
- (5) Rents
- (6) Royalties
- (7) Dividends
- (8) Alimony and separate maintenance payments;
- (9) Annuities;
- (10) Income from life insurance and endowment contracts;
- (11) Pensions;
- (12) Income from discharge of indebtedness;
- (13) Distributive share of partnership gross income;
- (14) Income in respect of a decedent; and
- (15) Income from an interest in an estate or trust.

Conclusion:

Taxpayer's basis in stock sold determined to be zero. Therefore taxpayer has a long-term capital gain.

Taxpayer's Position:

Not Available at this time.

Form 886-A	U.S. Treasury Department-Internal Revenue Service EXPLANATION OF ITEMS	Schedule No. or Exhibit 1040
Name of Taxpayer Clare Reading		Year / Period Ended 1994, 1995,

Issue:

Dividend Income –ordinary

	<u>1994</u>
Per Return	0
Per Exam	59
Adjustment	59

Dividend Income –capital

	<u>1994</u>
Per Return	0
Per Exam	14
Adjustment	14

Facts:

Taxpayer has not filed tax returns for tax years 1994 and 1995. Taxpayer chooses not to participate in audit process. During tax year 1994 taxpayer had ordinary and capital dividend income from investments.

Law:

Internal Revenue Code Section 61 states;

Except as otherwise provided, gross income means all income from whatever source derived, including (but not limited to) the following items:

- (1) Compensation for services, including fees, commissions, fringe benefits, and similar items
- (2) Gross income derived from business;
- (3) Gains derived from dealings in property
- (4) Interest
- (5) Rents
- (6) Royalties
- (7) Dividends
- (8) Alimony and separate maintenance payments;
- (9) Annuities;
- (10) Income from life insurance and endowment contracts;
- (11) Pensions;
- (12) Income from discharge of indebtedness;
- (13) Distributive share of partnership gross income;
- (14) Income in respect of a decedent; and
- (15) Income from an interest in an estate or trust.

Conclusion:

Taxpayer has taxable interest income in the amounts as shown above.

Taxpayer's Position:

Not Available at this time.

Form 886-A	U.S. Treasury Department-Internal Revenue Service EXPLANATION OF ITEMS	Schedule No. or Exhibit 1040
Name of Taxpayer Clare Reading		Year / Period Ended 1994, 1995,

Issue:

Exemption

	<u>1994</u>	<u>1995</u>
Per Return	0	0
Per Exam	2,156	2,500
Adjustment	(2,156)	(2,500)

Facts:

Taxpayer has not filed tax returns for tax years, 1994 and 1995. Taxpayer choose not to participate in audit process

Law:

IRC Section 151. Allowance of deduction for personal exemptions.

(a) Allowance for deductions.

In the case of an individual, the exemptions provided by this section shall be allowed as deductions in computing taxable income.

PHASEOUT OF EXEMPTIONS:**Internal Revenue Code Section 151(d)(3)**

- (a) In general. In the case of any taxpayer whose adjusted gross income for the taxable year exceeds the threshold amount, the exemption amount shall be reduced by the applicable percentage.
- (b) Applicable percentage. For purposes of subparagraph (A), the term "applicable percentage" means 2 percentage points of each \$2,500 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds the threshold amount. In the case of a married individual filing a separate return, the preceding sentence shall be applied by substituting "\$1,250" for "\$2,500". In no event shall the applicable percentage exceed 100 percent.

Conclusion:

Taxpayer is allowed an exemption for self only.

Taxpayer's Position:

Not Available at this time.

Form 886-A	U.S. Treasury Department-Internal Revenue Service EXPLANATION OF ITEMS	Schedule No. or Exhibit 1040
Name of Taxpayer Clare Reading		Year / Period Ended 1994, 1995,

Issue:

Standard Deduction

	<u>1994</u>	<u>1995</u>
Per Return	0	0
Per Exam	3,175	3,275
Adjustment	(3,175)	(3,275)

Facts:

Taxpayer has not filed tax returns for tax years 1994 and 1995. Taxpayer choose not to participate in audit process. During tax years 1994 and 1995 taxpayer's standard deduction is greater than allowable itemized deductions and spouse also took standard deduction..

Law:**Internal Revenue Code Section 63 (b) Standard Deduction**

In the case of an individual who does not elect to itemize his deduction for the taxable year, for purposes of this sub-title, the term, "taxable income" means adjusted gross income, minus—

- (1) the standard deduction, and
- (2) the deduction for personal exemptions provided in section 151.

(c) Standard Deduction.

For purposes of this subtitle,

- (1) In general. Except as otherwise provided in this subsection, the term "standard deduction" means the sum of—
 - (A) the basic stand deduction, and
 - (B) the additional standard deduction.

Conclusion:

Taxpayer is allowed to claim the standard deduction.

Taxpayer's Position:

Not Available at this time.

Form 886-A	U.S. Treasury Department-Internal Revenue Service EXPLANATION OF ITEMS	Schedule No. or Exhibit 1040
Name of Taxpayer Clare Reading		Year / Period Ended 1994, 1995,

Issue:

Filing Status

<u>1994</u>	<u>1995</u>
MFS	MFS

Facts:

Taxpayer has not filed tax returns for tax years 1994 and 1995. Taxpayer choose not to participate in audit process.

Law:

IRC Section 6011. General requirement of return, statement, or list.

(a) General Rule.

(b) When required by regulations prescribed by the Secretary any person made liable for any tax imposed by this title, or with respect to the collection thereof, shall make a return or statement according to the form and regulations prescribed by the Secretary. Every person required to make a return or statement shall include therein the information required by such forms or regulations.

IRC Section 6013. Joint returns of income tax by husband and wife.

(a) Joint Returns.

A husband and wife may make a single return jointly of income taxes under subtitle A, even though one of the spouses has neither gross income deductions.

Internal Revenue Code Section 1(d)

There is hereby imposed on the taxable income of every married individual (as defined in 7703) who does not make a single return jointly with his or her spouse under section 6013, a tax determined in accordance with the following table:

<i>If the taxable income is:</i>	<i>The tax is:</i>
Not over \$18,450	15% of taxable income
Over \$18,450 but not over \$44,575	\$2,767.50, plus 28% of the excess over \$18,450
Over \$44,575 but not over \$70,000	\$10,082.50, plus 31% of the excess over \$44,575
Over \$70,000 but not over \$125,000	\$17,964.25, plus 36% of the excess over \$70,000
Over \$125,000	\$37,764.25, plus 39.6% of the excess over \$125,000

Conclusion:

Taxpayer's filing status is married filing separate.

Taxpayer's Position:

Not Available at this time.

Form 886-A	U.S. Treasury Department-Internal Revenue Service EXPLANATION OF ITEMS	Schedule No. or Exhibit 1040
Name of Taxpayer Clare Reading		Year / Period Ended 1994, 1995,

Issue:

Penalty

	<u>1994</u>	<u>1995</u>
Delinquency	5,810.75	3,122.25
Estimated Tax	<u>1,206.09</u>	<u>677.18</u>
Adjustment	<u>7,016.84</u>	<u>3,799.43</u>

Facts:

Taxpayer has not filed tax returns for tax years 1994 and 1995. Taxpayer choose not to participate in audit process. Taxpayer did not establish reasonable cause for failure to file or failure to pay estimated tax payments.

Law:**Internal Revenue Code §6651 Failure to file tax return or to pay tax.**

(a) Addition to tax.

In case of failure--

- (1) to file any return required under authority of subchapter A of Chapter 61, subchapter A of chapter 51 or of subchapter A of chapter 52 or of subchapter A of chapter 53 on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount required to be shown as tax on such return 5 percent of the amount of such tax if the failure is not for more than one month, with an additional 5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate.

Internal Revenue Code §6651 Failure to file tax return or to pay tax.

(b) Addition to tax.

In case of failure--

- (2) to file any return required under authority of subchapter A of Chapter 61, subchapter A of chapter 51 or of subchapter A of chapter 52 or of subchapter A of chapter 53 on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount required to be shown as tax on such return 5 percent of the amount of such tax if the failure is not for more than one month, with an additional 5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate.

Conclusion:

Taxpayer is subject to penalties for failure to file and failure to make estimated tax payment. See report for computation.

Taxpayer's Position:

Not Available at this time.

**DEBBIE VAHE DECLARATION
EXHIBIT G**

Department of the Treasury
Internal Revenue Service
Ogden, UT 84201-0040

Letter Number: 3219(SC/CG)
Letter Date: February 16, 2010

7178 2665 9395 4463 9718

Taxpayer Identification Number:
[REDACTED] 8531

Tax Form: 1040

Tax Year Ended and Deficiency
DECEMBER 31, 2008 \$5,051.00

Contact Person:
MS. GREEN 29-12033

Contact Telephone Number:
(866) 899-9083
(TOLL FREE NUMBER)

Hours to Call
7:00 AM - 7:00 PM MST M-F

Last Date to Petition Tax Court:
May 17, 2010

JAMES LESLIE READING
2425 E FOX ST
MESA, AZ 85213-5320254



Penalties/Additions to Tax	
IRC Section 6651(a)(1)	\$1,136.48
IRC Section 6654(a)	\$162.32
IRC Section 6651(a)(2)	\$151.53

Dear Taxpayer:

We have determined that there is a deficiency (increase) in your income tax as shown above. This letter is your **NOTICE OF DEFICIENCY**, as required by law. The enclosed statement shows how we figured the deficiency.

If you want to contest this determination in court before making any payment, you have until the **Last Date to Petition Tax Court** (90 days from the date of this letter or 150 days if the letter is addressed to you outside the United States) to file a petition with the United States Tax Court for redetermination of the amount of your tax. You can get a petition form and the rules for filing a petition from the Tax Court. You should file the petition with the **United States Tax Court, 400 Second Street NW, Washington D.C. 20217**. Attach a copy of this letter to the petition.

The time in which you must file a petition with the court (90 days or 150 days as the case may be) is fixed by law and the Court cannot consider your case if the petition is filed late. As required by law, separate notices are sent to spouses. If this letter is addressed to both a husband and wife, and both want to petition the Tax Court, both must sign the petition or each must file a separate, signed petition.

The Tax Court has a simplified procedure for small tax cases when the amount in dispute is \$50,000 or less for any one tax year. You can also get information about this procedure, as well as a petition form you can use, by writing to the Clerk of the United States Tax Court at 400 Second Street, NW, Washington, D.C. 20217. You should write promptly if you intend to file a petition with the Tax Court.

If you decide *not* to file a petition with the Tax Court, please sign and return the enclosed waiver form to us. This will permit us to assess the deficiency quickly and will limit the accumulation of interest. We've enclosed an envelope you can use. If you decide not to sign and return the waiver and you do not petition the Tax Court, the law requires us to assess and bill you for the deficiency after 90 days from the date of this letter (150 days if this letter is addressed to you outside the United States).

If you have questions about this letter, you may call the Contact Person whose name and telephone number are shown in the heading of this letter. If this number is outside your local calling area, there will be a long distance charge to you. If you prefer, you can call the Internal Revenue Service (IRS) telephone number in your local directory. An IRS employee there may be able to help you, but the office at the address shown on this letter is most familiar with your case.

When you send information we requested or if you write to us about this letter, please provide a telephone number and the best time to call you if we need more information. Please attach this letter to your correspondence to help us identify your case. Keep the copy for your records.

The person whose name and telephone number are shown in the heading of this letter can access your tax information and help get you answers. You also have the right to contact the Taxpayer Advocate. You can call 1-877-777-4778 and ask for Taxpayer Advocate Assistance. Or you can contact the Taxpayer Advocate for the IRS Office that issued this Notice of Deficiency by calling (801) 620-7168 or writing to:

OGDEN SERVICE CENTER
TAXPAYER ADVOCATE
P.O. BOX 9941, STOP 1005
OGDEN, UT 84409

Taxpayer Advocate assistance is not a substitute for established IRS procedures such as the formal appeals process. The Taxpayer Advocate is not able to reverse legally correct tax determinations, nor extend the time fixed by law that you have to file a petition in the United States Tax Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling.

Thank you for your cooperation.

Sincerely yours,

Commissioner

By



S1STSIGA

HENRY SLAUGHTER
SERVICE CENTER
Ogden Service Center

Enclosures:
Copy of this letter
Waiver
Envelope

Form 5564 (Rev. June 1992)

Department of the Treasury Internal Revenue Service
NOTICE OF DEFICIENCY – WAIVER

Symbols
 Ogden
 4622

Name and Address of Taxpayer(s)

February 16, 2010

JAMES LESLIE READING
 2425 E FOX ST
 MESA, AZ 85213-5320254

8531

Kind of Tax

INDIVIDUAL INCOME

Copy to Authorized Representative
 MICHAEL A BIGLEY

Tax Year Ended

DECEMBER 31, 2008

DEFICIENCY

Increase in Tax	\$5,051.00	Penalties
-----------------	------------	-----------

IRC Section 6651(a)(1)	\$1,136.48
IRC Section 6654(a)	\$162.32
IRC Section 6651(a)(2)	\$151.53

I consent to the immediate assessment and collection of the deficiencies (increase in tax and penalties) shown above, plus any interest. Also, I waive the requirement under section 6532(a) (1) of the Internal Revenue Code that a notice of claim disallowance be sent to me by certified mail for any overpayment shown on the attached report.

I understand that the filing of this waiver is irrevocable and it will begin the 2-year period for filing suit for refund of the claims disallowed as if the notice of disallowance had been sent by certified or registered mail.

Signature		Date
		Date
	By	Title

Note: If you consent to the assessment of the deficiencies shown in this waiver, please sign and return this form to limit the interest charge and expedite our bill to you. Please do not sign and return any prior notices you may have received. Your consent signature is required on this waiver, even if fully paid.

Your consent will not prevent you from filing a claim for refund (after you have paid the tax) if you later believe you are so entitled; nor prevent us from later determining, if necessary, that you owe additional tax; nor extend the time provided by law for such action.

If you later file a claim and the Service disallows it, you may file suit for refund in a District Court or in the United States Claims Court, but you may not file a petition with the United States Tax Court.

Who Must Sign: If you filed jointly, both you and your spouse must sign. Your attorney or agent may sign this waiver provided that action is specifically authorized by a power of attorney which, if not previously filed, must accompany this form.

If this waiver is signed by a person acting in a fiduciary capacity (for example, an executor, administrator, or a trustee), Form 56, Notice Concerning Fiduciary Relationship, should, unless previously filed, accompany this form.

If you agree, please sign and return this form; keep one copy for your records.

Form **4549**
(Rev. May 2008)

Department of the Treasury Internal Revenue Service

Income Tax Examination Changes

Page 1 of 2

Name and Address of Taxpayer JAMES L READING 2425 EAST FOX STREET MESA AZ 85213-5320	Taxpayer Identification Number [REDACTED] 8531	Return Form No.: 1040
	Person with whom examination changes were discussed.	Name and Title:

	Period End 12/31/2008	Period End	Period End
1. Adjustments to Income			
a. Sch C1 - Wage, Colonial Claims Corp	23,858.00		
b. Wages, Whiteguard Roof Coating & Wa	630.00		
c. SE AGI Adjustment	(1,686.00)		
d. Standard Deduction	(5,450.00)		
e. Exemptions	(3,500.00)		
f.			
g.			
h.			
i.			
j.			
k.			
l.			
m.			
n.			
o.			
p.			
2. Total Adjustments	13,852.00		
3. Taxable Income Per Return or as Previously Adjusted	0.00		
4. Corrected Taxable Income	13,852.00		
Tax Method	TAX TABLE		
Filing Status	Married Separate		
5. Tax	1,680.00		
6. Additional Taxes / Alternative Minimum Tax			
7. Corrected Tax Liability	1,680.00		
8. Less			
Credits			
a.			
b.			
c.			
d.			
9. Balance (Line 7 less Lines 8a through 8d)	1,680.00		
10. Plus			
a. Self Employment Tax	3,371.00		
b.			
c.			
d.			
11. Total Corrected Tax Liability (Line 9 plus Lines 10a through 10d)	5,051.00		
12. Total Tax Shown on Return or as Previously Adjusted	0.00		
13. Adjustments to:			
a.			
b.			
c.			
14. Deficiency Increase in Tax or (Overassessment Decrease in Tax) (Line 11 less Line 12 adjusted by Lines 13a through 13c)	5,051.00		
15. Adjustments to Prepayment Credits Increase (Decrease)			
16. Balance Due or (Overpayment) (Line 14 adjusted by Line 15) (Excluding interest and penalties)	5,051.00		

The Internal Revenue Service has agreements with state tax agencies under which information about federal tax, including increases or decreases, is exchanged with the states. If this change affects the amount of your state income tax, you should amend your state return by filing the necessary forms.

You may be subject to backup withholding if you underreport your interest, dividend, or patronage dividend income you earned and do not pay the required tax. The IRS may order backup withholding (*withholding of a percentage of your dividend and/or interest income*) if the tax remains unpaid after it has been assessed and four notices have been issued to you over a 120 day period.

Form **4549**
(Rev. May 2008)

Department of the Treasury Internal Revenue Service

Income Tax Examination Changes

Page 2 of 2

Name of Taxpayer
JAMES L READING

Taxpayer Identification Number
[REDACTED] 8531

Return Form No.:
1040

17. Penalties/ Code Sections	Period End 12/31/2008	Period End	Period End
a. Delq-IRC 6651(a)(2)	151.53		
b. Delq-IRC 6651(a)(1)	1,136.48		
c. Estimated Tax-IRC 6654	162.32		
d.			
e.			
f.			
g.			
h.			
i.			
j.			
k.			
l.			
m.			
n.			
18. Total Penalties	1,450.33		
Underpayment attributable to negligence: (1981 1987) A tax addition of 50 percent of the interest due on the underpayment will accrue until it is paid or assessed.			
Underpayment attributable to fraud: (1981 1987) A tax addition of 50 percent of the interest due on the underpayment will accrue until it is paid or assessed.			
Underpayment attributable to Tax Motivated Transactions (TMT). The interest will accrue and be assessed at 120% of the underpayment rate in accordance with IRC §6621(c)	0.00		
19. Summary of Taxes, Penalties and Interest:			
a. Balance due or (Overpayment) Taxes (Line 16, Page 1)	5,051.00		
b. Penalties (Line 18) computed to 10/05/2009	1,450.33		
c. Interest (IRC § 6601) computed to 10/30/2009	139.04		
d. TMT Interest computed to 10/30/2009 (on TMT underpayment)	0.00		
e. Amount due or (refund) (sum of Lines a, b, c and d)	6,640.37		

Other Information:

Examiner's Signature: Ms. Green - MS 4388	Employee ID: [REDACTED] 2033	Office: Ogden Service Center	Date: 10/05/2009
--	---------------------------------	---------------------------------	---------------------

Consent to Assessment and Collection I do not wish to exercise my appeal rights with the Internal Revenue Service or to contest in the United States Tax Court the findings in this report. Therefore, I give my consent to the immediate assessment and collection of any increase in tax and penalties, and accept any decrease in tax and penalties shown above, plus additional interest as provided by law. It is understood that this report is subject to acceptance by the Area Director, Area Manager, Specialty Tax Program Chief, or Director of Field Operations.

PLEASE NOTE: If a joint return was filed. **BOTH** taxpayers must sign

Signature of Taxpayer	Date:	Signature of Taxpayer	Date:
By:		Title:	Date:

Name of Taxpayer:	JAMES L READING	10/05/2009
Identification Number:	██████████8531	Total 10.40.00

2008 - **SCHEDULE SE - COMPUTATION OF SELF-EMPLOYMENT TAX**

Primary

JAMES L READING

██████████8531

1. Self-employment income	23,858.00
2. Multiply line 1 by 92.35%	22,032.86
3. Farm optional method income	0.00
4. Nonfarm optional method income	0.00
5. Earnings subject to self-employment tax (sum of 2, 3, 4)	22,032.86
6. Maximum earnings subject to social security	102,000.00
7. Social security wages and tips from W-2	630.00
8. Unreported tips subject to social security tax from Form 4137	0.00
9. Wages subject to social security tax from Form 8919	0.00
10. Sum of lines 7, 8 and 9	630.00
11. Line 6 less line 10	101,370.00
12. Multiply the smaller of line 5 or 11 by 12.40%	2,732.07
13. Multiply line 5 by 2.90%	638.95
14. Self-employment tax (sum of lines 12 and 13)	3,371.02

Secondary

1. Self-employment income	0.00
2. Multiply line 1 by 92.35%	0.00
3. Farm optional method income	0.00
4. Nonfarm optional method income	0.00
5. Earnings subject to self-employment tax (sum of 2, 3, 4)	0.00
6. Maximum earnings subject to social security	102,000.00
7. Social security wages and tips from W-2	0.00
8. Unreported tips subject to social security tax from Form 4137	0.00
9. Wages subject to social security tax from Form 8919	0.00
10. Sum of lines 7, 8 and 9	0.00
11. Line 6 less line 10	0.00
12. Multiply the smaller of line 5 or 11 by 12.40%	0.00
13. Multiply line 5 by 2.90%	0.00
14. Self-employment tax (sum of lines 12 and 13)	0.00

Name of Taxpayer:	JAMES L READING		10/05/2009
Identification Number:	██████████8531	Total	10.40.00

EXPLANATION OF THE DELINQUENCY PENALTY

Since your income tax return was not filed within the time limit prescribed by law and/or the tax was not paid, and you have not shown that such failure was due to reasonable cause, an addition to the tax is charged as shown below, in accordance with Section 6651(a)(1) and/or Section 6651(a)(2) of the Internal Revenue Code.

2008 - DELINQUENCY PENALTY

1. Delinquency penalty abated		0.00
2. Date return due	04/15/2009	
3. Date return filed	10/05/2009	
4. Failure to File penalty rate	0.225	
5. Failure to Pay penalty rate	0.030	
6. Total corrected tax liability		5,051.00
7. Allowable payments on or prior to due date of return		0.00
8. Net Amount Due (line 6 less line 7)		5,051.00
9. Failure to File Penalty - line 8 multiplied by line 4		1,136.48
10. Minimum penalty if over 60 days delinquent		135.00
11. Failure to File Penalty - Greater of line 9 or line 10		1,136.48
12. Previously assessed/previously agreed Failure to File Penalty		0.00
13. Net Failure to File Penalty - line 11 less line 12		1,136.48
14. Failure to Pay Penalty - line 8 multiplied by line 5		151.53
15. Previously assessed/previously agreed Failure to Pay Penalty		0.00
16. Net Failure to Pay Penalty - line 14 less line 15 *		151.53
17. Total Delinquency Penalty - Sum of line 13 and 16		1,288.01

- If an amount appears as the Failure to Pay Penalty, the amount only reflects the addition to tax under Internal Revenue Code section 6651(a)(2) through the date of this notice. The addition to tax will continue to accrue from the due date of the return at a rate of 0.5 percent each month, or fraction thereof, of nonpayment, not exceeding 25 percent.

Name of Taxpayer: JAMES L READING
 Identification Number: [REDACTED]-8531

Total

10/05/2009
 10.40.00

2008 - EXPLANATION OF THE ESTIMATED TAX PENALTY

Since you did not pay sufficient estimated tax, addition to the tax is charged as shown below, in accordance with Section 6654(a) of the Internal Revenue Code.

1. Total corrected tax liability, Form 4549, line 11 (Tax Per Return, if a return was filed)					5,051.00
2. Refundable Credits					0.00
3. Withholding taxes					0.00
4. Line 1 less sum of lines 2 & 3 (if less than \$1000, estimated penalty does not apply)					5,051.00
5. 90% of the sum of line 1 less line 2					4,545.90
6. Prior year tax liability (110% of tax if AGI was more than \$150,000. or if MFS more than \$75,000.)					0.00
7. The smaller of line 5 or 6 (as adjusted)					4,545.90
8. Payment Due Date	Apr 15, 2008	Jun 15, 2008	Sep 15, 2008	Jan 15, 2009	
9. Payment Required	1,136.47	1,136.47	1,136.47	1,136.47	
10. Payments & Credits	0.00	0.00	0.00	0.00	
11. Overpayment from line 17		0.00	0.00	0.00	
12. Total of lines 10 & 11		0.00	0.00	0.00	
13. Previous Qtr Underpayment		1,136.47	2,272.94	3,409.41	
14. Line 12 less line 13	0.00	0.00	0.00	0.00	
15. Remaining Underpayment		1,136.47	2,272.94		
16. Underpayment	1,136.47	1,136.47	1,136.47	1,136.47	
17. Overpayment	0.00	0.00	0.00	0.00	
18. Penalty	61.93	50.56	35.82	14.01	
19. Previously Assessed/Previously Agreed Estimated Tax Penalty					0.00
20. Estimated Tax Penalty					162.32

Name Of Taxpayer: JAMES L READING

10/05/2009

Identification Number: [REDACTED] 8531

Total

10.4

2008 **TAX YEAR INTEREST COMPUTATION**

Interest computed to 10/30/2009

Total Tax Deficiency \$5,051.00

Plus Penalties*

-Overvaluation \$.00

-Substantial Understatement \$.00

-Failure to File \$1,136.48

-Negligence \$.00

-Civil Fraud \$.00

-Accuracy Penalties \$.00

Total Penalties \$1,288.01

Tax Deficiency and Penalties Subject to Interest \$6,339.01

Type	Effective Dates	Days	Rate	Interest
COMPOUND	04/15/2009--10/30/2009	198	4%	\$139.04

Total Interest	\$139.04
Total Underpayment	\$5,051.00
Total Penalties	\$1,450.33
Total Amount Due	<u>\$6,640.37</u>

The interest shown on this report is estimated. Interest is computed from the due date of the return (including extensions) and will continue to accrue until the date paid in full.

Form 886-A (Rev. January 1994)	EXPLANATION OF ITEMS	Schedule number or exhibit
Name of taxpayer JAMES L READING	Tax Identification Number [REDACTED] 8531	Year/Period ended 2008

Sch C1 - Wage, Colonial Claims Corp

Per Return: \$0.00

Per Exam: \$23,858.00

Per Adjustment: \$23,858.00

The Internal Revenue Service collects self-employment tax which is credited to your social security account by the Social Security Administration for social security benefit purposes.

Self-employed persons who have net earnings of at least \$400 from self-employment income are required to pay self-employment tax.

Amounts you received as a non-employee for work you performed is the type of income generally subject to self-employment tax.

Wages, Whiteguard Roof Coating & Wa

Per Return: \$0.00

Per Exam: \$630.00

Per Adjustment: \$630.00

We have adjusted your gross wages to agree with the amounts shown on Form(s) W-2.

Exemptions-Self

Per Return: 0

Per Exam: 1

Per Adjustment: -1

We have allowed you a deduction for your personal exemption.

Filing Status

Per Return: 0

Per Exam: 0

Per Adjustment: 0

It is determined that for the tax year(s) shown in this report, you failed to file a tax return as required by law. Further, since you did not elect to file a joint return with your spouse, it is determined that your filing status is married filing separate. Your income, deductions and/or withholding credit have been calculated, accordingly.

Form 886-A (Rev. January 1994)	EXPLANATION OF ITEMS	Schedule number or exhibit
Name of taxpayer JAMES L READING	Tax Identification Number [REDACTED] 8531	Year/Period ended 2008

SE AGI Adjustment

Per Return: \$0.00

Per Exam: \$1,686.00

Per Adjustment: (\$1,686.00)

Your self-employment tax has changed as a result of adjustments made to your net earnings from self-employment as shown in this report. The self-employment tax deduction has been adjusted to one-half of the recomputed amount.

Self Employment Tax

Per Return: \$0.00

Per Exam: \$3,371.00

Per Adjustment: \$3,371.00

We have adjusted your self-employment tax due to a change in your net earnings from self-employment.

Name of Taxpayer:	JAMES L READING	10/05/2009
Identification Number:	██████████8531	Total 10.40.00

HOW TO PAY YOUR TAXES

If you agree with our examination, pay now by sending a check or money order payable to United States Treasury and your signed agreement. The enclosed report does not reflect any balance currently due on your account.

Why it is to your advantage to pay now:

- Decreases future interest charges
- Prevents assessment of failure to pay penalty
- Reduces payment of nondeductible interest
- Eliminates further contact with us

If you agree with our examination and cannot pay now:

- 1) Can you pay the full amount within 120 days? Yes No
 - If yes, send in the signed agreement now and submit the balance due when you receive a bill. Checks should be made payable to United States Treasury.
 - If no, you may be eligible for a payment plan.
- 2) If you would like us to consider an installment agreement, submit your written request or check the box below and return this flyer with your signed agreement.

I would like to pay \$ _____ per month.

(We encourage you to make your payments as large as possible to limit penalty and interest charges.)

I would like my payment to be due on the _____ of the month.

(Please indicate a date between the 1st and 28th of the month.)

You will be charged a fee if your request is approved. DO NOT include the fee with this flyer. We will send you a bill for the fee when we approve your request.

Please provide a telephone number where we can contact you regarding your request.

Home: () _____

Work: () _____

ALSO, if you agree with our examination, PLEASE SIGN PAGE 2 OF THE REPORT (Form 4549) and return pages 1 and 2 to us.

- * Interest and applicable penalties will continue to accrue until your balance is paid in full.
- * All checks or money orders for payment should be made payable to United States Treasury.

**DEBBIE VAHE DECLARATION
EXHIBIT H-1**

ENVELOPE
DEC 18 2006

Case 2:11-cv-00698-FJM Document 59-8 Filed 05/11/12 Page 2 of 89
LEGAL NOTICE: PREPARED, SIGNED, AND FILED UNDER DURESS - UZ
SEE VERIFIED NOTICE ATTACHED.

23 - CLEARED BY STATUTES
FRESNO STATUTE TEAM
TE# DATE 1-3-7

Form **1040** Department of the Treasury—Internal Revenue Service **1997** (99) IRS Use Only—Do not write or staple in this space.

OMB No. 1545-0074

For the year Jan. 1–Dec. 31, 1997, or other tax year beginning 1997, ending 19

Label
(See instructions on page 10.)
Use the IRS label.
Otherwise, please print or type.

L	Your first name and initial <i>Clare L.</i>	Last name <i>Reading</i>
A	If a joint return, spouse's first name and initial <i>N/A</i>	Last name <i>N/A</i>
B	Home address (number and street). If you have a P.O. box, see page 10. <i>2425 EAST FOX STREET</i>	
C	City, town or post office, state, and ZIP code. If you have a foreign address, see page 10. <i>MESA, ARIZONA 85213</i>	

Your social security number
4530

Spouse's social security number

For help in finding line instructions, see pages 2 and 3 in the booklet.

Presidential Election Campaign
(See page 10.)

Do you want \$3 to go to this fund?

If a joint return, does your spouse want \$3 to go to this fund?



Filing Status

1	<input type="checkbox"/>	Single
2	<input type="checkbox"/>	Married filing joint return (even if only one had income)
3	<input type="checkbox"/>	Married filing separate return. Enter spouse's social security no. above and full name here. ▶
4	<input type="checkbox"/>	Head of household (with qualifying person). (See page 10.) If the qualifying person is a child but not your dependent, enter this child's name here. ▶
5	<input type="checkbox"/>	Qualifying widow(er) with dependent child (year spouse died ▶ 19). (See page 10.)

Exemptions

6a **Yourself.** If your parent (or someone else) can claim you as a dependent on his or her tax return, **do not** check box 6a.

b **Spouse**

(1) First name		Last name		(2) Dependent's social security number	(3) Dependent's relationship to you	(4) No. of months lived in your home in 1997
RECEIVED JAN 1 6 2007						
FRP 303						

d Total number of exemptions claimed **FRP 303**

No. of boxes checked on 6a and 6b **1**

No. of your children on 6c who:

- lived with you
- did not live with you due to divorce or separation (see page 11)

Dependents on 6c not entered above

Add numbers entered on lines above **1**

Income

Attach Copy B of your Forms W-2, W-2G, and 1099-R here.

If you did not get a W-2, see page 12.

7	Wages, salaries, tips, etc. Attach Form(s) W-2	7	
8a	Taxable interest. Attach Schedule B if required	8a	
8b	Exempt interest. DO NOT include on line 8a	8b	
9	Dividends. Attach Schedule B if required	9	
10	Taxable refunds, credits, or offsets of state and local income taxes (see page 12)	10	
11	Alimony received	11	
12	Business income or (loss). Attach Schedule C or C-EZ	12	
13	Capital gain or (loss). Attach Schedule D	13	
14	Other gains or (losses). Attach Form 4797	14	<i>0.00</i>
15a	Total IRA distributions	15a	
15b	Taxable amount (see page 13)	15b	
16a	Total pensions and annuities	16a	
16b	Taxable amount (see page 13)	16b	
17	Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E	17	
18	Farm income or (loss). Attach Schedule F	18	
19	Unemployment compensation	19	
20a	Social security benefits	20a	
20b	Taxable amount (see page 14)	20b	
21	Other income. List type and amount—see page 15	21	
22	Add the amounts in the far right column for lines 7 through 21. This is your total income ▶	22	<i>- 0 -</i>

Adjusted Gross Income

If line 32 is under \$29,290 (under \$9,770 if a child did not live with you), see EIC inst. on page 21.

23	IRA deduction (see page 16)	23	
24	Medical savings account deduction. Attach Form 8853	24	
25	Moving expenses. Attach Form 3903 or 3903-F	25	
26	One-half of self-employment tax. Attach Schedule SE	26	
27	Self-employed health insurance deduction (see page 17)	27	
28	Keogh and self-employed SEP and SIMPLE plans	28	
29	Penalty on early withdrawal of savings	29	
30a	Alimony paid b Recipient's SSN ▶	30a	
31	Add lines 23 through 30a	31	
32	Subtract line 31 from line 22. This is your adjusted gross income ▶	32	<i>0.00</i>

For Privacy Act and Paperwork Reduction Act Notice, see page 38. Cat. No. 11320B Form 1040 (1997)

LEGAL NOTICE: PREPARED, SIGNED, AND FILED UNDER DURESS - UZ

SCHEDULES A&B
(Form 1040)

Schedule A—Itemized Deductions

OMB No. 1545-0074

1997

Attachment
Sequence No. **07**

Department of the Treasury
Internal Revenue Service (99)

▶ **Attach to Form 1040.** ▶ **See Instructions for Schedules A and B (Form 1040).**

Name(s) shown on Form 1040

Your social security number

CLARE L. READING

4550

Medical and Dental Expenses	1	Caution: Do not include expenses reimbursed or paid by others. Medical and dental expenses (see page A-1)	1			
	2	Enter amount from Form 1040, line 33, 2	2			
	3	Multiply line 2 above by 7.5% (.075)	3			
	4	Subtract line 3 from line 1. If line 3 is more than line 1, enter -0-	4			
Taxes You Paid <small>(See page A-2.)</small>	5	State and local income taxes	5			
	6	Real estate taxes (see page A-2)	6			
	7	Personal property taxes	7			
	8	Other taxes. List type and amount ▶	8			
	9	Add lines 5 through 8	9			
Interest You Paid <small>(See page A-2.)</small>	10	Home mortgage interest and points reported to you on Form 1098	10			
	11	Home mortgage interest not reported to you on Form 1098. If paid to the person from whom you bought the home, see page A-3 and show that person's name, identifying no., and address ▶	11			
	12	Points not reported to you on Form 1098. See page A-3 for special rules	12			
	13	Investment interest. Attach Form 4952 if required. (See page A-3.)	13			
	14	Add lines 10 through 13	14			
Gifts to Charity <small>If you made a gift and got a benefit for it, see page A-3.</small>	15	Gifts by cash or check. If you made any gift of \$250 or more, see page A-3	15			
	16	Other than by cash or check. If any gift of \$250 or more, see page A-3. You MUST attach Form 8283 if over \$500	16			
	17	Carryover from prior year	17			
	18	Add lines 15 through 17	18			
Casualty and Theft Losses	19	Casualty or theft loss(es). Attach Form 4684. (See page A-4.)	19			
Job Expenses and Most Other Miscellaneous Deductions <small>(See page A-5 for expenses to deduct here.)</small>	20	Unreimbursed employee expenses—job travel, union dues, job education, etc. You MUST attach Form 2106 or 2106-EZ if required. (See page A-4.) ▶	20			
	21	Tax preparation fees	21			
	22	Other expenses—investment, safe deposit box, etc. List type and amount ▶	22			
	23	Add lines 20 through 22	23			
	24	Enter amount from Form 1040, line 33, 24	24			
	25	Multiply line 24 above by 2% (.02)	25			
	26	Subtract line 25 from line 23. If line 25 is more than line 23, enter -0-	26			
Other Miscellaneous Deductions	27	Other—from list on page A-5. List type and amount ▶ Deduction for Labor under the Just Compensation clause of the Fifth Amendment See Form 8275	27			0 00
Total Itemized Deductions	28	Is Form 1040, line 33, over \$121,200 (over \$60,600 if married filing separately)? NO. Your deduction is not limited. Add the amounts in the far right column for lines 4 through 27. Also, enter on Form 1040, line 35, the larger of this amount or your standard deduction. YES. Your deduction may be limited. See page A-5 for the amount to enter. } ▶	28			0 00

For Paperwork Reduction Act Notice, see Form 1040 instructions.

Cat. No. 11330X

Schedule A (Form 1040) 1997

LEGAL NOTICE: Prepared, Signed, and FILED under DURESS - CLR

Certified Mail: 7004 2890 0001 9657 8493

Clare Reading
Non-Federal/Resident Delivery
c/o 2425 E. Fox St.
Mesa, Arizona [85213]

Department of the Treasury
Internal Revenue Service
Fresno, CA 93888-0002

Re: Assigned Treasury Account: [REDACTED] 4550

**VERIFIED NOTICE OF COMPLETING AND FILING THE ATTACHED
RETURN AT ALL TIMES INVOLUNTARILY BY FORCE UNDER THREAT,
DURESS, COERCION, INTIMIDATION AND FEAR OF PROSECUTION**

NOTICE IS HEREBY GIVEN: that Clare Reading (hereinafter referred to as “Belligerent Claimant” or “Claimant”) on this 6th day of DECEMBER 2006, officially serves this VERIFIED NOTICE OF COMPLETING AND FILING THE ATTACHED RETURN AT ALL TIMES INVOLUNTARILY BY FORCE UNDER THREAT, DURESS, COERCION, INTIMIDATION AND FEAR OF PROSECUTION, as an attachment to Form 1040 for tax year December 31, 1997 is herein included. Notice is hereby given to all fiduciaries of Claimant’s conviction to what Claimant has researched and discovered to be true regarding her duty to file a federal income tax return under the existing internal revenue laws. Claimant’s research of the internal revenue laws stems from court rulings that ignorance of the law is no excuse; it can be practiced in any country, and Claimant has attempted to understand what the law commands or forbids.

Under existing circumstances and by force of Public Policy, Claimant has no alternative other than to prepare the return to the best of Claimant’s knowledge, understanding and belief. Claimant herein establishes for the record that, although Claimant has not found any statutory laws that lead her to believe she is required to file a Form 1040, the return attached hereto for tax year December 31, 1997 has been prepared, signed and submitted involuntarily, by force, under compulsory performance and at all times under threat, duress, coercion, intimidation and fear of prosecution.

The submitted return is not a voluntary self-assessment that Claimant agrees or concedes is due. Claimant specifically denies that any liability exists under the existing internal revenue laws. Therefore, the amount listed, if any, may not be summarily assessed pursuant to Internal Revenue Code Section 6201 or 6213. Additionally, the federal courts have determined that a return document does not need to be perfectly accurate or even complete if it is substantially in compliance with the requirement of a return. See e. g. *Zellerbach Paper Co. v. Hevering*, 293 U.S. 172 (1934); *United States v. Long*, 618 F.2d 74 (9th Cir. 1980); *United States v. Porth*, 426 F.2d 519 (10th Cir.) cert. Denied 400 U.S. 824 (1970); *United States v. Moore*, 627 F.2d 830 (7th Cir.). The attached return is in full compliance within the meaning of Internal Revenue Code Section 6702, even though Claimant denies a federal tax liability exists.

VERIFIED NOTICE OF FILING FORM 1040 RETURN UNDER
THREAT, DURESS, COERCION AND INTIMIDATION

Clare Reading, Claimant
Total Exhibits: 60, Notary page 18

Thus, although Claimant is required to sign this return under penalty of perjury, this return is signed involuntarily under threat, duress, coercion, intimidation, and is correct to the best of Claimant's knowledge and belief. Claimant does not, however, pretend to be familiar with the thousands of pages contained in the Code or its supporting regulations. Thus, because it is the policy of the IRS to refuse to process any return without a signature, Claimant has signed the return. For the record, it is not Claimant's intent to confess or admit any liability through the signature on the return.

Claimant is with knowledge that top executives of the past have denounced the tax laws as utterly incomprehensible and such remains the case to this very day. President Ronald Reagan, during his tenure espoused in May of 1983: *"Our federal tax system is, in short, utterly impossible, utterly unjust and completely counterproductive [it] reeks with injustice and is fundamentally un-American . . . it has earned a rebellion and it is time we rebelled."* And United States Treasury Secretary Paul O'Neil, head of the Department of the Treasury, stated on February 21, 2003, *"Our tax code is an abomination. The complexity of our code strangles our prosperity, and it's a drag on our ability to create jobs in this nation."*

The courts have openly stated: *"We must note here, as a matter of judicial knowledge, that most lawyers have only scant knowledge of tax law."* Bursten v. United States, 395 F 2d 976, 981 (5th Cir.1968). With this in mind, Claimant has prepared and files the submitted return based on the facts and the law, as Claimant understands it; and no other assertions are intended or implied.

I.

Clare Reading Proceeds As A Belligerent Claimant Of Her Rights

Claimant is with the understanding that Rights can only be recognized if they are invoked. The courts have held that one who is not willing to assert a right to the point of belligerence, loses that right all together. Therefore, Clare Reading, a sentient being of good conscience proceeds as a "Belligerent Claimant" of her Rights – as anything less would be presumed to waive these Rights.

"The privilege against self-incrimination is neither accorded to the passive resistant, nor the person who is ignorant of his rights, nor to one indifferent thereto. It is a fighting clause. Its benefits can be retained only by sustained combat. It cannot be claimed by attorney or solicitor. It is valid only when insisted upon by a belligerent Claimant in person." McAlister v. Henkel, 201 U.S. 90, 26 S.Ct. 385, 50 L.Ed. 671; Commonwealth v. Shaw, 4 Cush. 594, 50 Am.Dec. 813; Orum v. State, 38 Ohio App. 171, 175 N.E. 876. **"The one who is persuaded by honeyed words or moral suasion to testify or produce documents rather than make a last ditch stand, simply loses the protection."** United States v. Johnson, 76 F. Supp. 538, February 26, 1947.

In light of the court's determination as stated in Johnson supra, such a standing must be applicable to all acts when confronted with the often abusive awesome machinery of the Department of the Treasury – Internal Revenue Service and the Department of Justice *qui tam* actors.

II.

**Clare Reading Involuntarily Prepares, Signs And Submits
All Forms Attached Hereto Involuntarily Under Duress**

Claimant does not wish to be in violation of the internal revenue laws, specifically 26 U.S.C. §7206 **Fraud and false statements which states:**

“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. . . 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.”

Therefore, Claimant has signed the attached Form 1040 return involuntarily under threat, duress, coercion, intimidation and retains all Rights without recourse for any oversight or misunderstanding of the internal revenue laws due to their complexity. The court ruled:

“When a defendant challenges a conviction for willful filing of an inaccurate . . . Form . . . claiming it was signed involuntarily under duress and therefore violated Fifth Amendment rights, *if the form has not been voluntarily signed, the conviction and judgment will be vacated and the indictment dismissed.*” *United States v. Willoz*, (1971, CA5 La) 449 F.2d 1321, 71-2 USTC, 16016.

Courts have further ruled: “*In the interpretation of statutes levying taxes, it is the established rule not to extend their provisions, by implication, beyond the clear import of the language used, or to enlarge their operations so as to embrace matters not specifically pointed out. In case of doubt they are construed most strongly against the Government, and in favor of the citizen.*” *Gould v. Gould*, 245 U.S. 151 (1917) citing *United States v. Wigglesworth*, 2 Story, 369; *American Net & Twine Co. v. Worthington*, 141 U.S. 468, 474; *Benziger v. United States*, 192 U.S. 38, 55.

III.

**The 1040 Return Filed Is Not Frivolous, And Is
In Compliance With Supreme Court Precedent**

Claimant herein puts the Department of the Treasury – Internal Revenue Service on notice that the return attached hereto does not constitute a “frivolous” return pursuant to Code Section 6702. The return is based on applicable United States Supreme Court decisions, Internal Revenue Code Sections, Privacy Act Notice provisions, and numerous other references. As such, it cannot be termed “frivolous” *on any basis* as defined by the United States Supreme Court. In addition, the return is not designed to “*delay or impede the administration of Federal Income Tax laws,*” since it is intended to be Claimant’s *final statement* under those statutes. Additionally, no IRS employee has the delegated authority to impose a “frivolous” penalty for filing a proper return. Claimant, having first hand knowledge of applicability of the internal revenue laws specific to her Common Law tax liability, would be committing perjury under both 18 U.S.C. § 1621 and 26 U.S.C. § 7206 if she

proceeded in any other manner. Therefore, Claimant can only attest to having “Zero” *income* for the year referenced hereto.

Claimant has read the “Frivolous Arguments” information posted at www.irs.gov, and does not make or allude to any such positions. Claimant seeks to dispel all attempts instituted by Service employees that may deem Claimant’s position as frivolous, without merit or baseless. It must be noted, all positions and claims made within this affidavit are taken directly from the language of internal revenue laws. In as much as Service employees may seek to ignore certain facts and employ others, United States Supreme Court rulings speak unambiguously to the definition of frivolous.

Historically, and to this very day, employees of the Internal Revenue Service resort to the terms “frivolous” or “without merit,” relieving them of the burden of having to address issues founded on sound legal principles, precedent and doctrines of law relied upon by Claimant. To the detriment of Claimant, the presumed [s]ubject *taxpayer* looking to the law for remedy, the Service will interpret the statute to its discretion and penalize those taking principled legal positions contrary to IRS Public Policy. Be that as it may, Claimant has relied on precedent, statutes and regulations when discerning the internal revenue laws as applicable to his unique situation.

Claimant relies on how the Supreme Court defines the term “frivolous” in so stating; ***“In relevant part, Judge Schroeder’s lead opinion concluded that a district court could dismiss a complaint as factually frivolous only if the allegations conflicted with judicially noticeable facts, that is, facts capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.”*** *Hernandez v. Denton*, 861 F.2d 1421 (1988).

The Court went on to intimate further, that ***“... a complaint, containing as it does both factual allegations and legal conclusions, is frivolous where it lacks an arguable basis either in law or in fact.”*** *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). Claimant concludes that such clear cogent and irrefutable definition as opined by the Supreme Court shall be the cornerstone and the foundation by which doctrines are herein grounded. *Hernandez*, supra, went on to state in pertinent part, ***“... to dismiss them as frivolous without any factual development is to disregard the age-old insight that many allegations might be strange, but true; for truth is always strange, Stranger than fiction,”*** Lord Byron, Don Juan, canto XIV, stanza 101 (T. Steffan, E. Steffan, & W. Pratt eds. 1977). It is incumbent upon us to observe – with respect – what the Supreme Court and the Constitution have established for the purpose of due process protections guaranteed. (*Emphasis Added.*)

IV.

IRS Has Discretion To Employ Selective Prosecution, Ignore The Law And Act In Direct Violation Of Their Own Statutes And Regulations

Claimant is with evidence that officials, officers, agents and employees of the Service routinely violate statutes and implementing regulations, resulting in the of selective prosecution of Citizens that rely on Public Law and not IRS Public Policy when complying with the internal revenue laws. This abuse gave rise to the IRS Restructuring Reform Act of 1998. Although Congress passed the Act, it has not quelled the financial terrorist activities of Service employees. Therefore Claimant files the attached Form 1040 return involuntarily by force and under compulsion – not by conviction or belief that Claimant has a known legal duty. The courts stated:

“Simply stated, neither the Secretary nor the Service is in compliance with its own internal procedures which requires promulgation of regulations . . . This is violation of administrative law and voids the agency action.” *Lojeskio v. Boandl*, 626 F. Supp. 530, 533 (D.C., E.D. Pa. 1985), affirmed in part and reversed in part at 788 F.2d 195, 198 (3rd. Cir. 1986).

Claimant is apprized of the devastating blow handed down by the “awesome machinery” of the United States Government against Citizens taking a position contrary to Public Policy. Relevant to the internal revenue laws, Claimant includes information that establishes how officials of this Government proceed against American Citizens in regards to taxing Labor Property – with lawless, ruthless and utter contempt steeped in subjugation. The following statements are shining examples of the tyranny Claimant and any American that attempts to earn a living in these 50 United States may suffer stating as follows:

In Benders Federal Revenue Law 1916 it is quoted: *“Wars and Rumors of Wars teach government new tricks of Taxation. The Word Trick is not unworthy. Taxation has been defined as the ‘art of plucking the goose as to secure the largest amount of feathers with the least amount of squawking.’ Whenever there is a real or pretend need for money, ways and means must and will be found.”* (See Exhibit B.)

Excerpts of IRS Policy Statement 20-1: “Penalties enhance voluntary compliance: *Penalties* provide the Service with an important tool to achieve that goal because they *enhance voluntary compliance by taxpayers*. Penalties encourage voluntary compliance by: (1) demonstrating the fairness of the tax system to compliant taxpayers; and (2) *increasing the cost of noncompliance.*” (See Exhibit B.)

IRS Publication 556 states in pertinent part: *“The IRS must follow the tax laws as set forth by Congress and the Internal Revenue Code.* The IRS also follows Treasury Regulations, other rules and procedures that were written to administer the internal revenue laws. **The IRS also follows court decisions.** *However, the IRS can lose cases that involve taxpayers with the same issue and still apply its interpretation of the law to your situation.”* (See Exhibit C.)

The above statements and publications put out by officials of the IRS confirm their enforcement of Public Policy and NOT the internal revenue laws. Claimant is with evidence that employees of the IRS often act above the law as sanctioned financial terrorists – acting in absolute contempt of the Constitution, the United States Supreme Court and Congress. Nonetheless, Claimant herein complies with the internal revenue laws in accordance to what the law commands or forbids, as she understands it.

V.

Internal Revenue Code Plagued With Legalese And Words Of Art

Clare Reading is with evidence that when having to confront the legalese written by Government staff attorneys in the Internal Revenue Code or any legal Code, all words are “Words of Art” and cannot be relied upon for their literal meaning. The courts stated: *“There is no surer way to*

misread any document than to read it literally,” Guiseppi v. Walling, 144 F.2d 608, 624 (2nd Cir. 1944). Claimant herein notices all parties concerned of the following:

“Words of Art” is defined in Black’s Law Fifth Edition (1979) on page 1439 as: **“The vocabulary or terminology of a particular art or science, and especially those expressions which are idiomatic or particular to it.”** (See Exhibit A)

The *science* in this instant case is legalese. For example, the word *person* in the definition section of the Internal Revenue Code found at 26 U.S.C. § 7701, *et seq.*, states in pertinent part:

“(a) When used in this title, **where not otherwise distinctly expressed** or manifestly incompatible with the intent thereof— **(1) Person** The term “Person” shall be construed to mean and include an individual, a trust, estate, partnership, association, company or corporation.”

To ask a man of average intelligence if he considered a *person* to be corporation, he would likely answer in the negative. The United States Supreme Court has consistently held:

“Since in common usage, the term ‘person’ does not include the sovereign and statutes employing that term are ordinarily construed to exclude it.” *United States v. Cooper*, 312 US 600, 604, 61 S.Ct. 742 (1941).

Claimant is with knowledge that the word *person* is one semantic example of millions of idiomatic words and terms manipulated by attorneys in the United States responsible for contriving subjugating legislative enactments. With this manipulation of words classified as legalese: (1) the truth is only relative to who’s telling it; (2) shall can mean may; (3) may can mean must; (4) yes can mean no; (5) a citizen is a corporation; (6) black is white; (7) night is day; and (8) two plus two equals five, six, nine, or all of the above, *etc.* For these reasons, Claimant cannot, and does not depend on or apply, the common usage of any words and/or phrases as used in their literal meaning, but relies wholly on the Common Law espoused in the Constitution and precedents established by the United States Supreme Court.

VI. Income v. Compensation

UNITED STATES SUPREME COURT PRECEDENT: The word “income” is not defined in the Internal Revenue Code; but, as stated below, it can only be derived from corporate activity. The Supreme Court has held this numerous times:

In *United States v Ballard*, 535 F.2d 400, 404; it states:

“Whatever difficulty there may be about a precise and scientific definition of ‘income’, it imports, as used here... the idea of gain or increase arising from corporate activities,” *Doyle v. Mitchel*, 247 U.S. 179. “Certainly the term ‘income’ “has no broader meaning in the 1913 Act than in that of 1909 (*See Stratton’s Independence v. Howbert*, 231 U.S. 399, 416, 417) and we assume that there is no difference in its meaning as used in the two acts.”

In Southern Pacific Company v. John Z. Lowe Jr., 247 U.S. 330, 335 continues:

Bowers v. Kerbaugh-Empire Company, 271 U.S. 887 (1926) page 174; Goodrich v. Edwards, 255 U.S. 527; United States v. Supplee-Biddle Hardware Co., 256 U.S. 189; United States v. Phellis, 257 U.S. 156; Miles v. Safe Deposit & T. Co., 259 U.S. 247; Irwin v. Gavit, 286 U.S. 161; Edwards v. Cuba R.Co., 268; Burnett v. Harmel, 287 U.S. 103, 108, (1932); Lucas v. Earl, 281 U.S. 111.

Income (within the meaning of the Sixteenth Amendment, the Income Tax Acts of 1913, 1916, 1917, and the Corporation Tax Act of 1909), is defined in Eisner v. Macomber, 252 U.S. 189, 207 (1901): “**Income may be defined as a gain derived from capital, from labor, or from both combined, including profit gained through sale or conversion of capital ...**” It includes the gain from capital realized by a single, isolated sale of property held as an investment, as well as profits realized by sales in a business of buying and selling such property. (Gray v. Darlington, 15 Wall. 63, and Lynch v. Turrish, 247 U.S. 221, distinguished. Affirmed.)

In determining the definition of the word “income” thus arrived at, this court has consistently refused to enter into the refinements of lexicographers or economists and has approved, in the definitions quoted, what it believed to be the commonly understood meaning of the term which must have been in the minds of the people when they adopted the Sixteenth Amendment to the Constitution. Doyle v. Mitchell Brothers Co., 247 U.S. 179, 185; Eisner v. Macomber, 252 U.S. 189, 206, 207.

“The Corporation Excise Tax Act of August 5, 1909, c. 6, 36 Stat. 11, 112, was not an income tax law, but a definition of **the word “income”** was so necessary in its administration that in an early case it **was formulated as “the gain derived** from capital, **from labor**, or from both combined.” Merchants' L. & T. CO. v. Smetanka, 255 U.S. 509 (1921) 41 S.Ct. 386, citing Stratton's Independence v. Howbert, 231 U.S. 399, 415.

- (a.) Edwards v. Keith, (C.C.A.) 231 F. 111 (1916) “. . . **one does not derive income by rendering services and charging for them.**”
- (b.) Oliver v. Halstead, 86 S.E. Rep 2nd 85e9 (1955) “**There is a clear distinction between ‘profit’ and ‘wages’, or a compensation for labor. Compensation for labor (wages) cannot be regarded as profit within the meaning of the law. The word ‘profit,’ as ordinarily used, means the gain made upon business or investment – a different thing altogether from the mere compensation for labor.**”
- (c.) “. . . **whatever may constitute income, therefore must have essential feature of gain to the recipient.** This was true when the 16th Amendment became effective, it was true at the time of Eisner v. Macomber, supra, it was true under Section 22(a) of the Internal Revenue Code of 1939, and it is likewise true under Section 61(a) of the I.R.S. Code of 1954. If there is not gain, there is not income. . . **Congress has taxed income not compensation.**” Conner v. United States, 303 F Supp. 1187, West page 1191 (1969).

Claimant agrees with the United States Supreme Court decisions and numerous other court rulings regarding the definition of “income.” Claimant states as referenced and defined in numerous court decisions *supra*; income and compensation have two very distinct meanings. **Income** is defined as

profit or gain, unlike **Compensation**, defined as an equal exchange for labor in the form of remunerations for a loss sustained. Any attempt by an Act of Congress or the Internal Revenue Service to regard Claimant's labor as having ZERO value, is an attempt to reduce Claimant's status to that of a statutory wage slave. With this in mind, Claimant files the Form 1040 return attached hereto at all times recognizing, deducting, reducing and restoring the sweat equity of Claimant's Labor Property as protected under the *Just Compensation Clause* to the Fifth Amendment to the United States Constitution.

VII.

Definitions Pertinent To The Computation Of A Federal Tax Liability To Include The Cost Of Labor

Claimant proceeds with the understanding that the internal revenue laws are written in "Words of Art" and cannot be relied upon in their literal sense - including the definitions relied upon as they relate to filing the attached return. Most are of common usage, but must be explicitly defined so as not to be mischaracterized by employees of the Internal Revenue Service or other Government officials applying their own "*interpretation*." The following definitions are cited in **Black's Law Dictionary Fifth Edition 1979** (see Exhibit A):

- (a.) **Income.** The *gain derived* from capital, *from labor . . .*
- (b.) **Labor.** Work; toil; service; mental or physical exertion.
- (c.) **Work.** To exert one's self for a purpose; to put for effort for the attainment of an object . . .
- (d.) **Compensation.** *Equivalent in money for a loss sustained . . . giving back an equivalent in either money* which is but the measure of value, or in actual value otherwise conferred.
- (e.) **Gain.** *Difference between cost and sale price. Excess of revenues over expenses* from a specific transaction.
- (f.) **Profit.** *Excess of revenues over expenses* for the transaction.
- (g.) **Cost.** Expense; price. *The sum or equivalent expended*, paid or charged for something.
- (h.) **Excess.** Act or *amount which goes beyond that which is usual*, proper or necessary.
- (i.) **Internal revenue.** *Governmental revenues from internal sources by way of taxes* as contrasted with revenues from customs and foreign sources.

VIII.

The United States Exercises Absolute Power And Control Over The Life, Liberty And Property Of Clare Reading By Force With Absolute Control Of The Legal System

Clare Reading is the victim of what can be best defined as "statutory slavery" wherein legislative Acts of Congress have resulted in the absolute control of Claimant's Life, Liberty and Property via statutory enactments and Public Policy. Although Claimant is not employed by this or any

Government, Claimant cannot act or proceed to earn a living without agents of this Government seeking to intervene with Claimant's private affairs under some colorable law. This Government – having absolute control over Claimant's Life, Liberty and Property – commands Claimant to ask permission to earn a livelihood by way of license, permit, or both – always demanding a fee.

Claimant's compensation for Labor Property (Goose for Plucking) is under constant attack with federal and state government intervention, converting Rights into privileges by licenses, permits and registrations. This intervention comes by way of statutory federal and state taxation proposing a head tax on Claimant's Right (not privilege) to earn a living, reducing Claimant's status to that of a "Statutory Slave." For these and other reasons stated herein, Claimant includes the following definitions cited in **Black's Law Dictionary Fifth Edition 1979** (see Exhibit A).

- (a.) **Slave.** A person who is wholly subject to the will of another; *one who has no freedom of action*, but whose person and services are wholly under the control of another. *One who is under the power of a master*, and who belongs to him; *so that the master may sell and dispose of his person, of his industry, and of his labor, without his being able to do anything, or acquire anything, but what must belong to his master.*
- (b.) **Slavery.** The condition of *a slave; that civil relation in which one man has absolute power over the life, fortune and liberty of another.*
- (c.) **Servitude.** *The state of a person who is subjected, voluntarily or otherwise, to another person as his servant.* Servitudes are also classed as positive or negative. A positive servitude is one which obliges the owner of the servant estate to permit or suffer something to be done on his property by another. *A negative servitude is one that does not bind the servient proprietor to permit something to be done upon his property by another, but merely restrains him from making a certain use of his property* which would impair the easement enjoyed by the dominant tenement. *Rowe v. Nally*, 81 Md. 367, 32 A. 198.
- (d.) **Involuntary.** *Without will or power of choice*; opposed to volition or desire. *An involuntary act is that which is performed with constraint or with repugnance*, or without the will to do it. *An action is involuntary*, then, *which is performed under duress, force or coercion.*
- (e.) **Involuntary Servitude.** *The condition of one who is compelled by force, coercion, or imprisonment*, and against his will, *to labor for another*, whether he is paid or not.
- (f.) **Privilege.** A particular benefit or advantage enjoyed by a person, company, or class, beyond the common advantage of other citizens. *An exceptional or extraordinary power or exemption.* A right, power, franchise, or immunity held by a person or class, against or beyond the course of the law.
- (g.) **Right.** *A power, privilege, or immunity guaranteed under a constitution, statutes or decisional laws*, or claimed as a result of long usage.

Claimant is compelled to involuntarily file this return, being forced by officials, officers, agents and employees employed by the *awesome machinery* of the United States Government or one of its

instrumentalities, who have absolute control over Claimant's *life, liberty and property* under the doctrine of the "*collective entity*" and proceed via Public Policy. If Claimant does not, Claimant risks criminal prosecution and may be subjected to one of several statutory violations not limited to willful failure to file, tax evasion, and other alleged statutory violations of the internal revenue laws.

Completing the forms may result in Claimant's alleged liability for the payment of an internal revenue tax derived from Claimant's Labor Property. Claimant was not justly compensated prior to the assessment of the alleged tax liability which means that Claimant's condition has been reduced to that of a Slave – forced to turn over personal Labor Property – or in the alternative, face possible imprisonment or the confiscation of other property Claimant may possess. Therefore, Claimant at all times protests and involuntarily completes and files the attached Form 1040 return in fear and under duress, coercion, intimidation and threat of criminal prosecution. For these reasons, Claimant believes she is being statutorily subjected to the condition of Slavery, Involuntary Servitude and/or Peonage.

IX.

Zero Liability, Unknown Liability And Objection Return

Claimant's study of the income tax laws and internal revenue laws has resulted in Claimant being absolutely confused as to what the law commands or forbids. This confusion stems from Service employees' reckless and intentional acts of ignoring the law as written, and interpreting them to their discretion. Claimant's reliance on the Constitution, Acts of Congress, United States Supreme Court rulings and Title 26 of the United States Code – which protects Claimant's Labor Property - has been met with absolute resistance and retaliation. This retaliation has resulted in Service officials, officers, agents and employees name-calling, stonewalling, and labeling Claimant as a "*domestic terrorist*", completely ignoring the Common Law, statutes and regulations. Therefore, Claimant submits this Zero Liability, Unknown Liability and Objection return at all times involuntarily, under duress and protests with knowledge that it is IRS's published policy to ignore clearly established law and precedent. Claimant acts with reliance upon the following:

- (a.) With respect to the information Claimant included in the return, the courts have ruled: "A (1040) form with 'zeros' inserted in the spaces provided...qualified as a return." See United States v. Long, 618 F.2d 74 (9th Cir. 1980); United States v. Kimball, 896 F.2d 1218 (9th Cir. 1990); and a Las Vegas bankruptcy Court held the "zeros entered on the Form 1040 constitute a return." (Cross v. United States, 91-2 USTC p. 50, 318; Banker L. Rep. P. 7404.)
- (b.) It should also be noted that Claimant had "Zero" income according to The Supreme Court's definition of income since in Merchant's Loan & Trust Co. v. Smietanka, 225 U.S. 509 at pages 518 and 519 the court held that "The word (income) must be given the same meaning in all of the income tax Acts of Congress that was given to it in the Corporation Excise Tax Act of 1909." Therefore, since Claimant did not realize any compensation taxable as "income" under the Corporation Excise Tax Act of 1909, Claimant can only attest to having "Zero" income for the year in question.

The courts further stated: "It is clearly established that all citizens must file a tax return . . . despite the hazards of self incrimination . . . The court intimates that full disclosure of the amounts and sources of income must be made, *unless the taxpayer makes an objection on his return asserting*

his privilege not to incriminate himself.” *United States v. Sullivan*, 274 U.S. 259; *Heligman v. United States*, 407 F.2d 448; *Garner v. United States*, 501 F.2d 228; affirmed March 23, 1976, 74 S.Ct. 100.

X.

Clare Reading Files IRS Invalid Form 1040 Under Threat, Duress, Coercion And Intimidation

Clare Reading is with evidence factually sufficient to conclude that the Form 1040 information return does not comply with the Paperwork Reduction Act codified at 44 U.S.C. § 3512 and is a Virgin Islands tax return on Virgin Island sources of “Income.” Because Claimant is not now nor has ever been a resident of the Virgin Islands, Claimant believes that completing and filing Form 1040 will subject Claimant to possible criminal prosecution under 26 U.S.C. § 7206(1) - *filing a return in which he knows to be false*, as others have suffered this fate. The following Government documents are evidence factually sufficient to confirm the Form 1040 is not the proper form Claimant, indigenous to these 50 United States of North America, is required to file – but does so involuntarily under threat, duress, coercion, intimidation and fear of criminal prosecution.

- 1.1 That Claimant is with Government evidence and documents from several Internal Revenue Manuals identifying the Form 1040, 2555 and 1040X as a foreign-earned income information return; and Claimant does not now nor has she ever derived “foreign-earned Income”(see **Exhibit E**).
- 1.2 That Treasury Regulations at 26 CFR § 1.1-1. – Income tax on individuals. (a) General rule; (1) **Section 1 of the Code** imposes an income tax on the income of every individual who is a citizen or resident of the United States . . . 26 CFR § 602.101 – OMB Control numbers. This displays the control numbers assigned to collections of information in Internal Revenue Service regulations by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (see **Exhibit E**).
- 1.3 That the OMB number assigned to 26 CFR § 1.1-1 – “Income tax on individuals” and reflected in the upper right corner of Form 2555 U.S. Foreign Earned Income appears to be OMB No. 1545-0067, instructing Claimant attach Form 1040 when filing this return (see **Exhibit E**).
- 1.4 That Form 1040 assigned OMB No. 1545-0074 fails to comply with the Paperwork Reduction Act codified at 44 U.S.C. § 3512 and does not contain a valid current OMB control number - deemed a “Bootleg Form.” (see **Exhibit E**)
- 1.5 That the IRS Privacy Act Statement and Paperwork Reduction Act Notice, which can be found at www.irs.gov, states in pertinent part: **“Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a valid OMB control number;”** therefore, Claimant cannot be penalized for failing to file Form 1040 or any other IRS Form that does not comply with the Act. (see **Exhibit D**)

NOTICE IS HEREBY GIVEN: that Clare Reading has never received compensation from, or earned income in, the Virgin Islands or any other foreign possession of the United States federal

corporation. Claimant believes, based on Government documents from Internal Revenue Manuals, that filing Form 1040 is applicable to revenues derived from foreign sources. Claimant further agrees with the IRS Privacy Act Statement and Paperwork Reduction Act Notice that Claimant is not subject to any penalty for failing to comply with collection of information due to the invalid OMB control number displayed on all Form 1040's. Notwithstanding these facts, Claimant will not throw caution to the wind, and files the Form 1040 - involuntarily and under duress as stated herein and throughout.

XI.

Clare Reading Has An Unrestricted Constitutionally Protected Right To Restore The Value Of Labor Pursuant To The Just Compensation Clause Of The Fifth Amendment To The Constitution.

Clare Reading believes her Labor is a property right protected under the Common Law of the Constitution. The *Just Compensation Clause* of the Fifth Amendment states in pertinent part: “. . . *nor shall any person be deprived of life, liberty, or property . . . be taken for public use without just compensation.*” (see **Exhibit F**). Claimant is aware that all federal income tax levied on labor is taken for public use and is, therefore, subject to the *Just Compensation Clause* of the Fifth Amendment. “*Congress and the President, like the courts, possess no power not derived from the Constitution,*” *Ex Parte Quirin*, 63 S.Ct. 2, 10, 317 U.S. 1 (1942); and “[T]he Constitution [is] the supreme law established by the people,” *Muskrat v. United States*, 31 S.Ct. 250, 254 (1911). Claimant is aware that the IRS has given itself the discretion to ignore that body of law that does not benefit its position. Nevertheless, United States Supreme Court held:

"The property that every man has is his personal labor, as it is the original foundation of all other property so it is the most sacred and inviolable...to hinder his employing [it]...in what manner he thinks proper, without injury to his neighbor, is a plain violation of the most sacred property." *Butcher's Union Co. v. Crescent City Co.*, 111 US 746.

"Property is everything which has an exchangeable value, and the right of property includes the power to dispose of it according to the will of the owner. Labor is property, and as such merits protection. The right to make it available is next in importance to the rights of life and liberty." *Slaughter-House Cases*, 83 U.S. 36 (1872).

"Justice Stevens explained that he believes that money is property . . . and as such, it is entitled to the constitutional protections normally afforded to property . . ." (Stevens, J., concurring. *Landell v. Sorrell*, (Vt. 2000)).

"This leaves only the district's interest in control over how its money was spent and the state's interest in control over the allocation of resources for processing as property interests that could possibly rise to the status of "property". Certainly the state and school district have cognizable property interests in their financial resources; money is property in the most traditional sense." *United States v. Granberry*, (E.D.Mo. 1989) 725 F. Supp. 446, 453.

Upon completing the Form 1040 return, Claimant effectively restored the fair market value of her Labor Property for which she is fully entitled. Claimant is with information that it is the policy of the Internal Revenue Service to ignore United States Supreme Court precedent, internal revenue statutes and regulations to “interpret” the law to their discretion – routinely to the peril of the alleged taxpayer. Nonetheless, Claimant calculates and computes *any* alleged federal income tax liability to restore back to Claimant the fair market value of her labor as just compensation to wit:

- 2.1 That Claimant is with evidence in accordance to the law that Claimant’s compensation for Labor Property is taken for public use and is protected under the *Just Compensation Clause* of the Fifth Amendment. Therefore Claimant is exercising that Right and has restored back the “fair market value” of said compensation for Labor Property in connection with the performance of services pursuant to the Constitutional Common Law, United States Supreme Court precedent and applicable statutory enactments.
- 2.2 That Claimant has determined in accordance to the law that there was no excess over the amount paid for the fair market value of said compensation for Labor Property that could be determined as “gross income” pursuant to Constitutional Common Law, United States Supreme Court precedent and applicable statutory enactments.
- 2.3 That Claimant has recognized and deducted all applicable expenses for production of Claimant’s compensation for Labor Property pursuant to Constitutional Common Law, United States Supreme Court precedent and applicable statutory enactments.
- 2.4 That Claimant has recognized and deducted any gain or profit realized over the amount paid for the fair market value of said compensation for Labor Property pursuant to Constitutional Common Law, United States Supreme Court precedent and applicable statutory enactments.

XII.

Clare Reading Calculates The Cost Basis Of The Fair Market Value Of Labor Property Transferred In Connection With The Performance Of Services

Claimant proceeds in compliance with the statutory provision of 26 U.S.C. § 83, *et. seq.*, excluding the fair market value of compensation for Labor Property in connection with the performance of services. Title 26 United States Code § 83 states, *only* the excess of the “fair market value” of property in the connection with the performance of services shall be included in gross income (see Exhibit D).

Pursuant to 26 U.S.C. § 61(b): For items specifically included in gross income, see part II (sec. 71 and following), the computation of an income tax liability come under the provisions of 26 U.S.C. § 83 or 26 CFR § 1.83-1 “**Property transferred in connection with the performance of services.** (a) Inclusion in gross income – (1) General Rule. Section 83 Provides rules for the taxation of property transferred to an employee or independent contractor in connection with the performance of services. . . such property is not taxable under § 83(a) until it has been transferred . . . to such person and become substantially vested . . . in such person. In that case, the excess of . . . The fair market value of such property . . . at the time the property becomes substantially vested, over . . . the amount paid for such property shall be included as compensation in the gross income

...” This section clearly states only the excess of the fair market value over the amount paid shall be included in gross income.

- 3.1 **Example:** Tom the Taxpayer was employed by ABC Company, and was compensated at \$25.00/hour (property transferred for the performance of services), the amount paid for the performance of Tom’s services. The cost and fair market value of Tom the Taxpayer’s property in connection with the performance of his services for ABC Company totals \$25.00/hour. Therefore, the amount paid of \$25.00/hour is the cost of Tom the Taxpayer’s Labor Property and the fair market value exchanged for the same. Accordingly, as provided in 26 U.S.C. § 83, Tom’s cost shall not be included in gross income. Here, no excess over the fair market value of the cost of Tom’s labor was realized as a profit or gain and is not to be included in gross income.
- 3.2 26 CFR § 1.83-3(g) “**Amount paid.** For purposes of § 83 and the regulations thereunder, the term “amount paid” refers to the value of any money or property paid for the transfer of property . . .” Relevant to § 83 above, the ‘amount paid’ is the cost of the fair market value of Claimant’s Labor Property, the *just compensation* for which Claimant is entitled.
- 3.3 26 CFR § 1.83-4(b)(2) “**Basis.** If property to which § 1.83-1 applies is transferred at arm’s length, the basis of the property in the hands of the transferee shall be determined under section 1012 . . .” Accordingly, the basis is the cost of Claimant’s compensation for Labor Property.
- 3.4 26 CFR § 1.83-6(b) **Recognition of gain or loss.** “. . . at the time of transfer of property in connection with the performance of services the transferor recognizes gain to the extent that the transferor receives an amount that exceeds the transferor’s basis in the property.” Here, section 83 provides that ‘gain’ is only recognized to the extent Claimant’s ‘basis is exceeded’ in the transfer of Labor Property, confirming that only the *excess* is to be *included* in *gross income*.
- 3.5 26 U.S.C. § 212 “Expenses for production of income. In the case of an individual, *there shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred* during the taxable year— (1) for the production or collection of income;” Although the term “income” is used to imply gain or profit, this section recognizes Claimant’s right to deduct all ordinary and *necessary* ‘*expenses*’ relevant to compensation for the value of Claimant’s Labor Property.
- 3.6 26 CFR § 1.1001-1 “**Computation of gain or loss.** (a) The fair market value of property is a question of fact, but only in rare and extraordinary cases will property be considered to have no fair market value.” Claimant does not consider her Labor Property the “*rare and extraordinary*” case wherein such property has no fair market value. To the contrary, the courts have ruled that it is the most sacred of all property rights. Therefore, the *cost* of Claimant’s Labor Property, having intrinsic value, carries a fair market value that Claimant has a Right to *restore* under the *Just Compensation Clause* of the Constitution, as herein exercised.
- 3.7 26 CFR § 1.1012-1 “**Basis of property.** (a) In general, the basis of the property is the cost thereof. The cost is the amount paid for such property in cash or other property.” Here, the basis is the cost of Claimant’s compensation for Labor Property. As in this example, if the cost

of Tom the Taxpayer's compensation for Labor Property is \$25.00/hour, this amount is the cost basis for which Tom the Taxpayer charged in exchange for such labor— and NO PROFIT or GAIN is realized.

In summary, this Act of Congress recognizes the value of Labor Property and affords Claimant the Common Law Right to restore back that value. This Act is *in pari materia* with the Common Law *Just Compensation Clause* of the Fifth Amendment and avoids violating Article XIII Sec.1 to the Constitution that states in pertinent part: "Neither slavery nor involuntary servitude shall exist within the United States, or any place subject to their jurisdiction." The U.S. Supreme Court in *Bailey v. Alabama*, 219 U.S. 219, ruled that: "No person can be compelled to specific performance to labor for others" and that the enforcement of such service results in a prohibited condition of peonage. A constitutional prohibition cannot be transgressed indirectly by creating a statutory presumption any more than direct enactment."

XIII.

Affidavit Of Specific Negative Averment

PLEASE TAKE NOTICE: that **Clare Reading** fully accepts, and offers to pay any amount employees of the Internal Revenue Service may reassess and determine for tax year December 31, 1997 regarding Claimant's compensation for Labor Property and hereby promises to discharge all verifiable liability, claims and charges associated therewith upon evidence of the following:

1. Claimant has not seen or been presented with any evidence that Claimant is voluntarily preparing and filing Form 1040 for tax year December 31, 1997, nor does Claimant believe any such evidence exists.
2. Claimant has not seen or been presented with any evidence that Claimant is not preparing and filing Form 1040 for tax year December 31, 1997 under threat, duress, coercion, intimidation and fear of prosecution, nor does Claimant believe any such evidence exists.
3. Claimant has not seen or been presented with any evidence that Claimant is not protected under the *Due Process Clause* of the Fifth Amendment, nor does Claimant believe any such evidence exists.
4. Claimant has not seen or been presented with any evidence that Claimant is not protected under the *Equal Protection Clause* of the Fourteenth Amendment, nor does Claimant believe any such evidence exists.
5. Claimant has not seen or been presented with any evidence that employees of the Internal Revenue Service do not admit to interpreting the internal revenue laws to their discretion, nor does Claimant believe any such evidence exists.
6. Claimant has not seen or been presented with any evidence that the Internal Revenue Code is not a complex code of legalese riddled with "Words of Art", nor does Claimant believe any such evidence exists.

7. Claimant has not seen or been presented with any evidence that words and terms within the Internal Revenue Code are to be given "*common usage*" as understood by a person of average intelligence, nor does Claimant believe any such evidence exists.
8. Claimant has not seen or been presented with any evidence that employees of the Internal Revenue Service are not required to comply with Acts of Congress, nor does Claimant believe any such evidence exists.
9. Claimant has not seen or been presented with any evidence that employees of the Internal Revenue Service are not required to comply with landmark United States Supreme Court decisions, nor does Claimant believe any such evidence exists.
10. Claimant has not seen or been presented with any evidence that employees of the Internal Revenue Service are not required by Acts of Congress to comply with internal revenue statutes and implementing regulations, nor does Claimant believe any such evidence exists.
11. Claimant has not seen or been presented with any evidence that IRS Publications, Policy Manuals, Memorandums and like internal instruction materials override or supercede United States Supreme Court rulings and Acts of Congress, nor does Claimant believe any such evidence exists.
12. Claimant has not seen or been presented with any evidence of the specific statute and regulation making Claimant liable for the payment of a federal income tax, nor does Claimant believe any such evidence exists.
13. Claimant has not seen or been presented with any evidence that Form 1040 is not a Virgin Islands tax return, nor does Claimant believe any such evidence exists.
14. Claimant has not seen or been presented with any evidence that Claimant is required to file Form 1040, nor does Claimant believe any such evidence exists.
15. Claimant has not seen or been presented with any evidence that Claimant is prohibited from filing a Zero Liability return, nor does Claimant believe any such evidence exists.
16. Claimant has not seen or been presented with any evidence that Claimant is prohibited from filing an Objection return if Claimant believes the information provided could be self-incriminating, nor does Claimant believe any such evidence exists.
17. Claimant has not seen or been presented with any evidence that Claimant's compensation for Labor is not a property right subject to the *Just Compensation Clause* of the Fifth Amendment, nor does Claimant believe any such evidence exists.
18. Claimant has not seen or been presented with any evidence that Claimant's Labor is not the cost incurred in exchange for other property, and such cost is prohibited from being restored back to Claimant for its fair market value, nor does Claimant believe any such evidence exists.

19. Claimant has not seen or been presented with any evidence that Claimant's compensation for Labor resulted in a gain or profit and is gross income within the meaning of an Act of Congress, nor does Claimant believe any such evidence exists.
20. Claimant has not seen or been presented with any evidence that Claimant is prohibited from restoring the fair market value of Claimant's Labor, nor does Claimant believe any such evidence exists.
21. Claimant has not seen or been presented with any evidence that Claimant's compensation for Labor Property has no fair market value, nor does Claimant believe any such evidence exists.
22. Claimant has not seen or been presented with any evidence that Claimant cannot compute the cost basis of the fair market value of Claimant's compensation for Labor Property to be excluded from gross income, nor does Claimant believe any such evidence exists.
23. Claimant has not seen or been presented with any evidence that Claimant's Labor Property is a commodity and an article of commerce, nor does Claimant believe any such evidence exists.
24. Claimant has not seen or been presented with any evidence that Claimant has performed the functions of a public office created by an Act of Congress and defined in the internal revenue laws, nor does Claimant believe any such evidence exists.
25. Claimant has not seen or been presented with any evidence that Claimant has operated a statutory Trade or Business created by an Act of Congress and defined in the internal revenue laws, nor does Claimant believe any such evidence exists.
26. Claimant has not seen or been presented with any evidence that Claimant is a statutory *employee* created by an Act of Congress and defined in the internal revenue laws, nor does Claimant believe any such evidence exists.
27. Claimant has not seen or been presented with any evidence that Claimant is a statutory *employer* created by an Act of Congress and defined in the internal revenue laws, nor does Claimant believe any such evidence exists.
28. Claimant has not seen or been presented with any evidence that Claimant is a statutory *American employer* created by an Act of Congress and defined in the internal revenue laws, nor does Claimant believe any such evidence exists.
29. Claimant has not seen or been presented with any evidence that Claimant is the statutory *person* created by an Act of Congress and defined in the internal revenue laws, nor does Claimant believe any such evidence exists.
30. Claimant has not seen or been presented with any evidence that Claimant is the statutory *natural person* created by an Act of Congress and defined in the internal revenue laws, nor does Claimant believe any such evidence exists.

ATTACHMENTS:

Completed and Signed IRS Form 1040 For Tax Year: December 31, 1997
Form 8275 Disclosure Statement For Tax Years: December 31, 1997

EXHIBITS INCLUDED WITH VERIFIED NOTICE:

- EXHIBIT A:** Definitions from Black's Law Fifth Edition (17 pages)
- EXHIBIT B:** Benders Federal Revenue Law 1916 (4 pages)
- EXHIBIT C:** IRS Publication 556 Appeal Rights (4 pages)
- EXHIBIT D:** Title 26 IRC and CFR; IRS Privacy Act Statement and PRA Notice (14 pages)
- EXHIBIT E:** Form 1040 Filing Requirement Cited at CFR, IRS Manuals, etc. (18 pages)
- EXHIBIT F:** The Constitution of the United States of America – Article V (3 pages)

Mailed to:

US Attorney General
Alberto Gonzales
Department of Justice
950 Pennsylvania Ave NW
Washington D.C. 20530-0001
Certified Mail: 7004 2890 0001 9657 8486

Department of the Treasury
Internal Revenue Service
Area 11, Area Director
600 17th Street
Denver, CO 80202-2490
Certified Mail: 7004 2890 0001 9657 8462

Department of the Treasury
Internal Revenue Service
Philadelphia Service Center
600 Arch Street
Philadelphia, PA 19106
Certified Mail: 7004 2890 0001 9657 8479

Department of The Treasury
Internal Revenue Service
Attn: Ann Taylor #86-17536
300 W. Congress, Stop 5126 TUC
Tucson, Arizona 85701
Certified Mail: 7004 2890 0001 9657 8455

VERIFIED NOTICE OF FILING FORM 1040 RETURN UNDER
THREAT, DURESS, COERCION AND INTIMIDATION

Clare Reading, Claimant
Total Exhibits: 60, Notary page 18

EXHIBIT A
Definitions from Black's Law Fifth Edition
(17 pages)

BLACK'S LAW DICTIONARY

Definitions of the Terms and Phrases of
American and English Jurisprudence,
Ancient and Modern

By

HENRY CAMPBELL BLACK, M. A.

Author of Treatises on Judgments, Tax Titles, Intoxicating Liquors,
Bankruptcy, Mortgages, Constitutional Law, Interpretation
of Laws, Rescission and Cancellation of Contracts, Etc.

FIFTH EDITION

BY

THE PUBLISHER'S EDITORIAL STAFF

Contributing Authors

JOSEPH R. NOLAN

Associate Justice, Massachusetts Supreme Judicial Court
and

M. J. CONNOLLY

Associate Professor of Linguistics
and Eastern Languages, Boston College

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ST. PAUL MINN.
WEST PUBLISHING CO.
1979

that a grant of "all his woods" (*omnes boscos suos*) will pass the land, as well as the trees growing upon it.

Woodwards. In English law, officers of the forest, whose duty consists in looking after the wood and vert and venison, and preventing offenses relating to the same.

Words. Symbols indicating ideas and subject to contraction and expansion to meet the idea sought to be expressed. Such have been referred to as labels whose content and meaning are continually shifting with the times. Massachusetts Protective Ass'n v. Bayersdorfer, C.C.A.Ohio, 105 F.2d 595, 597.

As used in law, this term generally signifies the technical terms and phrases appropriate to particular instruments, or aptly fitted to the expression of a particular intention in legal instruments. See the subtitles following.

Words actionable in themselves. In libel and slander, refer to words which are libelous or slanderous per se. See **Actionable per se**.

Words of art. The vocabulary or terminology of a particular art or science, and especially those expressions which are idiomatic or peculiar to it.

Words of limitation. See **Limitation**.

Words of procreation. To create an estate tail by deed, it is necessary that words of procreation should be used in order to confine the estate to the descendants of the first grantee, as in the usual form of limitation,—"to A. and the heirs of his body."

Words of purchase. See **Purchase**.

Work. To exert one's self for a purpose; to put forth effort for the attainment of an object; to be engaged in the performance of a task, duty, or the like. The term covers all forms of physical or mental exertions, or both combined, for the attainment of some object other than recreation or amusement. Tennessee Coal, Iron & R. Co. v. Muscoda Local No. 123, Ala., 321 U.S. 590, 64 S.Ct. 698, 703, 705, 88 L.Ed. 949. See also **Labor**.

Work and labor. The name of one of the common counts in actions of *assumpsit*, being for work and labor done and materials furnished by the plaintiff for the defendant.

Workaway. Extra man employed c commodation to himself. The Tasl F.2d 366, 368.

Worker. See **Workman**.

Workers' Compensation Acts. See **Workmen's Compensation Acts**.

Workhouse. Place of confinement for persons convicted of lesser offenses. Such imprisonment is usually for a relatively short duration.

Working capital. Cash and other quick assets. Crock-er v. Waltham Watch Co., 315 Mass. 397, 53 N.E.2d 230, 237. In accounting the difference between current assets and current liabilities. In public utilities the amount of cash required by a business to carry on operations.

Working interest. See **Royalty**.

Working papers. By statute in certain states, such must be filed by one employing a minor.

Discovery. See **Work product rule**.

Workman. One who labors; one employed to do business for another. One employed in manual labor, skilled or unskilled; an artificer, mechanic, or artisan.

Workmen's or Workers' Compensation Acts. State statutes which provide for fixed awards to employees or their dependents in case of employment related accidents and diseases, dispensing with proof of negligence and legal actions. Some of the acts go beyond the simple determination of the right to compensation, and provide insurance systems, either under state supervision or otherwise. The various state acts vary as to extent of workers and employment covered, amount and duration of benefits, etc.

The effect of most workmen's or workers' compensation acts is to make the employer strictly liable to an employee for injuries sustained by the employee which arise out of and in the course of employment, without regard to the negligence of the employer or that of the employee. Where the Act applies, it has been uniformly held that this remedy is exclusive and bars any common-law remedy which the employee may have had, the compensation scheduled under the act being the sole measure of damage.

Federal employees are covered by the Federal Employees Compensation Act; seamen by the Jones Act; longshoremen and harbor workers by the Longshoremen's and Harbor Workers' Compensation Act. Additional benefits to disabled workers are provided under Title II of the Social Security Act.

Workmen's or workers' compensation boards or courts. Such exist in many states with jurisdiction to review cases arising under workmen's or workers' compensation acts and related rules and regulations.

Workmen's or workers' compensation insurance. Insurance coverage purchased by employers to cover risks under workmen's or workers' compensation laws. Such is usually mandated by state acts, unless the employer is self-insured. See also **Insurance**.

Work of national importance. Under the Selective Service Act providing that conscientious objectors to such work means work of value to the common defense and general welfare. C.A. Appendix § 305(g). United States v. Tucker v. Osborne, D.C.N.Y., 54 F.2d 987.

As excepted from operation of Sunday closing statutes embraces all work reasonably essential to the economic, social or moral welfare of the people, viewed in light of the habits and customs of the age in which they live and of the community in which they reside. Francisco v. Commonwealth, 180 Va. 371, 23 S.E.2d 234, 238, 239.

Work product rule. A party may obtain discovery of documents and tangible things otherwise discoverable under Rule 26(b)(1) and prepared in anticipation of litigation or for trial by or for another party or by or for that other party's representative (including his attorney, consultant, surety, indemnitor, insurer, or

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Privatorum conventio juri publico non derogat /práyvotóram kənvéns(h)iyow júray páblakow nòn dérogat/. The agreement of private individuals does not derogate from the public right [law].

Privatum /prévédəm/. Lat. Private. *Privatum jus*, private law.

Privatum commodum publico cedit /prévédəm kómədəm páblakow síydət/. Private good yields to public. The interest of an individual should give place to the public good.

Privatum incommodum publico bono pensatur /prévédəm inkómədəm páblakow bównow penséyde/. Private inconvenience is made up for by public benefit.

Privies /príviyz/. Those who are partakers or have an interest in any action or thing, or any relation to another. *Brown v. Fidelity Union Trust Co.*, 126 N.J.Eq. 406, 9 A.2d 311, 326; *Hamelik v. Sypek*, 152 Misc. 799, 274 N.Y.S. 875. They are of six kinds:

- (1) Privies of blood; such as the heir to his ancestor.
- (2) Privies in representation; as executors or administrators to their deceased testator or intestate.
- (3) Privies in estate; as grantor and grantee, lessor and lessee, assignor and assignee, etc.
- (4) Privies in respect to contract.
- (5) Privies in respect of estate and contract; as where the lessee assigns his interest, but the contract between lessor and lessee continues, the lessor not having accepted of the assignee.
- (6) Privies in law; as the lord by escheat, a tenant by the curtesy, or in dower, the incumbent of a benefice, a husband suing or defending in right of his wife, etc.

"Privies," in the sense that they are bound by the judgment, are those who acquired an interest in the subject-matter after the rendition of the judgment. "Privies" to a judgment are those whose succession to the rights of property affected occurs after the institution of the suit and form a party to it.

Privigna /prévignə/. Lat. In the civil law, a stepdaughter.

Privignus /prévignəs/. Lat. In the civil law, a son of a husband or wife by a former marriage; a stepson.

Privilege. A particular and peculiar benefit or advantage enjoyed by a person, company, or class, beyond the common advantages of other citizens. An exceptional or extraordinary power or exemption. A right, power, franchise, or immunity held by a person or class, against or beyond the course of the law.

An exemption from some burden or attendance, with which certain persons are indulged, from a supposition of law that the stations they fill, or the offices they are engaged in, are such as require all their time and care, and that, therefore, without this indulgence, it would be impracticable to execute such offices to that advantage which the public good requires. That which releases one from the performance of a duty or obligation, or exempts one from a liability which he would otherwise be required to perform, or sustain in common with all other persons.

A peculiar advantage, exemption, or immunity. See also **Exemption**; **Immunity**.

See also **Doctor-patient privilege**; **Executive privilege**; **Husband-wife privilege**; **Journalist's privilege**; **Legislative immunity**; **Marital communications privilege**; **Newsmen's privilege**; **Patient-physician privilege**; **Priest-penitent privilege**; **Privileged communications**; **Right**.

Attorney-client, doctor-patient, etc. privilege. See **Privileged communications**.

Civil law. A right which the nature of a debt gives to a creditor, and which entitles him to be preferred before other creditors. *Civil Code La. art. 3186*. It is merely an accessory of the debt which it secures, and falls with the extinguishment of the debt. The civil law privilege became, by adoption of the admiralty courts, the admiralty lien. *The J. E. Rumbell*, 148 U.S. 1, 13 S.Ct. 498, 37 L.Ed 345.

Communications. See **Privileged communications**.

Discovery. When interrogatories, depositions or other forms of discovery seek information which is otherwise privileged, the party from whom it is sought may claim his privilege. *Fed.R.Civil P. 26*; *Fed.R. Crim.P. 16*. See also **Protective order**; **Work product rule**.

Evidence. See **Privileged communications**; **Privileged evidence**.

Exclusive privilege. See **Exclusive privilege**.

Executive privilege. The protection afforded to confidential presidential communications. However, the generalized need for confidentiality of high level communications cannot sustain an absolute unqualified presidential privilege. *U. S. v. Nixon*, 418 U.S. 683, 94 S.Ct. 3090, 41 L.Ed.2d 1039. See also **Executive privilege**.

Journalist's privilege. See **Journalist's privilege**; **Newsmen's privilege**; **Shield laws**.

Libel and slander. An exemption from liability for the speaking or publishing of defamatory words concerning another, based on the fact that the statement was made in the performance of a political, judicial, social, or personal duty. Privilege is either *absolute* or *conditional*. The former protects the speaker or publisher without reference to his motives or the truth or falsity of the statement. This may be claimed in respect, for instance, to statements made in legislative debates, in reports of military officers to their superiors in the line of their duty, and statements made by judges, witnesses, and jurors in trials in court. Conditional privilege (called also "qualified privilege") will protect the speaker or publisher unless actual malice and knowledge of the falsity of the statement is shown. This may be claimed where the communication related to a matter of public interest, or where it was necessary to protect one's private interest and was made to a person having an interest in the same matter. *Saroyan v. Burkett*, 57 Cal.2d 706, 21 Cal.Rptr. 557, 558, 371 P.2d 293.

For defense of "constitutional privilege" in libel actions, see **Libel**.

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Rial /riyál/. A piece of gold coin current for 10s., in the reign of Henry VI, at which time there were half-rials and quarter-rials or rial-farthings. In the beginning of Queen Elizabeth's reign, golden rials were coined at 15s. a piece; and in the time of James I there were rose-rials of gold at 30s. and spur-rials at 15s.

Ribaud /riybów/. A rogue; vagrant; whoremonger; a person given to all manner of wickedness.

Rider. A schedule or small piece of paper reflecting an amendment, addition or endorsement annexed to some part of a roll, document, or record. Any kind of a schedule or writing annexed to a document which cannot well be incorporated in the body of such document. Such are deemed to be incorporated into the terms of the document. Thus, in passing bills through a legislature, when a new clause or law is added after the bill has passed through committee, such new law or clause is termed a "rider." Another common example of a rider is an attachment to an insurance policy that modifies the conditions of the policy by expanding or restricting its benefits or excluding certain conditions from coverage. With the use of the rider the entire document does not have to be rewritten or redrafted again.

Rien culp. In old pleading, not guilty.

Rien dit. In old pleading, says nothing (*nil dicit*).

Rien luy doit. In old pleading, owes him nothing. The plea of *nil debet*.

Riens en arriere. Nothing in arrear. A plea in an action of debt for arrearages of account.

Riens passa per le fait. Nothing passed by the deed. A plea by which a party might avoid the operation of a deed, which had been enrolled or acknowledged in court; the plea of *non est factum* not being allowed in such case.

Riens per descent. Nothing by descent. The plea of an heir, where he is sued for his ancestor's debt, and has no land from him by descent, or assets in his hands.

Rier county /rir káwntiy/. In old English law, after-county; i.e., after the end of the county court. A time and place appointed by the sheriff for the receipt of the king's money after the end of his county, or county court.

Rifflare /riflériy/. To take away anything by force.

Rigging the market. A term of the stock-exchange, denoting the practice of inflating the price of given stocks, or enhancing their quoted value, by a system of pretended purchases, designed to give the air of an unusual demand for such stocks.

Right. As a noun, and taken in an abstract sense, means justice, ethical correctness, or consonance with the rules of law or the principles of morals. In this signification it answers to one meaning of the Latin "*jus*," and serves to indicate law in the abstract, considered as the foundation of all rights, or the complex of underlying moral principles which impart the character of justice to all positive law, or give it an ethical content. As a noun, and taken in a concrete sense, a power, privilege, faculty, or de-

mand, inherent in one person and incident upon another. Rights are defined generally as "powers of free action." And the primal rights pertaining to men are enjoyed by human beings purely as such, being grounded in personality, and existing antecedently to their recognition by positive law. But leaving the abstract moral sphere, and giving to the term a juristic content, a "right" is well defined as "a capacity residing in one man of controlling, with the assent and assistance of the state, the actions of others."

As an adjective, the term "right" means just, morally correct, consonant with ethical principles or rules of positive law. It is the opposite of wrong, unjust, illegal.

A power, privilege, or immunity guaranteed under a constitution, statutes or decisional laws, or claimed as a result of long usage. See *Bill of rights*; *Civil liberties*; *Civil Rights Acts*; *Natural rights*.

In a narrower signification, an interest or title in an object of property; a just and legal claim to hold, use, or enjoy it, or to convey or donate it, as he may please.

A legally enforceable claim of one person against another, that the other shall do a given act, or shall not do a given act. Restatement of the Law of Property, § 1.

That which one person ought to have or receive from another, it being withheld from him, or not in his possession. In this sense "right" has the force of "claim," and is properly expressed by the Latin "*jus*."

See also *Conditional right*; *Correlative rights*; *Droit*; *Jus*; *Natural rights*; *Power*; *Recht*; *Vested rights*.

General Classification

Rights may be described as *perfect* or *imperfect*, according as their action or scope is clear, settled, and determinate, or is vague and unfixed.

Rights are also either *in personam* or *in rem*. A right *in personam* is one which imposes an obligation on a definite person. A right *in rem* is one which imposes an obligation on persons generally; i.e., either on all the world or on all the world except certain determinate persons. Thus, if I am entitled to exclude all persons from a given piece of land, I have a right *in rem* in respect of that land; and, if there are one or more persons, A, B., and C., whom I am not entitled to exclude from it, my right is still a right *in rem*.

Rights may also be described as either *primary* or *secondary*. *Primary* rights are those which can be created without reference to rights already existing. *Secondary* rights can only arise for the purpose of protecting or enforcing primary rights. They are either preventive (protective) or remedial (reparative).

Preventive or *protective secondary* rights exist in order to prevent the infringement or loss of primary rights. They are judicial when they require the assistance of a court of law for their enforcement, and extrajudicial when they are capable of being exercised by the party himself. *Remedial* or *reparative secondary* rights are also either judicial or extrajudicial. They may further be divided into (1) rights of restitution or restoration, which entitle the person

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RIGHT

injured to be replaced in his original position; (2) rights of enforcement, which entitle the person injured to the performance of an act by the person bound; and (3) rights of satisfaction or compensation.

With respect to the ownership of external objects of property, rights may be classed as *absolute* and *qualified*. An absolute right gives to the person in whom it inheres the uncontrolled dominion over the object at all times and for all purposes. A qualified right gives the possessor a right to the object for certain purposes or under certain circumstances only. Such is the right of a bailee to recover the article bailed when it has been unlawfully taken from him by a stranger.

Rights are also either *legal* or *equitable*. The former is the case where the person seeking to enforce the right for his own benefit has the legal title and a remedy at law. The latter are such as are enforceable only in equity; as, at the suit of *cestui que trust*. Procedurally, under Rules of Civil Procedure, both legal and equitable rights are enforced in the same court under a single cause of action.

Constitutional Rights

There is also a classification of rights, with respect to the constitution of civil society. Thus, according to Blackstone, "the rights of persons, considered in their natural capacities, are of two sorts,—*absolute* and *relative*; absolute, which are such as appertain and belong to particular men, merely as individuals or single persons; relative, which are incident to them as members of society, and standing in various relations to each other." 1 Bl.Comm. 123.

→ Rights are also classified in constitutional law as natural, civil, and political, to which there is sometimes added the class of "personal rights."

Natural rights are those which grow out of the nature of man and depend upon personality, as distinguished from such as are created by law and depend upon civilized society; or they are those which are plainly assured by natural law; or those which, by fair deduction from the present physical, moral, social, and religious characteristics of man, he must be invested with, and which he ought to have realized for him in a jural society, in order to fulfill the ends to which his nature calls him. Such are the rights of life, liberty, privacy, and good reputation.

Civil rights are such as belong to every citizen of the state or country, or, in a wider sense, to all its inhabitants, and are not connected with the organization or administration of government. They include the rights of property, marriage, equal protection of the laws, freedom of contract, trial by jury, etc. Or, as otherwise defined, civil rights are rights appertaining to a person by virtue of his citizenship in a state or community. Such term may also refer, in its very general sense, to rights capable of being enforced or redressed in a civil action. Also, a term applied to certain rights secured to citizens of the United States by the Thirteenth and Fourteenth amendments to the Constitution, and by various acts of Congress (e.g. Civil Rights Acts) made in pursuance thereof. See Bill of Rights; Civil liberties; Civil Rights Acts.

Political rights consist in the power to participate, directly or indirectly, in the establishment or adminis-

tration of government, such as the right of citizenship, that of suffrage, the right to hold public office, and the right of petition.

Personal rights is a term of rather vague import, but generally it may be said to mean the right of personal security, comprising those of life, limb, body, health, reputation, and the right of personal liberty.

Other Compound and Descriptive Terms

Bill of rights. See that title.

Common right. See **Common**.

Declaration of rights. See **Bill of Rights**.

Exclusive right. See that title.

Marital rights. See **Marital**.

Mere right. In the law of real estate, the mere right of property in land; the right of a proprietor, but without possession or even the right of possession; the abstract right of property.

Patent right. See **Patent**.

Petition of right. See **Petition**.

Private rights. Those rights which appertain to a particular individual or individuals, and relate either to the person, or to personal or real property.

Right heir. See **Heir**.

Riparian rights. See **Riparian**.

Stock rights. See **Stock**.

Vested rights. See **Vested**.

Right and wrong test. Under this test of criminal responsibility, if, at the time of committing an act, the party was laboring under such a defect of reason from disease of the mind as not to know the nature and quality thereof, that he did not know that he was doing what was wrong, he should not be held criminally responsible for his act. *State v. Wallace*, 170 Or. 60, 131 P.2d 222, 229, 230. See **Insanity** with respect to other criminal responsibility defenses. See also **M'Naghten Rule**.

Right in action. This is a phrase frequently used in place of *chose in action*, and having an identical meaning.

Right in court. See **Rectus in curia**.

Right of action. The right to bring suit; a legal right to maintain an action, growing out of a given transaction or state of facts and based thereon. Right of action pertains to remedy and relief through judicial procedure. *Landry v. Adams Flour Mills Co.*, 202 Okl. 170, 211 P.2d 512, 515. Right of injured one to secure redress for violation of his rights. *Fields v. Synthetic Ropes, Inc.*, 9 Storey 135, 215 A.2d 427, 432. A right presently to enforce a cause of action by suit. *McMahon v. U. S.*, C.A.Pa., 186 F.2d 227, 230. See also **Cause of action**.

Right sic posses-
anner.

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COMPARATIVE NEGLIGENCE

quences of defendant's negligence after it was or should have been apparent.

Comparative rectitude. Doctrine wherein relief by divorce is granted to the party least in fault when both have shown grounds for divorce. *Weber v. Weber*, 256 Ark. 549, 508 S.W.2d 725, 729.

Comparison of handwriting. A comparison by the juxtaposition of two writings, in order, by such comparison, to ascertain whether both were written by the same person.

A method of proof resorted to where the genuineness of a written document is disputed; it consists in comparing the handwriting of the disputed paper with that of another instrument which is proved or admitted to be in the writing of the party sought to be charged, in order to infer, from their identity or similarity in this respect, that they are the work of the same hand. Expert testimony with respect to such proof is permitted by Fed.Evid. Rule 702, and non-expert testimony is governed by Rule 901.

Compascuum /kɒmpæskjuwəm/. Belonging to commonage *Jus compascuum*, the right of common pasture.

Compassing. Imagining or contriving, or plotting. In English law, "compassing the king's death" is treason. 4 Bl.Comm. 76.

Compaternitas /kɒmpatərnatəs/. In the canon law, a kind of spiritual relationship contracted by baptism.

Compaternity. Spiritual affinity, contracted by sponsorship in baptism.

Compatibility. As applied to offices, such relation and consistency between the duties of two offices that they may be held and filled by one person. Harmonious relationship as between husband and wife.

Compel. To urge forcefully; under extreme pressure. Word "compel" as used in constitutional right to be free from being compelled in a criminal case to be a witness against one's self means to be subjected to some coercion, fear, terror, inducement, trickery or threat—either physically or psychologically, blatantly or subtly; the hallmark of compulsion is the presence of some operative force producing an involuntary response. *U. S. v. Escandar*, C.A.Fla., 465 F.2d 438, 442.

Compellativus /kɒmpələtáyvəs/. An adversary or accuser.

Compelling state interest. Term used to uphold state action in the face of attack grounded on Equal Protection or First Amendment rights because of serious need for such state action. Also employed to justify state action under police power of state. *Printing Industries of Gulf Coast v. Hill* (D.C.Tex.).

Compensable death. Within Work Acts is one which results to employment accident arising out of and in course of employment.

Compensable injury. A "compensable" injury under the Worker's Compensation Act is one caused by an accident arising out of and in the course of the employment. *McCauley v. Harris*, 164 Neb. 216, 82 N.W.2d 30, 32; *Seymour v. Journal-Star Printing Co.*, 174 Neb. 150, 116 N.W.2d 297, 299.

Compensacion /kɒmpensas(i)yówn/. In Spanish law, compensation; set-off. The extinction of a debt by another debt of equal dignity between persons who have mutual claims on each other.

Compensating balance. The balance a borrower from a bank is required by the bank to keep on deposit.

Compensating tax. See Use tax.

Compensatio /kɒmpənséysh(i)yow/. Lat. In the civil law, compensation, or set-off. A proceeding resembling a set-off in the common law, being a claim on the part of the defendant to have an amount due to him from the plaintiff deducted from his demand. 3 Bl.Comm. 305.

Compensatio criminis /kɒmpənséysh(i)yow krimənas/. (Set-off of crime or guilt). The compensation or set-off of one crime against another; the plea or defense of recrimination in a suit for a divorce; that is, that the complainant is guilty of the same kind of offense with which the respondent is charged.

Compensation. Indemnification; payment of damages; making amends; making whole; giving an equivalent or substitute of equal value. That which is necessary to restore an injured party to his former position. Remuneration for services rendered, whether in salary, fees, or commissions. Consideration or price of a privilege purchased.

Equivalent in money for a loss sustained; equivalent given for property taken or for an injury done to another; giving back an equivalent in either money which is but the measure of value, or in actual value otherwise conferred; recompense in value; recompense or reward for some loss, injury, or service, especially when it is given by statute; remuneration for the injury directly and proximately caused by a breach of contract or duty; remuneration or satisfaction for injury or damage of every description. An act which a court orders to be done, or money which a court or other tribunal orders to be paid, by a person whose acts or omissions have caused loss or injury to another, in order that thereby the person damaged may receive equal value for his loss, or be made whole in respect of his injury. *Hughson Condensed Milk Co. v. State Board of Equalization*, 23 Cal.App.2d 281, 73 P.2d 290, 292. See also Damages.

See also Commission; Daily rate of pay; Deferred compensation; Fee; Salary; Unreasonable compensation; Wages.

For "Extra compensation" and "Fair and reasonable compensation", see these titles.

Eminent domain. Payment to owners of lands taken exercise of the power of eminent domain.

Employer's compensation. Payment to employed or injured worker or his dependents.

Compensation period. Period fixed by unemployment or worker's compensation statutes during which unemployed or injured worker is to receive compensation.

Compensatory damages. See Damages.

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Corse-present /kórs prèzənt/. In old English law, a mortuary, thus termed because, when a mortuary became due on the death of a man, the best or second-best beast was, according to custom, offered or presented to the priest, and carried with the corpse. In Wales a corse-present was due upon the death of a clergyman to the bishop of the diocese, till abolished by 12 Anne St. 2, c. 6. 2 Bl.Comm. 426.

Corsned /kórsnəd/. In Saxon law, the morsel of excretion. A species of ordeal in use among the Saxons, performed by eating a piece of bread over which the priest had pronounced a certain imprecation. If the accused ate it freely, he was pronounced innocent; but, if it stuck in his throat, it was considered as a proof of his guilt. 4 Bl.Comm. 345.

Cortes /kórtəs/kortéz/. The name of the legislative assemblies, the parliament or congress, of Spain and Portugal.

Cortis /kórdəs/. A court or yard before a house.

Cortularium /kòrchələríyəm/, or **cortarium** /kortəriyəm/. In old records, a yard adjoining a country farm.

Corvée /korvéy/. In French law, gratuitous labor exacted from the villages or communities, especially for repairing roads, constructing bridges.

Corvée seigneuriale /korvéy seynyàriyál/. Services due the lord of the manor.

Cosa juzgada /kówsa huwsgáða/. In Spanish law, a cause or matter adjudged (*res judicata*).

Cosas comunes /kówsas komúwne(y)s/. In Spanish law, a term corresponding to the *res communes* of the Roman law, and descriptive of such things as are open to the equal and common enjoyment of all persons and not to be reduced to private ownership, such as the air, the sea, and the water of running streams.

Cosbering /kózberɪŋ/. See **Coshering**.

Cosduna /kózduwnə/. In feudal law, a custom or tribute.

Cosen, cozen /kózən/. In old English law, to cheat.

Cosenage /kóz(ə)nəj/. (Also spelled "Cosinage," "Cousinage.") In old English law, a writ that lay for the heir where the *tresail*, i.e., the father of the *besail*, or great-grandfather, was seised of lands in fee at his death, and a stranger entered upon the land and abated. 3 Bl.Comm. 186. Kindred; cousinship; relationship; affinity. 3 Bl.Comm. 186.

Coser offense, is done or not, special vil law.

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Coshering /kóshərɪŋ/. In old English law, a feudal prerogative or custom for lords to lie and feast themselves at their tenants' houses.

Cosmopathic /kòzməpəθək/. Open to the access of supernormal knowledge or emotion supposedly from a preternatural world; applied to methods of healing.

Cost. Expense; price. The sum or equivalent expended, paid or charged for something. Expenses awarded by court to prevailing party. See e.g. Fed.R.Civil P. 54(d). See also **Actual cost**; **Costs**; **Net cost**; **Rate**.

Cost accounting. That branch of accounting which deals with methods and systems of compiling and analyzing costs in selling and manufacturing. Classifying, summarizing, recording, reporting, and allocating current or predicted costs.

Cost basis. In accounting, the value placed on an asset in a financial statement in terms of its cost; used in determining capital gains or losses.

Cost bond. See **Costs**, *infra*.

Cost contract. See **Cost-plus contract**, *infra*.

Cost depletion. In accounting and taxation, depletion computed in oil production without reference to discovery or percentage depletion. *Magale v. U. S.*, 118 Ct.Cl. 183, 93 F.Supp. 1004.

Cost-plus contract. One which fixes the amount to be paid the contractor on a basis, generally, of the cost of the material and labor, plus an agreed percentage thereof as profits. Such contracts are used when costs of production or construction are unknown or difficult to ascertain in advance.

Costs of collection. Strictly, expenses involved in endeavoring to make collection, as of a promissory note; but as used in or with reference to such notes, the phrase is synonymous with attorney's fees. There is commonly a provision to this effect in such notes. It does not refer to costs of suit, which are recoverable by law.

Imputed cost. A value expressing cost which is derived from or based on factors other than actual cost records; estimated costs.

Cost and freight (C.A.F.). Quoted sales price includes cost of goods and freight but not insurance or other special charges.

Co-stipulator. A joint promisor.

Cost of living clause. A provision, commonly in labor agreements, and also in certain pension or retirement programs, giving an automatic wage or benefit increase tied in some way to cost-of-living rises in the economy. Cost of living is usually measured by the Consumer Price Index (CPI) (*q.v.*).

Costs. A pecuniary allowance, made to the successful party (and recoverable from the losing party), for his expenses in prosecuting or defending an action or a distinct proceeding within an action. Fed.R.Civil P. 54(d); Fed.R.App.P. 39. Generally, "costs" do not include attorney fees unless such fees are by a statute denominated costs or are by statute allowed to be recovered as costs in the case. Fees and charges required by law to be paid to the courts or some of their officers, the amount of which is fixed by statute or court rule; e.g. filing and service fees. See also **Closing costs**; **Fee**; **Security for costs**; **Service charge**.

Bill of costs. A certified, itemized statement of the amount of costs in an action or suit.

náysay tówdə liyjy pərspəktə, yúwnə ələkwə partíkyələ íyjas prəpózədə, jüwdəkériy, vél rəspəndíriy/. It is improper, without looking at the whole of a law, to give judgment or advice, upon a view of any one clause of it.

In civile est, nisi tota sententia inspecta, de aliqua parte judicare /ínsíviəly èst, náysay tówdə sənténsh(iy)ə ínspəktə, díy ələkwə párdiy jüwdəkériy/. It is irregular, or legally improper, to pass an opinion upon any part of a sentence, without examining the whole.

In civilibus ministerium excusat, in criminalibus non item /ín səvíləbəs mínəstíriyəm əkskíyúwzət, ín krímənəyíləbəs nón áydəm/. In civil matters agency (or service) excuses, but not so in criminal matters.

Inclivism /ínsəvízəm/. Unfriendliness to the state or government of which one is a citizen.

In claris non est locus conjecturis /ín klérəs nón èst lówkəs kónjəkt(y)úras/. In things obvious there is no room for conjecture.

Inclusa /ínklóza/. In old records, a home close or inclosure near the house.

Inclose. To surround; to encompass; to bound; fence, or hem in, on all sides. To shut up.

Inclosed lands. Lands which are actually inclosed and surrounded with fences.

Inclosure. In old English law, act of freeing land from rights of common, commonable rights, and generally all rights which obstruct cultivation and the productive employment of labor on the soil.

Land surrounded by some visible obstruction. An artificial fence around one's estate. See **Close**.

Include. (Lat. *Includere*, to shut in, keep within.) To confine within, hold as in an inclosure, take in, attain, shut up, contain, inclose, comprise, comprehend, embrace, involve. Term may, according to context, express an enlargement and have the meaning of *and* or *in addition to*, or merely specify a particular thing already included within general words theretofore used. "Including" within statute is interpreted as a word of enlargement or of illustrative application as well as a word of limitation. *Premier Products Co. v. Cameron*, 240 Or. 123, 400 P.2d 227, 228.

Included offense. In criminal law, a crime which is part of another crime; e.g. included in every murder is assault and battery. One which is established by proof of the same or less than all of the facts, or a less crime than that which is required.

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Peop. 680. Jesse v. State, 101 Ark. 541, 420 S.W.2d 407, 408.

Inclusio unius est exclusio alterius /ínklúwzh(iy)ow yənáyəs èst əksklúwzh(iy)ow óltíriyas/. The inclusion of one is the exclusion of another. The certain designation of one person is an absolute exclusion of all others. *Burgin v. Forbes*, 293 Ky. 456, 169 S.W.2d 321, 325.

Inclusive. Embraced; comprehended; comprehending the stated limits or extremes. Opposed to "exclusive."

Inclusive survey. In land law, one which includes within its boundaries prior claims excepted from the computation of the area within such boundaries and excepted in the grant.

Incola. Lat. In the civil law, an inhabitant; a dweller or resident. Properly, one who has transferred his domicile to any country.

Incolas domicilium facit /ínkələs dóməsíl(i)yəm féysət/. Residence creates domicile.

Income. The return in money from one's business, labor, or capital invested; gains, profits, salary, wages, etc.

The gain derived from capital, from labor or effort, or both combined, including profit or gain through sale or conversion of capital. Income is not a gain accruing to capital or a growth in the value of the investment, but is a gain, a profit, something of exchangeable value, proceeding from the property, severed from the capital, however invested or employed, and coming in, being derived, that is, received or drawn by the recipient for his separate use, benefit, and disposal. *Goodrich v. Edwards*, 255 U.S. 527, 41 S.Ct. 390, 65 L.Ed. 758. The true increase in amount of wealth which comes to a person during a stated period of time.

See also Allocation of income; Blocked income; Clear reflection of income; Constructive receipt of income; Deferred income; Earned income; Earnings; Fixed income; Gross income; Net income; Net operating income; Personal income; Profit; Split income; Taxable income; Unearned income.

Accrued income. Income earned during a certain accounting period but not paid or received.

Deferred income. Income received before it is earned, such as rents received in one accounting period for use of the premises in the following period.

Earned income. Income derived from one's own labor or through active participation in a business as distinguished from income from, for example, dividends or investments. See also **Earnings**.

Fixed income. That type of income which is stable over a considerable period of time such as a pension or annuity.

Gross income. The total income of a business or individual before deductions; including salary, commissions, royalties, gains from dealings in property, interest, dividends, etc. I.R.C. § 61.

Imputed income. Value assigned to property or income, sometimes artificially for tax purposes, as in the case of a non-interest bearing or low interest bearing loan between persons or organizations related to each other. I.R.C. § 483. The value of property enjoyed by the taxpayer as part of his salary; e.g. use of home provided by employer to employee.

Net (business) income. Net profit of business arrived at by deducting operating expenses and taxes from gross profit.

Nonoperating income. Income of a business from investments and not from operations.

Exceptio temporis /əksəpsh(iy)ow tēmpərəs/. An exception or plea analogous to that of the statute of limitations in our law; viz., that the time prescribed by law for bringing such actions has expired.

Exceptis excipiendis /əkséptas əksipiyēndas/. Lat. With all necessary exceptions.

Exceptor. In old English law, a party who entered an exception or plea.

Except right of way. Recitals "less the right of way" and "except right of way" in granting clause of deed have well-defined accepted certain and unambiguous meaning by which grantor conveys entire interest in servient estate and at same time expressly recognizes and acknowledges dominant estate. *Jennings v. Amerada Petroleum Corporation*, 179 Okl. 561, 66 P.2d 1069, 1071.

Excerpta /əksérptə/ or **excerpts** /éksérpts/. Extracts.

Ex certa scientia /èks sárda sayénsh(iy)ə/. Of certain or sure knowledge. These words were anciently used in patents, and imported full knowledge of the subject-matter on the part of the king.

Excess. Act or amount which goes beyond that which is usual, proper, or necessary. Degree or amount by which one thing or number exceeds another. See also **Excessive**.

Excess clause. In insurance policy, such clause provides for insurer's liability up to limits of policy covering excess loss only after exhaustion of other valid insurance. *Underground Const. Co., Inc. v. Pacific Indem. Co.*, 49 Cal.App.3d 62, 122 Cal.Rptr. 330, 333.

Excess condemnation. Taking more property under condemnation than is actually needed. See **Condemnation**.

Excess insurance. That amount of insurance coverage which is beyond the dollar amount of coverage of one carrier but which is required to pay a particular loss as distinguished from "other insurance" which may be used to pay or contribute to the loss. See also **Excess policy**.

Excess jurisdiction. Such exists where a court, having jurisdiction of persons and subject matter of the case before it, exceeds its power in trial of such case by dealing with matters about which it is without power or authority to act; and error in synonymous with ruling in *ex Robrock v. Robrock*, 105 Ohio 234, 239.

Excessive. Greater than what is general term for what goes beyond amount. *Austin St. Ry. Co. v. Oldham*, Tex.Civ.App., 109 S.W.2d 235, 237. Tending to or marked by excess, which is the quality or state of exceeding the proper or reasonable limit or measure.

Excessive assessment. A tax assessment grossly disproportionate as compared with other assessments. *Southern California Telephone Co. v. Los Angeles County*, 45 Cal.App.2d 111, 113 P.2d 773, 776.

Excessive bail. The 8th Amendment to the U.S. Constitution prohibits excessive bail. Bail in a sum more than will be reasonably sufficient to prevent evasion of the law by flight or concealment; bail which is per se unreasonably great and clearly disproportionate to the offense involved, or shown to be so by the special circumstances of the particular case. *Blunt v. U. S.*, 322 A.2d 579. See also *Bail Reform Act*, 18 U.S.C.A. § 3146.

Excessive damages. See **Damages**.

Excessive drunkenness. Drunkenness is excessive where a party is so far deprived of his reason and understanding as to render him incapable of understanding character and consequences of his act. See **Driving while intoxicated**.

Excessive fine or penalty. The 8th Amendment to the U.S. Constitution prohibits excessive fines. A state may not constitutionally imprison a person for inability to pay a fine if he would not have been imprisoned on a showing of ability to pay the fine and on payment of the fine. *Tate v. Short*, 401 U.S. 395, 91 S.Ct. 668, 28 L.Ed.2d 130. Any fine or penalty which seriously impairs the capacity of gaining a business livelihood. See **Corporal punishment**; **Excessive punishment**; **Punishment**.

Excessive force. That amount of force which is beyond the need and circumstances of the particular event or which is not justified in the light of all the circumstances as in the case of deadly force to protect property as contrasted with protecting life. See **Self defense**.

Excessively. To excess.

Excessively intoxicated. Exists where one is so intoxicated as to be so far deprived of his reason and understanding as to render him incapable of knowing the character and consequences of his act. See **Driving while intoxicated**.

Excessive punishment. Any sentence or fine which does not commensurate with the gravity of the offense or the criminal record of the defendant. Excessive length of a sentence may be cruel and unusual punishment within the meaning of the prohibition in the 8th Amendment, U.S. Constitution. *Weems v. U. S.*, 217 U.S. 349, 30 S.Ct. 544, 54 L.Ed. 793. See **Corporal punishment**; **Excessive fine or penalty**; **Punishment**.

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Automobile's speed is "excessive" as car beyond driver's control.

A verdict which is result of passion *Rob v. Murray*, 26 Cal.App.2d 153, 79 The test of whether a verdict is whether the amount thereof is such as

to shock the conscience of the court. *Scheidegger v. Thompson*, Mo.App., 174 S.W.2d 216, 222. See **Remittitur**.

Excessivum in jure reprobatur. *Excessus in re qualibet jure reprobatur communi* /əksesáyvəm in júriy ràprəbéydar. eksésas in ríy kwéyləbat júriy ràprəbéydar kəmyúwhay/. Excess in law is reprehended. Excess in anything is reprehended at common law.

learning are extended to other departments of affairs, other vocations also receive the name, which implies professed attainments in special knowledge as distinguished from mere skill.

Act of professing; a public declaration respecting something. Profession of faith in a religion.

Professional association. Any group of professional people organized to practice their profession together, though not necessarily in corporate or partnership form. A group of professionals organized for education, social activity, lobbying and the like; e.g. bar or medical association. See also Corporation (*Professional*).

Professional corporation. See Corporation.

Professional responsibility. See Canon; Code of Professional Responsibility.

Proffer. To offer or tender, as, the production of a document and offer of the same in evidence.

Proffered evidence. See Proffer.

Proficua /prɒfɪkyuə/. L. Lat. In old English law, profits; especially the "issues and profits" of an estate in land.

Profit. Most commonly, the gross proceeds of a business transaction less the costs of the transaction; i.e. net proceeds. Excess of revenues over expenses for a transaction; sometimes used synonymously with net income for the period. Gain realized from business or investment over and above expenditures.

Profit means accession of good, valuable results, useful consequences, avail, gain, as an office of profit, excess of returns over expenditures or excess of income over expenditure. U. S. v. Mintzes, D.C.Md., 304 F.Supp. 1305, 1312.

The benefit, advantage, or pecuniary gain accruing to the owner or occupant of land from its actual use; as in the familiar phrase "rents, issues and profits," or in the expression "mesne profits."

A division sometimes made of incorporeal hereditaments. Profits are divided into *profits à prendre* and *profits à rendre* (q.v.).

Community of profits. See that title.

Gross profit. The difference between sales and cost of goods sold, but excluding expenses and taxes. See also Gross income.

Mesne profits. Intermediate profits; that is, profits which have been accruing between two given periods. Value of use or occupation of land during time it was held by one in wrongful possession and is commonly measured in terms of rents and profits. When a party has recovered the land its ejectment, he frequently brings an action for the purpose of recovering the profits accruing or arising out of the land when his title to the possession accrued and the time of his recovery in time, and such an action is thence termed an "action for mesne profits."

Net profit. The amount arrived at by deducting from total sales the cost of goods sold and all expenses. See also Net income; Net profits.

Operating profit. The profit arrived at by deducting from sales all expenses attributable to operations but excluding expenses and income related to non-operating activities such as interest payments.

Paper profit. Profit not yet realized as derived from an appreciation in value of an asset not yet sold.

Profit and loss. The gain or loss arising from goods bought or sold, or from carrying on any other business, the former of which, in bookkeeping, is placed on the creditor's side; the latter on the debtor's side. See also Profit and loss account; Profit and loss statement.

Profit à prendre /prɒfəd à prɒndər/. Called also "right of common." A right exercised by one man in the soil of another, accompanied with participation in the profits of the soil thereof. A right to take a part of the soil or produce of the land. A right to take from the soil, such as by logging, mining, drilling, etc. The taking (profit) is the distinguishing characteristic from an easement.

Right of "profit à prendre" is a right to make some use of the soil of another, such as a right to mine metals, and it carries with it the right of entry and the right to remove and take from the land the designated products or profit and also includes right to use such of the surface as is necessary and convenient for exercise of the profit. *Costa Mesa Union School Dist. of Orange County v. Security First Nat. Bank*, 254 Cal.App.2d 4, 62 Cal.Rptr. 113, 118.

Profit à rendre /prɒfəd à rɒndər/. Such as is received at the hands of and rendered by another. The term comprehends rents and services.

Surplus profits. Within the meaning of a statute prohibiting the declaration of corporate dividends other than from such profits, means the excess of receipts over expenditures, or net earnings or receipts, or gross receipts, less expenses of operation. Of a corporation, the difference over and above the capital stock, debts, and liabilities.

Undistributed profits. Profits which have not been distributed to the stockholders in the form of dividends though earned by the corporation. See also Undistributed profits tax.

Undivided profits. See that title.

Profit and loss account. A transfer account of all income and expense accounts which is closed into the surplus account of a corporation or the capital account of a partnership.

Profit and loss statement. A statement showing the income and expenses of a business over a stated time; the difference being the profit or loss for the period.

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g advantage of unusual or exceptional circumstances to make excessive profits; e.g. essential goods at inflated prices in a time of emergency or war.

Profit margin. Sales minus all expenses as a single amount. Frequently used to mean the ratio of sales minus all operating expenses divided by sales.

Profit-sharing plan. A plan established and maintained by an employer to provide for the participation in his

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GAAP. Generally accepted accounting principles.

GAAS. Generally accepted auditing standards.

Gabel /gəbél/. An excise; a tax on movables; a rent, custom, or service. A tax, impost, or excise duty, especially in continental Europe. Formerly, in France, such term referred specifically to the tax on salt, but also applied to taxes on other industrial products.

Land gabel. See Land gabel.

Gabella /gəbēla/. The Law Latin form of "gabel," (q.v.). Also, in Teutonic and early English history, the peasantry constituting a village or hamlet; the holdings of such a group of freemen and serfs, or of either. The original significance of the word seems to be in its indication of a small rent-paying community, the rents being rendered in kind or in labor.

Gablatores /gəblətóriyz/. Persons who paid *gabel*, rent, or tribute.

Gablum /gəbləm/. A rent; a tax.

Gabulus denariorum /gəbyələs dənəriyóram/. Rent paid in money.

Gadsden Purchase. A term commonly applied to the territory acquired by the United States from Mexico by treaty of December 30, 1853, known as the Gadsden Treaty.

Gafol /gəvəl/. The same word as "gabel" or "gavel." Rent; tax; interest of money.

Gage, v. In old English law, to pawn or pledge; to give as security for a payment or performance; to wage or wager.

Gage, n. In old English law, a pawn or pledge; something deposited as security for the performance of some act or the payment of money.

A mortgage is a *dead-gage* or *dead-gage* on real property. Ever profit it yields, it redeems the whole amount secured is paid.

In French law, the contract of *gage* is the article pawned.

Gager de deliverance /géyjer də delíverən(t)s/. In old English law, when he who has distrained, being sued, has not delivered the cattle distrained, then he shall not only avow the distress, but *gager deliverance*, i.e., put in surety or pledge that he will deliver them.

Gager del ley /géyjer dèl léy/. Wager of law (q.v.).

Gag order. An unruly defendant at trial may constitutionally be bound and gagged to prevent further interruptions in the trial. *Illinois v. Allen*, 397 U.S. 337, 90 S.Ct. 1057, 25 L.Ed.2d 353. Term may also refer to an order by the court, in a trial with a great deal of notoriety, directed to attorneys and witnesses, to not discuss the case with reporters—such order being felt necessary to assure the defendant of a fair trial. Term may also refer to orders of the court directed to reporters to not report court proceedings, or certain aspects thereof. Such latter type orders have been struck down by the Supreme Court as being an unconstitutional obstruction of freedom of the press. See *Nebraska Press Ass'n. v. Stuart*, 427 U.S. 539, 96 S.Ct. 2791.

Gain. Profits; winnings; increment of value. Difference between receipts and expenditures; pecuniary gain. Difference between cost and sale price. Appreciation in value or worth of securities or property.

Excess of revenues over expenses from a specific transaction. Frequently used in the context of describing a transaction not part of a firm's typical, day-to-day operations.

"Gain derived from capital" is a gain, profit, or something of exchangeable value proceeding from the property, severed from the capital however invested, and received or drawn by claimant for his separate use, benefit, and disposal. *Commissioner of Internal Revenue v. Simmons Gin Co.*, C.C.A.10, 43 F.2d 327, 328.

See also Acquire; Acquisition; Capital (*Capital gains*); Income; Profit; Return.

Gainage. At common law, the gain or profit of tilled or planted land, raised by cultivating it; and the draught, plow, and furniture for carrying on the work of the baser kind of *sokemen* or *villeins*.

At common law, tillage, or the profit arising from the beasts employed therein.

Gainage is, in general, advantageous, or lucrative.

Gainage is, in general, any employment or occupation. In general, any calling, occupation, profession or work which one may profitably pursue. Within disability clause of life insurance policy, term means ordinary employment of particular insured, or such other employment, if any, as insured may fairly be expected to follow. *Mutual Life Ins. Co. of New York v. Barron*, 198 Ga. 1, 30 S.E.2d 879, 882.

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Slanderous per se. Slanderous in itself; such words as are deemed slanderous without proof of special damages. Generally an utterance is deemed "slanderous per se" when publication (a) charges the commission of a crime; (b) imputes some offensive or loathsome disease which would tend to deprive a person of society; (c) charges a woman is not chaste; or (d) tends to injure a party in his trade, business, office or occupation. *Munafa v. Helfand*, D.C.N.Y., 140 F.Supp. 234, 238. See Restatement, Second, Torts, § 570.

Slate. List of candidates for public office or for positions on board of directors.

Slave. A person who is wholly subject to the will of another; one who has no freedom of action, but whose person and services are wholly under the control of another. One who is under the power of a master, and who belongs to him; so that the master may sell and dispose of his person, of his industry, and of his labor, without his being able to do anything, have anything, or acquire anything, but what must belong to his master. The 13th Amendment abolished slavery.

Slavery. The condition of a slave; that civil relation in which one man has absolute power over the life, fortune, and liberty of another. The 13th Amendment abolished slavery.

Slave-trade. The traffic in slaves, or the buying and selling of slaves for profit.

Slay. This word, in an indictment, adds nothing to the force and effect of the word "kill," when used with reference to the taking of human life. It is particularly applicable to the taking of human life in battle; and, when it is not used in this sense, it is synonymous with "kill."

Sleeping or silent partner. See *Silent partner*.

Slight. A word of indeterminate meaning, variously defined as inconsiderable; unimportant; trifle; remote; ir-

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Slip law. and proi format after its passage.

Slip law print. An annotated pamphlet print (called a slip law print) of each public and private law enacted by Congress is issued shortly after being signed by the President. Slip laws are cumulated into the U.S. Statutes at Large. See *Statutes (Statutes at large)*.

Slip opinion. An individual court decision published separately soon after it is rendered.

Slot machine. Within statute prohibiting operation of slot machines or similar gambling device, an apparatus by which a person depositing money therein may, by chance, get directly or indirectly money or articles of value worth either more or less than the money deposited. *Elder v. Camp*, 193 Ga. 320, 18 S.E.2d 622, 624.

Slough. An arm of a river, flowing between islands and the main-land, and separating the islands from one another. Sloughs have not the breadth of the main river, nor does the main body of water of the stream flow through them.

Slowdown. An organized effort by workers in a plant by which production is slowed to bring pressure on the employer for better terms and conditions of working.

Sluiceway. An artificial channel into which water is let by a sluice. Specifically, a trench constructed over the bed of a stream, so that logs or lumber can be floated down to a convenient place of delivery.

Slum. A squalid, run-down section of a city, town or village, ordinarily inhabited by the very poor and destitute classes; overcrowding is usually a prevailing characteristic.

Slush fund. Money collected or spent for corrupt purposes such as illegal lobbying or the like. *Boehm v. United States*, C.C.A.Mo., 123 F.2d 791, 812.

Small Business Administration. The fundamental purposes of the Small Business Administration (SBA) are to: aid, counsel, assist, and protect the interests of small business; insure that small business concerns receive a fair proportion of Government purchases, contracts, and subcontracts, as well as of the sales of Government property; make loans to small business concerns, State and local development companies, and the victims of floods or other catastrophes, or of certain types of economic injury; license, regulate, and make loans to small business investment companies; improve the management skills of small business owners, potential owners, and managers; conduct studies of the economic environment; and guarantee leases entered into by small business concerns as well as surety bonds issued to them.

Small business corporation. A corporation which satisfies the definition of I.R.C. § 1371(a), § 1244(c)(2) or both. Satisfaction of I.R.C. § 1371(a) permits a Subchapter S election, while satisfaction of § 1244 enables the shareholders of the corporation to claim an ordinary loss on the worthlessness of the stock.

Small Business Investment Act. Federal legislation enacted in 1958 under which investment companies may be organized for supplying long term equity capital to small businesses.

Small Claims Court. A special court (sometimes also called "Conciliation Court") which provides expeditious, informal, and inexpensive adjudication of small claims. Jurisdiction of such courts is usually limited to collection of small debts and accounts. Proceedings are very informal with parties normally representing themselves. These courts are often divisions or departments of courts of general jurisdiction.

Small estate probate. See *Estate*.

Small loan acts. Statutes in effect in nearly all the States fixing the maximum legal rate of interest and other terms on short-term loans by banks and finance companies.

Servitium scuti /sərvɪʃ(i)yəm sk(y)úwday/. Service of the shield; that is, knight-service.

Servitium socæ /sərvɪʃ(i)yəm sówsiy/. Service of the plow; that is, socage.

Servitors of bills /sərvədərz əv bílz/. In old English practice, servants or messengers of the marshal of the king's bench, sent out with bills or writs to summon persons to that court. Thereafter commonly called "tipstaves."

Servitude. The state of a person who is subjected, voluntarily or otherwise, to another person as his servant. A charge or burden resting upon one estate for the benefit or advantage of another; a species of incorporeal right derived from the civil law (see *Servitus*) and closely corresponding to the "easement" of the common-law, except that "servitude" rather has relation to the burden or the estate burdened, while "easement" refers to the benefit or advantage or the estate to which it accrues.

Classification

All servitudes which affect lands may be divided into two kinds,—*personal* and *real*. Personal servitudes are those attached to the person for whose benefit they are established, and terminate with his life. This kind of servitude is of three sorts,—usufruct, use, and habitation. Real servitudes, which are also called "predial" or "landed" servitudes, are those which the owner of an estate enjoys on a neighboring estate for the benefit of his own estate. They are called "predial" or "landed" servitudes because, being established for the benefit of an estate, they are rather due to the estate than to the owner personally. *Frost-Johnson Lumber Co. v. Salling's Heirs*, 150 La. 756, 91 So. 207, 245; *Tide-Water Pipe Co. v. Bell*, 280 Pa. 104, 124 A. 351, 354.

Real servitudes are divided, in the civil law, into *rural* and *urban* servitudes. Rural servitudes are such as are established for the benefit of a landed estate; such, for example, as a right of way over the servient tenement, or of access to a spring, a coal-mine, a sand-pit, or a wood that is upon it. Urban servitudes are such as are established for the benefit of one building over another. (But the buildings need not be in the city, as they may be in the country, or imply.) They are such as the right of support, or of view, sewer, or the like.

Servitudes are also classed as *positive* and *negative*. A positive servitude is one which obliges the owner of the servient estate to permit or suffer something to be done on his property by another. A negative servitude is one which does not bind the servient proprietor to permit something to be done upon his property by another, but merely restrains him from making a certain use of his property which would impair the easement enjoyed by the dominant tenement. *Rowe v. Nally*, 81 Md. 367, 32 A. 198.

Involuntary servitude. See that title.

Servitus /sərvədəs/. Lat. In the civil law, slavery; bondage; the state of service. An institution of the conventional law of nations, by which one person is subjected to the dominion of another, contrary to natural right.

Also a service or servitude; an easement.

Servitus actus /sərvədəs əktəs/. The servitude or right of walking, riding, or driving over another's ground. A species of right of way.

Servitus altius non tollendi /sərvədəs əlsh(i)yəs nòn tolənday/. The servitude of not building higher. A right attached to a house, by which its proprietor can prevent his neighbor from building his own house higher.

Servitus aquæ ducendæ /sərvədəs əkwiy d(y)uwséndiy/. The servitude of leading water; the right of leading water to one's own premises through another's land.

Servitus aquæ educendæ /sərvədəs əkwiy iyd(y)uwséndiy/. The servitude of leading off water; the right of leading off the water from one's own onto another's ground.

Servitus aquæ hauriendæ /sərvədəs əkwiy hòhriyéndiy/. The servitude or right of draining water from another's spring or well.

Servitus fumi immittendi /sərvədəs fyúwmay iməténday/. The servitude or right of leading off smoke or vapor through the chimney or over the ground of one's neighbor.

Servitus itineris /sərvədəs aytínərəs/. The servitude or privilege of walking, riding, and being carried over another's ground. A species of right of way.

Servitus luminum /sərvədəs l(y)úwmanəm/. The servitude of lights; the right of making or having windows or other openings in a wall belonging to another, or in a common wall, in order to obtain light for one's building.

Servitus ne luminibus officiatur /sərvədəs niy l(y)umínabəs əfɪʃiyéyðər/. A servitude not to hinder lights; the right of having one's lights or windows unobstructed or darkened by a neighbor's building, etc.

Servitus ne prospectus offendatur /sərvədəs niy prəspéktəs əfendéyðər/. A servitude not to obstruct one's prospect, i.e., not to intercept the view from one's house.

Servitus oneris ferendi /sərvədəs ównərəs fərənday/. The servitude of bearing weight; the right to let one's building rest upon the building, wall, or pillars of another's building.

Servitus pascendi /sərvədəs pásénday/. The servitude of pasturing; the right of pasturing one's cattle on another's ground; otherwise called "*jus pascendi*."

Servitus pecoris ad aquam adpulsam /sərvədəs pékərəs əd əkwəm ədpólsəm/. A right of driving one's cattle on a neighbor's land to water.

Servitus prædii rustici /sərvədəs priydiyay rástasay/. The servitude of a rural or country estate; a rural

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 urbéynay/.
; an urban

S A prædial
estate upon one
estate for the benefit of another.

Servitus projiciendi /sərvədəs prəjɪʃiyénday/. The servitude of projecting; the right of building a projection from one's house in the open space belonging to one's neighbor.

Inviolate. Intact; not violated; free from substantial impairment. *Com. v. Almeida*, 362 Pa. 596, 68 A.2d 595.

In viridi observantia /in vira-day ob-zerv-ahnsh(iy)a/. Present to the minds of men, and in full force and operation.

Invitation. In the law of negligence, and with reference to trespasses on realty, invitation is the act of one who solicits or incites others to enter upon, remain in, or make use of, his property or structures thereon, or who so arranges the property or the means of access to it or of transit over it as to induce the reasonable belief that he expects and intends that others shall come upon it or pass over it. Thus the proprietor of a store, theatre or amusement park "invites" the public to come upon his premises for such purposes as are connected with its intended use.

The differences in duties of care owed as between and among licensees, business guests and social guests have been eliminated in many jurisdictions so that today reasonable care is owed to all lawful visitors and this phrase includes all but trespassers. *Mounsey v. Ellard*, 363 Mass. 693, 297 N.E.2d 43.

An invitation may be *express*, when the owner or occupier of the land by words invites another to come upon it or make use of it or of something thereon; or it may be *implied* when such owner or occupier by acts or conduct leads another to believe that the land or something thereon was intended to be used as he uses them, and that such use is not only acquiesced in by the owner or occupier, but is in accordance with the intention or design for which the way or place or thing was adapted and prepared and allowed to be used.

See also **Attractive nuisance doctrine; Invitee.**

Invitation to bid. Type of advertisement used by one who desires bids to be submitted for a particular job; it usually contains sufficient specifications to permit an intelligent bid.

Invited error. Underlying basis for rule of "invited error" is that where one party offers inadmissible evidence, which is received, opponent may then offer similar facts whose only claim to admission is that they negative or explain or counterbalance prior inadmissible evidence, presumably upon the same fact, subject or issue. *Wynn v. Sundquist*, 259 Or. 125, 485 P.2d 1085, 1090. See also **Error.**

Invitee. A person is an "invitee" on land of another if

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(1) ... d, (2) his ... or with ... s to be ... uality of ... v. Mi-
Dames ... and down the rule that as to those who enter premises upon business which concerns the occupier, and upon his invitation express or implied, the latter is under an affirmative duty to protect them, not only against dangers of which he knows, but also against those which with reasonable care he might discover. The case has been accepted in all common law jurisdictions, and the invitee, or as he is sometimes called the business visitor, is placed upon a higher footing

than a licensee. The typical example, of course, is the customer in a store. There is however a conflict of decisions as to whether certain visitors are to be included in the definition of invitee. The minority view is that there must be some economic benefit to the occupier before his duty to the visitor attaches. The majority view holds however that the basis of liability is not any economic benefit to the occupier, but a representation to be implied when he encourages others to enter to further a purpose of his own, that reasonable care has been exercised to make the place safe for those who come for that purpose; e.g. persons attending free public lectures, persons using municipal parks, playgrounds, libraries and the like. The element of "invitation" however must exist.

See also **Licensee; Public invitee.**

Invito /invaydow/. Lat. Being unwilling. Against or without the assent or consent.

Invito beneficium non datur /invaydow bena-fish(i)yem non dayu/. A benefit is not conferred on one who is unwilling to receive it; that is to say, no one can be compelled to accept a benefit.

In vocibus videndum non a quo sed ad quid sumatur /in vovsabs vadendem non ey kwow sed ad kwid sameytar/. In discourses, it is to be considered not from what, but to what, it is advanced.

Invoice. A written account, or itemized statement of merchandise shipped or sent to a purchaser, consignee, factor, etc., with the quantity, value or prices and charges annexed, and may be as appropriate to a consignment or a memorandum shipment as it is to a sale. *Joseph B. Cooper & Son, Inc. v. Finlay Depts., Inc.*, 11 Misc.2d 382, 174 N.Y.S.2d 265, 269. Document showing details of a sale or purchase transaction. A list sent to a purchaser, factor, consignee, etc., containing the items, together with the prices and charges of merchandise sent or to be sent to him. A writing made on behalf of an importer, specifying the merchandise imported, and its true cost or value. See also **Consular invoice.**

Invoice book. A book in which invoices are copied.

Involuntary. Without will or power of choice; opposed to volition or desire. An involuntary act is that which is performed with constraint (q.v.) or with repugnance, or without the will to do it. An action is involuntary, then, which is performed under duress, force, or coercion.

As to involuntary Bankruptcy; Indebtedness; Non-suit; and Trust, see those titles.

Involuntary alienation. A loss of or parting with property by attachment, levy, sale for taxes or other debts. See also **Involuntary conveyance.**

Involuntary confession. Confession is "involuntary" if it is not the product of an essentially free and unrestrained choice of its maker or where maker's will is overborne at the time of the confession. *People v. Pickerel*, 32 Ill.App.3d 822, 336 N.E.2d 778, 780. Term refers to confessions that are extracted by any threats of violence, or obtained by direct or implied promises, or by exertion of improper influence. *Phillips v. State*, Okl.Cr., 330 P.2d 209, 214. See also **Interrogation.**

Involuntary conversion. The loss or destruction of property through theft, casualty, or condemnation. Any gain realized on an involuntary conversion can, at the taxpayer's election, be considered nonrecognizable for Federal income tax purposes if the owner reinvests the proceeds within a prescribed period of time in property that is similar or related in service or use. I.R.C. § 1033.

Involuntary conversion for federal income tax purposes must result from (1) destruction of property in whole or in part; or (2) theft; or (3) actual seizure; or (4) requisition or condemnation or threat or imminence of requisition or condemnation. *Hitke v. C. I. R.*, C.A. Ill., 296 F.2d 639, 643, 644.

Involuntary conveyance. A transfer of real property without the consent of the owner, such as in a divorce, in condemnation, etc. See also **Involuntary alienation**; **Sheriff's sale**.

Involuntary deposit. In the law of bailments, one made by the accidental leaving or placing of personal property in the possession of another, without negligence on the part of the owner, or, in cases of fire, shipwreck, inundation, riot, insurrection, or the like extraordinary emergencies, by the owner of personal property committing it out of necessity to the care of any person.

Involuntary discontinuance. A discontinuance is involuntary where, in consequence of technical omission, misleading, or the like, the suit is regarded as out of court, as where the parties undertake to refer a suit that is not referable, or omit to enter proper continuances.

Involuntary lien. A lien, such as a tax lien, judgment lien, etc., which attaches to property without the consent of the owner, rather than a mortgage lien, to which the owner agrees.

Involuntary manslaughter. The unlawful killing of a human being in the commission not amounting to felony, or in the lawful act which might produce death in a lawful manner, or without due caution a An unlawful homicide, unintentional act which constitutes such disharmful consequences to another wanton or reckless conduct. *Com. v. McCauley*, 355 Mass. 554, 246 N.E.2d 425, 428. See also **Manslaughter**.

Involuntary payment. One obtained by fraud, oppression, or extortion, or to avoid the use of force to coerce it, or to obtain the release of the person or property from detention.

Involuntary servitude. The condition of one who is compelled by force, coercion, or imprisonment, and against his will, to labor for another, whether he is paid or not. *Ex parte Wilson*, 114 U.S. 417, 5 S.Ct. 935, 29 L.Ed. 89; *In re Slaughterhouse Cases*, 83 U.S. (16 Wall.) 69, 21 L.Ed. 394; *Robertson v. Baldwin*, 165 U.S. 275, 17 S.Ct. 326, 41 L.Ed. 715. Slavery, peonage, or compulsory labor for debts; all of which are prohibited by the 13th Amendment, U.S.Const.

Involuntary transfer. See **Involuntary conveyance**.

Involuntary trust. An implied trust which arises because the law imposes trust-like consequences on certain transactions where, for example, an agent breaches his fiduciary duty and buys property in his own name which rightfully should have been purchased for the benefit of his principal (constructive trust) or A supplies the funds for purchase of property by B with the understanding that A will own it but title will be taken in the name of B (resulting trust).

In witness whereof /in wítnas (h)wèróv/. The initial words of the concluding clause in deeds: "In witness whereof the said parties have hereunto set their hands", etc. A translation of the Latin phrase "*in cujus rei testimonium*".

Iota. The minutest quantity possible. Iota is the smallest Greek letter. The word "jot" is derived therefrom.

IOU. A memorandum of debt, consisting of these letters ("I owe you"), a sum of money and the debtor's signature, is termed an "IOU".

Ipsæ leges cupiunt ut jure regantur /ípsiy líyjiz kyúwpiyánt ðt júriy ragántər/. The laws themselves require that they should be governed by right.

Iipse /ípsiy/. Lat. He himself; the same; the very person.

Iipse dixit /ípsiy díksət/. He himself said it; a bare assertion resting on the authority of an individual.

Ipsissimis verbis /ípsísaməs vərbəs/. In the identical words; opposed to "substantially".

Ipsso facto /ípsow fáktow/. By the fact itself; by the mere fact. By the mere effect of an act or a fact.

Ipsso jure /ípsow júriy/. By the law itself; by the mere operation of law.

IRA. Individual Retirement Account.

/áyra fyúrar bríyvəs èst/. Anger is a

wívdəs/. Lat. Moved or excited by assault *demesne*.

Retirement Annuity.

IRB. Individual Retirement Bond.

I.R.C. Internal Revenue Code.

I.R.D. Income in respect of decedent.

Ire ad largum /áyriy æd lárgəm/. Lat. To go at large; to escape; to be set at liberty.

Iron-safe clause. A clause in policies of fire insurance, requiring the insured to preserve his books and inventory in an iron or fireproof safe, or in some secure place not exposed to a fire which would destroy the building. This provision casts on the insured the responsibility for the loss of books and records if due to the wrongful act or negligence of himself or his employees in failing to comply with the requirement.

Irrational. Unreasonable, foolish, illogical, absurd; a person may be irrational in such sense, and still not be insane in the legal sense.

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L. This letter, as a Roman numeral, stands for the number "fifty." It is also used as an abbreviation for "law," "liber," (a book) "lord," and some other words of which it is the initial.

La. Fr. The. The definite article in the feminine gender. Occurs in some legal terms and phrases.

Label. Anything appended to a larger writing, as a codicil.

A narrow slip of paper or parchment affixed to a deed or writ, in order to hold the appending seal.

An affixation to or marking on a manufactured article, giving information as to its nature or quality, or the contents of a material, package or container, or the name of the maker, etc. *Higgins v. Keuffel*, 140 U.S. 428, 11 S.Ct. 731, 35 L.Ed. 470. The informational content of such labels is often governed by federal and state laws; e.g. Fair Packaging and Labeling Act. 15 U.S.C.A. § 1457.

In English law, a copy of a writ in the exchequer.

Labina /ləbáyna/. In old records, water land.

Labor. Work; toil; service; mental or physical exertion. Term normally refers to work for wages as opposed to work for profits; though the word is sometimes construed to mean service rendered or part played in production of wealth. *Britt v. Cotter Butte Mines*, 108 Mont. 174, 89 P.2d 266, 267. Includes superintendence or supervision of work. *Wandling v. Broaddus, Mo.*, 10 S.W.2d 651, 655; *United States for Use and Benefit of Farwell, Ozmun, Kirk & Co. v. Shea-Adamson Co.*, D.C.Minn., 21 F.Supp. 831, 837.

Term "labor" as used in the Clayton Act is not limited to the work of manual laborers or of mechanics, but comprises intellectual labor as well. *U. S. v. National Ass'n of Real Estate Boards*, D.C.D.C., 84 F.Supp. 802, 803.

A Spanish land measure, in use in Mexico and formerly in Texas, equivalent to 177½ acres.

See also **Agricultural labor; Farm labor or laborer; Laborer.**

Labor a jury. To tamper with a jury; to endeavor to influence them in their verdict, or their verdict generally. Jury tampering is a crime. See e.g. 18 U.S.C.A. §§ 1503, 1504.

Laborariis /ləybərériyəs/. An ancient writ against persons who refused to serve and do labor, and who had no means of living; or against such as, having served in the winter, refused to serve in the summer.

Labor contract. Contract between employer and employees (i.e. union) which governs working conditions, wages, fringe benefits, and grievances. See **Collective bargaining agreement; Master agreement; More favorable terms clause.**

Labor dispute. Term generally includes any controversy concerning terms, tenure, hours, wages, fringe benefits, or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment. National Labor Relations Act, § 2(9). However, not every activity of labor organization and not even every controversy in which it may become involved is "labor dispute" within National Labor Relations Act. *N. L. R. B. v. International Longshoremen's Ass'n, Md.* 332 F.2d 992, 995, 996.

Laborer. The word ordinarily denotes one who subsists by physical labor. *American Surety Co. of New York v. Stuart, Tex.Civ.App.*, 151 S.W.2d 886, 888. One who, as a means of livelihood, performs work and labor for another. See **Farm labor or laborer; Labor Work.**

Laborers' lien. Species of non-possessory lien which gives preference to laborer who works on job for payment of his wages ahead of general creditors. Such liens are generally governed by state statutes. See **Mechanic's lien.**

Labor-management relations. Term used to describe broad spectrum of activities which concern relationship of employees to employers both union and non-union. See **Fair Labor Standards Act; Labor-Management Relations Act; National Labor Relations Act; National Labor Relations Board.**

Labor-Management Relations Act. Federal statute (Taft-Hartley Act) which regulates certain union activities, permits suits against unions for proscribed acts, prohibits certain strikes and boycotts and provides machinery for settling strikes which involve national emergencies. 29 U.S.C.A. § 141 et seq.

Labor organization. Means a labor organization engaged in an industry affecting commerce and includes any organization of any kind, any agency, or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, or dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and any conference, gen-

that a grant of "all his woods" (*omnes boscos suos*) will pass the land, as well as the trees growing upon it.

Woodwards. In English law, officers of the forest, whose duty consists in looking after the wood and vert and venison, and preventing offenses relating to the same.

Words. Symbols indicating ideas and subject to contraction and expansion to meet the idea sought to be expressed. Such have been referred to as labels whose content and meaning are continually shifting with the times. *Massachusetts Protective Ass'n v. Bayersdorfer, C.C.A.Ohio, 105 F.2d 595, 597.*

As used in law, this term generally signifies the technical terms and phrases appropriate to particular instruments, or aptly fitted to the expression of a particular intention in legal instruments. See the subtitles following.

Words actionable in themselves. In libel and slander, refer to words which are libelous or slanderous per se. See **Actionable per se.**

Words of art. The vocabulary or terminology of a particular art or science, and especially those expressions which are idiomatic or peculiar to it.

Words of limitation. See **Limitation.**

Words of procreation. To create an estate tail by deed, it is necessary that words of procreation should be used in order to confine the estate to the descendants of the first grantee, as in the usual form of limitation, —"to A. and the heirs of his body."

Words of purchase. See **Purchase.**

Work. To exert one's self for a purpose; to put forth effort for the attainment of an object; to be engaged in the performance of a task, duty, or the like. The term covers all forms of physical or mental exertions, or both combined, for the attainment of some object other than recreation or amusement. *Tennessee Coal, Iron & R. Co. v. Muscoda Local No. 123, Ala., 321 U.S. 590, 64 S.Ct. 698, 703, 705, 88 L.Ed. 949.* See also **Labor.**

Work and labor. The name of one of the common counts in actions of *assumpsit*, being for work and labor done and materials furnished by the plaintiff for the defendant.

Workaway. Extra man employed on vessel as an accommodation to himself. *The Tashmoo, D.C.N.Y., 48 F.2d 366, 368.*

Worker. See **Workman.**

Workers' Compensation Acts. See **Workmen's Compensation Acts.**

Workhouse. Place of confinement for persons convicted of lesser offenses. Such imprisonment is usually for a relatively short duration.

Working capital. Cash and other quick assets. *Crocker v. Waltham Watch Co., 315 Mass. 397, 53 N.E.2d 230, 237.* In accounting the difference between current assets and current liabilities. In public utilities the amount of cash required by a business to carry on operations.

Working interest. See **Royalty.**

Working papers. By statute in certain states, such must be filed by one employing a minor.

Discovery. See **Work product rule.**

Workman. One who labors; one employed to do business for another. One employed in manual labor, skilled or unskilled; an artificer, mechanic, or artisan.

Workmen's or Workers' Compensation Acts. State statutes which provide for fixed awards to employees or their dependents in case of employment related accidents and diseases, dispensing with proof of negligence and legal actions. Some of the acts go beyond the simple determination of the right to compensation, and provide insurance systems, either under state supervision or otherwise. The various state acts vary as to extent of workers and employment covered, amount and duration of benefits, etc.

The effect of most workmen's or workers' compensation acts is to make the employer strictly liable to an employee for injuries sustained by the employee which arise out of and in the course of employment, without regard to the negligence of the employer or that of the employee. Where the Act applies, it has been uniformly held that this remedy is exclusive and bars any common-law remedy which the employee may have had, the compensation scheduled under the act being the sole measure of damage.

Federal employees are covered by the Federal Employees Compensation Act; seamen by the Jones Act; longshoremen and harbor workers by the Longshoremen's and Harbor Workers' Compensation Act. Additional benefits to disabled workers are provided under Title II of the Social Security Act.

Workmen's or workers' compensation boards or courts. Such exist in many states with jurisdiction to review cases arising under workmen's or workers' compensation acts and related rules and regulations.

Workmen's or workers' compensation insurance. Insurance coverage purchased by employers to cover risks under workmen's or workers' compensation laws. Such is usually mandated by state acts, unless the employer is self-insured. See also **Insurance.**

Work of national importance. Under the Selective Service Act providing that conscientious objectors should be assigned to such work means work of value to the nation for the common defense and general welfare. *50 U.S.C.A. Appendix § 305(g).* *United States ex rel. Zucker v. Osborne, D.C.N.Y., 54 F.Supp. 984, 986, 987.*

Work of necessity. As excepted from operation of Sunday closing statutes embraces all work reasonably essential to the economic, social or moral welfare of the people, viewed in light of the habits and customs of the age in which they live and of the community in which they reside. *Francisco v. Commonwealth, 180 Va. 371, 23 S.E.2d 234, 238, 239.*

Work product rule. A party may obtain discovery of documents and tangible things otherwise discoverable under Rule 26(b)(1) and prepared in anticipation of litigation or for trial by or for another party or by or for that other party's representative (including his attorney, consultant, surety, indemnitor, insurer, or

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EXHIBIT B
Benders Federal Revenue Law 1916
(4 pages)

L. BENDER'S

FEDERAL REVENUE LAW

1916

THE REVENUE ACT OF SEPTEMBER 8, 1916
WITH
NOTES AND COMMENTARIES

ALSO
FEDERAL TAXATION IN GENERAL

BY THE PUBLISHER'S EDITORIAL STAFF



ALBANY, N. Y.
MATTHEW BENDER & COMPANY
INCORPORATED
1917

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Bender's Federal revenue
Law, 1916

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PREFACE.

↑ Wars and rumors of wars teach governments new tricks of taxation. The word, trick, is not unworthy. Taxation has been defined as "the art of so plucking the goose as to secure the largest amount of feathers with the least amount of squawking."¹ Any nationwide excitement facilitates the imposition of new burdens. Jingo is a great captain of the forces of revenue and expenditure. Public opinion, or sentiment, wise or otherwise, is powerful upon public men. "In imposing a tax, the Legislature acts upon its constituents. This is, in general, a sufficient security against erroneous and oppressive taxation." Marshall, Ch.J., in *McCulloch v. Maryland*, *infra*. Whenever there is a real or pretended need of money, ways and means must and will be found. Sovereignty, especially popular sovereignty, owns no limitations. We have Federal and State sovereignty, and in ordinary times the former has not often nor long used its taxing power to any great extent. General tendencies of centralization and special temporary needs are now again awakening both the people and the government to a sense of things not formerly established in the national habits.

¹ Colbert (1619-1683), Louis XIV's Finance Comptroller, a really great statesman who, when he died, had to be buried at night, for fear of outrages by vindictive "geese."

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Internal Revenue Service IRS.gov

DEPARTMENT OF THE TREASURY

Policy Statement 20-1 (Formerly P-1-18)

Effective Date: June 29, 2004

1. Penalties enhance voluntary compliance: The Internal Revenue Service has a responsibility to collect the proper amount of tax revenue in the most efficient manner. Penalties provide the Service with an important tool to achieve that goal because they enhance voluntary compliance by taxpayers. In order to make the most efficient use of penalties, the Service will design, administer, and evaluate penalty programs based on how those programs can most efficiently encourage voluntary compliance.
2. Penalties encourage voluntary compliance by: (1) demonstrating the fairness of the tax system to compliant taxpayers; and (2) increasing the cost of noncompliance.
3. In order to effectively use penalties to encourage compliant conduct, examiners and their managers must consider the applicability of penalties in each case, and fully develop the penalty issue when the initial consideration indicates that penalties should apply. That is, examiners and their managers must consider the elements of each potentially applicable penalty and then fully develop the facts to support the application of the penalty, or to establish that the penalty does not apply, when the initial consideration indicates that penalties should apply. Full development of the penalty issue is important for Appeals to sustain a penalty and for Counsel to successfully defend that penalty in litigation.
4. Abusive transactions, frivolous returns, and other abusive taxpayer conduct undermine the fairness and integrity of the federal tax system and undercut voluntary compliance. Thus, it is particularly important in those cases for examiners and their managers to consider the potential applicability of penalties, and to develop fully the facts to either support the application of the penalty or to demonstrate that penalties should not apply. Consistent development and proper application of the accuracy-related and fraud penalties in abusive transaction cases will help curb this activity by imposing tangible economic consequences on taxpayers who engage in those transactions. In addition, consistent development and proper application of the promoter and preparer penalties in abusive transaction cases will help curb this activity by providing an economic deterrent for promoting abusive transactions and preparing returns claiming tax benefits from abusive transactions. An abusive transaction is one where a significant purpose of the transaction is the avoidance or evasion of Federal tax.
5. Special Rule for Listed Transactions. The Service will fully develop accuracy-related or fraud penalties in all cases where an underpayment of tax is attributable to a listed transaction. For purposes of this Policy Statement, a listed transaction is a transaction the Service has identified as a listed transaction pursuant to the regulations under § 6011 of the Code.
6. In limited circumstances where doing so will promote sound and efficient tax administration, the Service may approve a reduction of otherwise applicable penalties or penalty waiver for a group or class of taxpayers as part of a Service-wide resolution strategy to encourage efficient and prompt resolution of cases of noncompliant taxpayers.
7. In considering the application of penalties to a particular case, all Service functions must develop procedures that will promote:
 - a. Consistency in the application of penalties compared to similar cases;
 - b. Unbiased analysis of the facts in each case; and
 - c. The proper application of the law to the facts of the case.
8. The Service will demonstrate the fairness of the tax system to all taxpayers by:
 - a. Providing every taxpayer against whom the Service proposes to assess penalties with a reasonable opportunity to provide evidence that the penalty should not apply;
 - b. Giving full and fair consideration to evidence in favor of not imposing the penalty, even after the Service's initial consideration supports imposition of a penalty; and
 - c. Determining penalties when a full and fair consideration of the facts and the

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law support doing so.

This means that penalties are not a "bargaining point" in resolving the taxpayer's other tax adjustments. Rather, the imposition of penalties in appropriate cases serves as an incentive for taxpayers to avoid careless or overly aggressive tax reporting positions.

9. The Service will continue to develop, monitor, and revise programs to help taxpayers voluntarily comply with the law and avoid penalties.
 10. To promote consistent development, consideration, and application of penalties, the Service prescribes guidelines in a Penalty Handbook that all operating divisions and functions will follow. The Office of Penalty and Interest Administration must review and approve changes to the Penalty Handbook for consistency with Service Policy before making recommended changes.
 11. The Service collects statistical and demographic information to evaluate penalties and penalty administration, and to determine the effectiveness of penalties in promoting voluntary compliance. The Service continually evaluates the impact of the penalty program on compliance and recommends changes when the Internal Revenue Code or penalty administration does not effectively promote voluntary compliance.
 12. Approved: Mark E. Matthews, Deputy Commissioner for Services and Enforcement
-

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EXHIBIT C
IRS Publication 556 Appeal Rights
(4 pages)



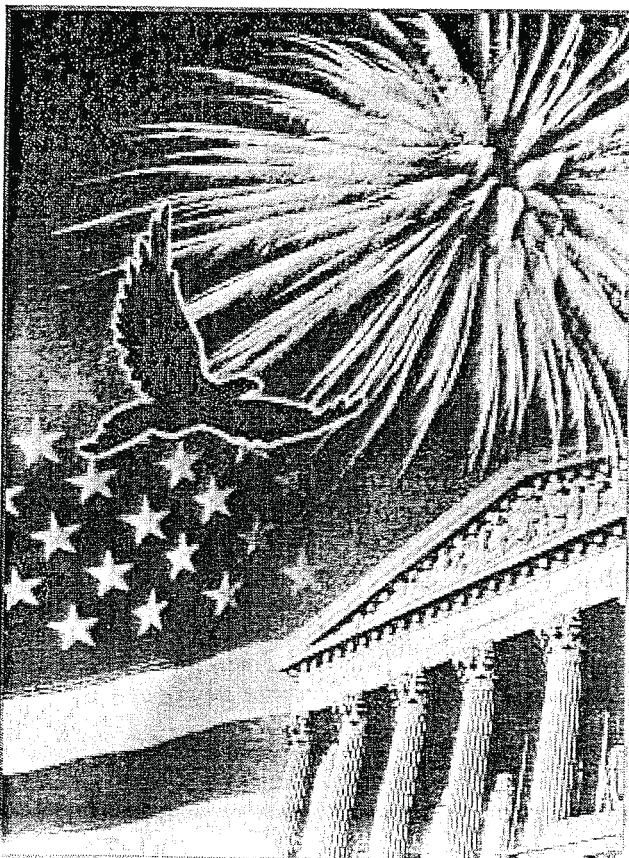
Department of the Treasury
Internal Revenue Service

Publication 556

(Rev. August 2005)

Cat. No. 15104N

Examination of Returns, Appeal Rights, and Claims for Refund



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The IRS Mission

Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all.

Important Reminder

Fast track mediation. The IRS offers fast track mediation services to help taxpayers resolve many disputes resulting from:

- Examinations (audits),
- Offers in compromise,
- Trust fund recovery penalties, and
- Other collection actions.

See *Fast track mediation* under *If You Do Not Agree*.

Introduction

The Internal Revenue Service (IRS) accepts most federal tax returns as filed. However, the IRS examines (or audits) some returns to determine if income, expenses, and credits are being reported accurately.

If your return is selected for examination, it does not suggest that you made an error or are dishonest. Returns are chosen by computerized screening, by random sample, or by an income document matching program. See *Examination selection criteria*, later. You should also know that many examinations result in a refund or acceptance of the tax return without change.

The publication also provides general information on procedures that the IRS will use in resolving disputes that may happen during an examination and your appealing a decision both within the IRS and in the federal court system. It also explains how to file a claim for refund of tax you already paid.

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Prod0174

As a taxpayer, you have the right to be treated fairly, professionally, promptly, and courteously by IRS employees. Publication 1, Your Rights as a Taxpayer, explains your rights when dealing with the IRS.

Comments and suggestions. We welcome your comments about this publication and your suggestions for future editions.

You can write to us at the following address:

Internal Revenue Service
 Individual Forms and Publications Branch
 SE:W:CAR:MP:T:I
 1111 Constitution Ave. NW, IR-6406
 Washington, DC 20224

We respond to many letters by telephone. Therefore, it would be helpful if you would include your daytime phone number, including the area code, in your correspondence.

You can email us at [*taxforms@irs.gov](mailto:taxforms@irs.gov). (The asterisk must be included in the address.) Please put "Publications Comment" on the subject line. Although we cannot respond individually to each email, we do appreciate your feedback and will consider your comments as we revise our tax products.

Tax questions. If you have a tax question, visit www.irs.gov or call 1-800-829-1040. We cannot answer tax questions at either of the addresses listed above.

Ordering forms and publications. Visit www.irs.gov/formspubs to download forms and publications, call 1-800-829-3676, or write to the National Distribution Center at the address shown under *How To Get Tax Help* in the back of this publication.

Useful Items

You may want to see:

Publication

- 1 Your Rights as a Taxpayer
- 5 Your Appeal Rights and How To Prepare a Protest If You Don't Agree
- 547 Casualties, Disasters, and Thefts
- 594 The IRS Collection Process
- 910 Guide to Free Tax Services
- 971 Innocent Spouse Relief (And Separation of Liability and Equitable Relief)
- 1546 The Taxpayer Advocate Service of the IRS
- 1660 Collection Appeal Rights
- 3605 Fast Track Mediation
- 3920 Tax Relief for Victims of Terrorist Attacks

Form (and Instructions)

- 843 Claim for Refund and Request for Abatement

- 1040X Amended U.S. Individual Income Tax Return
- 2848 Power of Attorney and Declaration of Representative
- 4506 Request for Copy of Tax Return
- 4506-T Request for Transcript of Tax Return
- 8379 Injured Spouse Claim and Allocation
- 8857 Request for Innocent Spouse Relief (And Separation of Liability and Equitable Relief)

See *How To Get Tax Help*, near the end of this publication, for information about getting these publications and forms.

Examination of Returns

Your return may be examined for a variety of reasons, and the examination may take place in any one of several ways. After the examination, if any changes to your tax are proposed, you can either agree with those changes and pay any additional tax you may owe, or you can disagree with the changes and appeal the decision.

Examination selection criteria. Your return may be selected for examination on the basis of computer scoring. A computer program called the Discriminant Inventory Function System (DIF) assigns a numeric score to each individual and some corporate tax returns after they have been processed. If your return is selected because of a high score under the DIF system, the potential is high that an examination of your return will result in a change to your income tax liability.

Your return may also be selected for examination on the basis of information received from third-party documentation, such as Forms 1099 and W-2, that does not match the information reported on your return. Or, your return may be selected to address both the questionable treatment of an item and to study the behavior of similar taxpayers (a market segment) in handling a tax issue.

In addition, your return may be selected as a result of information received from other sources on potential non-compliance with the tax laws or inaccurate filing. This information can come from a number of sources, including newspapers, public records, and individuals. The information is evaluated for reliability and accuracy before it is used as the basis of an examination or investigation.

Notice of IRS contact of third parties. The IRS must give you reasonable notice before contacting other persons about your tax matters. You must be given reasonable notice in advance that, in examining or collecting your tax liability, the IRS may contact third parties such as your neighbors, banks, employers, or employees. The IRS must also give you notice of specific contacts by providing you with a record of persons contacted on both a periodic basis and upon your request.

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Prod0175



This provision does not apply:

- To any pending criminal investigation,
- When providing notice would jeopardize collection of any tax liability,
- Where providing notice may result in reprisal against any person, or
- When you authorized the contact.

Taxpayer Advocate Service. The Taxpayer Advocate Service is an independent organization within the IRS whose goal is to help taxpayers resolve problems with the IRS. If you have an ongoing issue with the IRS that has not been resolved through normal processes, or you have suffered, or are about to suffer a significant hardship as a result of the administration of the tax laws, contact the Taxpayer Advocate Service.



Before contacting the Taxpayer Advocate, you should first discuss any problem with a supervisor. Your local Taxpayer Advocate will assist you if you are unable to resolve the problem with the supervisor.

For more information, see Publication 1546. See *How To Get Tax Help*, near the end of this publication for more information about contacting the Taxpayer Advocate Service.

Comments from small business. The Small Business and Agricultural Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards have been established to receive comments from small business about federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities of each agency and rate their responsiveness to small business. If you wish to comment on the enforcement actions of the IRS, you can take any of the following steps.

- Fax your comments to 1-202-481-5719.
- Write to the following address:
Office of the National Ombudsman
U.S. Small Business Administration
409 3rd Street, SW
Washington, DC 20416.
- Call 1-888-734-3247.
- Send an email to ombudsman@sba.gov.
- File a comment or complaint online at www.sba.gov/ombudsman.

If Your Return Is Examined

Some examinations are handled entirely by mail. Examinations not handled by mail can take place in your home

your place of business, an Internal Revenue office, or the office of your attorney, accountant, or enrolled agent. If the time, place, or method is not convenient for you, the examiner will try to work out something more suitable. However, the IRS makes the final determination of when, where, and how the examination will take place.

Throughout the examination, you can act on your own behalf or have someone represent you or accompany you. If you filed a joint return, either you or your spouse, or both, can meet with the IRS. You can have someone represent or accompany you. This person can be any federally authorized practitioner, including an attorney, a certified public accountant, an enrolled agent (a person enrolled to practice before the IRS), an enrolled actuary, or the person who prepared the return and signed it as the preparer.

If you want someone to represent you in your absence, you must furnish that person with proper written authorization. You can use Form 2848 or any other properly written authorization. If you want to consult with an attorney, a certified public accountant, an enrolled agent, or any other person permitted to represent a taxpayer during an interview for examining a tax return or collecting tax, you should make arrangements with that person to be available for the interview. In most cases, the IRS must suspend the interview and reschedule it. The IRS cannot suspend the interview if you are there because of an administrative summons.

Third party authorization. If you checked the box in the signature area of your income tax return (Form 1040, Form 1040A, or Form 1040EZ) to allow the IRS to discuss your return with another person (a third party designee), this authorization does not replace Form 2848. The box you checked on your return only authorizes the other person to receive information about the processing of your return and the status of your refund during the period your return is being processed. For more information, see the instructions for your return.

Confidentiality privilege. Generally, the same confidentiality protection that you have with an attorney also applies to certain communications that you have with federally authorized practitioners.

Confidential communications are those that:

- Advise you on tax matters within the scope of the practitioner's authority to practice before the IRS,
- Would be confidential between an attorney and you, and
- Relate to noncriminal tax matters before the IRS, or
- Relate to noncriminal tax proceedings brought in federal court by or against the United States.

In the case of communications in connection with the promotion of a person's participation in a tax shelter, the confidentiality privilege does not apply to written communications between a federally authorized practitioner and that person, any director, officer, employee, agent, or representative of that person, or any other person holding a capital or profits interest in that person.

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A tax shelter is any entity, plan, or arrangement, a significant purpose of which is the avoidance or evasion of income tax.

Recordings. You can make an audio recording of the examination interview. Your request to record the interview should be made in writing. You must notify the examiner 10 days in advance and bring your own recording equipment. The IRS also can record an interview. If the IRS initiates the recording, you must be notified 10 days in advance and you can get a copy of the recording at your expense.

Transfers to another area. Generally, your return is examined in the area where you live. But if your return can be examined more quickly and conveniently in another area, such as where your books and records are located, you can ask to have the case transferred to that area.

Repeat examinations. The IRS tries to avoid repeat examinations of the same items, but sometimes this happens. If your tax return was examined for the same items in either of the 2 previous years and no change was proposed to your tax liability, please contact the IRS as soon as possible to see if the examination should be discontinued.

The Examination

An examination usually begins when you are notified that your return has been selected. The IRS will tell you which records you will need. The examination can proceed more easily if you gather your records before any interview.

Any proposed changes to your return will be explained to you or your authorized representative. It is important that you understand the reasons for any proposed changes. You should not hesitate to ask about anything that is unclear to you.



The IRS must follow the tax laws set forth by Congress in the Internal Revenue Code. The IRS also follows Treasury Regulations, other rules, and procedures that were written to administer the tax laws. The IRS also follows court decisions. However, the IRS can lose cases that involve taxpayers with the same issue and still apply its interpretation of the law to your situation.

Most taxpayers agree to changes proposed by examiners, and the examinations are closed at this level. If you do not agree, you can appeal any proposed change by following the procedures provided to you by the IRS. A more complete discussion of appeal rights is found later under *Appeal Rights*.

If You Agree

If you agree with the proposed changes, you can sign an agreement form and pay any additional tax you may owe. You must pay interest on any additional tax. If you pay when you sign the agreement, the interest is generally figured from the due date of your return to the date of your payment.

If you do not pay the additional tax when you sign the agreement, you will receive a bill that includes interest. If you pay the amount due within 10 business days of the

billing date, you will not have to pay more interest or penalties. This period is extended to 21 calendar days if the amount due is less than \$100,000.

If you are due a refund, you will receive it sooner if you sign the agreement form. You will be paid interest on the refund.

If the IRS accepts your tax return as filed, you will receive a letter in a few weeks stating that the examiner proposed no changes to your return. You should keep this letter with your tax records.

If You Do Not Agree

If you do not agree with the proposed changes, the examiner will explain your appeal rights. If your examination takes place in an IRS office, you can request an immediate meeting with the examiner's supervisor to explain your position. If an agreement is reached, your case will be closed.

If you cannot reach an agreement with the supervisor at this meeting, or if the examination took place outside of an IRS office, the examiner will write up your case explaining your position and the IRS' position. The examiner will forward your case for processing.

Fast track mediation. The IRS offers fast track mediation services to help taxpayers resolve many disputes resulting from:

- Examinations (audits),
- Offers in compromise,
- Trust fund recovery penalties, and
- Other collection actions.

Most cases that are not docketed in any court qualify for fast track mediation. Mediation can take place at a conference you request with a supervisor, or later. The process involves an Appeals Officer who has been trained in mediation. You may represent yourself at the mediation session, or someone else can act as your representative. For more information, see Publication 3605.

30-day letter and 90-day letter. Within a few weeks after your closing conference with the examiner and/or supervisor, you will receive a package with:

- A letter (known as a 30-day letter) notifying you of your right to appeal the proposed changes within 30 days,
- A copy of the examination report explaining the examiner's proposed changes,
- An agreement or waiver form, and
- A copy of Publication 5.

You generally have 30 days from the date of the 30-day letter to tell the IRS whether you will accept or appeal the proposed changes. The letter will explain what steps you should take, depending on which action you choose. Be sure to follow the instructions carefully. *Appeal Rights* are explained later.

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EXHIBIT D
Title 26 IRC and CFR; IRS Privacy Act Statement and PRA Notice
(14 pages)

**Internal Revenue Code
as amended through August 31, 2005**

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—P.L. 101-508, Sec. 11531(b)(3), added "or the alternative tax energy preference deduction under section 56(b)" before ", and" in para. (b)(1), effective for tax yrs. begin. after 12/31/90.

—P.L. 101-508, Sec. 11801(c)(2)(E), deleted "(and the last sentence of section 56(f)(2)(B))" after "164(a)(5)" in para. (b)(2), effective 11/5/90 except as provided in Sec. 11821(b) of this Act reproduced at note following Code Sec. 56.

In 1988, P.L. 100-647, Sec. 2001(c)(1), redesignated subsecs. (c) and (d) as subsecs. (d) and (e) and added new subsec. (c) . . . Sec. 2001(c)(3)(B), added "(and the last sentence of section 56(f)(2)(B))" before the period at the end of para. (b)(2), effective for tax yrs. begin. after 12/31/86.

In 1986, P.L. 99-499, Sec. 516(a), added Code Sec. 59A, as part of Part VII of subchapter A of chapter 1, effective for tax yrs. begin. after 12/31/86.

PART VIII REPEALED [SUPPLEMENTAL MEDICARE PREMIUM]

Sec.

59B. Repealed [Supplemental medicare premium.]

In 1989, P.L. 101-234, Sec. 102(a), repealed as if not enacted Sec. 111(a) of P.L. 100-360, which added Part VIII to Subchapter A of chapter 1.

Prior to repeal, Part VIII read as follows:

"PART VIII. SUPPLEMENTALMEDICARE PREMIUM

"Sec.

"59B. Supplemental medicare premium."

In 1988, P.L. 100-360, Sec. 111(a), [repealed as if not enacted by Sec. 102(a) of P.L. 101-234, see above] added Part VIII to Subchapter A of chapter 1.

Sec. 59B. Repealed.

In 1989, P.L. 101-234, Sec. 102(a), repealed as if not enacted Sec. 111(a) of P.L. 100-360, which added Code Sec. 59B, effective tax yrs. begin. after 12/31/88.

In 1988, P.L. 100-360, Sec. 111(a), [repealed as if not enacted by Sec. 102(a) of P.L. 101-234, see above] added Code Sec. 59B as part of Part VIII of subchapter A of chapter 1, effective for tax yrs. begin. after 12/31/88. Sec. 111(d) of this Act provides:

Subchapter B.—Computation of Taxable Income

Part

- I. Definition of gross income, adjusted gross income, taxable income, etc.
- II. Items specifically included in gross income.
- III. Items specifically excluded from gross income.
- IV. Determination of marital status. [Tax exemption requirements for State and local bonds.]
- V. Deductions for personal exemptions.
- VI. Itemized deductions for individuals and corporations.
- VII. Additional itemized deductions for individuals.
- VIII. Special deductions for corporations.
- IX. Items not deductible.
- X. Terminal railroad corporations and their shareholders.
- XI. Special rules relating to corporate preference items.

In 1986, P.L. 99-514, Sec. 1301(b), amended Part IV. This Act did not amend the item for Part IV on the list of Parts for Subchapter B, but Congress presumably intended to do so.

In 1982, P.L. 97-248, Sec. 204(c)(2), added part XI.

In 1977, P.L. 95-30, Sec. 101(e)(3), amended the item for Part IV.

Prior to amendment, the item for Part IV read as follows:

"IV. Standard deduction for individuals."

In 1976, P.L. 94-455, Sec. 1901(b)(4)(C), substituted "taxable income, etc." for "and taxable income" in the item for Part I

In 1962, P.L. 87-870, Sec. 1, added part X

PART I.—DEFINITION OF GROSS INCOME, ADJUSTED GROSS INCOME, TAXABLE INCOME, ETC.

Sec.

- 61. Gross income defined.
- 62. Adjusted gross income defined.
- 63. Taxable income defined.
- 64. Ordinary income defined.
- 65. Ordinary loss defined.
- 66. Treatment of community income.
- 67. 2-percent floor on miscellaneous itemized deductions.
- 68. Overall limitation on itemized deductions.

In 1990, P.L. 101-508, Sec. 11103(d), added item 68.

In 1986, P.L. 99-514, Sec. 132(d), added item 67.

In 1984, P.L. 98-369, Sec. 424(b)(2)(C), deleted "where spouses live apart" from the end of item 66.

In 1980, P.L. 96-605, Sec. 101(b), added item 66.

In 1976, P.L. 94-455, Sec. 1901(b)(4)(A), added items 64 and 65. . . . Sec. 1901(b)(4)(B), substituted "taxable income, etc." for "and taxable income" in the heading for Part I

Sec. 61. Gross income defined.

(a) General definition.

Except as otherwise provided in this subtitle, gross income means all income from whatever source derived, including (but not limited to) the following items:

- (1) Compensation for services, including fees, commissions, fringe benefits, and similar items;
- (2) Gross income derived from business;
- (3) Gains derived from dealings in property;
- (4) Interest;
- (5) Rents;
- (6) Royalties;
- (7) Dividends;
- (8) Alimony and separate maintenance payments;
- (9) Annuities;
- (10) Income from life insurance and endowment contracts;
- (11) Pensions;
- (12) Income from discharge of indebtedness;
- (13) Distributive share of partnership gross income;
- (14) Income in respect of a decedent; and
- (15) Income from an interest in an estate or trust.

(b) Cross references.

For items specifically included in gross income, see part II (sec. 71 and following). For items specifically excluded from gross income, see part III (sec. 101 and following).

In 2002, P.L. 107-134, Sec. 105, of this Act, reads as follows:

"Sec. 105 EXCLUSION OF CERTAIN CANCELLATIONS OF INDEBTEDNESS

"(a) In general. For purposes of the Internal Revenue Code of 1986—

"(1) gross income shall not include any amount which (but for this section) would be includible in gross income by reason of the discharge (in whole or in part) of indebtedness of any taxpayer if the discharge is by reason of the death of an individual incurred as the result of the terrorist attacks against the United States on September 11, 2001, or as the result of illness incurred as a result of an attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002 and

"(2) return requirements under section 6050P of such Code shall not apply to any discharge described in paragraph (1).

"(b) Effective date. This section shall apply to discharges made on or after September 11, 2001, and before January 1, 2002."

In 2001, P.L. 107-16, Sec. 803, of this Act, reads as follows:

"SEC. 803. NO FEDERAL INCOME TAX ON RESTITUTION RECEIVED BY VICTIMS OF THE NAZI REGIME OR THEIR HEIRS OR ESTATES

"(a) In general. For purposes of the Internal Revenue Code of 1986, any excludable restitution payments received by an eligible individual (or the individual's heirs w estate) and my excludable interest—

"(1) shall not be included in gross income; and

"(2) shall not be taken into account for purposes of applying any provision of such Code which takes into account excludable income in comput-

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Income

Part II

a separate return by a married individual within the meaning of section 7703).

(2) **Inflation adjustments.** In the case of any taxable year beginning in a calendar year after 1991, each dollar amount contained in paragraph (1) shall be increased by an amount equal to—

- (A) such dollar amount, multiplied by
- (B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting "calendar year 1990" for "calendar year 1992" in subparagraph (B) thereof.

(c) **Exception for certain itemized deductions.**

For purposes of this section, the term "itemized deductions" does not include—

- (1) the deduction under section 213 (relating to medical, etc. expenses),
- (2) any deduction for investment interest (as defined in section 163(d)), and
- (3) the deduction under section 165(a) for casualty or theft losses described in paragraph (2) or (3) of section 165(c) or for losses described in section 165(d).

(d) **Coordination with other limitations.**

This section shall be applied after the application of any other limitation on the allowance of any itemized deduction.

(e) **Exception for estates and trusts.**

This section shall not apply to any estate or trust.

Caution: Subsecs. (f) and (g), following, are effective for tax yrs. begin. after 12/31/2005. For sunset provisions, see Sec. 901 of P.L. 107-16 reproduced in the history of this Code Sec.

(f) **Phaseout of limitation.**

(1) **In general.** In the case of taxable years beginning after December 31, 2005, and before January 1, 2010, the reduction under subsection (a) shall be equal to the applicable fraction of the amount which would (but for this subsection) be the amount of such reduction.

(2) **Applicable fraction.** For purposes of paragraph (1), the applicable fraction shall be determined in accordance with the following table:

For taxable years beginning in calendar year—	The applicable fraction is—
2006 and 2007.....	1/2
2008 and 2009.....	1/3

(g) **Termination.**

This section shall not apply to any taxable year beginning after December 31, 2009.

In 2002, P.L. 107-358, Sec. 2, added subsec. (c) in Sec. 901 of P.L. 107-16 (see below), effective 12/17/2002.

In 2001, P.L. 107-16, Sec. 103(a), added subsecs. (f) and (g), effective for tax yrs. begin. after 12/31/2005.

—P.L. 107-16, Sec. 901, of this Act [as amended by Sec. 2 of P.L. 107-358, see above], reads as follows:

"Sec. 901. SUNSET OF PROVISIONS OF ACT.

"(a) In general. All provisions of, and amendments made by, this Act shall not apply—

"(1) to taxable, plan, or limitation years beginning after December 31, 2010, or

"(2) in the use of title V, to estates of decedents dying, gifts made, or generation skipping transfers, after December 31, 2010.

"(b) Application of certain laws. The Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 shall be applied and administered to years, estates, gifts, and transfers described in subsection (a)

as if the provisions and amendments described in subsection (a) had never been enacted.

"(c) **Exception.** Subsection (a) shall not apply to section 803 (relating to no federal income tax on restitution received by victims of the Nazi regime or their heirs or estates)."

In 1998, P.L. 105-277, Sec. 4004(b)(2), substituted "for casualty or theft losses described in paragraph (2) or (3) of section 165(c) or for losses described in section 165(d)" for "for losses described in subsection (c)(3) or (d) of section 165" in para. (c)(3), effective for tax yrs. begin. after 12/31/90.

In 1993, P.L. 103-66, Sec. 13201(b)(3)(E), substituted "1992" for "1989" in subpara. (b)(2)(B), effective for tax yrs. begin. after 12/31/92.

— P.L. 103-66, Sec. 13204, deleted subsec. (f), effective 8/10/93.

Prior to deletion, subsec. (f) read as follows:

"(f) **Termination.** This section shall not apply to any taxable year beginning after December 31, 1995."

In 1990, P.L. 101-508, Sec. 11103(a), added Code Sec. 68, effective for tax yrs. begin. after 12/31/90.

PART II. ITEMS SPECIFICALLY INCLUDED IN GROSS INCOME

- 71. Alimony and separate maintenance payments.
- 72. Annuities; certain proceeds of endowment and life insurance contracts.
- 73. Services of child.
- 74. Prizes and awards.
- 75. Dealers in tax-exempt securities.
- 76. Repealed. [Mortgages made or obligations issued by joint-stock land banks.]
- 77. Commodity credit loans.
- 78. Dividends received from certain foreign corporations by domestic corporations choosing foreign tax credit.
- 79. Group-term life insurance purchased for employees.
- 80. Restoration of value of certain securities.
- 81. Repealed. [Increase in vacation pay suspense account]
- 82. Reimbursement of moving expenses. [Reimbursement for expenses of moving.]
- 83. Property transferred in connection with performance of services.
- 84. Transfer of appreciated property to political organizations.
- 85. Unemployment compensation.
- 86. Social security and tier 1 railroad retirement benefits.
- 87. Alcohol fuel credit.
- 88. Certain amounts with respect to nuclear decommissioning costs.
- 89. Repealed. Benefits provided under certain employee benefit plans.]
- 90. Illegal federal irrigation subsidies.

In 1989, P.L. 101-239, Sec. 7822(c), amended item 90.

Prior to amendment item 90 read as follows:

"90. Federal irrigation subsidies."

—P.L. 101-140, Sec. 202(b), repealed item 89.

Prior to repeal, item 89 read as follows:

"89. Benefits provided under certain employee benefit plans."

In 1987, P.L. 100-203, Sec. 10201(b)(6), repealed item 81.

Prior to repeal, item 81 read as follows:

"81. Increase in vacation pay suspense account."

—P.L. 100-203, Sec. 10611(b), added item 90.

In 1986, P.L. 99-514, Sec. 805(c)(1)(B), amended item 81.

Prior to amendment, item 81 read as follows:

"81. Certain increases in suspense accounts."

—P.L. 99-514, Sec. 1151(j)(1), added item 89.

In 1984, P.L. 98-369, Sec. 91(f)(2), added item 88.

In 1983, P.L. 98-21, Sec. 121(f)(3), redesignated item 86 as 87 and added new item 86.

In 1980, P.L. 96-223, Sec. 232(c)(3), added item 86.

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Code Sec. 199(d)(4)(B)

Deductions

affiliated group as defined in section 1504(a), determined—

- (i) by substituting "50 percent" for "80 percent" each place it appears, and
- (ii) without regard to paragraphs (2) and (4) of section 1504(b).

(C) Allocation of deduction. Except as provided in regulations, the deduction under subsection (a) shall be allocated among the members of the expanded affiliated group in proportion to each member's respective amount (if any) of qualified production activities income.

(5) Trade or business requirement. This section shall be applied by only taking into account items which are attributable to the actual conduct of a trade or business.

(6) Coordination with minimum tax. The deduction under this section shall be allowed for purposes of the tax imposed by section 55; except that for purposes of section 55, the deduction under subsection (a) shall be 9 percent of the lesser of—

- (A) qualified production activities income (determined without regard to part IV of subchapter A), or
- (B) alternative minimum taxable income (determined without regard to this section) for the taxable year.

In the case of an individual, subparagraph (B) shall be applied by substituting "adjusted gross income" for "alternative minimum taxable income". For purposes of the preceding sentence, adjusted gross income shall be determined in the same manner as provided in paragraph (2).

(7) Regulations. The Secretary shall prescribe such regulations as are necessary to carry out the purposes of this section.

In 2004, P.L. 108-357, Sec. 102(a), added Code Sec. 199, effective for tax yrs. begin. after 12/31/2004.

PART VII.—ADDITIONAL ITEMIZED DEDUCTIONS FOR INDIVIDUALS

Sec.

- 211. Allowance of deductions.
- 212. Expenses for production of income.
- 213. Medical, dental, etc., expenses.
- 214. Repealed. [Expenses for household and dependent care services necessary for gainful employment.]
- 215. Alimony, etc., payments.
- 216. Deduction of taxes, interest, and business depreciation by cooperative housing corporation tenant-stockholder.
- 217. Moving expenses.
- 218. Contributions to candidates for public office. [Repealed.]
- 219. Retirement savings.
- 220. Archer MSAs.
- 221. Interest on education loans.
- 222. Qualified tuition and related expenses.
- 223. Health savings accounts.
- 224. Cross reference.

In 2003, P.L. 108-173, Sec. 1201(a), redesignated item 223 as 224, and added new item 223

In 2001, P.L. 107-16, Sec. 431(c)(4), deleted item 222 and added items 222 and 223.

Prior to deletion, item 222 read as follows:
"222. Cross reference."

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In 2000, P.L. 106-554, Sec. 1(a)(7) [which enacted into law Sec. 202(b)(9) of H.R. 5662], amended item 220.

Prior to amendment, item 220 read as follows:

- 1. "220. Medical savings accounts."

In 1997, P.L. 105-34, Sec. 202(d), deleted item 221 and added new 221 and 222.

Prior to deletion, item 221 read as follows:

- "221. Cross reference."

In 1996, P.L. 104-191, Sec. 301(i), deleted item 220 and added new items 220 and 221.

Prior to deletion, item 220 read as follows:

- "220. Cross reference."

In 1990, P.L. 101-508, Sec. 11802(e)(3), repealed items 220 and 221, and added new item 220.

Prior to repeal, items 220 and 221 read as follows:

- "220. Jury duty pay remitted to employer.
- "221. Cross References."

In 1988, P.L. 100-647, Sec. 6007(c), repealed item 220 and added items 220 and 221.

Prior to repeal, item 220 read as follows:

- "220. Cross references."

In 1986, P.L. 99-514, Sec. 131(b)(3), repealed item 221... Sec. 135(b)(2), repealed items 222 and 223 and added item 220... Sec. 301(b)(5)(B), substituted "reference" for "references" in item 223 [before redesignation by Sec. 135(b)(1) of this Act.]

Prior to repeal, item 221 read as follows:

- "221. Deduction for two-earner married couples."

Prior to repeal, items 222 and 223 [as amended by P.L. 99-514, Sec. 301(b)(5), above] read as follows:

- "Sec. 222. Adoption expenses."
- "Sec. 223. Cross references."

In 1981, P.L. 97-34, Sec. 103(c)(3), redesignated item 221 as 222 and added new item 221... Sec. 125(b), redesignated item 222 [as redesignated by Sec. 103(c)(3) of this Act] as 223 and added new item 222... Sec. 311(h)(11), repealed item 220.

Prior to repeal, item 220 read as follows:

- "220. Retirement savings for certain married individuals."

In 1978, P.L. 95-600, Sec. 113(a)(1), repealed Code Sec. 218. This Act did not amend the list of Code Secs. for Part VII, but presumably Congress intended to.

Prior to repeal, the heading for Code Sec. 218 read as follows:

- "Sec. 218. Contributions to candidates for public office."

In 1976, P.L. 94-455, Sec. 504(b)(2), repealed item 214.

Prior to repeal, item 214 read as follows:

- "214. Expenses for household and dependent care services necessary for gainful employment."

—P.L. 94-455, Sec. 1501(c), amended item 220 and added item 221.

Prior to amendment, item 220 read as follows:

- "220. Cross references."

In 1974, P.L. 93-406, Sec. 2002(h)(1), redesignated item 219 as 220 and added new item 219.

In 1971, P.L. 92-178, Sec. 702(c), redesignated item 218 as 219, and added new item 218... Sec. 210(b), amended item 214.

Prior to amendment, item 214 read as follows:

- "Expenses for care of certain dependents."

In 1964, P.L. 82-272, Sec. 213(a)(2), redesignated item 217 as 218, and added new item 217.

In 1962, P.L. 87-834, Sec. 28(b), amended item 216.

Prior to amendment, item 216 read as follows:

- "Amounts representing taxes and interest paid to cooperative housing corporation."

Sec. 211. Allowance of deductions.

In computing taxable income under section 63, there shall be allowed as deductions the items specified in this part, subject to the exceptions provided in part IX (section 261 and following, relating to items not deductible).

in 1977, P.L. 95-30, Sec. 102(b)(3), substituted section 63 for "section 63(a)", effective for tax yrs. begin. after 12/31/76

Sec. 212. Expenses for production of income.

In the case of an individual, there shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year—

- (1) for the production or collection of income;

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definition of moving expenses), irrespective of the dollar limitations contained in section 217(b)(3) and the conditions contained in section 217(c), as well as items not described in section 217 (b), such as a loss sustained on the sale or exchange of personal property, storage charges, taxes, or expenses of refitting rugs or draperies.

(5) *Attributable to employment or self-employment.* Any amount received or accrued from an employer, a client, a customer, or similar person in connection with the performance of services for such employer, client, customer, or similar person, is attributable to employment or self-employment. Thus, for example, if an employer reimburses an employee for a loss incurred on the sale of the employee's house, reimbursement is attributable to the performance of services if made because of the employer-employee relationship. Similarly, if an employer in order to prevent an employee's sustaining a loss on a sale of a house acquires the property from the employee at a price in excess of fair market value, the employee is considered to have received a payment attributable to employment to the extent that such payment exceeds the fair market value of the property.

(b) *Effective date*—(1) *In general.* Except as provided in subparagraph (2) of this paragraph, paragraph (a) of this section is applicable only to amounts received or accrued in taxable years beginning after December 31, 1969.

(2) *Election with respect to payments or reimbursements for expenses paid or incurred before January 1, 1971.* Paragraph (a) of this section does not apply with respect to moving expenses paid or incurred before January 1, 1971, in connection with the commencement of work by an employee at a new principal place of work where such employee had been notified by his employer on or before December 19, 1969, of such move and the employee makes an election under paragraph (h) of § 1.217-2.

[T. D. 7195. 37 FR 13533. July 11, 1972. as amended by T. D. 7578. 43 FR 59355. Dec. 20, 1978]

§ 1.83-1 Property transferred in connection with the performance of services.

(a) *Inclusion in gross income*—(1) *General rule.* Section 83 provides rules for the taxation of property transferred to an employee or independent contractor (or beneficiary thereof) in connection with the performance of services by such employee or independent contractor. In general, such property is not taxable under section 83(a) until it has been transferred (as defined in § 1.83-3(a)) to such person and become substantially vested (as defined in § 1.83-3(b)) in such person. In that case, the excess of—

(4) The fair market value of such property (determined without regard to any lapse restriction, as defined in § 1.83-3(i)) at the time that the property becomes substantially vested, over

(ii) The amount (if any) paid for such property, shall be included as compensation in the gross income of such employee or independent contractor for the taxable year in which the property becomes substantially vested. Until such property becomes substantially vested, the transferor shall be regarded as the owner of such property, and any income from such property received by the employee or independent contractor (or beneficiary thereof) or the right to the use of such property by the employee or independent contractor constitutes additional compensation and shall be included in the gross income of such employee or independent contractor for the taxable year in which such income is received or such use is made available. This paragraph applies to a transfer of property in connection with the performance of services even though the transferor is not the person for whom such services are performed.

(2) *Life insurance.* The cost of life insurance protection under a life insurance contract, retirement income contract, endowment contract, or other contract providing life insurance protection is taxable generally under section 61 and the regulations thereunder during the period such contract remains substantially nonvested (as defined in § 1.83-3(b)). For the taxation of life insurance protection under a split-

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provide services in the construction of an office building on property owned by X corporation. X corporation has 100 shares of preferred stock outstanding and an additional 500 shares of common stock outstanding. The preferred stock has a liquidation value of \$1,000, which is equal to the value of all assets owned by X. Therefore, the book value of the common stock in X corporation is \$0. Under the terms of the transfer, if B wishes to dispose of the stock, B must offer to sell the stock to X for 150 percent of the then existing book value of B's common stock. The stock is also subject to a substantial risk of forfeiture until B performs the agreed-upon services. B makes a timely election under section 83(b) to include the value of the stock in gross income in 1971. Under these facts and circumstances, the restriction to which the shares of X corporation common stock are subject is a nonlapse restriction. In determining the fair market value of the X common stock at the time of transfer, the book value formula price would ordinarily be regarded as determinative of such value. However, the fair market value of X common stock at the time of transfer, subject to the book value restriction, is greater than \$0 since B was willing to agree to provide valuable personal services in exchange for the stock. In determining the fair market value of the stock, the expected book value after construction of the office building would be given great weight. The likelihood of completion of construction would be a factor in determining the expected book value after completion of construction.

[T.D. 7554, 43 FR 31918, July 24, 1978]

↙
§ 1.83-6 Deduction by employer.

(a) *Allowance of deduction—(1) General rule.* In the case of a transfer of property in connection with the performance of services, or a compensatory cancellation of a nonlapse restriction described in section 83(d) and § 1.83-5, a deduction is allowable under section 162 or 212 to the person for whom the services were performed. The amount of the deduction is equal to the amount included as compensation in the gross income of the service provider under section 83 (a), (b), or (d)(2), but only to the extent the amount meets the requirements of section 162 or 212 and the regulations thereunder. The deduction is allowed only for the taxable year of that person in which or with which ends the taxable year of the service provider in which the amount is included as compensation. For purposes of this paragraph, any amount excluded from gross income under section

79 or section 101(b) or subchapter N is considered to have been included in gross income.

(2) *Special Rule.* For purposes of paragraph (a)(1) of this section, the service provider is deemed to have included the amount as compensation in gross income if the person for whom the services were performed satisfies in a timely manner all requirements of section 6041 or section 6041A, and the regulations thereunder, with respect to that amount of compensation. For purposes of the preceding sentence, whether a person for whom services were performed satisfies all requirements of section 6041 or section 6041A, and the regulations thereunder, is determined without regard to § 1.6041-3(c) (exception for payments to corporations). In the case of a disqualifying disposition of stock described in section 421(b), an employer that otherwise satisfies all requirements of section 6041 and the regulations thereunder will be considered to have done so timely for purposes of this paragraph (a)(2) if Form W-2 or Form W-2c, as appropriate, is furnished to the employee or former employee, and is filed with the federal government, on or before the date on which the employer files the tax return claiming the deduction relating to the disqualifying disposition.

(3) *Exceptions.* Where property is substantially vested upon transfer, the deduction shall be allowed to such person in accordance with his method of accounting (in conformity with sections 446 and 461). In the case of a transfer to an employee benefit plan described in § 1.162-10(a) or a transfer to an employees' trust or annuity plan described in section 404(a)(5) and the regulations thereunder, section 83(h) and this section do not apply.

(4) *Capital expenditure, etc.* No deduction is allowed under section 83(h) to the extent that the transfer of property constitutes a capital expenditure, an item of deferred expense, or an amount properly includible in the value of inventory items. In the case of a capital expenditure, for example, the basis of the property to which such capital expenditure relates shall be increased at the same time and to the same extent as any amount includible in the employee's gross income in respect of

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such transfer. Thus, for example, no deduction is allowed to a corporation in respect of a transfer of its stock to a promoter upon its organization, notwithstanding that such promoter must include the value of such stock in his gross income in accordance with the rules under section 83.

(5) *Transfer of life insurance contract (or an undivided interest therein)*—(i) *General rule.* In the case of a transfer of a life insurance contract (or an undivided interest therein) described in §1.61-22(c)(3) in connection with the performance of services, a deduction is allowable under paragraph (a)(1) of this section to the person for whom the services were performed. The amount of the deduction, if allowable, is equal to the sum of the amount included as compensation in the gross income of the service provider under §1.61-22(g)(1) and the amount determined under §1.61-22(g)(1)(ii).

(ii) *Effective date—(A) General rule.* Paragraph (a)(5)(1) of this section applies to any split-dollar life insurance arrangement (as defined in §1.61-22(b)(1) or (2)) entered into after September 17, 2003. For purposes of this paragraph (a)(5), an arrangement is entered into as determined under §1.61-22(j)(1)(ii).

(B) *Modified arrangements treated as new arrangements.* If an arrangement entered into on or before September 17, 2003 is materially modified (within the meaning of §1.61-22(j)(2)) after September 17, 2003, the arrangement is treated as a new arrangement entered into on the date of the modification.

(6) *Effective date.* Paragraphs (a)(1) and (2) of this section apply to deductions for taxable years beginning on or after January 1, 1995. However, taxpayers may also apply paragraphs (a)(1) and (2) of this section when claiming deductions for taxable years beginning before that date if the claims are not barred by the statute of limitations. Paragraphs (a)(3) and (4) of this section are effective as set forth in §1.83-8(b).

(b) *Recognition of gain or loss.* Except as provided in section 1032, at the time of a transfer of property in connection with the performance of services the transferor recognizes gain to the extent that the transferor receives an

amount that exceeds the transferor's basis in the property. In addition, at the time a deduction is allowed under section 83(h) and paragraph (a) of this section, gain or loss is recognized to the extent of the difference between (1) the sum of the amount paid plus the amount allowed as a deduction under section 83(h), and (2) the sum of the taxpayer's basis in the property plus any amount recognized pursuant to the previous sentence.

(c) *Forfeitures.* If, under section 83(h) and paragraph (a) of this section, a deduction, an increase in basis, or a reduction of gross income was allowable (disregarding the reasonableness of the amount of compensation) in respect of a transfer of property and such property is subsequently forfeited, the amount of such deduction, increase in basis or reduction of gross income shall be includible in the gross income of the person to whom it was allowable for the taxable year of forfeiture. The basis of such property in the hands of the person to whom it is forfeited shall include any such amount includible in the gross income of such person, as well as any amount such person pays upon forfeiture.

(d) *Special rules for transfers by shareholders—(1) Transfers.* If a shareholder of a corporation transfers property to an employee of such corporation or to an independent contractor (or to a beneficiary thereof), in consideration of services performed for the corporation, the transaction shall be considered to be a contribution of such property to the capital of such corporation by the shareholder, and immediately thereafter a transfer of such property by the corporation to the employee or independent contractor under paragraphs (a) and (b) of this section. For purposes of this (1), such a transfer will be considered to be in consideration for services performed for the corporation if either the property transferred is substantially nonvested at the time of transfer or an amount is includible in the gross income of the employee or independent contractor at the time of transfer under §1.83-1(a)(1) or §1.83-2(a). In the case of such a transfer, any money or other property paid to the shareholder for such stock shall be considered to be paid to the corporation



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Section 1.12741 also issued under 26 U.S.C. 1275(d).
 Section 1.1274-2 also issued under 26 U.S.C. 1275(d).
 Section 1.12743 also issued under 26 U.S.C. 1275(d).
 Section 1.1274-4 also issued under 26 U.S.C. 1275(d).
 Section 1.12745 also issued under 26 U.S.C. 1275(d).
 Section 1.1274A-1 also issued under 26 U.S.C. 1274A(e) and 26 U.S.C. 1275(d).
 Section 1.1275-1 also issued under 26 U.S.C. 1275(d).
 Section 1.1275-2 also issued under 26 U.S.C. 1275(d).
 Section 1.1275-3 also issued under 26 U.S.C. 1275(d).
 Section 1.1275-4 also issued under 26 U.S.C. 1275(d).
 Section 1.1275-5 also issued under 26 U.S.C. 1275(d).
 Section 1.1275-6 also issued under 26 U.S.C. 1275(d).
 Section 1.1275-7 also issued under 26 U.S.C. 1275(d).
 Section 1.12861 also issued under 26 U.S.C. 1275(D) and 1286(f).
 Section 1.1286-2 also issued under 26 U.S.C. 1286(f).
 Section 1.1287-1 also issued under 26 U.S.C. 165 (j)(3).
 Section 1.1291-1 also issued under 26 U.S.C. 1291.
 Section 1.1291-9 also issued under 26 U.S.C. 1291(d)(2).
 Section 1.1291-10 also issued under 26 U.S.C. 1291(d)(2).
 Section 1.1293-1 also issued under 26 U.S.C. 1293.
 Section 1.1294-1T also issued under 26 U.S.C. 1294.
 Section 1.1295-1 also issued under 26 U.S.C. 1295.
 Section 1.1295-3 also issued under 26 U.S.C. 1295.
 Section 1.12961 also issued under 26 U.S.C. 1296(g) and 26 U.S.C. 1298(f).
 Section 1.1296(e)-1 also issued under 26 U.S.C. 1296(e).
 Section 1.1297-3T also issued under 26 U.S.C. 1297(b)(1).
 Section 1.1301-1 also issued under 26 U.S.C. 1301(c).
 Section 1.1361-1(j) (6), (10) and (11) also issued under 26 U.S.C. 1361(d)(2)(B)(iii).
 Section 1.1361-1(l) also issued under 26 U.S.C. 1361(e)(6)(C).
 Sections 1.1362-1, 1.1362-2, 1.1362-3, 1.1362-4, 1.1362-5, 1.1362-6, 1.1362-7, and 1.1363-1 also issued under 26 U.S.C. 1377.
 Section 1.1368-1(f) and (g) also issued under 26 U.S.C. 1377(c).
 Section 1.1368-2(b) also issued under 26 U.S.C. 1368(c).
 Section 1.1374-1 also issued under 26 U.S.C. 1374(e) and 337(d).
 Section 1.13742 also issued under 26 U.S.C. 1374(e) and 337(d).
 Section 1.13743 also issued under 26 U.S.C. 1374(e) and 337(d).
 Section 1.1374-4 also issued under 26 U.S.C. 1374(e) and 337(d).
 Section 1.13745 also issued under 26 U.S.C. 1374(e) and 337(d).
 Section 1.1374-6 also issued under 26 U.S.C. 1374(e) and 337(d).
 Section 1.1374-7 also issued under 26 U.S.C. 1374(e) and 337(d).
 Section 1.1374-8 also issued under 26 U.S.C. 1374(e) and 337(d).
 Section 1.1374-8T also issued under 26 U.S.C. 337(d) and 1374(e).
 Section 1.13749 also issued under 26 U.S.C. 1374(e) and 337(d).
 Section 1.137410 also issued under 26 U.S.C. 1374(e) and 337(d).
 Section 1.1374-10T also issued under 26 U.S.C. 337(d) and 1374(e).
 Section 1.1377-1 also issued under 26 U.S.C. 1377(a)(2) and (c).
 Section 1.1394-1 also issued under 26 U.S.C. 1397D.
 Section 1.13961 also issued under 26 U.S.C. 1397D.
 Section 1.1397E-1 also issued under 26 U.S.C. 1397E(b) and (d).
 SOURCE: T.D. 6500, 25 FR 11910, Nov. 26, 1960; 25 FR 14021, Dec. 31, 1960, unless otherwise noted.

GAIN OR LOSS ON DISPOSITION OF PROPERTY

DETERMINATION OF AMOUNT OF AND RECOGNITION OF GAIN OR LOSS

§ 1.1001-1 Computation of gain or loss.

(a) General rule. Except as otherwise provided in subtitle A of the Code, the gain or loss realized from the conversion of property into cash, or from the exchange of property for other property differing materially either in kind or in extent, is treated as income or as loss sustained. The amount realized from a sale or other disposition of property is the sum of any money received plus the fair market value of any property (other than money) received. The fair market value of property is a question of fact, but only in rare and extraordinary cases will property be considered to have no fair market value. The general method of computing such gain or loss is prescribed by section 1001 (a) through (d) which contemplates that from the amount realized upon the sale or exchange there shall be withdrawn a sum sufficient to

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restore the adjusted basis prescribed by section 1011 and the regulations thereunder (i.e., the cost or other basis adjusted for receipts, expenditures, losses, allowances, and other items chargeable against and applicable to such cost or other basis). The amount which remains after the adjusted basis has been restored to the taxpayer constitutes the realized gain. If the amount realized upon the sale or exchange is insufficient to restore to the taxpayer the adjusted basis of the property, a loss is sustained to the extent of the difference between such adjusted basis and the amount realized. The basis may be different depending upon whether gain or loss is being computed. For example, see section 1015(a) and the regulations thereunder. Section 1001(e) and paragraph (f) of this section prescribe the method of computing gain or loss upon the sale or other disposition of a term interest in property the adjusted basis (or a portion) of which is determined pursuant, or by reference, to section 1014 (relating to the basis of property acquired from a decedent) or section 1015 (relating to the basis of property acquired by gift or by a transfer in trust).

(b) *Real estate taxes as amounts received.* (1) Section 1001(b) and section 1012 state rules applicable in making an adjustment upon a sale of real property with respect to the real property taxes apportioned between seller and purchaser under section 164(d). Thus, if the seller pays (or agrees to pay) real property taxes attributable to the real property tax year in which the sale occurs, he shall not take into account, in determining the amount realized from the sale under section 1001(b), any amount received as reimbursement for taxes which are treated under section 164(d) as imposed upon the purchaser. Similarly, in computing the cost of the property under section 1012, the purchaser shall not take into account any amount paid to the seller as reimbursement for real property taxes which are treated under section 164(d) as imposed upon the purchaser. These rules apply whether or not the contract of sale calls for the purchaser to reimburse the seller for such real property taxes paid or to be paid by the seller.

(2) On the other hand, if the purchaser pays (or is to pay) an amount representing real property taxes which are treated under section 164(d) as imposed upon the seller, that amount shall be taken into account both in determining the amount realized from the sale under section 1001(b) and in computing the cost of the property under section 1012. It is immaterial whether or not the contract of sale specifies that the sale price has been reduced by, or is in any way intended to reflect, the taxes allocable to the seller. See also paragraph (b) of § 1.1012-1.

(3) Subparagraph (1) of this paragraph shall not apply to a seller who, in a taxable year prior to the taxable year of sale, pays an amount representing real property taxes which are treated under section 164(d) as imposed on the purchaser, if such seller has elected to capitalize such amount in accordance with section 266 and the regulations thereunder (relating to election to capitalize certain carrying charges and taxes).

(4) The application of this paragraph may be illustrated by the following examples:

Example 1. Assume that the contract price on the sale of a parcel of real estate is \$50,000 and that real property taxes thereon in the amount of \$1,000 for the real property tax year in which occurred the date of sale were previously paid by the seller. Assume further that \$750 of the taxes are treated under section 164(d) as imposed upon the purchaser and that he reimburses the seller in that amount in addition to the contract price. The amount realized by the seller is \$50,000. Similarly, \$50,000 is the purchaser's cost. If, in this example, the purchaser made no payment other than the contract price of \$50,000, the amount realized by the seller would be \$49,250, since the sales price would be deemed to include \$750 paid to the seller in reimbursement for real property taxes imposed upon the purchaser. Similarly, \$49,250 would be the purchaser's cost.

Example 2. Assume that the purchaser in example (1), above, paid all of the real property taxes. Assume further that \$250 of the taxes are treated under section 164(d) as imposed upon the seller. The amount realized by the seller is \$50,250. Similarly, \$50,250 is the purchaser's cost, regardless of the taxable year in which the purchaser makes actual payment of the taxes.

Example 3. Assume that the seller described in the first part of example (1), above, paid

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he makes no other charitable contributions. On the date of transfer the securities have a fair market value of \$100,000 and an adjusted basis to A of 80,000.

(b) The present value of the right of a male age 65 to receive a life annuity of \$5,000 per annum, payable in equal installments at the end of each monthly period, is \$59,755 (\$5,000 x [11.469 + 0.482]), determined in accordance with section 101(b) of the Code, paragraph (e)(1)(ii)(b)(2) of § 1.101-2, and section 3 of Rev. Rul. 62-216. C.B. 1962-2, 30. Thus, A makes a charitable contribution to the church of \$40,245 (\$100,000 - \$59,755). See Rev. Rul. 84162, 19842 C.B. 200, for transfers for which the valuation date falls after November 23, 1984. (See § 601.601(d)(2)(ii)(b) of this chapter). For the applicable valuation tables in connection therewith, see § 20.2031-7(d)(6) of this chapter. See, however, § 1.7520-3(b) (relating to exceptions to the use of standard actuarial factors in certain circumstances).

(c) Under paragraph (b) of this section, the adjusted basis for determining gain on the bargain sale is \$11,951 (\$20,000 x \$59,755 / \$100,000). Accordingly, A has a recognized long-term capital gain of \$47,804 (\$59,755 - \$11,951) on the bargain sale. Such gain is to be reported by A ratably over the period of years measured by the expected return multiple under the contract, but only from that portion of the annual payments which is a return of his investment in the contract under section 72 of the Code. For such purposes, the investment in the contract is \$59,755, that is, the present value of the annuity.

(d) The computation and application of the exclusion ratio, the gain, and the ordinary annuity income are as follows, determined by using the expected return multiple of 15.0 applicable under table I of § 1.72-9:

A's expected return (annual payments of \$5,000 x 15)	\$75,000.00
Exclusion ratio (\$59,755 investment in contract divided by expected return of \$75,000)	79.7%
Annual exclusion (annual payments of \$5,000 x 79.7%)	\$3,985.00
Ordinary annuity income (\$5,000 - \$3,985)	\$1,015.00
Long-term capital gain per year (\$47,804/15) with respect to the annual exclusion	\$3,186.93

(e) The exclusion ratio of 79.7 percent applies throughout the life of the contract. During the first 15 years of the annuity, A is required to report ordinary income of \$1,015 and long-term capital gain of \$3,186.93 with respect to the annuity payments he receives. After the total long-term capital gain of \$47,804 has been reported by A, he is required to report only ordinary income of \$1,015.00 per annum with respect to the annuity payments he receives.

(d) *Effective date.* This section applies only to sales and exchanges made after December 19, 1969.

(e) *Cross reference.* For rules relating to the treatment of liabilities on the sale or other disposition or encumbered property, see § 1.1001-2.

[T.D. 7207, 37 FR 20798, Oct. 5, 1972, as amended by T.D. 7741, 45 FR 81745, Dec. 12, 1980; T.D. 8176, 53 FR 5570, Feb. 25, 1988; 53 FR 11002, Apr. 4, 1988; T.D. 8540, 59 FR 30148, June 10, 1994]

61.1012-1 Basis of property.

(a) *General rule.* In general, the basis of property is the cost thereof. The cost is the amount paid for such property in cash or other property. This general rule is subject to exceptions stated in subchapter O (relating to gain or loss on the disposition of property), subchapter C (relating to corporate distributions and adjustments), subchapter K (relating to partners and partnerships), and subchapter P (relating to capital gains and losses), chapter I of the code.

(b) *Real estate taxes as part of cost.* In computing the cost of real property, the purchaser shall not take into account any amount paid to the seller as reimbursement for real property taxes which are treated under section 164(d) as imposed upon the purchaser. This rule applies whether or not the contract of sale calls for the purchaser to reimburse the seller for such real estate taxes paid or to be paid by the seller. On the other hand, where the purchaser pays (or assumes liability for) real estate taxes which are treated under section 164(d) as imposed upon the seller, such taxes shall be considered part of the cost of the property. It is immaterial whether or not the contract of sale specifies that the sale price has been reduced by, or is in any way intended to reflect, real estate taxes allocable to the seller under section 164(d). For illustrations of the application of this paragraph, see Paragraph (b) of § 1.1001-1.

(c) *Sale of stock—(1) In general.* If shares of stock in a corporation are sold or transferred by a taxpayer who purchased or acquired lots of stock on different dates or at different prices, and the lot from which the stock was sold or transferred cannot be adequately identified, the stock sold or transferred shall be charged against the earliest of such lots purchased or



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Privacy Act Statement and Paperwork Reduction Act Notice

This notice is given under the Privacy Act of 1974 and the Paperwork Reduction Act of 1995. The Privacy Act and Paperwork Reduction Act requires that the Internal Revenue Service inform businesses and other entities the following when asking for information.

The information on this form will carry out the Internal Revenue laws of the United States. We will comply with Internal Revenue Code (IRC) section 6109 and the regulations hereunder, which generally require the inclusion of an Employer Identification Number (EIN) on certain returns, statements, or other documents filed with the Internal Revenue Service. Information on this form may be used to determine which Federal tax returns are required to file and to provide related forms and publications. This Form will be disclosed to the Social Security Administration for their use in determining compliance with applicable laws. An EIN will not be issued unless you provide all of the requested information, which applies to your entity.

Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by IRC section 6103.

Note: This page contains one or more references to the Internal Revenue Code (IRC), Treasury Regulations, court cases, or other official tax guidance. References to these legal authorities are included for the convenience of those who would like to read the technical reference material. To access the applicable IRC sections, Treasury Regulations, or other official tax guidance, visit the Tax Code, Regulations, and Official Guidance page. To access any Tax Court case opinions issued after September 24, 1995, visit the Opinions Search page of the United States Tax Court.

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Department of the Treasury
Internal Revenue Service

Notice 609
(Revised July 2002)

Privacy Act Notice

The Privacy Act of 1974 says that when we ask you for information, we must first tell you our legal right to ask for the information, why we are asking for it, and how it will be used. We must also tell you what could happen if you do not provide it and whether or not you must respond under the law.

This notice applies to tax returns and any papers filed with them. It also applies to any questions we need to ask you so we can complete, correct, or process your return; figure your tax; and collect tax, interest, and penalties.

Our legal right to ask for information is found in Internal Revenue Code sections 6001, 6011, and 6012(a) and their regulations. They say that you must file a return and statement with us for any tax you are liable for. Your response is mandatory under these sections.

Code section 6109 and its regulations say that you must show your social security number or individual taxpayer identification number on what you file. You must also fill in all parts of the tax form that apply to you. This is so we know who you are and can process your return and papers. You do not have to check the boxes for the Presidential Election Campaign Fund.

We ask for tax return information to carry out the U.S. tax laws. We need it to figure and collect the right amount of tax.

We may give the information to the Department of Justice and to other Federal agencies, as provided by law. We may also give it to cities, states, the District of Columbia, and U.S. commonwealths or possessions to carry out their tax laws. And we may give it to certain foreign governments under tax treaties they have with the United States. We may also disclose this information

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Department of the Treasury
Internal Revenue Service

Notice 609
(Revised July 2002)

Privacy Act Notice

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This notice applies to tax returns and any papers filed with them. It also applies to any questions we need to ask you so we can complete, correct, or process your return; figure your tax; and collect tax, interest, or penalties.

Our legal right to ask for information is found in Internal Revenue Code sections 6001, 6011, and 6012(a) and their regulations. They say that you must file a return or statement with us for any tax you are liable for. Your response is mandatory under these sections.

Code section 6109 and its regulations say that you must show your social security number or individual taxpayer identification number on what you file. You must also fill in all parts of the tax form that apply to you. This is so we know who you are and can process your return and papers. You do not have to check the boxes for the Presidential Election Campaign Fund.

We ask for tax return information to carry out the U.S. tax laws. We need it to figure and collect the right amount of tax.

We may give the information to the Department of Justice and to other Federal agencies, as provided by law. We may also give it to cities, states, the District of Columbia, and U.S. commonwealths or possessions to carry out their tax laws. And we may give it to certain foreign governments under tax treaties they have with the United States. We may also disclose this information

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Title 26 IRC and CFR; IRS Privacy Act Statement and PRA Notice
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Internal Revenue Service, Treasury

§ 1.1-1

NORMAL TAXES AND SURTAXES

DETERMINATION OF TAX LIABILITY

TAX ON INDIVIDUALS

§ 1.1-1 Income tax on individuals.

(a) *General rule.* (1) Section 1 of the Code imposes an income tax on the income of every individual who is a citizen or resident of the United States and, to the extent provided by section 871(b) or 877(b), on the income of a non-resident alien individual. For optional tax in the case of taxpayers with adjusted gross income of less than \$10,000 (less than \$5,000 for taxable years beginning before January 1, 1970) see section 3. The tax imposed is upon taxable income (determined by subtracting the allowable deductions from gross income). The tax is determined in accordance with the table contained in section 1. See subparagraph (2) of this paragraph for reference guides to the appropriate table for taxable years beginning on or after January 1, 1964, and before January 1, 1965, taxable years beginning after December 31, 1964, and before January 1, 1971, and taxable years beginning after December 31, 1970. In certain cases credits are al-

lowed against the amount of the tax. See part IV (section 31 and following), subchapter A, chapter 1 of the Code. In general, the tax is payable upon the basis of returns rendered by persons liable therefor (subchapter A (sections 6001 and following), chapter 61 of the Code) or at the source of the income by withholding. For the computation of tax in the case of a joint return of a husband and wife, or a return of a surviving spouse, for taxable years beginning before January 1, 1971, see section 2. The computation of tax in such a case for taxable years beginning after December 31, 1970, is determined in accordance with the table contained in section 1(a) as amended by the Tax Reform Act of 1969. For other rates of tax on individuals, see section 5(a). For the imposition of an additional tax for the calendar years 1968, 1969, and 1970, see section 51(a).

(2)(i) For taxable years beginning on or after January 1, 1964, the tax imposed upon a single individual, a head of a household, a married individual filing a separate return, and estates and trusts is the tax imposed by section 1 determined in accordance with the appropriate table contained in the following subsection of section 1:

	Taxable years beginning in 1964	Taxable years beginning after 1964 but before 1971	Taxable years beginning after Dec. 31, 1970 (references in this column are to the Code as amended by the Tax Reform Act of 1969)
Single individual	Sec. 1(a)(1)	Sec. 1(a)(2)	Sec. 1(c).
Head of a household	Sec. 1(b)(1)	Sec. 1(b)(2)	Sec. 1(b).
Married individual filing a separate return.	Sec. 1(a)(1)	Sec. 1(a)(2)	Sec. 1(d).
Estates and trusts	Sec. 1(a)(1)	Sec. 1(a)(2)	Sec. 1(d).

(ii) For taxable years beginning after December 31, 1970, the tax imposed by section 1(d), as amended by the Tax Reform Act of 1969, shall apply to the income effectively connected with the conduct of a trade or business in the United States by a married alien individual who is a nonresident of the United States for all or part of the taxable year or by a foreign estate or trust. For such years the tax imposed by section 1(c), as amended by such Act, shall apply to the income effectively connected with the conduct of a trade or business in the United States by an unmarried alien individual (other

than a surviving spouse) who is a non-resident of the United States for all or part of the taxable year. See paragraph (b)(2) of § 1.871-8.

(3) The income tax imposed by section 1 upon any amount of taxable income is computed by adding to the income tax for the bracket in which that amount falls in the appropriate table in section 1 the income tax upon the excess of that amount over the bottom of the bracket at the rate indicated in such table.

(4) The provisions of section 1 of the Code, as amended by the Tax Reform Act of 1969, and of this paragraph may

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(2) Eligible organizations interested in participating in the Internal Revenue Service Tax Counseling for the Elderly program should request an application from the:

Program Manager, Tax Counseling for the Elderly, Taxpayer Service Division TX:T:L, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, (202) 566-4904.

Subpart I—Use of Penalty Mail in the Location and Recovery of Missing Children

SOURCE: T.D. 8848, 64 FR 69398, Dec. 13, 1999, unless otherwise noted.

§ 601.901 Missing children shown on penalty mail.

(a) *Purpose.* To support the national effort to locate and recover missing children, the Internal Revenue Service (IRS) joins other executive departments and agencies of the Government of the United States in using official mail to disseminate photographs and biographical information on hundreds of missing children.

(b) *Procedures for obtaining and disseminating data.* (1) The IRS shall publish pictures and biographical data related to missing children in domestic penalty mail containing annual tax forms and instructions, taxpayer information publications, and other IRS products directed to members of the public in the United States and its territories and possessions.

(2) Missing children information shall not be placed on the "Penalty Indicia," "OCR Read Area," "Bar Code Read Area," and "Return Address" areas of letter-size envelopes.

(3) The IRS shall accept photographic and biographical materials solely from the National Center for Missing and Exploited Children (National Center). Photographs that were reasonably current as of the time of the child's disappearance, or those which have been updated to reflect a missing child's current age through computer enhancement technique, shall be the only acceptable form of visual media or pictorial likeness used in penalty mail.

(c) *Withdrawal of data.* The shelf life of printed penalty mail is limited to 3 months for missing child cases. The

IRS shall follow those guidelines whenever practicable. For products with an extended shelf life, such as those related to filing and paying taxes, the IRS will not print any pictures or biographical data relating to missing children without obtaining from the National Center a waiver of the 3-month shelf-life guideline.

(d) *Reports and contact official.* IRS shall compile and submit to OJJDP reports on its experience in implementing Public Law 99-87, 99 Stat. 290, as required by that office. The IRS contact person is: Chief, Business Publications Section (or successor office), Tax Forms and Publications Division, Technical Publications Branch, OP:FS:FP:P:3, Room 5613, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224.

(e) *Period of applicability.* This section is applicable December 13, 1999 through December 31, 2002.

[T.D. 8848, 64 FR 69398, Dec. 13, 1999; 65 FR 15862, Mar. 24, 2000]

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

§ 602.101 OMB Control numbers.

(a) *Purpose.* This part collects and displays the control numbers assigned to collections of information in Internal Revenue Service regulations by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. The Internal Revenue Service intends that this part comply with the requirements of §§ 1320.7(f), 1320.12, 1320.13, and 1320.14 of 5 CFR part 1320 (OMB regulations implementing the Paperwork Reduction Act), for the display of control numbers assigned by OMB to collections of information in Internal Revenue Service regulations. This part does not display control numbers assigned by the Office of Management and Budget to collections of information of the Bureau of Alcohol, Tobacco, and Firearms.

(b) *Display.*

CFR part or section where identified and described	Current OMB control No.
1.1(h)-1(e)	1545-1654
1.2-5	1545-0074

1.1-1 Missing in current CFR Publication But is NOT applicable.

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Form **2555**
Department of the Treasury
Internal Revenue Service (99)

Foreign Earned Income

OMB No. 1545-0067

2004

Attachment
Sequence No. 34

▶ See separate instructions. ▶ Attach to Form 1040.

For Use by U.S. Citizens and Resident Aliens Only

Name shown on Form 1040 _____ Your social security number _____

Part I General Information

- 1 Your foreign address (including country) _____
- 2 Your occupation _____
- 3 Employer's name ▶ _____
- 4a Employer's U.S. address ▶ _____
- b Employer's foreign address ▶ _____
- 5 Employer is (check any that apply):
 - a A foreign entity
 - b A U.S. company
 - c Self
 - d A foreign affiliate of a U.S. company
 - e Other (specify) ▶ _____
- 6a If, after 1981, you filed Form 2555 to claim either of the exclusions or Form 2555-EZ to claim the foreign earned income exclusion, enter the last year you filed the form. ▶ _____
- b If you did not file Form 2555 or 2555-EZ after 1981 to claim either of the exclusions, check here and go to line 7.
- c Have you ever revoked either of the exclusions? Yes No
- d If you answered "Yes," enter the type of exclusion and the tax year for which the revocation was effective. ▶ _____
- 7 Of what country are you a citizen/national? ▶ _____
- 8a Did you maintain a separate foreign residence for your family because of adverse living conditions at your tax home? See **Second foreign household** on page 3 of the instructions. Yes No
- b If "Yes," enter city and country of the separate foreign residence. Also, enter the number of days during your tax year that you maintained a second household at that address. ▶ _____
- 9 List your tax home(s) during your tax year and date(s) established. ▶ _____

Next, complete either Part II or Part III. If an item does not apply, enter "NA." If you do not give the information asked for, any exclusion or deduction you claim may be disallowed.

Part II Taxpayers Qualifying Under Bona Fide Residence Test (See page 2 of the instructions.)

- 10 Date bona fide residence began _____, and ended ▶ _____
- 11 Kind of living quarters in foreign country ▶
 - a Purchased house
 - b Rented house or apartment
 - c Rented room
 - d Quarters furnished by employer
- 12a Did any of your family live with you abroad during any part of the tax year? Yes No
- b If "Yes," who and for what period? ▶ _____
- 13a Have you submitted a statement to the authorities of the foreign country where you claim bona fide residence that you are not a resident of that country? (See instructions.) Yes No
- b Are you required to pay income tax to the country where you claim bona fide residence? (See instructions.) Yes No
- If you answered "Yes" to 13a and "No" to 13b, you do not qualify as a bona fide resident. Do not complete the rest of this part.**
- 14 If you were present in the United States or its possessions during the tax year, complete columns (a)-(d) below. Do not include the income from column (d) in Part IV, but report it on Form 1040.

(a) Date arrived in U.S.	(b) Date left U.S.	(c) Number of days in U.S. on business	(d) Income earned in U.S. on business (attach computation)	(a) Date arrived in U.S.	(b) Date left U.S.	(c) Number of days in U.S. on business	(d) Income earned in U.S. on business (attach computation)

- 15a List any contractual terms or other conditions relating to the length of your employment abroad. ▶ _____
- b Enter the type of visa under _____
- c Did your visa limit the length _____
- d Did you maintain a home in _____
- e If "Yes," enter address of _____

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If "Yes," attach explanation Yes No

ies of the occupants, and their relationship Yes No



Form **1040**

Department of the Treasury—Internal Revenue Service
U.S. Individual Income Tax Return 2004

(99) IRS Use Only—Do not write or staple in this space.

Label
 (See instructions on page 16.)
 Use the IRS label. Otherwise, please print or type.
 Presidential Election Campaign (See page 16.)

For the year Jan. 1–Dec. 31, 2004, or other tax year beginning _____, 2004, ending _____, 20_____ OMB No. 1545-0074

Your first name and initial _____ Last name _____ Your social security number _____

If a joint return, spouse's first name and initial _____ Last name _____ Spouse's social security number _____

Home address (number and street). If you have a P.O. box, see page 16. _____ Apt. no. _____

City, town or post office, state, and ZIP code. If you have a foreign address, see page 16. _____

▲ Important! ▲
 You must enter your SSN(s) above.
 You _____ Spouse _____
 Yes No Yes No

Filing Status
 Check only one box.

- 1 Single
- 2 Married filing jointly (even if only one had income)
- 3 Married filing separately. Enter spouse's SSN above and full name here. ▶
- 4 Head of household (with qualifying person). (See page 17.) If the qualifying person is a child but not your dependent, enter this child's name here. ▶
- 5 Qualifying widow(er) with dependent child (see page 17)

Exemptions

6a Yourself. If someone can claim you as a dependent, do not check box 6a

b Spouse

c Dependents:		(2) Dependent's social security number	(3) Dependent's relationship to you	(4) <input checked="" type="checkbox"/> if qualifying child for child tax credit (see page 18)
(1) First name	Last name			
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>

d Total number of exemptions claimed _____ Add numbers on lines above ▶

Income

Attach Form(s) W-2 here. Also attach Forms W-2G and 1099-R if tax was withheld.

If you did not get a W-2, see page 19.

Enclose, but do not attach, any payment. Also, please use Form 1040-V.

7	Wages, salaries, tips, etc. Attach Form(s) W-2	7	
8a	Taxable interest. Attach Schedule B if required	8a	
b	Tax-exempt interest. Do not include on line 8a	8b	
9a	Ordinary dividends. Attach Schedule B if required	9a	
b	Qualified dividends (see page 20)	9b	
10	Taxable refunds, credits, or offsets of state and local income taxes (see page 20)	10	
11	Alimony received	11	
12	Business income or (loss). Attach Schedule C or C-EZ	12	
13	Capital gain or (loss). Attach Schedule D if required. If not required, check here ▶ <input type="checkbox"/>	13	
14	Other gains or (losses). Attach Form 4797	14	
15a	IRA distributions	15a	
b	Taxable amount (see page 22)	15b	
16a	Pensions and annuities	16a	
b	Taxable amount (see page 22)	16b	
17	Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E	17	
18	Farm income or (loss). Attach Schedule F	18	
19	Unemployment compensation	19	
20a	Social security benefits	20a	
b	Taxable amount (see page 24)	20b	
21	Other income. List type and amount (see page 24)	21	
22	Add the amounts in the far right column for lines 7 through 21. This is your total income ▶	22	

Adjusted Gross Income

23	Educator expenses (see page 26)	23	
24	Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106 or 2106-EZ	24	
25	IRA deduction (see page 26)	25	
26	Student loan interest deduction (see page 28)	26	
27	Tuition and fees deduction (see page 29)	27	
28	Health savings account deduction. Attach Form 8889	28	
29	Moving expenses. Attach Form 3903	29	
30	One-half of s		
31	Self-employe		
32	Self-employe		
33	Penalty on e		
34a	Alimony paid		
35	Add lines 23	35	
36	Subtract line 35 from line 22. This is your adjusted gross income	36	

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Dual Status

- 324 You transferred your tax due on income not effectively connected to a U.S. trade or business incorrectly from your Form 1040, page 2. We changed your return accordingly
- 325 We can't allow your earned income credit. It appears you don't qualify. We changed your return accordingly. If you believe you do qualify, you should file an amended return on Form 1040X and provide the U.S. address and length of time you lived in the U.S.

International Form 1040



IMF Input Computer Prints
Codes

- 340 We can't allow a deduction for a U.S. government cost-of-living allowance. We changed your return accordingly
- 341 Your credit on Form 8689, "Allocation of Income Tax to the Virgin Islands", can't be more than the tax due on your Form 1040. We changed your return accordingly.
- 342 We can't allow your Guam withholding since we've unable to determine your place of residence. We changed your return accordingly.

Form 1040NR

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IMF Input Computer Prints
Codes

- 401 You can't deduct state and local tax payments as a negative amount on page 1 of Form 1040NR. Since we're unable to determine from Form W-2 the amount of state/local tax paid, we disallowed the deduction and changed your return accordingly.
- 402 We can't allow your scholarship or fellowship exclusion. You didn't attach the required supporting statement. We changed your return accordingly.
- 403 Gambling winnings are exempt from tax due to a U.S. tax treaty with your country of residence. We changed your return accordingly
- 404 We disallowed your treaty exemption because you didn't answer questions "K" and "L" on page 5 of Form 1040NR. We changed your return accordingly.
- 405 We can't allow the exemption for your teaching income because article 19 of the China Treaty allows the exemption for only three years. We changed your return accordingly.
- 406 We can't allow your treaty exemption. The treaty you claimed is not a valid tax treaty. We changed your return accordingly.
- 407 Because you didn't reply to our request for more information we disallowed your treaty exemption and changed your return accordingly.
- 408 The amount you entered as U.S. tax withheld at source doesn't match the amount shown on Form(s) 1042S.
- 409 We can't allow your tax treaty exclusion on the tax form you filed. You didn't file Form 1040NR as required to exclude income under a tax treaty. We changed your return accordingly. If you believe you do qualify for the tax treaty exclusion, you should file an amended return on Form 1040X.
- 410 We can't allow itemized deductions against income that is not effectively connected to a U.S. trade or business. We changed your return accordingly.

Any line marked with # is for official use only

IR Manual
3(15)(129)9.(10)

IMF and IRAF DP Tax Adjustments

3(15)(129)9.(10)

Veteran's Disability Compensation—Public Law DS-479, Sect 301

(1) Veterans notified that they are retroactively entitled to Veterans Administration (VA) pension or compensation can exclude this amount from gross income. In order to qualify for this exclusion the veteran must waive an equal amount of retirement pay that he/she may receive from the VA benefits eligibility can be, and usually is retroactive. the taxpayer can file claims for refund of taxes paid on these amounts.

(2) When a claim is received in A/C, review the claim for completeness following the guidelines in IRM 3(15)60, "Processing Procedures for Claims and Amended Returns".

(a) Disallow the claim if the statute is barred.

(b) Disallow the claim if it is not for a retroactive exclusion of the Veterans Administration benefits.

Caution: Many claims are received where the claim amount is for additional benefits. These claims are not allowable because the benefits have not been included in the taxable income.

(c) A copy of the VA Form 20-09113 or an Official VA letter granting the retroactive benefit that clearly states "in lieu of VA Form 20-3883" must be attached to the claim.

(3) If the required document is not attached, suspend the claim and correspond with the taxpayer. If the taxpayer does not furnish the necessary information by the end of the suspense period, reject the claim.

3(15)(129)9.(11) (1-1-93)

Adjustment to Virgin Island Forms 1040 and 1040A

(1) Route claims received from taxpayers residing in the Virgin Islands to PSC for processing.

(2) Action:

(a) Check TC 150 DLN for blocking series 98 (Virgin Island);

(b) Write "Virgin Island TP" on the transmittal; and

(c) Send 86C Letter to taxpayer notifying him/her of the transfer.

3(15)(129)9.(12) (1-1-93)

Underreporter/CP2000 Issues

(1) The Underreporter Program (URP) is the compliance program which compares amounts of wages, interest, dividends, etc., reported by the payers with the amounts reported by the individual taxpayers. Discrepancies in incoming and increased withholding credits are identified. A CP2000 notice is sent to a taxpayer to propose a change to tax and/or credits. The current URP processing year is usually 18 to 24 months prior to the current tax year. (e.g., The tax year 1991 will be processed by URP in the calendar year 1993.) As a result of taxpayers receiving CP2000 or Statutory Notices from URP, A/C will also receive correspondences and/or Forms 1040X. In addition, A/C will also receive taxpayer correspondence and returns that have been reviewed by URB.

(2) Route Forms 1040X, (that relate or refer to URP) for the current URP processing year, to URB. Follow regular adjustments procedures for:

(a) other than current URP processing year Forms 1040X and,

MT 3(15)00-261

page 3(15)(129)0-98 (1-1-96)

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IMF	Description	IMF	Description
000-049	Adjustments with original return unless specified otherwise below.	950-959	Carryback claim reassessments processed with TC 298 for statute imminent years.
050-070	Form 1040 Virgin Island (PSC) cover over process.	960-969	Penalty appeals Indicator set. CP 55 generated. Refile DLN. Does not generate CP 55 on a civil penalty module if prior control DLN is 59X.
100-129	Reserved.	970-979	Penalty appeals Indicator released. Refile DLN.
150-179	Tax, Penalty, Interest, or freeze release without original return.	980-989	Complete claim disallowance without original return (generates CP 55). Does not generate CP 55 on a civil penalty module if prior control DLN is 59X.
180-198	Tax, penalty, interest, or freeze release without original return. CP 55 generated. Not valid for MFTs 29 and 55.	990-999	Complete claim disallowance with original return (does not generate CP 55).
199	Expired balance write-offs (TC 534/535) Non-refile DLN.	IRA	Description
200-289	Forms 1040X processed by Document Perfection.	000-099	All adjustments except those specified below. Non-refile DLN.
280-299	FORM 1040X Disaster Claims	500-599	Adjustments created by the Revenue Act of 1978 and Public Law 95-458. Non-refile DLN.
300-309	Barred assessment. CP 55 generated. Valid for MFT 30 and 29.	700-769	Mathematical/Clerical Errors.
310	Reserved	800-899	Offers in Compromise.
320-349	DATC. Non-refile DLN's Only	960-969	Penalty Appeals Indicator Set. Refile DLN.
400-439	Excise Tax Fuel Claims with Form 843. Preassessment Refund only.	970-979	Penalty Appeals Indicator Released. Refile DLN.
440-449	Disallowed claims with no filing requirements. Not valid for MFTs 29 and 55.	BMF	Description
480-489	Form 6249 claim with Form 843. Non-refile DLN. Preassessment refund only.	000-049	Adjustments with the original return attached, except those with math/clerical error adjustments. SC Technical adjustments. Offers in Compromise. Not valid for Forms 11C, 706, 709, 730.
480-499	Gasohol claim with Form 843. Non-refile DLN. Preassessment refund only.	050-059	Same as above, except for Forms 2290 and 4638* only.
490-499	URP (Timely, full paid) Adjustments (CP-2000)	060-069	Same as above, except for Forms 706 and 709 only.
500-519	Adjustments to Civil Penalty Modules. CP 55 generated for TC 290 blocked 530.	070-079	Forms 11 and 11B
520-539	539 (except if the prior DLN is 59X)	080-089	Same as above, except for Form 11-C only.
540-549	SFR Assessments (1st Notice)	090-099	Same as above, except for Form 730 only.
550-589	URP (Other than timely, full paid) adjustments (CP-2000)	100-129	Non-tax adjustments without the original return. Non-refile DLN.
590-599	W-4 Civil Penalty Adjustments	130-139	FTD penalty adjustment with CP 194 or CP 207. Refile DLN.
600-619	URP (Timely, full paid) adjustments (Statutory Notices)	140-149	FTD penalty CP 207 or CP 194 per processing 3(15)(107)10. Non-refile DLN.
630-639	Reserved	150-179	Tax adjustments without the original return. Including penalty-interest and/or freeze release adjustments. Non-refile DLN. When using this blocking series, no impossible checks are made for prior examination or mathematical error because the original return has not been secured. Exercise caution when adjusting accounts using this blocking series.
640-649	SFR Assessments (Statutory Notice) 90-Day Letter issued	180-198	Tax, penalty, interest, or freeze release without original return. CP 155 generated. Valid for all MFTs except 06, 13, 36 and 67.
650-679	URP (Other than timely) adjustments (Statutory Notice)	199	Expired balance write-offs. (TC 534/535). Non-refile DLN.
680-698	Sick Pay claims-Public Law 95.30.	200-289	Forms 1120X processed in Returns Analysis.
700-739	Substantiated Math Error Protest with a TC 576 on the module.	290-299	Forms 1120X processed by Document Perfection.
740-769	Unsubstantiated Math Error Protest	300-309	Barred assessment. CP 155 generated.
770-779	Adjustment to set math error deferred action on a module.	390-398	U.S./U.K. Tax Treaty claims
780-789	Adjustment without original return to set math error deferred action on module (CP 55 generated)		
790-799	Technical Unit Adjustments		
800-809	Offer in Compromise		
900-909	Carryback Adjustments without original return (CP 55 generated).		
910-919	Carryback adjustments below tolerance without original return-no CP 55 generated.		
920-929	Carryback Adjustment with original return. (CP 55 not generated).		
930-939	Reserved		

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Form 1040 X

Files Management and Services
Exhibit 35(61)0-11

IR Manual

Forms Reference Index

Documents which are specifically referenced in the Files procedures are cross-referenced here as an administrative aid

Form	Title (purpose)	
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708	Estate and Generation-Skipping Transfer Tax Return	2.10
706 NA	Estate Tax Return - Alien	7.3
706 (for POA)	Estate Tax (Power Of Attorney)	7.3
709	Gift (and Generation-Skipping Transfer Tax Return)	3.(26)
720	Quarterly Federal Excise Tax Return	3.5 & 7.3
813(Part 2)	Document Register	5.8
843	Claim for Refund and Request for Abatement	Various
011	Application for Taxpayer Assistance Order to Relieve Hardship	3.(25)
928	Return by a Transferor of Property to a Foreign Corporation, Trust, Estate or Partnership	1.6 3.(27)
940-942	Employer's Annual Federal Unemployment (FUTA) Tax Return / Employer's Quarterly Tax Return for Household Employees	2.1
941 facsimile	Employers Quarterly Federal Tax Return	
964(Form Obsolete)	Election of Shareholders (Liquidation)	2.5 & 3.(35)
966	Corp. Dissolution (Liquidation)	7.(11)
990-BL	Information and Excise Tax Return for Black Lung Benefit Trusts and Certain Related Persons	7.(11) 3.6
990/990-PF	Return of Org. Exempt from Income Tax (Exempt Private Foundation) / Return of Private Foundation	2.7
990-T	Exempt Organization Business Income Tax Return	Exhibit 3
1040	U.S. Individual Income Tax Return	7.6
1040EZ	Income Tax Return for Single Filers With No Dependents	3.8
1040C	U.S. Departing Alien Income Tax Return	Exhibit 3
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1042	Withholding Tax Return	2.3 & 3.(10)
1042S	Income Subject to Withholding	3.(10)
1096	U.S. Annual Summary & Transmittal of U.S. Information Return	3.(13)
1120-FSC	U.S. Income Tax Return of a Foreign Sales Corporation	3.2
1120-IC-DISC	Interest Charged Domestic International Sales Corporation Return	3.2
1120	Corp. Tax Return	3.(11) & Exhibit 1
1120X	Claim	3.(25) & Exhibit 3
1332	Block & Selection Record	Various
2031 (Form Obsolete)	Waiver Certificate to Collection Social Security Coverage	Exhibit 3
2119	Sale or Exchange of Principle Residence	5.(24)
2275	Record request Charge and Recharge (Charge-out Request)	Various
2345	Batch Transmittal	2.3
2553	Election—Small Business Corp.	3.(12)
2818	Power of Attorney and Declaration of Representatives	3.(32)
3011A	Transmittal (Refund Litigation Case)	4.3
3115	Accounting Method Change	Exhibit 3
3177	Notice of Action (Entity)	(10).2
3189	Deficiency Dividend Deduction	3.(14)
3210	Document Transmittal	Exhibit 25
3520	Creations of or Transfers to Certain Foreign Trusts	3.(30)
3520A	Annual Return of Foreign Trusts with U.S. Beneficiaries	3.(30)
3780	Index Cards (Form Obsolete 12/74)	3.(20)
3893	Re-Entry Control Sheet	2.5
3906(Form Obsolete)	Block Record	Various
4180	Flag Sheet	2.5, 6.3 & 8.1
4210 (Form Obsolete)	Block Divider Card	2.2
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4338	Information or Certified Transcript Request	2.1 & 2.5

MT 3500-202

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Form **1040X**
(Rev. November 2004)

Department of the Treasury—Internal Revenue Service
Amended U.S. Individual Income Tax Return

OMB No. 1545-0091

▶ See separate instructions.

This return is for calendar year ▶ , or fiscal year ended ▶

Please print or type	Your first name and initial	Last name	Your social security number
	If a joint return, spouse's first name and initial	Last name	Spouse's social security number
	Home address (no. and street) or P.O. box if mail is not delivered to your home		Apt. no.
	City, town or post office, state, and ZIP code. If you have a foreign address, see page 2 of the instructions.		Phone number ()
			For Paperwork Reduction Act Notice, see page 6.

- A** If the name or address shown above is different from that shown on the original return, check here
- B** Has the original return been changed or audited by the IRS or have you been notified that it will be? Yes No
- C** Filing status. Be sure to complete this line. **Note.** You cannot change from joint to separate returns after the due date.
- On original return ▶ Single Married filing jointly Married filing separately Head of household Qualifying widow(er)
- On this return ▶ Single Married filing jointly Married filing separately Head of household* Qualifying widow(er)
- * If the qualifying person is a child but not your dependent, see page 2.

Use Part II on the back to explain any changes

	A. Original amount or as previously adjusted (see page 3)	B. Net change—amount of increase or (decrease)—explain in Part II	C. Correct amount
Income and Deductions (see pages 2-6)			
1	Adjusted gross income (see page 3)		1
2	Itemized deductions or standard deduction (see page 3)		2
3	Subtract line 2 from line 1		3
4	Exemptions. If changing, fill in Parts I and II on the back		4
5	Taxable Income. Subtract line 4 from line 3		5
Tax Liability			
6	Tax (see page 4). Method used in col. C		6
7	Credits (see page 4)		7
8	Subtract line 7 from line 6. Enter the result but not less than zero		8
9	Other taxes (see page 4)		9
10	Total tax. Add lines 8 and 9		10
Payments			
11	Federal income tax withheld and excess social security and tier 1 RRTA tax withheld. If changing, see page 4		11
12	Estimated tax payments, including amount applied from prior year's return		12
13	Earned income credit (EIC)		13
14	Additional child tax credit from Form 8812		14
15	Credits from Form 2439, Form 4136, or Form 8885		15
16	Amount paid with request for extension of time to file (see page 5)		16
17	Amount of tax paid with original return plus additional tax paid after it was filed		17
18	Total payments. Add lines 11 through 17 in column C		18

Refund or Amount You Owe

19	Overpayment, if any, as shown on original return or as previously adjusted by the IRS	19
20	Subtract line 19 from line 18 (see page 5)	20
21	Amount you owe. If line 10, column C, is more than line 20, enter the difference and see page 5	21
22	If line 10, column C, is less than line 20, enter the difference	22
23	Amount of line 22 you want refunded to you	23
24	Amount of line 22 you want applied to your estimated tax	24

Sign Here

Under penalties of perjury, I declare that I have filed an original return and that I have examined this amended return, including accompanying schedules and statements, and to the best of my knowledge and belief, this amended return is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which the preparer has any knowledge.

Joint return? See page 2. Keep a copy for your records.	Your signature	Date	Spouse's signature. If a joint return, both must sign	Date
	Preparer's signature	Date	Check if self-employed <input type="checkbox"/>	Preparer's SSN or PTIN
Paid Preparer's Use Only	Firm's name (or yours if self-employed), address, and ZIP code	EIN	Phone no. ()	

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Form 1040X (Rev. 11-2004)

Transaction Codes Pocket Guide



IRS

Department of the Treasury
Internal Revenue Service

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Document 11734 (Rev. 6-2004)
Catalog Number 33169Q

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Trans. Code	File	D/C	Title
120	I/B		Account Disclosure Code
121	E		Employee Plan Characteristics
122	E		Reversal of Employee Plan Characteristics
123	E		Update of Employee Plan Characteristics
125	E		Plan Termination
126	E		Reversal of Termination
127	E		Administrator Data Change
128	E		Administrator Data Change
129	I		HHS Request
130	I/B		Entire Account Frozen from Refunding
131	I/B		Reversal of TC 130 Refund Freeze
132	I		Reversed TC 130
136	B		Suppress FTD Alert
137	B		Reverse Suppress
140	I		IRP Delinquency Inquiry
141	I/B/E		Delinquency Inquiry
142	I/B/E		Delinquency Investigation
148	I/B		Issuance of TDA or TDI Assembly
149	I/B		Reversal of TC 148
150	I/B/E/A/P	D	Return Filed & Tax Liability Assessed
150	I/A		Entity Created by TC 150
151	E/A		Reversal of TC 150 or 154
152	I/A		Entity Updated by TC 150
154	E		Posting F5330 Data
155	E		1 st Correspondence Letter Sent
156	E		Subsequent Correspondence Sent
157	E		Schedule A
157	B		Form 5578, Non-Discrimination Certification
159	I		Settlement Data

Trans. Code	File	D/C
160	B/A	D
161	I/B/A	C
162	I/B/A	
166	I/B/A	D
167	I/B/A	C
170	I/B	D
171	I/B	C
176	I/B	D
177	I/B	C
180	B	D
181	B	C
186	B	D
187	B	C
190	I/B/A	D
191	I/B/A	C
196	I/B/A	D
197	I/B/A	C
200	I/A	D
201	I/A	C
234	B	D
235	B	C
238	B	D
239	B	C
240	I/B/A	D
241	I/B/A	C

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3(27)(68)(12).6

ADP Systems Code

TC	DR/CR	File	Abbr. & Title	Doc. Code
149		I,B	RV F TDA- Reversal of TC 148	77

→ (20) TC 150—A tax liability assessed from the original return establishes a tax module. SC computer generated while processing the return. Any remittance received with the return (TC 610). A TC 150 with a doc code 51 and a TC 610 in the module possibly indicates return lost in service center is prejournalized. IMF/BMF/IRAF: All credits posted to a tax module are frozen from offsetting or refunding until a 150 is posted. Will cause a TC 650 (which is prejournalized) to be printed on the Settlement Register if the 150 contains a Federal Depositary amount. *BMF: Assessment may be credit for Form CT-1, 720, and 941. (See TC 976, 977 for Amended Return) IMF Returns with Tax Class Document Code 210 and Blocking Series 000/299 are SFR returns. These returns should be noted with "Return filed by Service".

TC	DR/CR	File	Abbr. Title	Doc. Code
150	Debit* (NPJ)	I,B	RET FILED E,A,P. Return Filed & Tax Liability Assessed Abbreviation to be Recorded on TDA's (Form TY-D69) is: TAX ON RET EPMF: 30, 31, 37, 38 IRAF: 11,12,21,22,51,73 PMF: 69	IMF: 05, 06, 07, 08, 09, 10, 11, 12, 21, 22, 26, 27, 51, 72, 73, BMF: 03, 05, 06, 07, 08, 09, 10, 11, 12, 13, 16, 25, 20, 23, 29, 36, 59, 60, 51, 35, 38, 40-44, 46, 65-67, 71, 81, 83, 90-93, 95

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(21) TC 150—This TC 150 when posted to the Entity Transaction Section indicates the Master File entity was created from the posting of the return.

TC	DR/CR	File	Abbr. & Title	Doc. Code
150		I A	ENT BY 150 Entity Created by TCTransaction 150	Generated

NOTE: TC 150 with Doc Code 51—possibly indicates "TC 610 post-returned lost in service center."

(22) TC 151—EPMF: Reverses return data. Action Code 30 reverses TC 154. IRAF: Report Suppression, the TC 150 return data will not be extracted for report purposes. TC 150 or 154 when 971 code is 19 must be posted and balance of module must be zero. Used when F5329 filed in error.

TC	DR/CR	File	Abbr. & Title	Doc. Code
151		E,A	RV RFT Reversal of TC 150 or 154	77

(23) TC 152—Designates a return which updated entity data and is posted to the Entity Transaction Section.

TC	DR/CR	File	Abbr. & Title	Doc. Code
152		I A	UPD BT 150 Entity Updated by TCTransaction 150	Generated

(7) The Assessment "23C" date will ordinarily be the Monday of the 2nd week following the week in which these transactions are processed and posted to the IMF Accounts, unless otherwise designated by Accounts Division in appropriate publications.

(8) When notices are to be sent to taxpayers that are identified as Spanish speaking District Office (DO) 66 and mail filing requirement of "7" the Computer Paragraph Number is in the 700 series.

(9) Extracts of IMF Accounts are not permitted when the extracts may be used outside of IRS, unless the Privacy Act or the Freedom of Information Act is utilized.

(10) Do not generate Check Digit for Accounts posted to the Invalid Segment.

(11) The term "Module Balance" as used throughout this Section is the algebraic sum of posted and assessed transactions excluding interest transactions.

(12) The term "Net Module Balance" is the algebraic sum of Assessed Transactions and consists of Module Balance, Interest Assessed and Interest Paid.

(13) The term "Total Balance" is the algebraic sum of "Module Balance," Accrued Failure to Pay Penalty (Total Penalty less Assessed Penalty) and Total Interest (Assessed Interest plus Accrued) and Interest Paid.

(14) Service Center Codes supersede Region Code. Generate the Service Center Code from the governing District Offices Code.

(15) When prescribed transactions post to a tax module, or a tax module must be analyzed for a scheduled action, compute interest, Failure-to-Pay-Penalty and/or delinquency penalty as required. Assess interest, assess Failure-to-Pay-Penalty when applicable, and assess delinquency penalty as prescribed in subsequent sub-sections. When interest and Failure-to-Pay-Penalty computations are made and not assessed, accrue the amounts of each computation.

(16) Non-Compute 1040—the input return record sent to MCC will contain a "Non-Compute" code of "2". MCC will determine if the return was timely filed; if not timely the non-compute code will be changed to a "1". Code "2" indicates special processing.

(17) Bypass normal processing, opening of modules, UPC, etc. when encountering Political Checkoff and IRA input "dummy" returns.

30(55)4.2 (1-1-96)

Types of Transcripts

- (1) SPECIFIC
- (2) OPEN
- (3) COMPLETE
- (4) ENTITY
- (5) STEX (B Freeze)
- (6) RFND LIT (TC 520)
- (7) REFUND (TC 846)
- (8) REFUND-E (TC 846)
- (9) \$1,000,000 Refund Transcript
- (10) TDI-REFUND
- (11) Refund-S (TC 846)
- (12) TRANS-844 (TC 844)
- (13) LITIGATION (TC 520)
- (14) EXES-TC 840

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- (15) OIC (TC 480)
- (16) NMFL (TC 480)
- (17) KITA (TC 01X)
- (18) COMBAT ZON
- (19) UNREVTC 520 (TC 520)
- (20) TDI RESRCH (See Project 720)
- (21) INTEL (See Project 735)
- (22) REACT NMF (TC 130)
- (23) CSED
- (24) MARRIED FILED SEPARATELY (TC 424)
- (25) MULTIPLE FILER (TC 424)
- (26) Cr EI Decd (See Project 439)
- (27) TRFPENACT
- (28) VIRGIN IS (TC 150)
- (29) STAT TRANSCRIPT
- (30) QUEST W-4 (See Project 411)
- (31) FOLLOW-UP W-4 (See Project 411)
- (32) AMRH (See Project 712)
- (33) AM-X (See Project 712)
- (34) CV PN CRED
- (35) SC ADDRESS
- (36) Hostage
- (37) NRPS
- (38) DECDESCR
- (39) STIM
- (40) UNP 71 REL
- (41) RSED
- (42) A/R Clean-Up (see Project 713)
- (43) LPCANCEL
- (44) PMTOVERCAN
- (45) OICDEFAULT
- (46) DEFAULTFSC
- (48) TDIFRZ-150
- (49) TDI-EXAM
- (50) HighRisk
- (51) Deferral
- (52) HighDollar

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30(55)4.3 (1-1-96)
Computer Paragraph Notices

- (1) 04—ES Penalty Waiver
- (2) 01—Deferral Reminder
- (3) 08—Refund Issued—SSA Records need correction
- (4) 09—Earned Income Credit Refund
- (5) 10—Combination CP 12 and CP 45
- (6) 11—Math Error—Bal Due
- (7) 12—Math Error—Overpayment
- (8) 13—Math Error—Settlement
- (9) 14/14E—Bal Due No Error
- (10) 15—Civil Penalty Assessment
- (11) 15B—100% Civil Penalty Assessment
- (12) 16—Math Error—Overpayment to other taxes (CP 12/49 combination)
- (13) 17—Refund unfrozen Excess ES Credits

MT 3000-353 page 30(55)0-8 (1-1-96)

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IR Manual
30(55)4.2

IMF Operations

You are hereby put on NOTICE that the within document/letter must be filed as a permanent part of my IRS/TDA/AMS/IMF 23c record. If any such record/s has/have been deleted or substituted, this demand still applies. Recorder's INITIALS:

- (15) OIC (TC 480)
- (16) NMFL (TC 480)
- (17) KITA (TC 01X)
- (18) COMBAT ZON
- (19) UNREYTC 520 (TC 520)
- (20) TDI RESRCH (See Project 720)
- (21) INTEL (See Project 735)
- (22) REACT NMF (TC 130)
- (23) CSED
- (24) MARRIED FILED SEPARATELY (TC 424)
- (25) MULTIPLE FILER (TC 424)
- (26) Cr EI Decd (See Project 439)
- (27) TRFPENACT
- (28) VIRGIN IS (TC 150)
- (29) STAT TRANSCRIPT
- (30) QUEST W-4 (See Project 411)
- (31) FOLLOW-UP W-4 (See Project 411)
- (32) AMRH (See Project 712)
- (33) AM-X (See Project 712)
- (34) CV PN CRED
- (35) SC ADDRESS
- (36) Hostage
- (37) NRPS
- (38) DECDESCR
- (39) STIM
- (40) UNP 71 REL
- (41) RSED
- (42) A/R Clean-Up (see Project 713)

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3(15)(129)9.(11) 11-1-77

Adjustment to Virgin Island Forms 1040 and 1040A

(1) Route claims received from taxpayers residing in the Virgin Islands to PSC for processing.

(2) Action:

(a) Check TC 150 DLN for blocking series 88 (Virgin Island);

(b) Write "Virgin Island TP" on the transmittal; and

(c) Send 86C Letter to taxpayer notifying him/her of the transfer.

3(15)(129)9.(12) 11-1-77

Underreporter/CP2000 Issues

(1) The Underreporter Program (URP) is the compliance program which compares amounts of wages, interest, dividends, etc., reported by the payors with the amounts reported by the individual taxpayers. Discrepancies in income and increased withholding credits are identified. A CP2000 notice is sent to a taxpayer to propose a change to tax and/or credits. The current URP processing year is usually 18 to 24 months prior to the current tax year. (e.g., The tax year 1991 will be processed by URP in the calendar year 1993.) As a result of taxpayers receiving CP2000s or Statutory Notices from URP, A/C will routinely correspondance with/for Forms 1040X. In addition, A/C will also receive taxpayer correspondence and returns that have been reviewed by URB.

(2) Route Forms 1040X (that relate or refer to URP) for the current URP processing year, to URB. Follow regular adjustments procedures for:
(a) other than current URP processing year Forms 1040X and.

MT 3(15)00-261

PAGE 3(15)(129)0-93 (1-1-93)

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Withholding on foreign taxpayers

Code Sec. 1445(b)(4)(B)(i)(II)

—P.L. 98-369, Sec. 130(b), amended subsec. (c), effective for payments made after 3/1/84, in tax. yrs. end. after 3/1/84.

Prior to amendment, subsec. (c) read as follows:

"(c) Exception for Guam corporations.

"For purposes of this section, the term 'foreign corporation' does not include a corporation created or organized in Guam or under the law of Guam."

—P.L. 98-369, Sec. 474(r)(29)(I)(i), deleted "or section 1451" after "provided in section 1441" in subsec. (a). . . Sec. 474(r)(29)(I)(ii), deleted "; except that, in the case of interest described in section 1451 (relating to tax-free covenant bonds), the deduction and withholding shall be at the rate specified therein" after "30 percent thereof" in subsec. (a), effective for tax. yrs. begin. after 12/31/83 and to carrybacks from tax. yrs. begin. after 12/31/83. Sec. 475(b) of this Act provides a special rule as follows:

"(b) Tax-free covenant bonds. The amendments made by subsections (j) and (r)(29) of section 474 shall not apply with respect to obligations issued before January 1, 1984."

In 1982, P.L. 97-248, Sec. 342, provides:

"Sec. 342. WITHHOLDING OF TAX ON NONRESIDENT ALIENS AND FOREIGN CORPORATIONS.

"Not later than 2 years after the date of the enactment of this Act, the Secretary of the Treasury or his delegate shall prescribe regulations establishing certification procedures, refund procedures, or other procedures which ensure that any benefit of any treaty relating to withholding of tax under sections 1441 and 1442 of the Internal Revenue Code of 1954 is available only to persons entitled to such benefit."

In 1976, P.L. 94-455, Sec. 1906(b)(13)(A), substituted "Secretary" for "Secretary or his delegate" each place it appeared in subsec. (b), effective 2/1/77.

In 1972, P.L. 92-606, Sec. 1(e)(2), added subsec. (c), effective 11/1/72.

In 1971, P.L. 92-178, Sec. 313(c)(1), deleted "and" the last place it appeared in subsec. (a) . . . Sec. 313(e)(2), added "; and the reference in section 1441(c)(8) to section 871(a)(1)(C) shall be treated as referring to section 881(a)(3)" before the period at the end of subsec. (a), effective for payments occurring on or after 4/1/72.

In 1966, P.L. 89-809, Sec. 104(c), amended Code Sec. 1442, effective for tax. yrs. begin. after 12/31/66.

Prior to amendment, Code Sec. 1442 read as follows.

"Sec. 1442. Withholding of tax on foreign corporations.

"In the case of foreign corporations subject to taxation under this subtitle not engaged in trade or business within the United States, there shall be deducted and withheld at the source in the same manner and on the same items of income as is provided in section 1441 or section 1451 a tax equal to 30 percent thereof; except that, in the case of interest described in section 1451 (relating to tax-free covenant bonds), the deduction and withholding shall be at the rate specified therein."

Sec. 1443. Foreign tax-exempt organizations.

(a) Income subject to section 511.

In the case of income of a foreign organization subject to the tax imposed by section 511, this chapter shall apply to income includible under section 512 in computing its unrelated business taxable income, but only to the extent and subject to such conditions as may be provided under regulations prescribed by the Secretary.

(b) Income subject to section 4948.

In the case of income of a foreign organization subject to the tax imposed by section 4948(a), this chapter shall apply, except that the deduction and withholding shall be at the rate of 4 percent and shall be subject to such conditions as may be provided under regulations prescribed by the Secretary.

In 1976, P.L. 94-455, Sec. 1906(b)(13)(A), substituted "Secretary" for "Secretary or his delegate" each place it appeared in Code Sec. 1443, effective 2/1/77.

In 1969, P.L. 91-172, Sec. 101(j)(22), added the heading of subsec. (a), and added subsec. (b), effective 1/1/70.

—P.L. 91-172, Sec. 121(d)(2)(C), substituted "income" for "rents" in subsec. (a), effective for tax. yrs. begin. after 12/31/69.

Sec. 1444. Withholding on Virgin Islands source income.

For purposes of determining the withholding tax liability incurred in the Virgin Islands pursuant to this title (as made applicable to the Virgin Islands) with respect to amounts received from sources within the Virgin Islands by citizens

and resident alien individuals of the United States, and corporations organized in the United States, the rate of withholding tax under sections 1441 and 1442 on income subject to tax under section 871(a)(1) or 881 shall not exceed the rate of tax on such income under section 871(a)(1) or 881, as the case may be.

In 1988, P.L. 100-647, Sec. 1012(x), deleted "(as modified by section 934A)" before "shall not exceed", effective for tax. yrs. begin. after 12/31/86.

In 1983, P.L. 97-455, Sec. 1(b), added Code Sec. 1444, effective for payments made after 1/13/83.

Sec. 1445. Withholding of tax on dispositions of United States real property interests.

(a) General rule.

Except as otherwise provided in this section, in the case of any disposition of a United States real property interest (as defined in section 897(c)) by a foreign person, the transferee shall be required to deduct and withhold a tax equal to 10 percent of the amount realized on the disposition.

(b) Exemptions.

(1) In general. No person shall be required to deduct and withhold any amount under subsection (a) with respect to a disposition if paragraph (2), (3), (4), (5), or (6) applies to the transaction.

(2) Transferor furnishes nonforeign affidavit. Except as provided in paragraph (7), this paragraph applies to the disposition if the transferor furnishes to the transferee an affidavit by the transferor stating, under penalty of perjury, the transferor's United States taxpayer identification number and that the transferor is not a foreign person.

(3) Nonpublicly traded domestic corporation furnishes affidavit that interests in corporation not United States real property interests. Except as provided in paragraph (7), this paragraph applies in the case of a disposition of any interest in any domestic corporation if the domestic corporation furnishes to the transferee an affidavit by the domestic corporation stating, under penalty of perjury, that—

(A) the domestic corporation is not and has not been a United States real property holding corporation (as defined in section 897(c)(2)) during the applicable period specified in section 897(c)(1)(A)(ii), or

(B) as of the date of the disposition, interests in such corporation are not United States real property interests by reason of section 897(c)(1)(B).

(4) Transferee receives qualifying statement.

(A) In general. This paragraph applies to the disposition if the transferee receives a qualifying statement at such time, in such manner, and subject to such terms and conditions as the Secretary may by regulations prescribe.

(B) Qualifying statement. For purposes of subparagraph (A), the term "qualifying statement" means a statement by the Secretary that—

(i) the transferor either—

(I) has reached agreement with the Secretary (or such agreement has been reached by the transferee) for the payment of any tax imposed by section 871(b)(1) or 882(a)(1) on any gain recognized by the transferor on the disposition of the United States real property interest, or

(II) is exempt from any tax imposed by section 871(b)(1) or 882(a)(1) on any gain recognized by the transferor on the disposition of the United States real property interest, and

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5,235

BUDGET RECONCILIATION ACT

P.L. 101-239

[page 1415]

(such as the United States) if the corporation's primary location for tax jurisdiction purposes (e.g., its place of management and control) is in fact in that country, rather than its place of organization. Treasury has exchanged notes on exemption from tax on transportation income with numerous countries. Generally, in establishing the criteria for the reciprocal tax exemption on transportation income in the 1986 Act, Congress did not intend to condition the exemption of corporations organized in any particular country on that country's grant of an equivalent exemption covering corporations which are properly treated as residents of that foreign country under its tax laws. Thus, a foreign country could be viewed as generally providing U.S. corporations a tax exemption even if it does not exempt from tax corporations organized in the United States, but treated as residents of that country under its laws, assuming those laws would treat a U.S. corporation as a local resident only on the basis that such corporation's center of management or control, or comparable attribute, was in that foreign country.

Possessions of the United States

When Congress enacted the four percent tax on U.S. source gross transportation income, Congress anticipated that this tax, by increasing U.S. taxation of persons from foreign countries that have not provided reciprocal exemptions to U.S. persons, would encourage those foreign countries to amend their tax laws to provide such reciprocal exemptions.

The income tax laws of the United States are currently in effect, completely or partially, in Guam, the Commonwealth of the Northern Mariana Islands ("CNMI"), the U.S. Virgin Islands, and American Samoa as their own income tax systems. These jurisdictions are termed "possessions" of the United States for tax purposes. To transform the Code into a local tax code, each possession, in effect, substitutes its name for the name "United States" where appropriate in the Code. The possessions generally are treated as foreign countries for U.S. tax purposes. Similarly, the United States generally is treated as a foreign country for purposes of possessions taxation. This word-substitution system is known as the "mirror system." As a result of changes brought about by the 1986 Act, individual possessions are able to take steps that would permit them to amend their tax laws internally. As of this time, certain possessions have taken the necessary steps to permit such internal amendment, but others have not.**

Thus, for example, a U.S. corporation operating a transportation business traversing a route between a possession on the mirror system and the United States would generally be subject in the possession to the four percent tax on the possession source gross transportation income, unless United States law provides an exemption from the equivalent tax for corporations organized in the possession. Similarly, a corporation organized in that possession operating on the same route would generally be subject in the United

** Under the 1986 Act, Guam, CNMI, and American Samoa are eligible to amend their internal income tax laws independently of the Code as mirrored, upon the effective date of an "implementing agreement" between the possession and the United States. To date, American Samoa has an implementing agreement in effect, and Guam has entered into such an agreement effective 1991.

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EXHIBIT F
The Constitution of the United States of America – Article V
(3 pages)

THE
CONSTITUTION
OF THE
UNITED STATES
OF AMERICA

As Amended

—
Unratified Amendments

—
Analytical Index



PRESENTED BY MR. HYDE

January 31, 2000 • Ordered to be printed

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON: 2000

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ARTICLES IN ADDITION TO, AND AMENDMENT OF, THE CONSTITUTION OF THE UNITED STATES OF AMERICA, PROPOSED BY CONGRESS, AND RATIFIED BY THE LEGISLATURES OF THE SEVERAL STATES, PURSUANT TO THE FIFTH ARTICLE OF THE ORIGINAL CONSTITUTION¹²

ARTICLE [I.]¹³

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; of the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

ARTICLE [II.]

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

ARTICLE [III.]

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

ARTICLE [IV.]

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ARTICLE [V.]

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the

¹²The first ten amendments of the Constitution of the United States (and two others, one of which failed of ratification and the other which later became the 27th amendment) were proposed to the legislatures of the several States by the First Congress on September 25, 1789. The first ten amendments were ratified by the following States, and the notifications of ratification by the Governors thereof were successively communicated by the President to Congress: New Jersey, November 20, 1789; Maryland, December 19, 1789; North Carolina, December 22, 1789; South Carolina, January 19, 1790; New Hampshire, January 25, 1790; Delaware, January 28, 1790; New York, February 24, 1790; Pennsylvania, March 10, 1790; Rhode Island, June 7, 1790; Vermont, November 3, 1791; and Virginia, December 15, 1791.

¹³Ratification was completed on December 15, 1791.

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EXHIBIT	F



CONSTITUTION OF THE UNITED STATES

Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

ARTICLE [VI.]

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

ARTICLE [VII.]

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

ARTICLE [VIII.]

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE [IX.]

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparate others retained by the people.

ARTICLE [X.]

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

[ARTICLE XI.]

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

PROPOSAL AND RATIFICATION

The eleventh amendment to the Constitution of the United States was proposed to the legislatures of the several States by the Third Congress, on the 4th of March 1794; and was declared in a message from the President to Congress, dated the 8th of January 1798, to have been ratified by the States on the 21st of December 1797.

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**DEBBIE VAHE DECLARATION
EXHIBIT H-2**

SEE VERIFIED NOTICE ATTACHED.

VELOPE
Form 1040
DEC 1 1998

Department of the Treasury—Internal Revenue Service
U.S. Individual Income Tax Return 1998
(98) IRS Use Only—Do not write or staple in this space.

For the year Jan. 1–Dec. 31, 1998, or other tax year beginning 1998, ending 19 OMB No. 1545-0074

STATUTE CLEARED
ORIGINAL DELINQUENT RETURN
FRESNO STATUTE TEAM
DATE

POSTMARK DATE
Label
(See instructions on page 18.)
Use the IRS label.
Otherwise, please print or type.

Labels Here

Your first name and initial <i>Core L</i>	Last name <i>Reading</i>
If a joint return, spouse's first name and initial <i>N/A</i>	Last name <i>N/A</i>
Home address (number and street). If you have a P.O. box, see page 18. <i>2425 EAST FOX STREET</i>	
City, town or post office, state, and ZIP code. If you have a foreign address, see page 18. <i>MESA, ARIZONA 85213</i>	

Your social security number
4550

Spouse's social security number

IMPORTANT!
You must enter your SSN(s) above.

Yes	No	Note: Checking "Yes" will not change your tax or reduce your refund.

Presidential Election Campaign
(See page 18.)

Do you want \$3 to go to this fund?

If a joint return, does your spouse want \$3 to go to this fund?

Filing Status

Check only one box.

<input checked="" type="checkbox"/> 1	Single
<input type="checkbox"/> 2	Married filing joint return (even if only one had income)
<input type="checkbox"/> 3	Married filing separate return. Enter spouse's social security no. above and full name here. ▶
<input type="checkbox"/> 4	Head of household (with qualifying person). (See page 18.) If the qualifying person is a child, enter this child's name here. ▶
<input type="checkbox"/> 5	Qualifying widow(er) with dependent child (year spouse died ▶ 19). (See page 18.)



Exemptions

6a **Yourself.** If your parent (or someone else) can claim you as a dependent on his or her tax return, do not check box 6a.

b **Spouse**

c **Dependents:**

(1) First name	Last name	(2) Dependent's social security number	(3) Dependent's relationship to you	(4) <input checked="" type="checkbox"/> if qualifying child for child tax credit (see page 19)
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>

d Total number of exemptions claimed **RECEIVED**

No. of boxes checked on 6a and 6b **1**

No. of your children on 6c who:

- lived with you
- did not live with you due to divorce or separation (see page 19)

Dependents on 6c not entered above

Add numbers entered on lines above **1**

Income

Attach Copy B of your Forms W-2, W-2G, and 1099-R here.

If you did not get a W-2, see page 20.

Enclose, but do not staple, any payment. Also, please use Form 1040-V.

7	Wages, salaries, tips, etc. Attach Form(s) W-2.	7
8a	Taxable interest. Attach Schedule B if required.	8a
8b	Tax-exempt interest. DO NOT include on line 8a.	8b
9	Ordinary dividends. Attach Schedule B if required.	9
10	Taxable refunds, credits, or offsets of state and local income taxes (see page 21).	10
11	Alimony received	11
12	Business income or (loss). Attach Schedule C or C-EZ	12
13	Capital gain or (loss). Attach Schedule D	13
14	Other gains or (losses). Attach Form 4797	14
15a	Total IRA distributions	15a
15b	Taxable amount (see page 22)	15b
16a	Total pensions and annuities	16a
16b	Taxable amount (see page 22)	16b
17	Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E	17
18	Farm income or (loss). Attach Schedule F	18
19	Unemployment compensation	19
20a	Social security benefits	20a
20b	Taxable amount (see page 24)	20b
21	Other income. List type and amount—see page 24	21
22	Add the amounts in the far right column for lines 7 through 21. This is your total income ▶	22

7	
8a	
9	
10	
11	
12	
13	
14	0.00
15b	
16b	
17	
18	
19	
20b	
21	
22	0.00

Adjusted Gross Income

If line 33 is under \$30,095 (under \$10,030 if a child did not live with you), see EIC inst. on page 36.

23	IRA deduction (see page 25)	23
24	Student loan interest deduction (see page 27)	24
25	Medical savings account deduction. Attach Form 8853	25
26	Moving expenses. Attach Form 3903	26
27	One-half of self-employment tax. Attach Schedule SE	27
28	Self-employed health insurance deduction (see page 28)	28
29	Keogh and self-employed SEP and SIMPLE plans	29
30	Penalty on early withdrawal of savings	30
31a	Alimony paid b Recipient's SSN ▶	31a
32	Add lines 23 through 31a	32
33	Subtract line 32 from line 22. This is your adjusted gross income ▶	33

23	
24	
25	
26	
27	
28	
29	
30	
31a	
32	
33	0.00

LEGAL NOTICE: PREPARED, SIGNED, and FILED under DURESS - Mr

Tax and Credits

Standard Deduction for Most People
 Single: \$4,250
 Head of household: \$6,250
 Married filing jointly or Qualifying widow(er): \$7,100
 Married filing separately: \$3,550

34	Amount from line 33 (adjusted gross income)	34	0.00
35a	Check if: <input type="checkbox"/> You were 65 or older, <input type="checkbox"/> Blind; <input type="checkbox"/> Spouse was 65 or older, <input type="checkbox"/> Blind. Add the number of boxes checked above and enter the total here ▶ 35a		
b	If you are married filing separately and your spouse itemizes deductions or you were a dual-status alien, see page 29 and check here ▶ 35b <input type="checkbox"/>		
36	Enter the larger of your itemized deductions from Schedule A, line 28, OR standard deduction shown on the left. But see page 30 to find your standard deduction if you checked any box on line 35a or 35b or if someone can claim you as a dependent	36	0.00
37	Subtract line 36 from line 34	37	0.00
38	If line 34 is \$93,400 or less, multiply \$2,700 by the total number of exemptions claimed on line 6d. If line 34 is over \$93,400, see the worksheet on page 30 for the amount to enter	38	2,700.00
39	Taxable income. Subtract line 38 from line 37. If line 38 is more than line 37, enter -0-	39	0.00
40	Tax. See page 30. Check if any tax from a <input type="checkbox"/> Form(s) 8814 b <input type="checkbox"/> Form 4972 ▶	40	
41	Credit for child and dependent care expenses. Attach Form 2441	41	
42	Credit for the elderly or the disabled. Attach Schedule R	42	
43	Child tax credit (see page 31)	43	
44	Education credits. Attach Form 8863	44	
45	Adoption credit. Attach Form 8839	45	
46	Foreign tax credit. Attach Form 1116 if required	46	
47	Other. Check if from a <input type="checkbox"/> Form 3800 b <input type="checkbox"/> Form 8396 c <input type="checkbox"/> Form 8801 d <input type="checkbox"/> Form (specify)	47	
48	Add lines 41 through 47. These are your total credits	48	0.00
49	Subtract line 48 from line 40. If line 48 is more than line 40, enter -0- ▶	49	

Other Taxes

50	Self-employment tax. Attach Schedule SE	50	
51	Alternative minimum tax. Attach Form 6251	51	
52	Social security and Medicare tax on tip income not reported to employer. Attach Form 4137	52	
53	Tax on IRAs, other retirement plans, and MSAs. Attach Form 5329 if required	53	
54	Advance earned income credit payments from Form(s) W-2	54	
55	Household employment taxes. Attach Schedule H	55	
56	Add lines 49 through 55. This is your total tax ▶	56	0.00

Payments

Attach Forms W-2 and W-2G on the front. Also attach Form 1099-R if tax was withheld.

57	Federal income tax withheld from Forms W-2 and 1099	57	
58	1998 estimated tax payments and amount applied from 1997 return	58	
59a	Earned income credit. Attach Schedule EIC if you have a qualifying child b Nontaxable earned income: amount ▶ [] and type ▶ []	59a	
60	Additional child tax credit. Attach Form 8812	60	
61	Amount paid with Form 4868 (request for extension)	61	
62	Excess social security and RRTA tax withheld (see page 43)	62	
63	Other payments. Check if from a <input type="checkbox"/> Form 2439 b <input type="checkbox"/> Form 4136	63	
64	Add lines 57, 58, 59a, and 60 through 63. These are your total payments ▶	64	

Refund

Have it directly deposited! See page 44 and fill in 66b, 66c, and 66d.

65	If line 64 is more than line 56, subtract line 56 from line 64. This is the amount you OVERPAID	65	
66a	Amount of line 65 you want REFUNDED TO YOU ▶	66a	
b	Routing number [] [] [] [] [] [] [] [] [] [] ▶ c Type: <input type="checkbox"/> Checking <input type="checkbox"/> Savings		
d	Account number [] ▶		
67	Amount of line 65 you want APPLIED TO YOUR 1999 ESTIMATED TAX ▶	67	

Amount You Owe

68	If line 56 is more than line 64, subtract line 64 from line 56. This is the AMOUNT YOU OWE . For details on how to pay, see page 44 ▶	68	0.00
69	Estimated tax penalty. Also include on line 68	69	

Sign Here

Joint return? See page 18. Keep a copy for your records.

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your signature <i>UNDER DURESS</i>	Date <i>12/06/2008</i>	Your occupation <i>"DOMESTIC EMPLOYER"</i>	Daytime telephone number (optional)
Spouse's signature. If a joint return, BOTH must sign.	Date	Spouse's occupation	()

Paid Preparer's Use Only

Preparer's signature	Date	Check if self-employed <input type="checkbox"/>	Preparer's social security no.
Firm's name (or yours if self-employed) and address	EIN	ZIP code	

LEGAL NOTICE: PREPARED, SIGNED, and FILED UNDER DURESS - PLEASE SEE VERIFIED NOTICE ATTACHED.

SCHEDULES A&B
(Form 1040)

Schedule A—Itemized Deductions

OMB No. 1545-0074

1998

Attachment
Sequence No. **07**

Department of the Treasury
Internal Revenue Service (99)

(Schedule B is on back)

▶ **Attach to Form 1040.** ▶ See instructions for Schedules A and B (Form 1040).

Name(s) shown on Form 1040

Your social security number

CLARE L. READING

4550

Medical and Dental Expenses	1	Medical and dental expenses (see page A-1)	1				
	2	Enter amount from Form 1040, line 34, 2					
	3	Multiply line 2 above by 7.5% (.075)	3				
	4	Subtract line 3 from line 1. If line 3 is more than line 1, enter -0-				4	
Taxes You Paid <small>(See page A-2.)</small>	5	State and local income taxes	5				
	6	Real estate taxes (see page A-2)	6				
	7	Personal property taxes	7				
	8	Other taxes. List type and amount ▶	8				
	9	Add lines 5 through 8				9	
Interest You Paid <small>(See page A-3.)</small>	10	Home mortgage interest and points reported to you on Form 1098	10				
	11	Home mortgage interest not reported to you on Form 1098. If paid to the person from whom you bought the home, see page A-3 and show that person's name, identifying no., and address ▶	11				
	12	Points not reported to you on Form 1098. See page A-3 for special rules	12				
	13	Investment interest. Attach Form 4952 if required. (See page A-3.)	13				
	14	Add lines 10 through 13				14	
Gifts to Charity <small>If you made a gift and got a benefit for it, see page A-4.</small>	15	Gifts by cash or check. If you made any gift of \$250 or more, see page A-4	15				
	16	Other than by cash or check. If any gift of \$250 or more, see page A-4. You MUST attach Form 8283 if over \$500	16				
	17	Carryover from prior year	17				
	18	Add lines 15 through 17				18	
Casualty and Theft Losses	19	Casualty or theft loss(es). Attach Form 4684. (See page A-5.)				19	
Job Expenses and Most Other Miscellaneous Deductions <small>(See page A-6 for expenses to deduct here.)</small>	20	Unreimbursed employee expenses—job travel, union dues, job education, etc. You MUST attach Form 2106 or 2106-EZ if required. (See page A-5.) ▶	20				
	21	Tax preparation fees	21				
	22	Other expenses—investment, safe deposit box, etc. List type and amount ▶	22				
	23	Add lines 20 through 22	23				
	24	Enter amount from Form 1040, line 34, 24					
	25	Multiply line 24 above by 2% (.02)	25				
	26	Subtract line 25 from line 23. If line 25 is more than line 23, enter -0-				26	
Other Miscellaneous Deductions	27	Other—from list on page A-6. List type and amount ▶ Deduction for Labor under the Just Compensation of the Fifth Amendment See Form 8275				27	0 00
Total Itemized Deductions	28	Is Form 1040, line 34, over \$124,500 (over \$62,250 if married filing separately)? NO. Your deduction is not limited. Add the amounts in the far right column for lines 4 through 27. Also, enter on Form 1040, line 36, the larger of this amount or your standard deduction. YES. Your deduction may be limited. See page A-6 for the amount to enter.				28	0 00

For Paperwork Reduction Act Notice, see Form 1040 instructions. Cat. No. 11330X Schedule A (Form 1040) 1998
Legal notice: Prepared, signed and filed under duress - che

Form **8275**

(Rev. May 2001)

Department of the Treasury
Internal Revenue Service

Disclosure Statement

Do not use this form to disclose items or positions that are contrary to Treasury regulations. Instead, use Form 8275-R, Regulation Disclosure Statement. See separate instructions.

▶ Attach to your tax return.

OMB No. 1545-0889

Attachment
Sequence No. **92**

Name(s) shown on return

Clare L. Reading

Identifying number shown on return

4550

Part I General Information (see instructions)

(a) Rev. Rul., Rev. Proc., etc.	(b) Item or Group of Items	(c) Detailed Description of Items	(d) Form or Schedule	(e) Line No.	(f) Amount
1 26 CFR Sec. 1.83-1	Gross Income Excess	Property Transferred in connection with the performance of services.	Sched. A	14	0.00
2 26 U.S.C. Sec. 212(1)	Deductions Exclusions	All necessary expenses for the production of compensation (Labor is a necessary expense)	Sched. A	27	0.00
3 26 CFR 1.1001	Computation of Gain/Loss	Deduction for the fair market value of Labor Property in exchange for comensation.	Form 1040	36	0.00

Part II Detailed Explanation (see instructions)

1 See Part IV and Attached "VERIFIED NOTICE OF COMPLETING AND FILING THE ATTACHED RETURN AT ALL TIMES INVOLUNTARILY BY FORCE UNDER THREAT, DURESS, COERCION, INTIMIDATION AND FEAR OF PROSECUTION."

2

3

Part III Information About Pass-Through Entity. To be completed by partners, shareholders, beneficiaries, or residual interest holders.

Complete this part only if you are making adequate disclosure for a pass-through item.

Note: A pass-through entity is a partnership, S corporation, estate, trust, regulated investment company (RIC), real estate investment trust (REIT), or real estate mortgage investment conduit (REMIC).

1 Name, address, and ZIP code of pass-through entity	2 Identifying number of pass-through entity
	3 Tax year of pass-through entity / / to / /
	4 Internal Revenue Service Center where the pass-through entity filed its return

Part IV Explanations (continued from Parts I and/or II)

Deductions and exclusions for the Cost of Compensation for Labor property protected under the Fifth Amendment to the Constitution for the United States of America stating in pertinent part: "No person (human being) shall . . . be deprived of Life, Liberty or Property . . . nor shall private property be taken for public use without just compensation." Claimant is therefore restoring the fair market value of his Labor Property pursuant to the "Just Compensation" clause the Fifth Amendment as herein established." (ALL RIGHTS AND TITLE TO THE VALUE OF LABOR PROPERTY IS A RIGHT UNDER THE COMMON LAW AS ALL STATUTES MUST BE CONSTRUED IN HARMONY WITH THE CONSTITUTION.

The statutory and regulatory authority for deductions, exclusions and restoration of Compensation for Labor Property is found in the Following:

- (a) 26 U.S.C. Sec. 212(1) "In the case of an individual (Human Being) the shall be allowed as a deduction all the ordinary and necessary expenses. (Labor is an ordinary and necessary expense)
- (b) The election to itemize on a Form 1040 is codified at 26 U.S.C. Sec. 63(e)(2)
- (c) The deduction is an election authorized by 26 U.S.C. Sec. 183(e)(3)
- (d) The election is that the activity that caused the production of compensation was an activity not engaged for profit
- (e) Title 26 U.S.C. Sec. 183(b)(1) allows the deduction when the non taxable activity election is made
- (f) Title 26 U.S.C. Sec. 183(c) authorizes deductions under section 212.
- (g) 26 CFR Sec. 1.83-1 Property transferred in connection with the performance of services - This section provides that only the excess over the amount paid for (Labor) property shall be included in gross income.
- (h) 26 CFR Sec. 1.1001 Computation of gain or loss. The fair market value of property is a question of fact, but only in rare and extraordinary cases will property (Labor) be considered to have no fair market value. (The loss of Life and Liberty for compensation in exchange for cash or other property is the cost incurred and no gain or profit is realized.)
- (I) 26 CFR Sec. 1.1012-1 Basis of property - The cost is the amount paid for such property (Labor) in cash or other property.

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I declare under penalty of perjury that all statements made herein are true and correct to the best of my knowledge and belief. All Rights are herein Retained without recourse to me.

Signature: *Clare Louise Reading* Date: *12/06/2006*



Certified Mail: 7004 2890 0001 9657 8493

Clare Reading
Non-Federal/Resident Delivery
c/o 2425 E. Fox St.
Mesa, Arizona [85213]

Department of the Treasury
Internal Revenue Service
Fresno, CA 93888-0002

Re: Assigned Treasury Account: [REDACTED] 4550

**VERIFIED NOTICE OF COMPLETING AND FILING THE ATTACHED
RETURN AT ALL TIMES INVOLUNTARILY BY FORCE UNDER THREAT,
DURESS, COERCION, INTIMIDATION AND FEAR OF PROSECUTION**

NOTICE IS HEREBY GIVEN: that Clare Reading (hereinafter referred to as "Belligerent Claimant" or "Claimant") on this 6th day of DECEMBER 2006, officially serves this VERIFIED NOTICE OF COMPLETING AND FILING THE ATTACHED RETURN AT ALL TIMES INVOLUNTARILY BY FORCE UNDER THREAT, DURESS, COERCION, INTIMIDATION AND FEAR OF PROSECUTION, as an attachment to Form 1040 for tax year December 31, 1998 is herein included. Notice is hereby given to all fiduciaries of Claimant's conviction to what Claimant has researched and discovered to be true regarding her duty to file a federal income tax return under the existing internal revenue laws. Claimant's research of the internal revenue laws stems from court rulings that ignorance of the law is no excuse; it can be practiced in any country, and Claimant has attempted to understand what the law commands or forbids.

Under existing circumstances and by force of Public Policy, Claimant has no alternative other than to prepare the return to the best of Claimant's knowledge, understanding and belief. Claimant herein establishes for the record that, although Claimant has not found any statutory laws that lead her to believe she is required to file a Form 1040, the return attached hereto for tax year December 31, 1998 has been prepared, signed and submitted involuntarily, by force, under compulsory performance and at all times under threat, duress, coercion, intimidation and fear of prosecution.

The submitted return is not a voluntary self-assessment that Claimant agrees or concedes is due. Claimant specifically denies that any liability exists under the existing internal revenue laws. Therefore, the amount listed, if any, may not be summarily assessed pursuant to Internal Revenue Code Section 6201 or 6213. Additionally, the federal courts have determined that a return document does not need to be perfectly accurate or even complete if it is substantially in compliance with the requirement of a return. See e. g. Zellerbach Paper Co. v. Hevering, 293 U.S. 172 (1934); United States v. Long, 618 F.2d 74 (9th Cir. 1980); United States v. Porth, 426 F.2d 519 (10th Cir.) cert. Denied 400 U.S. 824 (1970); United States v. Moore, 627 F.2d 830 (7th Cir.). The attached return is in full compliance within the meaning of Internal Revenue Code Section 6702, even though Claimant denies a federal tax liability exists.

VERIFIED NOTICE OF FILING FORM 1040 RETURN UNDER
THREAT, DURESS, COERCION AND INTIMIDATION

Clare Reading, Claimant
Total Exhibits: 60, Notary page 18

Thus, although Claimant is required to sign this return under penalty of perjury, this return is signed involuntarily under threat, duress, coercion, intimidation, and is correct to the best of Claimant's knowledge and belief. Claimant does not, however, pretend to be familiar with the thousands of pages contained in the Code or its supporting regulations. Thus, because it is the policy of the IRS to refuse to process any return without a signature, Claimant has signed the return. For the record, it is not Claimant's intent to confess or admit any liability through the signature on the return.

Claimant is with knowledge that top executives of the past have denounced the tax laws as utterly incomprehensible and such remains the case to this very day. President Ronald Reagan, during his tenure espoused in May of 1983: ***"Our federal tax system is, in short, utterly impossible, utterly unjust and completely counterproductive [it] reeks with injustice and is fundamentally un-American . . . it has earned a rebellion and it is time we rebelled."*** And United States Treasury Secretary Paul O'Neil, head of the Department of the Treasury, stated on February 21, 2003, ***"Our tax code is an abomination. The complexity of our code strangles our prosperity, and it's a drag on our ability to create jobs in this nation."***

The courts have openly stated: ***"We must note here, as a matter of judicial knowledge, that most lawyers have only scant knowledge of tax law."*** *Bursten v. United States*, 395 F 2d 976, 981 (5th Cir.1968). With this in mind, Claimant has prepared and files the submitted return based on the facts and the law, as Claimant understands it; and no other assertions are intended or implied.

I.

Clare Reading Proceeds As A Belligerent Claimant Of Her Rights

Claimant is with the understanding that Rights can only be recognized if they are invoked. The courts have held that one who is not willing to assert a right to the point of belligerence, loses that right all together. Therefore, Clare Reading, a sentient being of good conscience proceeds as a "Belligerent Claimant" of her Rights – as anything less would be presumed to waive these Rights.

"The privilege against self-incrimination is neither accorded to the passive resistant, nor the person who is ignorant of his rights, nor to one indifferent thereto. It is a fighting clause. Its benefits can be retained only by sustained combat. It cannot be claimed by attorney or solicitor. It is valid only when insisted upon by a belligerent Claimant in person." *McAlister v. Henkel*, 201 U.S. 90, 26 S.Ct. 385, 50 L.Ed. 671; *Commonwealth v. Shaw*, 4 Cush. 594, 50 Am.Dec. 813; *Orum v. State*, 38 Ohio App. 171, 175 N.E. 876. ***"The one who is persuaded by honeyed words or moral suasion to testify or produce documents rather than make a last ditch stand, simply loses the protection."*** *United States v. Johnson*, 76 F. Supp. 538, February 26, 1947.

In light of the court's determination as stated in *Johnson* supra, such a standing must be applicable to all acts when confronted with the often abusive awesome machinery of the Department of the Treasury – Internal Revenue Service and the Department of Justice *qui tam* actors.

II.

Clare Reading Involuntarily Prepares, Signs And Submits All Forms Attached Hereto Involuntarily Under Duress

Claimant does not wish to be in violation of the internal revenue laws, specifically 26 U.S.C. §7206
Fraud and false statements which states:

“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. . . 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.”

Therefore, Claimant has signed the attached Form 1040 return involuntarily under threat, duress, coercion, intimidation and retains all Rights without recourse for any oversight or misunderstanding of the internal revenue laws due to their complexity. The court ruled:

“When a defendant challenges a conviction for willful filing of an inaccurate . . . Form . . . claiming it was signed involuntarily under duress and therefore violated Fifth Amendment rights, *if the form has not been voluntarily signed, the conviction and judgment will be vacated and the indictment dismissed.*” *United States v. Willoz*, (1971, CA5 La) 449 F.2d 1321, 71-2 USTC, 16016.

Courts have further ruled: “*In the interpretation of statutes levying taxes, it is the established rule not to extend their provisions, by implication, beyond the clear import of the language used, or to enlarge their operations so as to embrace matters not specifically pointed out. In case of doubt they are construed most strongly against the Government, and in favor of the citizen.*” *Gould v. Gould*, 245 U.S. 151 (1917) citing *United States v. Wigglesworth*, 2 Story, 369; *American Net & Twine Co. v. Worthington*, 141 U.S. 468, 474; *Benziger v. United States*, 192 U.S. 38, 55.

III.

The 1040 Return Filed Is Not Frivolous, And Is In Compliance With Supreme Court Precedent

Claimant herein puts the Department of the Treasury – Internal Revenue Service on notice that the return attached hereto does not constitute a “frivolous” return pursuant to Code Section 6702. The return is based on applicable United States Supreme Court decisions, Internal Revenue Code Sections, Privacy Act Notice provisions, and numerous other references. As such, it cannot be termed “frivolous” *on any basis* as defined by the United States Supreme Court. In addition, the return is not designed to “*delay or impede the administration of Federal Income Tax laws,*” since it is intended to be Claimant’s *final statement* under those statutes. Additionally, no IRS employee has the delegated authority to impose a “frivolous” penalty for filing a proper return. Claimant, having first hand knowledge of applicability of the internal revenue laws specific to her Common Law tax liability, would be committing perjury under both 18 U.S.C. § 1621 and 26 U.S.C. § 7206 if she

proceeded in any other manner. Therefore, Claimant can only attest to having “Zero” income for the year referenced hereto.

Claimant has read the “Frivolous Arguments” information posted at www.irs.gov, and does not make or allude to any such positions. Claimant seeks to dispel all attempts instituted by Service employees that may deem Claimant’s position as frivolous, without merit or baseless. It must be noted, all positions and claims made within this affidavit are taken directly from the language of internal revenue laws. In as much as Service employees may seek to ignore certain facts and employ others, United States Supreme Court rulings speak unambiguously to the definition of frivolous.

Historically, and to this very day, employees of the Internal Revenue Service resort to the terms “frivolous” or “without merit,” relieving them of the burden of having to address issues founded on sound legal principles, precedent and doctrines of law relied upon by Claimant. To the detriment of Claimant, the presumed [s]ubject taxpayer looking to the law for remedy, the Service will interpret the statute to its discretion and penalize those taking principled legal positions contrary to IRS Public Policy. Be that as it may, Claimant has relied on precedent, statutes and regulations when discerning the internal revenue laws as applicable to his unique situation.

Claimant relies on how the Supreme Court defines the term “frivolous” in so stating; ***“In relevant part, Judge Schroeder's lead opinion concluded that a district court could dismiss a complaint as factually frivolous only if the allegations conflicted with judicially noticeable facts, that is, facts capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.”*** *Hernandez v. Denton*, 861 F.2d 1421 (1988).

The Court went on to intimate further, that ***“... a complaint, containing as it does both factual allegations and legal conclusions, is frivolous where it lacks an arguable basis either in law or in fact.”*** *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). Claimant concludes that such clear cogent and irrefutable definition as opined by the Supreme Court shall be the cornerstone and the foundation by which doctrines are herein grounded. *Hernandez*, supra, went on to state in pertinent part, ***“... to dismiss them as frivolous without any factual development is to disregard the age-old insight that many allegations might be strange, but true; for truth is always strange, Stranger than fiction,”*** Lord Byron, Don Juan, canto XIV, stanza 101 (T. Steffan, E. Steffan, & W. Pratt eds. 1977). It is incumbent upon us to observe – with respect – what the Supreme Court and the Constitution have established for the purpose of due process protections guaranteed. (*Emphasis Added.*)

IV.

IRS Has Discretion To Employ Selective Prosecution, Ignore The Law And Act In Direct Violation Of Their Own Statutes And Regulations

Claimant is with evidence that officials, officers, agents and employees of the Service routinely violate statutes and implementing regulations, resulting in the of selective prosecution of Citizens that rely on Public Law and not IRS Public Policy when complying with the internal revenue laws. This abuse gave rise to the IRS Restructuring Reform Act of 1998. Although Congress passed the Act, it has not quelled the financial terrorist activities of Service employees. Therefore Claimant files the attached Form 1040 return involuntarily by force and under compulsion – not by conviction or belief that Claimant has a known legal duty. The courts stated:

“Simply stated, neither the Secretary nor the Service is in compliance with its own internal procedures which requires promulgation of regulations . . . This is violation of administrative law and voids the agency action.” *Lojeskio v. Boardl*, 626 F. Supp. 530, 533 (D.C., E.D. Pa. 1985), affirmed in part and reversed in part at 788 F. 2d 195, 198 (3rd. Cir. 1986).

Claimant is apprized of the devastating blow handed down by the “awesome machinery” of the United States Government against Citizens taking a position contrary to Public Policy. Relevant to the internal revenue laws, Claimant includes information that establishes how officials of this Government proceed against American Citizens in regards to taxing Labor Property – with lawless, ruthless and utter contempt steeped in subjugation. The following statements are shining examples of the tyranny Claimant and any American that attempts to earn a living in these 50 United States may suffer stating as follows:

In Benders Federal Revenue Law 1916 it is quoted: *“Wars and Rumors of Wars teach government new tricks of Taxation. The Word Trick is not unworthy. Taxation has been defined as the ‘art of plucking the goose as to secure the largest amount of feathers with the least amount of squawking.’ Whenever there is a real or pretend need for money, ways and means must and will be found.”* (See Exhibit B.)

Excerpts of IRS Policy Statement 20-1: “Penalties enhance voluntary compliance: *Penalties* provide the Service with an important tool to achieve that goal because they *enhance voluntary compliance by taxpayers*. Penalties encourage voluntary compliance by: (1) demonstrating the fairness of the tax system to compliant taxpayers; and (2) *increasing the cost of noncompliance.*” (See Exhibit B.)

IRS Publication 556 states in pertinent part: *“The IRS must follow the tax laws as set forth by Congress and the Internal Revenue Code.* The IRS also follows Treasury Regulations, other rules and procedures that were written to administer the internal revenue laws. **The IRS also follows court decisions.** *However, the IRS can lose cases that involve taxpayers with the same issue and still apply its interpretation of the law to your situation.”* (See Exhibit C.)

The above statements and publications put out by officials of the IRS confirm their enforcement of Public Policy and NOT the internal revenue laws. Claimant is with evidence that employees of the IRS often act above the law as sanctioned financial terrorists – acting in absolute contempt of the Constitution, the United States Supreme Court and Congress. Nonetheless, Claimant herein complies with the internal revenue laws in accordance to what the law commands or forbids, as she understands it.

V.

Internal Revenue Code Plagued With Legalese And Words Of Art

Clare Reading is with evidence that when having to confront the legalese written by Government staff attorneys in the Internal Revenue Code or any legal Code, all words are “Words of Art” and cannot be relied upon for their literal meaning. The courts stated: *“There is no surer way to*

misread any document than to read it literally,” *Guiseppi v. Walling*, 144 F.2d 608, 624 (2nd Cir. 1944). Claimant herein notices all parties concerned of the following:

“Words of Art” is defined in Black’s Law Fifth Edition (1979) on page 1439 as: “*The vocabulary or terminology of a particular art or science, and especially those expressions which are idiomatic or particular to it.*” (See Exhibit A)

The *science* in this instant case is legalese. For example, the word *person* in the definition section of the Internal Revenue Code found at 26 U.S.C. § 7701, *et seq.*, states in pertinent part:

“(a) When used in this title, *where not otherwise distinctly expressed* or manifestly incompatible with the intent thereof— **(1) Person** The term “*Person*” shall be construed to mean and include an individual, a trust, estate, partnership, association, company or corporation.”

To ask a man of average intelligence if he considered a *person* to be corporation, he would likely answer in the negative. The United States Supreme Court has consistently held:

“*Since in common usage, the term ‘person’ does not include the sovereign and statutes employing that term are ordinarily construed to exclude it.*” *United States v. Cooper*, 312 US 600, 604, 61 S.Ct. 742 (1941).

Claimant is with knowledge that the word *person* is one semantic example of millions of idiomatic words and terms manipulated by attorneys in the United States responsible for contriving subjugating legislative enactments. With this manipulation of words classified as legalese: (1) the truth is only relative to who’s telling it; (2) shall can mean may; (3) may can mean must; (4) yes can mean no; (5) a citizen is a corporation; (6) black is white; (7) night is day; and (8) two plus two equals five, six, nine, or all of the above, *etc.* For these reasons, Claimant cannot, and does not depend on or apply, the common usage of any words and/or phrases as used in their literal meaning, but relies wholly on the Common Law espoused in the Constitution and precedents established by the United States Supreme Court.

VI. Income v. Compensation

UNITED STATES SUPREME COURT PRECEDENT: The word “income” is not defined in the Internal Revenue Code; but, as stated below, it can only be derived from corporate activity. The Supreme Court has held this numerous times:

In *United States v Ballard*, 535 F.2d 400, 404; it states:

“Whatever difficulty there may be about a precise and scientific definition of ‘income’, it imports, as used here... the idea of gain or increase arising from corporate activities,” *Doyle v. Mitchel*, 247 U.S. 179. “Certainly the term ‘income’ “has no broader meaning in the 1913 Act than in that of 1909 (*See Stratton’s Independence v. Howbert*, 231 U.S. 399, 416, 417) and we assume that there is no difference in its meaning as used in the two acts.”

In Southern Pacific Company v. John Z. Lowe Jr., 247 U.S. 330, 335 continues:

Bowers v. Kerbaugh-Empire Company, 271 U.S. 887 (1926) page 174; Goodrich v. Edwards, 255 U.S. 527; United States v. Supplee-Biddle Hardware Co., 256 U.S. 189; United States v. Phellis, 257 U.S. 156; Miles v. Safe Deposit & T. Co., 259 U.S. 247; Irwin v. Gavit, 286 U.S. 161; Edwards v. Cuba R.Co., 268; Burnett v. Harmel, 287 U.S. 103, 108, (1932); Lucas v. Earl, 281 U.S. 111.

Income (within the meaning of the Sixteenth Amendment, the Income Tax Acts of 1913, 1916, 1917, and the Corporation Tax Act of 1909), is defined in Eisner v. Macomber, 252 U.S. 189, 207 (1901): “**Income may be defined as a gain derived from capital, from labor, or from both combined, including profit gained through sale or conversion of capital ...**” It includes the gain from capital realized by a single, isolated sale of property held as an investment, as well as profits realized by sales in a business of buying and selling such property. (Gray v. Darlington, 15 Wall. 63, and Lynch v. Turrish, 247 U.S. 221, distinguished. Affirmed.)

In determining the definition of the word “income” thus arrived at, this court has consistently refused to enter into the refinements of lexicographers or economists and has approved, in the definitions quoted, what it believed to be the commonly understood meaning of the term which must have been in the minds of the people when they adopted the Sixteenth Amendment to the Constitution. Doyle v. Mitchell Brothers Co., 247 U.S. 179, 185; Eisner v. Macomber, 252 U.S. 189, 206, 207.

“The Corporation Excise Tax Act of August 5, 1909, c. 6, 36 Stat. 11, 112, was not an income tax law, but a definition of the word “income” was so necessary in its administration that in an early case it was formulated as “the gain derived from capital, from labor, or from both combined.” Merchants’ L. & T. CO. v. Smietanka, 255 U.S. 509 (1921) 41 S.Ct. 386, citing Stratton’s Independence v. Howbert, 231 U.S. 399, 415.

- (a.) Edwards v. Keith, (C.C.A.) 231 F. 111 (1916) “. . . *one does not derive income by rendering services and charging for them.*”
- (b.) Oliver v. Halstead, 86 S.E. Rep 2nd 85e9 (1955) “*There is a clear distinction between ‘profit’ and ‘wages’, or a compensation for labor. Compensation for labor (wages) cannot be regarded as profit within the meaning of the law. The word ‘profit,’ as ordinarily used, means the gain made upon business or investment – a different thing altogether from the mere compensation for labor.*”
- (c.) “. . . *whatever may constitute income, therefore must have essential feature of gain to the recipient.* This was true when the 16th Amendment became effective, it was true at the time of Eisner v. Macomber, supra, it was true under Section 22(a) of the Internal Revenue Code of 1939, and it is likewise true under Section 61(a) of the I.R.S. Code of 1954. If there is not gain, there is not income. . . Congress has taxed income not compensation.” Conner v. United States, 303 F Supp. 1187, West page 1191 (1969).

Claimant agrees with the United States Supreme Court decisions and numerous other court rulings regarding the definition of “income.” Claimant states as referenced and defined in numerous court decisions *supra*; income and compensation have two very distinct meanings. **Income** is defined as

profit or gain, unlike **Compensation**, defined as an equal exchange for labor in the form of remunerations for a loss sustained. Any attempt by an Act of Congress or the Internal Revenue Service to regard Claimant's labor as having ZERO value, is an attempt to reduce Claimant's status to that of a statutory wage slave. With this in mind, Claimant files the Form 1040 return attached hereto at all times recognizing, deducting, reducing and restoring the sweat equity of Claimant's Labor Property as protected under the *Just Compensation Clause* to the Fifth Amendment to the United States Constitution.

VII.

Definitions Pertinent To The Computation Of A Federal Tax Liability To Include The Cost Of Labor

Claimant proceeds with the understanding that the internal revenue laws are written in "Words of Art" and cannot be relied upon in their literal sense - including the definitions relied upon as they relate to filing the attached return. Most are of common usage, but must be explicitly defined so as not to be mischaracterized by employees of the Internal Revenue Service or other Government officials applying their own "*interpretation*." The following definitions are cited in **Black's Law Dictionary Fifth Edition 1979** (see Exhibit A):

- (a.) **Income.** The gain derived from capital, from labor . . .
- (b.) **Labor.** Work; toil; service; mental or physical exertion.
- (c.) **Work.** To exert one's self for a purpose; to put forth effort for the attainment of an object . . .
- (d.) **Compensation.** *Equivalent in money for a loss sustained . . . giving back an equivalent in either money which is but the measure of value, or in actual value otherwise conferred.*
- (e.) **Gain.** Difference between cost and sale price. Excess of revenues over expenses from a specific transaction.
- (f.) **Profit.** Excess of revenues over expenses for the transaction.
- (g.) **Cost.** Expense; *price.* The sum or equivalent expended, paid or charged for something.
- (h.) **Excess.** Act or amount which goes beyond that which is usual, proper or necessary.
- (i.) **Internal revenue.** Governmental revenues from internal sources by way of taxes as contrasted with revenues from customs and foreign sources.

VIII.

The United States Exercises Absolute Power And Control Over The Life, Liberty And Property Of Clare Reading By Force With Absolute Control Of The Legal System

Clare Reading is the victim of what can be best defined as "statutory slavery" wherein legislative Acts of Congress have resulted in the absolute control of Claimant's Life, Liberty and Property via statutory enactments and Public Policy. Although Claimant is not employed by this or any

Government, Claimant cannot act or proceed to earn a living without agents of this Government seeking to intervene with Claimant's private affairs under some colorable law. This Government – having absolute control over Claimant's Life, Liberty and Property – commands Claimant to ask permission to earn a livelihood by way of license, permit, or both – always demanding a fee.

Claimant's compensation for Labor Property (Goose for Plucking) is under constant attack with federal and state government intervention, converting Rights into privileges by licenses, permits and registrations. This intervention comes by way of statutory federal and state taxation proposing a head tax on Claimant's Right (not privilege) to earn a living, reducing Claimant's status to that of a "Statutory Slave." For these and other reasons stated herein, Claimant includes the following definitions cited in **Black's Law Dictionary Fifth Edition 1979** (see Exhibit A).

- (a.) **Slave.** A person who is wholly subject to the will of another; *one who has no freedom of action*, but whose person and services are wholly under the control of another. *One who is under the power of a master*, and who belongs to him; *so that the master may sell and dispose of his person, of his industry, and of his labor, without his being able to do anything, or acquire anything, but what must belong to his master.*
- (b.) **Slavery.** The condition of *a slave; that civil relation in which one man has absolute power over the life, fortune and liberty of another.*
- (c.) **Servitude.** *The state of a person who is subjected, voluntarily or otherwise, to another person as his servant.* Servitudes are also classed as positive or negative. A positive servitude is one which obliges the owner of the servant estate to permit or suffer something to be done on his property by another. *A negative servitude is one that does not bind the servient proprietor to permit something to be done upon his property by another, but merely restrains him from making a certain use of his property* which would impair the easement enjoyed by the dominant tenement. *Rowe v. Nally*, 81 Md. 367, 32 A. 198.
- (d.) **Involuntary.** *Without will or power of choice*; opposed to volition or desire. *An involuntary act is that which is performed with constraint or with repugnance*, or without the will to do it. *An action is involuntary*, then, *which is performed under duress, force or coercion.*
- (e.) **Involuntary Servitude.** *The condition of one who is compelled by force, coercion, or imprisonment*, and against his will, *to labor for another*, whether he is paid or not.
- (f.) **Privilege.** A particular benefit or advantage enjoyed by a person, company, or class, beyond the common advantage of other citizens. *An exceptional or extraordinary power or exemption.* A right, power, franchise, or immunity held by a person or class, against or beyond the course of the law.
- (g.) **Right.** *A power, privilege, or immunity guaranteed under a constitution, statutes or decisional laws*, or claimed as a result of long usage.

Claimant is compelled to involuntarily file this return, being forced by officials, officers, agents and employees employed by the *awesome machinery* of the United States Government or one of its

instrumentalities, who have absolute control over Claimant's *life, liberty and property* under the doctrine of the "*collective entity*" and proceed via Public Policy. If Claimant does not, Claimant risks criminal prosecution and may be subjected to one of several statutory violations not limited to willful failure to file, tax evasion, and other alleged statutory violations of the internal revenue laws.

Completing the forms may result in Claimant's alleged liability for the payment of an internal revenue tax derived from Claimant's Labor Property. Claimant was not justly compensated prior to the assessment of the alleged tax liability which means that Claimant's condition has been reduced to that of a Slave – forced to turn over personal Labor Property – or in the alternative, face possible imprisonment or the confiscation of other property Claimant may possess. Therefore, Claimant at all times protests and involuntarily completes and files the attached Form 1040 return in fear and under duress, coercion, intimidation and threat of criminal prosecution. For these reasons, Claimant believes she is being statutorily subjected to the condition of Slavery, Involuntary Servitude and/or Peonage.

IX.

Zero Liability, Unknown Liability And Objection Return

Claimant's study of the income tax laws and internal revenue laws has resulted in Claimant being absolutely confused as to what the law commands or forbids. This confusion stems from Service employees' reckless and intentional acts of ignoring the law as written, and interpreting them to their discretion. Claimant's reliance on the Constitution, Acts of Congress, United States Supreme Court rulings and Title 26 of the United States Code – which protects Claimant's Labor Property - has been met with absolute resistance and retaliation. This retaliation has resulted in Service officials, officers, agents and employees name-calling, stonewalling, and labeling Claimant as a "*domestic terrorist*", completely ignoring the Common Law, statutes and regulations. Therefore, Claimant submits this Zero Liability, Unknown Liability and Objection return at all times involuntarily, under duress and protests with knowledge that it is IRS's published policy to ignore clearly established law and precedent. Claimant acts with reliance upon the following:

- (a.) With respect to the information Claimant included in the return, the courts have ruled: "A (1040) form with 'zeros' inserted in the spaces provided...qualified as a return." See United States v. Long, 618 F.2d 74 (9th Cir. 1980); United States v. Kimball, 896 F.2d 1218 (9th Cir. 1990); and a Las Vegas bankruptcy Court held the "zeros entered on the Form 1040 constitute a return." (Cross v. United States, 91-2 USTC p. 50, 318; Banker L. Rep. P. 7404.)
- (b.) It should also be noted that Claimant had "Zero" income according to The Supreme Court's definition of income since in Merchant's Loan & Trust Co. v. Smietanka, 225 U.S. 509 at pages 518 and 519 the court held that "The word (income) must be given the same meaning in all of the income tax Acts of Congress that was given to it in the Corporation Excise Tax Act of 1909." Therefore, since Claimant did not realize any compensation taxable as "income" under the Corporation Excise Tax Act of 1909, Claimant can only attest to having "Zero" income for the year in question.

The courts further stated: "It is clearly established that all citizens must file a tax return . . . despite the hazards of self incrimination . . . The court intimates that full disclosure of the amounts and sources of income must be made, *unless the taxpayer makes an objection on his return asserting*

his privilege not to incriminate himself.” United States v. Sullivan, 274 U.S. 259; Heligman v. United States, 407 F.2d 448; Garner v. United States, 501 F.2d 228; affirmed March 23, 1976, 74 S.Ct. 100.

X.

**Clare Reading Files IRS Invalid Form 1040
Under Threat, Duress, Coercion And Intimidation**

Clare Reading is with evidence factually sufficient to conclude that the Form 1040 information return does not comply with the Paperwork Reduction Act codified at 44 U.S.C. § 3512 and is a Virgin Islands tax return on Virgin Island sources of “Income.” Because Claimant is not now nor has ever been a resident of the Virgin Islands, Claimant believes that completing and filing Form 1040 will subject Claimant to possible criminal prosecution under 26 U.S.C. § 7206(1) - ***filing a return in which he knows to be false***, as others have suffered this fate. The following Government documents are evidence factually sufficient to confirm the Form 1040 is not the proper form Claimant, indigenous to these 50 United States of North America, is required to file – but does so involuntarily under threat, duress, coercion, intimidation and fear of criminal prosecution.

- 1.1 That Claimant is with Government evidence and documents from several Internal Revenue Manuals identifying the Form 1040, 2555 and 1040X as a foreign-earned income information return; and Claimant does not now nor has she ever derived “foreign-earned Income”(see **Exhibit E**).
- 1.2 That Treasury Regulations at 26 CFR § 1.1-1. – Income tax on individuals. (a) General rule; (1) **Section 1 of the Code** imposes an income tax on the income of every individual who is a citizen or resident of the United States . . . 26 CFR § 602.101 – OMB Control numbers. This displays the control numbers assigned to collections of information in Internal Revenue Service regulations by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (see **Exhibit E**).
- 1.3 That the OMB number assigned to 26 CFR § 1.1-1 – “Income tax on individuals” and reflected in the upper right corner of Form 2555 U.S. Foreign Earned Income appears to be OMB No. 1545-0067, instructing Claimant attach Form 1040 when filing this return (see **Exhibit E**).
- 1.4 That Form 1040 assigned OMB No. 1545-0074 fails to comply with the Paperwork Reduction Act codified at 44 U.S.C. § 3512 and does not contain a valid current OMB control number - deemed a “Bootleg Form.” (see **Exhibit E**)
- 1.5 That the IRS Privacy Act Statement and Paperwork Reduction Act Notice, which can be found at www.irs.gov, states in pertinent part: **“Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a valid OMB control number.”** therefore, Claimant cannot be penalized for failing to file Form 1040 or any other IRS Form that does not comply with the Act. (see **Exhibit D**)

NOTICE IS HEREBY GIVEN: that Clare Reading has never received compensation from, or earned income in, the Virgin Islands or any other foreign possession of the United States federal

corporation. Claimant believes, based on Government documents from Internal Revenue Manuals, that filing Form 1040 is applicable to revenues derived from foreign sources. Claimant further agrees with the IRS Privacy Act Statement and Paperwork Reduction Act Notice that Claimant is not subject to any penalty for failing to comply with collection of information due to the invalid OMB control number displayed on all Form 1040's. Notwithstanding these facts, Claimant will not throw caution to the wind, and files the Form 1040 - involuntarily and under duress as stated herein and throughout.

XI.

Clare Reading Has An Unrestricted Constitutionally Protected Right To Restore The Value Of Labor Pursuant To The Just Compensation Clause Of The Fifth Amendment To The Constitution.

Clare Reading believes her Labor is a property right protected under the Common Law of the Constitution. The *Just Compensation Clause* of the Fifth Amendment states in pertinent part: “. . . *nor shall any person be deprived of life, liberty, or property . . . be taken for public use without just compensation.*” (see **Exhibit F**). Claimant is aware that all federal income tax levied on labor is taken for public use and is, therefore, subject to the *Just Compensation Clause* of the Fifth Amendment. “*Congress and the President, like the courts, possess no power not derived from the Constitution,*” *Ex Parte Quirin*, 63 S.Ct. 2, 10, 317 U.S. 1 (1942); and “[T]he Constitution [is] the supreme law established by the people,” *Muskrat v. United States*, 31 S.Ct. 250, 254 (1911). Claimant is aware that the IRS has given itself the discretion to ignore that body of law that does not benefit its position. Nevertheless, United States Supreme Court held:

"The property that every man has is his personal labor, as it is the original foundation of all other property so it is the most sacred and inviolable...to hinder his employing [it]...in what manner he thinks proper, without injury to his neighbor, is a plain violation of the most sacred property." *Butcher's Union Co. v. Crescent City Co.*, 111 US 746.

"Property is everything which has an exchangeable value, and the right of property includes the power to dispose of it according to the will of the owner. Labor is property, and as such merits protection. The right to make it available is next in importance to the rights of life and liberty." *Slaughter-House Cases*, 83 U.S. 36 (1872).

"Justice Stevens explained that he believes that money is property . . . and as such, it is entitled to the constitutional protections normally afforded to property . . ." (Stevens, J., concurring. *Landell v. Sorrell*, (Vt. 2000)).

"This leaves only the district's interest in control over how its money was spent and the state's interest in control over the allocation of resources for processing as property interests that could possibly rise to the status of "property". Certainly the state and school district have cognizable property interests in their financial resources; money is property in the most traditional sense." *United States v. Granberry*, (E.D.Mo. 1989) 725 F. Supp. 446, 453.

Upon completing the Form 1040 return, Claimant effectively restored the fair market value of her Labor Property for which she is fully entitled. Claimant is with information that it is the policy of the Internal Revenue Service to ignore United States Supreme Court precedent, internal revenue statutes and regulations to “interpret” the law to their discretion – routinely to the peril of the alleged taxpayer. Nonetheless, Claimant calculates and computes *any* alleged federal income tax liability to restore back to Claimant the fair market value of her labor as just compensation to wit:

- 2.1 That Claimant is with evidence in accordance to the law that Claimant’s compensation for Labor Property is taken for public use and is protected under the *Just Compensation Clause* of the Fifth Amendment. Therefore Claimant is exercising that Right and has restored back the “fair market value” of said compensation for Labor Property in connection with the performance of services pursuant to the Constitutional Common Law, United States Supreme Court precedent and applicable statutory enactments.
- 2.2 That Claimant has determined in accordance to the law that there was no excess over the amount paid for the fair market value of said compensation for Labor Property that could be determined as “gross income” pursuant to Constitutional Common Law, United States Supreme Court precedent and applicable statutory enactments.
- 2.3 That Claimant has recognized and deducted all applicable expenses for production of Claimant’s compensation for Labor Property pursuant to Constitutional Common Law, United States Supreme Court precedent and applicable statutory enactments.
- 2.4 That Claimant has recognized and deducted any gain or profit realized over the amount paid for the fair market value of said compensation for Labor Property pursuant to Constitutional Common Law, United States Supreme Court precedent and applicable statutory enactments.

XII.

Clare Reading Calculates The Cost Basis Of The Fair Market Value Of Labor Property Transferred In Connection With The Performance Of Services

Claimant proceeds in compliance with the statutory provision of 26 U.S.C. § 83, *et. seq.*, excluding the fair market value of compensation for Labor Property in connection with the performance of services. Title 26 United States Code § 83 states, only the excess of the “fair market value” of property in the connection with the performance of services shall be included in gross income (see **Exhibit D**).

Pursuant to 26 U.S.C. § 61(b): For items specifically included in gross income, see part II (sec. 71 and following), the computation of an income tax liability come under the provisions of 26 U.S.C. § 83 or 26 CFR § 1.83-1 “**Property transferred in connection with the performance of services.** (a) Inclusion in gross income – (1) General Rule. Section 83 Provides rules for the taxation of property transferred to an employee or independent contractor in connection with the performance of services. . . such property is not taxable under § 83(a) until it has been transferred . . . to such person and become substantially vested . . . in such person. *In that case, the excess of . . . The fair market value of such property . . . at the time the property becomes substantially vested, over . . . the amount paid* for such property shall be included as compensation in the gross income

...” This section clearly states only the excess of the fair market value over the amount paid shall be included in gross income.

- 3.1 **Example:** Tom the Taxpayer was employed by ABC Company, and was compensated at \$25.00/hour (property transferred for the performance of services), the amount paid for the performance of Tom’s services. The cost and fair market value of Tom the Taxpayer’s property in connection with the performance of his services for ABC Company totals \$25.00/hour. Therefore, the amount paid of \$25.00/hour is the cost of Tom the Taxpayer’s Labor Property and the fair market value exchanged for the same. Accordingly, as provided in 26 U.S.C. § 83, Tom’s cost shall not be included in gross income. Here, no excess over the fair market value of the cost of Tom’s labor was realized as a profit or gain and is not to be included in gross income.
- 3.2 26 CFR § 1.83-3(g) “**Amount paid.** For purposes of § 83 and the regulations thereunder, the term “amount paid” refers to the value of any money or property paid for the transfer of property . . .” Relevant to § 83 above, the ‘amount paid’ is the cost of the fair market value of Claimant’s Labor Property, the *just compensation* for which Claimant is entitled.
- 3.3 26 CFR § 1.83-4(b)(2) “**Basis.** If property to which § 1.83-1 applies is transferred at arm’s length, the basis of the property in the hands of the transferee shall be determined under section 1012 . . .” Accordingly, the basis is the cost of Claimant’s compensation for Labor Property.
- 3.4 26 CFR § 1.83-6(b) **Recognition of gain or loss.** “. . . at the time of transfer of property in connection with the performance of services the transferor recognizes gain to the extent that the transferor receives an amount that exceeds the transferor’s basis in the property.” Here, section 83 provides that ‘gain’ is only recognized to the extent Claimant’s ‘basis is exceeded’ in the transfer of Labor Property, confirming that only the *excess* is to be *included* in *gross income*.
- 3.5 26 U.S.C. § 212 “Expenses for production of income. In the case of an individual, *there shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred* during the taxable year– (1) for the production or collection of income;” Although the term “income” is used to imply gain or profit, this section recognizes Claimant’s right to deduct all ordinary and *necessary* ‘*expenses*’ relevant to compensation for the value of Claimant’s Labor Property.
- 3.6 26 CFR § 1.1001-1 “**Computation of gain or loss.** (a) The fair market value of property is a question of fact, but only in rare and extraordinary cases will property be considered to have no fair market value.” Claimant does not consider her Labor Property the “*rare and extraordinary*” case wherein such property has no fair market value. To the contrary, the courts have ruled that it is the most sacred of all property rights. Therefore, the *cost* of Claimant’s Labor Property, having intrinsic value, carries a fair market value that Claimant has a Right to *restore* under the *Just Compensation Clause* of the Constitution, as herein exercised.
- 3.7 26 CFR § 1.1012-1 “**Basis of property.** (a) In general, the basis of the property is the cost thereof. The cost is the amount paid for such property in cash or other property.” Here, the basis is the cost of Claimant’s compensation for Labor Property. As in this example, if the cost

of Tom the Taxpayer's compensation for Labor Property is \$25.00/hour, this amount is the cost basis for which Tom the Taxpayer charged in exchange for such labor— and NO PROFIT or GAIN is realized.

In summary, this Act of Congress recognizes the value of Labor Property and affords Claimant the Common Law Right to restore back that value. This Act is *in pari materia* with the Common Law *Just Compensation Clause* of the Fifth Amendment and avoids violating Article XIII Sec.1 to the Constitution that states in pertinent part: "Neither slavery nor involuntary servitude shall exist within the United States, or any place subject to their jurisdiction." The U.S. Supreme Court in *Bailey v. Alabama*, 219 U.S. 219, ruled that: "No person can be compelled to specific performance to labor for others" and that the enforcement of such service results in a prohibited condition of peonage. A constitutional prohibition cannot be transgressed indirectly by creating a statutory presumption any more than direct enactment."

XIII.

Affidavit Of Specific Negative Averment

PLEASE TAKE NOTICE: that **Clare Reading** fully accepts, and offers to pay any amount employees of the Internal Revenue Service may reassess and determine for tax year December 31, **1998** regarding Claimant's compensation for Labor Property and hereby promises to discharge all verifiable liability, claims and charges associated therewith upon evidence of the following:

1. Claimant has not seen or been presented with any evidence that Claimant is voluntarily preparing and filing Form 1040 for tax year December 31, **1998**, nor does Claimant believe any such evidence exists.
2. Claimant has not seen or been presented with any evidence that Claimant is not preparing and filing Form 1040 for tax year December 31, **1998** under threat, duress, coercion, intimidation and fear of prosecution, nor does Claimant believe any such evidence exists.
3. Claimant has not seen or been presented with any evidence that Claimant is not protected under the *Due Process Clause* of the Fifth Amendment, nor does Claimant believe any such evidence exists.
4. Claimant has not seen or been presented with any evidence that Claimant is not protected under the *Equal Protection Clause* of the Fourteenth Amendment, nor does Claimant believe any such evidence exists.
5. Claimant has not seen or been presented with any evidence that employees of the Internal Revenue Service do not admit to interpreting the internal revenue laws to their discretion, nor does Claimant believe any such evidence exists.
6. Claimant has not seen or been presented with any evidence that the Internal Revenue Code is not a complex code of legalese riddled with "Words of Art", nor does Claimant believe any such evidence exists.

7. Claimant has not seen or been presented with any evidence that words and terms within the Internal Revenue Code are to be given “*common usage*” as understood by a person of average intelligence, nor does Claimant believe any such evidence exists.
8. Claimant has not seen or been presented with any evidence that employees of the Internal Revenue Service are not required to comply with Acts of Congress, nor does Claimant believe any such evidence exists.
9. Claimant has not seen or been presented with any evidence that employees of the Internal Revenue Service are not required to comply with landmark United States Supreme Court decisions, nor does Claimant believe any such evidence exists.
10. Claimant has not seen or been presented with any evidence that employees of the Internal Revenue Service are not required by Acts of Congress to comply with internal revenue statutes and implementing regulations, nor does Claimant believe any such evidence exists.
11. Claimant has not seen or been presented with any evidence that IRS Publications, Policy Manuals, Memorandums and like internal instruction materials override or supercede United States Supreme Court rulings and Acts of Congress, nor does Claimant believe any such evidence exists.
12. Claimant has not seen or been presented with any evidence of the specific statute and regulation making Claimant liable for the payment of a federal income tax, nor does Claimant believe any such evidence exists.
13. Claimant has not seen or been presented with any evidence that Form 1040 is not a Virgin Islands tax return, nor does Claimant believe any such evidence exists.
14. Claimant has not seen or been presented with any evidence that Claimant is required to file Form 1040, nor does Claimant believe any such evidence exists.
15. Claimant has not seen or been presented with any evidence that Claimant is prohibited from filing a Zero Liability return, nor does Claimant believe any such evidence exists.
16. Claimant has not seen or been presented with any evidence that Claimant is prohibited from filing an Objection return if Claimant believes the information provided could be self-incriminating, nor does Claimant believe any such evidence exists.
17. Claimant has not seen or been presented with any evidence that Claimant’s compensation for Labor is not a property right subject to the *Just Compensation Clause* of the Fifth Amendment, nor does Claimant believe any such evidence exists.
18. Claimant has not seen or been presented with any evidence that Claimant’s Labor is not the cost incurred in exchange for other property, and such cost is prohibited from being restored back to Claimant for its fair market value, nor does Claimant believe any such evidence exists.

19. Claimant has not seen or been presented with any evidence that Claimant's compensation for Labor resulted in a gain or profit and is gross income within the meaning of an Act of Congress, nor does Claimant believe any such evidence exists.
20. Claimant has not seen or been presented with any evidence that Claimant is prohibited from restoring the fair market value of Claimant's Labor, nor does Claimant believe any such evidence exists.
21. Claimant has not seen or been presented with any evidence that Claimant's compensation for Labor Property has no fair market value, nor does Claimant believe any such evidence exists.
22. Claimant has not seen or been presented with any evidence that Claimant cannot compute the cost basis of the fair market value of Claimant's compensation for Labor Property to be excluded from gross income, nor does Claimant believe any such evidence exists.
23. Claimant has not seen or been presented with any evidence that Claimant's Labor Property is a commodity and an article of commerce, nor does Claimant believe any such evidence exists.
24. Claimant has not seen or been presented with any evidence that Claimant has performed the functions of a public office created by an Act of Congress and defined in the internal revenue laws, nor does Claimant believe any such evidence exists.
25. Claimant has not seen or been presented with any evidence that Claimant has operated a statutory Trade or Business created by an Act of Congress and defined in the internal revenue laws, nor does Claimant believe any such evidence exists.
26. Claimant has not seen or been presented with any evidence that Claimant is a statutory *employee* created by an Act of Congress and defined in the internal revenue laws, nor does Claimant believe any such evidence exists.
27. Claimant has not seen or been presented with any evidence that Claimant is a statutory *employer* created by an Act of Congress and defined in the internal revenue laws, nor does Claimant believe any such evidence exists.
28. Claimant has not seen or been presented with any evidence that Claimant is a statutory *American employer* created by an Act of Congress and defined in the internal revenue laws, nor does Claimant believe any such evidence exists.
29. Claimant has not seen or been presented with any evidence that Claimant is the statutory *person* created by an Act of Congress and defined in the internal revenue laws, nor does Claimant believe any such evidence exists.
30. Claimant has not seen or been presented with any evidence that Claimant is the statutory *natural person* created by an Act of Congress and defined in the internal revenue laws, nor does Claimant believe any such evidence exists.

Clare Reading is aware that the prepared and signed Form 1040 return attached hereto could be used against Claimant in a civil or criminal proceeding. Therefore, to avoid any misrepresentation of material facts, this Verified Notice must be accompanied with any and all potential presentments or claims made by officials, officers, agents and/or employees of the United States, Department of the Treasury, Department of Justice, the Internal Revenue Service or any other known and unknown government agency, instrumentality or political subdivision.

Final Notice is hereby given that: Claimant will hold Internal Revenue Service officials, officers, agents, employees and contracted collection agencies who intentionally disregard the statutes, the internal revenue laws, court decisions, Privacy Act Notice provisions and other references contained in this document, accountable for their reckless and intentional acts pursuant to 26 U.S.C. § 7214 and 18 U.S.C. § 241 and 242. Section 7214 makes it a crime for IRS agents to seek to extract "*other or greater sums than authorized by law*" and to engage in "*extortion and willful oppression under color of law.*" You are also cautioned that, pursuant to the Internal Revenue Service Restructuring and Reform Act (Section 1203, P.L. 105-206), you are required to comply with the United States Code, Internal Revenue Code, the Internal Revenue Manual, Treasury Regulations, and all other Internal Revenue Service policies and procedures. To the extent IRS employees capriciously and arbitrarily disregard the court decisions, statutes and other references contained in this document, you are deemed to proceed in criminal contempt and violation of the internal revenue laws, and are noticed accordingly.

I, Clare Reading, declare under penalty of perjury pursuant to 28 U.S.C. § 1746(1) I believe the above to be true and correct to the best of my knowledge, understanding and belief. All Rights retained without recourse.

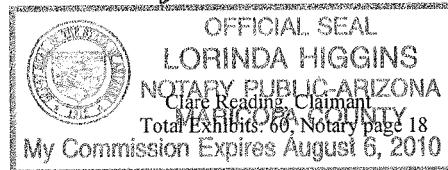
Signature: Clare Louise Reading
Clare Reading, Claimant

State of Arizona)
) ss
County of Maricopa)

I certify on this 6th day of December 2006 that I know or have satisfactory evidence that Clare Reading is the person who appeared before me and acknowledged that she signed this instrument and acknowledged it to be she free and voluntary act for the uses and purposes mentioned in the instrument.

Witness my hand and official seal: Lorinda Higgins
Signature of Notary

My commission expires: August 6, 2010



ATTACHMENTS:

**Completed and Signed IRS Form 1040 For Tax Year: December 31, 1998
Form 8275 Disclosure Statement For Tax Years: December 31, 1998**

EXHIBITS INCLUDED WITH VERIFIED NOTICE:

- EXHIBIT A:** Definitions from Black's Law Fifth Edition (17 pages)
- EXHIBIT B:** Benders Federal Revenue Law 1916 (4 pages)
- EXHIBIT C:** IRS Publication 556 Appeal Rights (4 pages)
- EXHIBIT D:** Title 26 IRC and CFR; IRS Privacy Act Statement and PRA Notice (14 pages)
- EXHIBIT E:** Form 1040 Filing Requirement Cited at CFR, IRS Manuals, etc. (18 pages)
- EXHIBIT F:** The Constitution of the United States of America – Article V (3 pages)

Mailed to:

US Attorney General
Alberto Gonzales
Department of Justice
950 Pennsylvania Ave NW
Washington D.C. 20530-0001
Certified Mail: 7004 2890 0001 9657 8486

Department of the Treasury
Internal Revenue Service
Area 11, Area Director
600 17th Street
Denver, CO 80202-2490
Certified Mail: 7004 2890 0001 9657 8462

Department of the Treasury
Internal Revenue Service
Philadelphia Service Center
600 Arch Street
Philadelphia, PA 19106
Certified Mail: 7004 2890 0001 9657 8479

Department of The Treasury
Internal Revenue Service
Attn: Ann Taylor #86-17536
300 W. Congress, Stop 5126 TUC
Tucson, Arizona 85701
Certified Mail: 7004 2890 0001 9657 8455

VERIFIED NOTICE OF FILING FORM 1040 RETURN UNDER
THREAT, DURESS, COERCION AND INTIMIDATION

Clare Reading, Claimant
Total Exhibits: 60, Notary page 18

EXHIBIT A
Definitions from Black's Law Fifth Edition
(17 pages)

BLACK'S LAW DICTIONARY

Definitions of the Terms and Phrases of
American and English Jurisprudence,
Ancient and Modern

By

HENRY CAMPBELL BLACK, M. A.

Author of Treatises on Judgments, Tax Titles, Intoxicating Liquors,
Bankruptcy, Mortgages, Constitutional Law, Interpretation
of Laws, Rescission and Cancellation of Contracts, Etc.

FIFTH EDITION

BY

THE PUBLISHER'S EDITORIAL STAFF

Contributing Authors

JOSEPH R. NOLAN

Associate Justice, Massachusetts Supreme Judicial Court
and

M. J. CONNOLLY

Associate Professor of Linguistics
and Eastern Languages, Boston College

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ST. PAUL MINN.
WEST PUBLISHING CO.
1979

that a grant of "all his woods" (*omnes boscos suos*) will pass the land, as well as the trees growing upon it.

Woodwards. In English law, officers of the forest, whose duty consists in looking after the wood and vert and venison, and preventing offenses relating to the same.

Words. Symbols indicating ideas and subject to contraction and expansion to meet the idea sought to be expressed. Such have been referred to as labels whose content and meaning are continually shifting with the times. Massachusetts Protective Ass'n v. Bayersdorfer, C.C.A. Ohio, 105 F.2d 595, 597.

As used in law, this term generally signifies the technical terms and phrases appropriate to particular instruments, or aptly fitted to the expression of a particular intention in legal instruments. See the subtitles following.

Words actionable in themselves. In libel and slander, refer to words which are libelous or slanderous per se. See **Actionable per se**.

Words of art. The vocabulary or terminology of a particular art or science, and especially those expressions which are idiomatic or peculiar to it.

Words of limitation. See **Limitation**.

Words of procreation. To create an estate tail by deed, it is necessary that words of procreation should be used in order to confine the estate to the descendants of the first grantee, as in the usual form of limitation, —"to A. and the heirs of his body."

Words of purchase. See **Purchase**.

Work. To exert one's self for a purpose; to put forth effort for the attainment of an object; to be engaged in the performance of a task, duty, or the like. The term covers all forms of physical or mental exertions, or both combined, for the attainment of some object other than recreation or amusement. Tennessee Coal, Iron & R. Co. v. Muscoda Local No. 123, Ala., 321 U.S. 590, 64 S.Ct. 698, 703, 705, 88 L.Ed. 949. See also **Labor**.

Work and labor. The name of one of the common counts in actions of *assumpsit*, being for work and labor done and materials furnished by the plaintiff for the defendant.

Workaway. Extra man employed for accommodation to himself. The Tasi F.2d 366, 368.

Worker. See **Workman**.

Workers' Compensation Acts. See **Workmen's Compensation Acts**.

Workhouse. Place of confinement for persons convicted of lesser offenses. Such imprisonment is usually for a relatively short duration.

Working capital. Cash and other quick assets. Crocker v. Waltham Watch Co., 315 Mass. 397, 53 N.E.2d 230, 237. In accounting the difference between current assets and current liabilities. In public utilities the amount of cash required by a business to carry on operations.

Working interest. See **Royalty**.

Working papers. By statute in certain states, such must be filed by one employing a minor.

Discovery. See **Work product rule**.

Workman. One who labors; one employed to do business for another. One employed in manual labor, skilled or unskilled; an artificer, mechanic, or artisan.

Workmen's or Workers' Compensation Acts. State statutes which provide for fixed awards to employees or their dependents in case of employment related accidents and diseases, dispensing with proof of negligence and legal actions. Some of the acts go beyond the simple determination of the right to compensation, and provide insurance systems, either under state supervision or otherwise. The various state acts vary as to extent of workers and employment covered, amount and duration of benefits, etc.

The effect of most workmen's or workers' compensation acts is to make the employer strictly liable to an employee for injuries sustained by the employee which arise out of and in the course of employment, without regard to the negligence of the employer or that of the employee. Where the Act applies, it has been uniformly held that this remedy is exclusive and bars any common-law remedy which the employee may have had, the compensation scheduled under the act being the sole measure of damage.

Federal employees are covered by the Federal Employees Compensation Act; seamen by the Jones Act; longshoremen and harbor workers by the Longshoremen's and Harbor Workers' Compensation Act. Additional benefits to disabled workers are provided under Title II of the Social Security Act.

Workmen's or workers' compensation boards or courts. Such exist in many states with jurisdiction to review cases arising under workmen's or workers' compensation acts and related rules and regulations.

Workmen's or workers' compensation insurance. Insurance coverage purchased by employers to cover risks under workmen's or workers' compensation laws. Such is usually mandated by state acts, unless the employer is self-insured. See also **Insurance**.

Work of national importance. Under the Selective Service Act providing that conscientious objectors object to such work means work of value to the common defense and general welfare. C.A. Appendix § 305(g). United States v. Lucker v. Osborne, D.C.N.Y., 54 F.2d 987.

As excepted from operation of Sunday closing statutes embraces all work reasonably essential to the economic, social or moral welfare of the people, viewed in light of the habits and customs of the age in which they live and of the community in which they reside. *Francisco v. Commonwealth*, 180 Va. 371, 23 S.E.2d 234, 238, 239.

Work product rule. A party may obtain discovery of documents and tangible things otherwise discoverable under Rule 26(b)(1) and prepared in anticipation of litigation or for trial by or for another party or by or for that other party's representative (including his attorney, consultant, surety, indemnitor, insurer, or

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PRIVILEGE

Privatorum conventio juri publico non derogat /práyvátóram kánvénsh(iy)ow júray páblakow nòn déragat/. The agreement of private individuals does not derogate from the public right [law].

Privatum /právéydám/. Lat. Private. *Privatum jus*, private law.

Privatum commodum publico cedit /právéydám kómádám páblakow síydat/. Private good yields to public. The interest of an individual should give place to the public good.

Privatum incommodum publico bono pensatur /právéydám inkómádám páblakow bównow penséydar/. Private inconvenience is made up for by public benefit.

Privies /prívíyaz/. Those who are partakers or have an interest in any action or thing, or any relation to another. *Brown v. Fidelity Union Trust Co.*, 126 N.J.Eq. 406, 9 A.2d 311, 326; *Hamelik v. Sypek*, 152 Misc. 799, 274 N.Y.S. 875. They are of six kinds:

(1) Privies of blood; such as the heir to his ancestor.

(2) Privies in representation; as executors or administrators to their deceased testator or intestate.

(3) Privies in estate; as grantor and grantee, lessor and lessee, assignor and assignee, etc.

(4) Privies in respect to contract.

(5) Privies in respect of estate and contract; as where the lessee assigns his interest, but the contract between lessor and lessee continues, the lessor not having accepted of the assignee.

(6) Privies in law; as the lord by escheat, a tenant by the curtesy, or in dower, the incumbent of a benefice, a husband suing or defending in right of his wife, etc.

"Privies," in the sense that they are bound by the judgment, are those who acquired an interest in the subject-matter after the rendition of the judgment. "Privies" to a judgment are those whose succession to the rights of property affected occurs after the institution of the suit and form a party to it.

Privigna /právígnə/. Lat. In the civil law, a stepdaughter.

Privignus /právígnəs/. Lat. In the civil law, a son of a husband or wife by a former marriage; a stepson.

Privilege. A particular and peculiar benefit or advantage enjoyed by a person, company, or class, beyond the common advantages of other citizens. An exceptional or extraordinary power or exemption. A right, power, franchise, or immunity held by a person or class, against or beyond the course of the law.

An exemption from some burden or attendance, with which certain persons are indulged, from a supposition of law that the stations they fill, or the offices they are engaged in, are such as require all their time and care, and that, therefore, without this indulgence, it would be impracticable to execute such offices to that advantage which the public good requires. That which releases one from the performance of a duty or obligation, or exempts one from a liability which he would otherwise be required to perform, or sustain in common with all other persons.

A peculiar advantage, exemption, or immunity. See also **Exemption; Immunity**.

See also Doctor-patient privilege; Executive privilege; Husband-wife privilege; Journalist's privilege; Legislative immunity; Marital communications privilege; Newsmen's privilege; Patient-physician privilege; Priest-penitent privilege; Privileged communications; Right.

Attorney-client, doctor-patient, etc. privilege. See **Privileged communications**.

Civil law. A right which the nature of a debt gives to a creditor, and which entitles him to be preferred before other creditors. Civil Code La. art. 3186. It is merely an accessory of the debt which it secures, and falls with the extinguishment of the debt. The civil law privilege became, by adoption of the admiralty courts, the admiralty lien. *The J. E. Rumbell*, 148 U.S. 1, 13 S.Ct. 498, 37 L.Ed 345.

Communications. See **Privileged communications**.

Discovery. When interrogatories, depositions or other forms of discovery seek information which is otherwise privileged, the party from whom it is sought may claim his privilege. Fed.R.Civil P. 26; Fed.R. Crim.P. 16. See also **Protective order; Work product rule**.

Evidence. See **Privileged communications; Privileged evidence**.

Exclusive privilege. See **Exclusive privilege**.

Executive privilege. The protection afforded to confidential presidential communications. However, the generalized need for confidentiality of high level communications cannot sustain an absolute unqualified presidential privilege. *U. S. v. Nixon*, 418 U.S. 683, 94 S.Ct. 3090, 41 L.Ed.2d 1039. See also **Executive privilege**.

Journalist's privilege. See **Journalist's privilege; Newsmen's privilege; Shield laws**.

Libel and slander. An exemption from liability for the speaking or publishing of defamatory words concerning another, based on the fact that the statement was made in the performance of a political, judicial, social, or personal duty. Privilege is either *absolute* or *conditional*. The former protects the speaker or publisher without reference to his motives or the truth or falsity of the statement. This may be claimed in respect, for instance, to statements made in legislative debates, in reports of military officers to their superiors in the line of their duty, and statements made by judges, witnesses, and jurors in trials in court. Conditional privilege (called also "qualified privilege") will protect the speaker or publisher unless actual malice and knowledge of the falsity of the statement is shown. This may be claimed where the communication related to a matter of public interest, or where it was necessary to protect one's private interest and was made to a person having an interest in the same matter. *Saroyan v. Burkett*, 57 Cal.2d 706, 21 Cal.Rptr. 557, 558, 371 P.2d 293.

For defense of "constitutional privilege" in libel actions, see **Libel**.

Marriage of th ship om-

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Rial /riyál/. A piece of gold coin current for 10s., in the reign of Henry VI, at which time there were half-rials and quarter-rials or rial-farthings. In the beginning of Queen Elizabeth's reign, golden rials were coined at 15s. a piece; and in the time of James I there were rose-rials of gold at 30s. and spur-rials at 15s.

Ribaud /riybów/. A rogue; vagrant; whoremonger; a person given to all manner of wickedness.

Rider. A schedule or small piece of paper reflecting an amendment, addition or endorsement annexed to some part of a roll, document, or record. Any kind of a schedule or writing annexed to a document which cannot well be incorporated in the body of such document. Such are deemed to be incorporated into the terms of the document. Thus, in passing bills through a legislature, when a new clause or law is added after the bill has passed through committee, such new law or clause is termed a "rider." Another common example of a rider is an attachment to an insurance policy that modifies the conditions of the policy by expanding or restricting its benefits or excluding certain conditions from coverage. With the use of the rider the entire document does not have to be rewritten or redrafted again.

Rien culp. In old pleading, not guilty.

Rien dit. In old pleading, says nothing (*nil dicit*).

Rien luy doit. In old pleading, owes him nothing. The plea of *nil debet*.

Riens en arriere. Nothing in arrear. A plea in an action of debt for arrearages of account.

Riens passa per le fait. Nothing passed by the deed. A plea by which a party might avoid the operation of a deed, which had been enrolled or acknowledged in court; the plea of *non est factum* not being allowed in such case.

Riens per descent. Nothing by descent. The plea of an heir, where he is sued for his ancestor's debt, and has no land from him by descent, or assets in his hands.

Rier county /rír káwntiy/. In old English law, after-county; i.e., after the end of the county court. A time and place appointed by the sheriff for the receipt of the king's money after the end of his county, or county court.

Rifflare /riflériy/. To take away anything by force.

Rigging the market. A term of the stock-exchange, denoting the practice of inflating the price of given stocks, or enhancing their quoted value, by a system of pretended purchases, designed to give the air of an unusual demand for such stocks.

Right. As a noun, and taken in an *abstract* sense, means justice, ethical correctness, or consonance with the rules of law or the principles of morals. In this signification it answers to one meaning of the Latin "*jus*," and serves to indicate law in the abstract, considered as the foundation of all rights, or the complex of underlying moral principles which impart the character of justice to all positive law, or give it an ethical content. As a noun, and taken in a *concrete* sense, a power, privilege, faculty, or de-

mand, inherent in one person and incident upon another. Rights are defined generally as "powers of free action." And the primal rights pertaining to men are enjoyed by human beings purely as such, being grounded in personality, and existing antecedently to their recognition by positive law. But leaving the abstract moral sphere, and giving to the term a juristic content, a "right" is well defined as "a capacity residing in one man of controlling, with the assent and assistance of the state, the actions of others."

As an adjective, the term "right" means just, morally correct, consonant with ethical principles or rules of positive law. It is the opposite of wrong, unjust, illegal.

A power, privilege, or immunity guaranteed under a constitution, statutes or decisional laws, or claimed as a result of long usage. See **Bill of rights**; **Civil liberties**; **Civil Rights Acts**; **Natural rights**.

In a narrower signification, an interest or title in an object of property; a just and legal claim to hold, use, or enjoy it, or to convey or donate it, as he may please.

A legally enforceable claim of one person against another, that the other shall do a given act, or shall not do a given act. Restatement of the Law of Property, § 1.

That which one person ought to have or receive from another, it being withheld from him, or not in his possession. In this sense "right" has the force of "claim," and is properly expressed by the Latin "*jus*."

See also **Conditional right**; **Correlative rights**; **Droit**; **Jus**; **Natural rights**; **Power**; **Recht**; **Vested rights**.

General Classification

Rights may be described as *perfect* or *imperfect*, according as their action or scope is clear, settled, and determinate, or is vague and unfixd.

Rights are also either *in personam* or *in rem*. A right *in personam* is one which imposes an obligation on a definite person. A right *in rem* is one which imposes an obligation on persons generally; i.e., either on all the world or on all the world except certain determinate persons. Thus, if I am entitled to exclude all persons from a given piece of land, I have a right *in rem* in respect of that land; and, if there are one or more persons, A., B., and C., whom I am not entitled to exclude from it, my right is still a right *in rem*.

Rights may also be described as either *primary* or *secondary*. *Primary* rights are those which can be created without reference to rights already existing. *Secondary* rights can only arise for the purpose of protecting or enforcing primary rights. They are either preventive (protective) or remedial (reparative).

Preventive or *protective secondary* rights exist in order to prevent the infringement or loss of primary rights. They are judicial when they require the assistance of a court of law for their enforcement, and extrajudicial when they are capable of being exercised by the party himself. *Remedial* or *reparative secondary* rights are also either judicial or extrajudicial. They may further be divided into (1) rights of restitution or restoration, which entitle the person

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injured to be replaced in his original position; (2) rights of enforcement, which entitle the person injured to the performance of an act by the person bound; and (3) rights of satisfaction or compensation.

With respect to the ownership of external objects of property, rights may be classed as *absolute* and *qualified*. An absolute right gives to the person in whom it inheres the uncontrolled dominion over the object at all times and for all purposes. A qualified right gives the possessor a right to the object for certain purposes or under certain circumstances only. Such is the right of a bailee to recover the article bailed when it has been unlawfully taken from him by a stranger.

Rights are also either *legal* or *equitable*. The former is the case where the person seeking to enforce the right for his own benefit has the legal title and a remedy at law. The latter are such as are enforceable only in equity; as, at the suit of *cestui que trust*. Procedurally, under Rules of Civil Procedure, both legal and equitable rights are enforced in the same court under a single cause of action.

Constitutional Rights

There is also a classification of rights, with respect to the constitution of civil society. Thus, according to Blackstone, "the rights of persons, considered in their natural capacities, are of two sorts,—*absolute* and *relative*; absolute, which are such as appertain and belong to particular men, merely as individuals or single persons; relative, which are incident to them as members of society, and standing in various relations to each other." 1 Bl.Comm. 123.

→ Rights are also classified in constitutional law as natural, civil, and political, to which there is sometimes added the class of "personal rights."

Natural rights are those which grow out of the nature of man and depend upon personality, as distinguished from such as are created by law and depend upon civilized society; or they are those which are plainly assured by natural law; or those which, by fair deduction from the present physical, moral, social, and religious characteristics of man, he must be invested with, and which he ought to have realized for him in a jural society, in order to fulfill the ends to which his nature calls him. Such are the rights of life, liberty, privacy, and good reputation.

Civil rights are such as belong to every citizen of the state or country, or, in a wider sense, to all its inhabitants, and are not connected with the organization or administration of government. They include the rights of property, marriage, equal protection of the laws, freedom of contract, trial by jury, etc. Or, as otherwise defined, civil rights are rights appertaining to a person by virtue of his citizenship in a state or community. Such term may also refer, in its very general sense, to rights capable of being enforced or redressed in a civil action. Also, a term applied to certain rights secured to citizens of the United States by the Thirteenth and Fourteenth amendments to the Constitution, and by various acts of Congress (e.g. Civil Rights Acts) made in pursuance thereof. See **Bill of Rights**; **Civil liberties**; **Civil Rights Acts**.

Political rights consist in the power to participate, directly or indirectly, in the establishment or adminis-

tration of government, such as the right of citizenship, that of suffrage, the right to hold public office, and the right of petition.

Personal rights is a term of rather vague import, but generally it may be said to mean the right of personal security, comprising those of life, limb, body, health, reputation, and the right of personal liberty.

Other Compound and Descriptive Terms

Bill of rights. See that title.

Common right. See **Common**.

Declaration of rights. See **Bill of Rights**.

Exclusive right. See that title.

Marital rights. See **Marital**.

Mere right. In the law of real estate, the mere right of property in land; the right of a proprietor, but without possession or even the right of possession; the abstract right of property.

Patent right. See **Patent**.

Petition of right. See **Petition**.

Private rights. Those rights which appertain to a particular individual or individuals, and relate either to the person, or to personal or real property.

Right heir. See **Heir**.

Riparian rights. See **Riparian**.

Stock rights. See **Stock**.

Vested rights. See **Vested**.

Right and wrong test. Under this test of criminal responsibility, if, at the time of committing an act, the party was laboring under such a defect of reason from disease of the mind as not to know the nature and quality thereof, that he did not know that he was doing what was wrong, he should not be held criminally responsible for his act. *State v. Wallace*, 170 Or. 60, 131 P.2d 222, 229, 230. See **Insanity** with respect to other criminal responsibility defenses. See also **M'Naghten Rule**.

Right in action. This is a phrase frequently used in place of *chose in action*, and having an identical meaning.

Right in court. See **Rectus in curia**.

Right of action. The right to bring suit; a legal right to maintain an action, growing out of a given transaction or state of facts and based thereon. Right of action pertains to remedy and relief through judicial procedure. *Landry v. Acme Flour Mills Co.*, 202 Okl. 170, 211 P.2d 512, 515. Right of injured one to secure redress for violation of his rights. *Fields v. Synthetic Ropes, Inc.*, 9 Storey 135, 215 A.2d 427, 432. A right presently to enforce a cause of action by suit. *McMahon v. U. S.*, C.A.Pa., 186 F.2d 227, 230. See also **Cause of action**.

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quences of defendant's negligence after it was or should have been apparent.

Comparative rectitude. Doctrine wherein relief by divorce is granted to the party least in fault when both have shown grounds for divorce. *Weber v. Weber*, 256 Ark. 549, 508 S.W.2d 725, 729.

Comparison of handwriting. A comparison by the juxtaposition of two writings, in order, by such comparison, to ascertain whether both were written by the same person.

A method of proof resorted to where the genuineness of a written document is disputed; it consists in comparing the handwriting of the disputed paper with that of another instrument which is proved or admitted to be in the writing of the party sought to be charged, in order to infer, from their identity or similarity in this respect, that they are the work of the same hand. Expert testimony with respect to such proof is permitted by Fed.Evid. Rule 702, and non-expert testimony is governed by Rule 901.

Compascuum /kəmpə'skyuwəm/. Belonging to commonage *Jus compascuum*, the right of common pasture.

Compassing. Imagining or contriving, or plotting. In English law, "compassing the king's death" is treason. 4 Bl.Comm. 76.

Compaternitas /kəmpətərnətəs/. In the canon law, a kind of spiritual relationship contracted by baptism.

Compaternity. Spiritual affinity, contracted by sponsorship in baptism.

Compatibility. As applied to offices, such relation and consistency between the duties of two offices that they may be held and filled by one person. Harmonious relationship as between husband and wife.

Compel. To urge forcefully; under extreme pressure. Word "compel" as used in constitutional right to be free from being compelled in a criminal case to be a witness against one's self means to be subjected to some coercion, fear, terror, inducement, trickery or threat—either physically or psychologically, blatantly or subtly; the hallmark of compulsion is the presence of some operative force producing an involuntary response. *U. S. v. Escandar*, C.A.Fla., 465 F.2d 438, 442.

Compellativus /kəmpələtáyvəs/. An adversary or accuser.

Compelling state interest. Term used to uphold state action in the face of attack grounded on Equal Protection or First Amendment rights because of serious need for such state action. Also employed to justify state action under police power of state. *Printing Industries of Gulf Coast v. Hill* (D.C.Tex.).

Compensable death. Within Workmen's Compensation Act is one which results to employee arising out of and in course of employment.

Compensable injury. A "compensable injury" is one caused by an accident arising out of and in the course of the employment. *McCauley v. Harris*, 164 Neb. 216, 82 N.W.2d 30, 32; *Seymour v. Journal-Star Printing Co.*, 174 Neb. 150, 116 N.W.2d 297, 299.

Compensacion /kəmpensas(ij)ówn/. In Spanish law, compensation; set-off. The extinction of a debt by another debt of equal dignity between persons who have mutual claims on each other.

Compensating balance. The balance a borrower from a bank is required by the bank to keep on deposit.

Compensating tax. See Use tax.

Compensatio /kəmpənséysh(ij)ow/. Lat. In the civil law, compensation, or set-off. A proceeding resembling a set-off in the common law, being a claim on the part of the defendant to have an amount due to him from the plaintiff deducted from his demand. 3 Bl.Comm. 305.

Compensatio criminis /kəmpənséysh(ij)ow krímonəs/. (Set-off of crime or guilt). The compensation or set-off of one crime against another; the plea or defense of recrimination in a suit for a divorce; that is, that the complainant is guilty of the same kind of offense with which the respondent is charged.

Compensation. Indemnification; payment of damages; making amends; making whole; giving an equivalent or substitute of equal value. That which is necessary to restore an injured party to his former position. Remuneration for services rendered, whether in salary, fees, or commissions. Consideration or price of a privilege purchased.

Equivalent in money for a loss sustained; equivalent given for property taken or for an injury done to another; giving back an equivalent in either money which is but the measure of value, or in actual value otherwise conferred; recompense in value; recompense or reward for some loss, injury, or service, especially when it is given by statute; remuneration for the injury directly and proximately caused by a breach of contract or duty; remuneration or satisfaction for injury or damage of every description. An act which a court orders to be done, or money which a court or other tribunal orders to be paid, by a person whose acts or omissions have caused loss or injury to another, in order that thereby the person damaged may receive equal value for his loss, or be made whole in respect of his injury. *Hughson Condensed Milk Co. v. State Board of Equalization*, 23 Cal.App.2d 281, 73 P.2d 290, 292. See also Damages.

See also Commission; Daily rate of pay; Deferred compensation; Fee; Salary; Unreasonable compensation; Wages.

For "Extra compensation" and "Fair and reasonable compensation", see these titles.

Eminent domain. Payment to owners of lands taken exercise of the power of eminent domain.

Employer's compensation. Pay applied or injured worker or his dependents.

Unemployment period. Period fixed by unemployment or worker's compensation statutes during which unemployed or injured worker is to receive compensation.

Compensatory damages. See Damages.

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Corse-present /kórs prèzant/. In old English law, a mortuary, thus termed because, when a mortuary became due on the death of a man, the best or second-best beast was, according to custom, offered or presented to the priest, and carried with the corpse. In Wales a corse-present was due upon the death of a clergyman to the bishop of the diocese, till abolished by 12 Anne St. 2, c. 6. 2 Bl.Comm. 426.

Corsned /kórsnèd/. In Saxon law, the morsel of excretion. A species of ordeal in use among the Saxons, performed by eating a piece of bread over which the priest had pronounced a certain imprecation. If the accused ate it freely, he was pronounced innocent; but, if it stuck in his throat, it was considered as a proof of his guilt. 4 Bl.Comm. 345.

Cortes /kórtés/kortéz/. The name of the legislative assemblies, the parliament or congress, of Spain and Portugal.

Cortis /kórdés/. A court or yard before a house.

Cortularium /kòrchelériyam/, or **cortarium** /korté-riyam/. In old records, a yard adjoining a country farm.

Corvée /korvéy/. In French law, gratuitous labor exacted from the villages or communities, especially for repairing roads, constructing bridges.

Corvée seigneuriale /korvéy seynyàriyál/. Services due the lord of the manor.

Cosa juzgada /kówsa huwsgáða/. In Spanish law, a cause or matter adjudged (*res judicata*).

Cosas comunes /kówsas komúwne(y)s/. In Spanish law, a term corresponding to the *res communes* of the Roman law, and descriptive of such things as are open to the equal and common enjoyment of all persons and not to be reduced to private ownership, such as the air, the sea, and the water of running streams.

Cosbering /kózbəriṅ/. See **Coshering**.

Cosduna /kózdúwna/. In feudal law, a custom or tribute.

Cosen, cozen /kézən/. In old English law, to cheat.

Cosenage /káz(ə)naj/. (Also spelled "Cosinage," "Cousinage.") In old English law, a writ that lay for the heir where the *tresail*, i.e., the father of the *besail*, or great-grandfather, was seised of lands in fee at his death, and a stranger entered upon the land and abated. 3 Bl.Comm. 186. Kindred; cousinship; relationship; affinity. 3 Bl.Comm. 186.

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Coshering /kóshəriṅ/. In old English law, a feudal prerogative or custom for lords to lie and feast themselves at their tenants' houses.

Cosmopathic /kòzməpəθək/. Open to the access of supernormal knowledge or emotion supposedly from a preternatural world; applied to methods of healing.

Cost. Expense; price. The sum or equivalent expended, paid or charged for something. Expenses awarded by court to prevailing party. See e.g. Fed.R.Civil P. 54(d). See also **Actual cost**; **Costs**; **Net cost**; **Rate**.

Cost accounting. That branch of accounting which deals with methods and systems of compiling and analyzing costs in selling and manufacturing. Classifying, summarizing, recording, reporting, and allocating current or predicted costs.

Cost basis. In accounting, the value placed on an asset in a financial statement in terms of its cost; used in determining capital gains or losses.

Cost bond. See **Costs, infra**.

Cost contract. See **Cost-plus contract, infra**.

Cost depletion. In accounting and taxation, depletion computed in oil production without reference to discovery or percentage depletion. *Magale v. U. S.*, 118 Ct.Cl. 183, 93 F.Supp. 1004.

Cost-plus contract. One which fixes the amount to be paid the contractor on a basis, generally, of the cost of the material and labor, plus an agreed percentage thereof as profits. Such contracts are used when costs of production or construction are unknown or difficult to ascertain in advance.

Costs of collection. Strictly, expenses involved in endeavoring to make collection, as of a promissory note; but as used in or with reference to such notes, the phrase is synonymous with attorney's fees. There is commonly a provision to this effect in such notes. It does not refer to costs of suit, which are recoverable by law.

Imputed cost. A value expressing cost which is derived from or based on factors other than actual cost records; estimated costs.

Cost and freight (C.A.F.). Quoted sales price includes cost of goods and freight but not insurance or other special charges.

Co-stipulator. A joint promisor.

Cost of living clause. A provision, commonly in labor agreements, and also in certain pension or retirement programs, giving an automatic wage or benefit increase tied in some way to cost-of-living rises in the economy. Cost of living is usually measured by the Consumer Price Index (CPI) (*q.v.*).

Costs. A pecuniary allowance, made to the successful party (and recoverable from the losing party), for his expenses in prosecuting or defending an action or a distinct proceeding within an action. Fed.R.Civil P. 54(d); Fed.R.App.P. 39. Generally, "costs" do not include attorney fees unless such fees are by a statute denominated costs or are by statute allowed to be recovered as costs in the case. Fees and charges required by law to be paid to the courts or some of their officers, the amount of which is fixed by statute or court rule; e.g. filing and service fees. See also **Closing costs**; **Fee**; **Security for costs**; **Service charge**.

Bill of costs. A certified, itemized statement of the amount of costs in an action or suit.

náysay tówda líyjij pərsépka, yúwna əlakwə partíkyələ iyjas prəpózədə, jüwdəkəriy, vəl rəspəndiriy/. It is improper, without looking at the whole of a law, to give judgment or advice, upon a view of any one clause of it.

In civile est, nisi tota sententia inspecta, de aliqua parte judicare /insivəliy èst, náysay tówda səntəns(hiy)ə inspékta, diy əlakwə párdiy jüwdəkəriy/. It is irregular, or legally improper, to pass an opinion upon any part of a sentence, without examining the whole.

In civilibus ministerium excusat, in criminalibus non item /in səviləbəs minəstiriyəm əkskyúwzət, in krimənəyləbəs nən əydəm/. In civil matters agency (or service) excuses, but not so in criminal matters.

Incivism /insəvizəm/. Unfriendliness to the state or government of which one is a citizen.

In claris non est locus conjecturis /in klərəs nən èst lówkas kənjəkt(y)úras/. In things obvious there is no room for conjecture.

Inclausa /inklózə/. In old records, a home close or inclosure near the house.

Inclose. To surround; to encompass; to bound; fence, or hem in, on all sides. To shut up.

Inclosed lands. Lands which are actually inclosed and surrounded with fences.

Inclosure. In old English law, act of freeing land from rights of common, commonable rights, and generally all rights which obstruct cultivation and the productive employment of labor on the soil.

Land surrounded by some visible obstruction. An artificial fence around one's estate. See **Close**.

Include. (Lat. *Includere*, to shut in, keep within.) To confine within, hold as in an inclosure, take in, attain, shut up, contain, inclose, comprise, comprehend, embrace, involve. Term may, according to context, express an enlargement and have the meaning of *and* or *in addition to*, or merely specify a particular thing already included within general words theretofore used. "Including" within statute is interpreted as a word of enlargement or of illustrative application as well as a word of limitation. *Premier Products Co. v. Cameron*, 240 Or. 123, 400 P.2d 227, 228.

Included offense. In criminal law, a crime which is part of another crime; e.g. included in every murder is assault and battery. One which is established by proof of the same or less than all of the facts, or a less crime than that which is required.

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requi 677, of the or of s not Ark. 541, 440 S.W.2d 701, 700.

Inclusio unius est exclusio alterius /inklúwzh(iy)ow yənáyəs èst əksklúwzh(iy)ow oltiriyəs/. The inclusion of one is the exclusion of another. The certain designation of one person is an absolute exclusion of all others. *Burgin v. Forbes*, 293 Ky. 456, 169 S.W.2d 321, 325.

Inclusive. Embraced; comprehended; comprehending the stated limits or extremes. Opposed to "exclusive."

Inclusive survey. In land law, one which includes within its boundaries prior claims excepted from the computation of the area within such boundaries and excepted in the grant.

Incola. Lat. In the civil law, an inhabitant; a dweller or resident. Properly, one who has transferred his domicile to any country.

Incolas domicilium facit /in kaləs dóməsíl(i)yəm féysət/. Residence creates domicile.

Income. The return in money from one's business, labor, or capital invested; gains, profits, salary, wages, etc.

The gain derived from capital, from labor or effort, or both combined, including profit or gain through sale or conversion of capital. Income is not a gain accruing to capital or a growth in the value of the investment, but is a gain, a profit, something of exchangeable value, proceeding from the property, severed from the capital, however invested or employed, and coming in, being derived, that is, received or drawn by the recipient for his separate use, benefit, and disposal. *Goodrich v. Edwards*, 255 U.S. 527, 41 S.Ct. 390, 65 L.Ed. 758. The true increase in amount of wealth which comes to a person during a stated period of time.

See also Allocation of income; Blocked income; Clear reflection of income; Constructive receipt of income; Deferred income; Earned income; Earnings; Fixed income; Gross income; Net income; Net operating income; Personal income; Profit; Split income; Taxable income; Unearned income.

Accrued income. Income earned during a certain accounting period but not paid or received.

Deferred income. Income received before it is earned, such as rents received in one accounting period for use of the premises in the following period.

Earned income. Income derived from one's own labor or through active participation in a business as distinguished from income from, for example, dividends or investments. See also **Earnings**.

Fixed income. That type of income which is stable over a considerable period of time such as a pension or annuity.

Gross income. The total income of a business or individual before deductions; including salary, commissions, royalties, gains from dealings in property, interest, dividends, etc. I.R.C. § 61.

Imputed income. Value assigned to property or income, sometimes artificially for tax purposes, as in the case of a non-interest bearing or low interest bearing loan between persons or organizations related to each other. I.R.C. § 483. The value of property enjoyed by the taxpayer as part of his salary; e.g. use of home provided by employer to employee.

Net (business) income. Net profit of business arrived at by deducting operating expenses and taxes from gross profit.

Nonoperating income. Income of a business from investments and not from operations.

Exceptio temporis /əkséps(h)iyow témpərəs/. An exception or plea analogous to that of the statute of limitations in our law; viz., that the time prescribed by law for bringing such actions has expired.

Exceptis excipiendis /əkséptəs əksipiyéndəs/. Lat. With all necessary exceptions.

Exceptor. In old English law, a party who entered an exception or plea.

Except right of way. Recitals "less the right of way" and "except right of way" in granting clause of deed have well-defined accepted certain and unambiguous meaning by which grantor conveys entire interest in servient estate and at same time expressly recognizes and acknowledges dominant estate. *Jennings v. Amerada Petroleum Corporation*, 179 Okl. 561, 66 P.2d 1069, 1071.

Excerpta /əksérptə/ or **excerpts** /éksérpts/. Extracts.

Ex certa scientia /èks sárdə sayénsh(iy)ə/. Of certain or sure knowledge. These words were anciently used in patents, and imported full knowledge of the subject-matter on the part of the king.

Excess. Act or amount which goes beyond that which is usual, proper, or necessary. Degree or amount by which one thing or number exceeds another. See also **Excessive**.

Excess clause. In insurance policy, such clause provides for insurer's liability up to limits of policy covering excess loss only after exhaustion of other valid insurance. *Underground Const. Co., Inc. v. Pacific Indem. Co.*, 49 Cal.App.3d 62, 122 Cal.Rptr. 330, 333.

Excess condemnation. Taking more property under condemnation than is actually needed. See **Condemnation**.

Excess insurance. That amount of insurance coverage which is beyond the dollar amount of coverage of one carrier but which is required to pay a particular loss as distinguished from "other insurance" which may be used to pay or contribute to the loss. See also **Excess policy**.

Excess jurisdiction. Such exists where a court, having jurisdiction of persons and subject matter of the case before it, exceeds its power in trial of such case by dealing with matters about which it is without power or authority to act; and error in synonymous with ruling in *ex Robrock v. Robrock*, 105 Ohio 234, 239.

Excessive. Greater than what is general term for what goes beyond amount. *Austin St. Ry. Co. v. Oldham*, Tex.Civ.App., 109 S.W.2d 235, 237. Tending to or marked by excess, which is the quality or state of exceeding the proper or reasonable limit or measure.

Excessive assessment. A tax assessment grossly disproportionate as compared with other assessments. *Southern California Telephone Co. v. Los Angeles County*, 45 Cal.App.2d 111, 113 P.2d 773, 776.

Excessive bail. The 8th Amendment to the U.S. Constitution prohibits excessive bail. Bail in a sum more than will be reasonably sufficient to prevent evasion of the law by flight or concealment; bail which is per se unreasonably great and clearly disproportionate to the offense involved, or shown to be so by the special circumstances of the particular case. *Blunt v. U. S.*, 322 A.2d 579. See also **Bail Reform Act**, 18 U.S.C.A. § 3146.

Excessive damages. See **Damages**.

Excessive drunkenness. Drunkenness is excessive where a party is so far deprived of his reason and understanding as to render him incapable of understanding character and consequences of his act. See **Driving while intoxicated**.

Excessive fine or penalty. The 8th Amendment to the U.S. Constitution prohibits excessive fines. A state may not constitutionally imprison a person for inability to pay a fine if he would not have been imprisoned on a showing of ability to pay the fine and on payment of the fine. *Tate v. Short*, 401 U.S. 395, 91 S.Ct. 668, 28 L.Ed.2d 130. Any fine or penalty which seriously impairs the capacity of gaining a business livelihood. See **Corporal punishment**; **Excessive punishment**; **Punishment**.

Excessive force. That amount of force which is beyond the need and circumstances of the particular event or which is not justified in the light of all the circumstances as in the case of deadly force to protect property as contrasted with protecting life. See **Self defense**.

Excessively. To excess.

Excessively intoxicated. Exists where one is so intoxicated as to be so far deprived of his reason and understanding as to render him incapable of knowing the character and consequences of his act. See **Driving while intoxicated**.

Excessive punishment. Any sentence or fine which does not commensurate with the gravity of the offense or the criminal record of the defendant. Excessive length of a sentence may be cruel and unusual punishment within the meaning of the prohibition in the 8th Amendment, U.S. Constitution. *Weems v. U. S.*, 217 U.S. 349, 30 S.Ct. 544, 54 L.Ed. 793. See **Corporal punishment**; **Excessive fine or penalty**; **Punishment**.

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Automobile's speed is "excessive" as car beyond driver's control.

A verdict which is result of passion *Rob v. Murray*, 26 Cal.App.2d 153, 79 The test of whether a verdict is whether the amount thereof is such as

to shock the conscience of the court. *Scheidegger v. Thompson*, Mo.App., 174 S.W.2d 216, 222. See **Rehabilitator**.

Excessivum in jure reprobatur. **Excessus in re qualibet jure reprobatur communi** /èksesáyvəm in júriy rəprəbéydər. eksésəs in riy kwéyləbət júriy rəprəbéydər kamyúwhay/. Excess in law is reprehended. Excess in anything is reprehended at common law.

learning are extended to other departments of affairs, other vocations also receive the name, which implies professed attainments in special knowledge as distinguished from mere skill.

Act of professing; a public declaration respecting something. Profession of faith in a religion.

Professional association. Any group of professional people organized to practice their profession together, though not necessarily in corporate or partnership form. A group of professionals organized for education, social activity, lobbying and the like; e.g. bar or medical association. See also Corporation (*Professional*).

Professional corporation. See Corporation.

Professional responsibility. See Canon; Code of Professional Responsibility.

Proffer. To offer or tender, as, the production of a document and offer of the same in evidence.

Proffered evidence. See Proffer.

Proficua /prɒfɪkjuwə/. L. Lat. In old English law, profits; especially the "issues and profits" of an estate in land.

Profit. Most commonly, the gross proceeds of a business transaction less the costs of the transaction; i.e. net proceeds. Excess of revenues over expenses for a transaction; sometimes used synonymously with net income for the period. Gain realized from business or investment over and above expenditures.

Profit means accession of good, valuable results, useful consequences, avail, gain, as an office of profit, excess of returns over expenditures or excess of income over expenditure. U. S. v. Mintzes, D.C.Md., 304 F.Supp. 1305, 1312.

The benefit, advantage, or pecuniary gain accruing to the owner or occupant of land from its actual use; as in the familiar phrase "rents, issues and profits," or in the expression "mesne profits."

A division sometimes made of incorporeal hereditaments. Profits are divided into *profits à prendre* and *profits à rendre* (q.v.).

Community of profits. See that title.

Gross profit. The difference between sales and cost of goods sold, but excluding expenses and taxes. See also Gross income.

Mesne profits. Intermediate profits; that is, profits which have been accruing between two given periods. Value of use or occupation of land during time it was held by one in wrongful possession and is commonly measured in terms of rents and profits. When a party has recovered the land its ejectment, he frequently brings an action for the purpose of recovering the profits accruing or arising out of the land when his title to the possession accrued and the time of his recovery in time, and such an action is thence termed an "action for mesne profits."

Net profit. The amount arrived at by deducting from total sales the cost of goods sold and all expenses. See also Net income; Net profits.

Operating profit. The profit arrived at by deducting from sales all expenses attributable to operations but excluding expenses and income related to non-operating activities such as interest payments.

Paper profit. Profit not yet realized as derived from an appreciation in value of an asset not yet sold.

Profit and loss. The gain or loss arising from goods bought or sold, or from carrying on any other business, the former of which, in bookkeeping, is placed on the creditor's side; the latter on the debtor's side. See also Profit and loss account; Profit and loss statement.

Profit à prendre /prɒfɪt à prɒndər/. Called also "right of common." A right exercised by one man in the soil of another, accompanied with participation in the profits of the soil thereof. A right to take a part of the soil or produce of the land. A right to take from the soil, such as by logging, mining, drilling, etc. The taking (profit) is the distinguishing characteristic from an easement.

Right of "profit à prendre" is a right to make some use of the soil of another, such as a right to mine metals, and it carries with it the right of entry and the right to remove and take from the land the designated products or profit and also includes right to use such of the surface as is necessary and convenient for exercise of the profit. *Costa Mesa Union School Dist. of Orange County v. Security First Nat. Bank*, 254 Cal.App.2d 4, 62 Cal.Rptr. 113, 118.

Profit à rendre /prɒfɪt à rɒndər/. Such as is received at the hands of and rendered by another. The term comprehends rents and services.

Surplus profits. Within the meaning of a statute prohibiting the declaration of corporate dividends other than from such profits, means the excess of receipts over expenditures, or net earnings or receipts, or gross receipts, less expenses of operation. Of a corporation, the difference over and above the capital stock, debts, and liabilities.

Undistributed profits. Profits which have not been distributed to the stockholders in the form of dividends though earned by the corporation. See also Undistributed profits tax.

Undivided profits. See that title.

Profit and loss account. A transfer account of all income and expense accounts which is closed into the surplus account of a corporation or the capital account of a partnership.

Profit and loss statement. A statement showing the income and expenses of a business over a stated time; the difference being the profit or loss for the period.

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statement.
g advantage of unusual or exceptional circumstances to make excessive profits; e.g. essential goods at inflated prices during a period of emergency or war.

Profit margin. Sales minus all expenses as a single amount. Frequently used to mean the ratio of sales minus all operating expenses divided by sales.

Profit-sharing plan. A plan established and maintained by an employer to provide for the participation in his

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GAAP. Generally accepted accounting principles.

GAAS. Generally accepted auditing standards.

Gabel /gəbəl/. An excise; a tax on movables; a rent, custom, or service. A tax, impost, or excise duty, especially in continental Europe. Formerly, in France, such term referred specifically to the tax on salt, but also applied to taxes on other industrial products.

Land gabel. See **Land gabel.**

Gabella /gəbɛlə/. The Law Latin form of "gabel," (q.v.). Also, in Teutonic and early English history, the peasantry constituting a village or hamlet; the holdings of such a group of freemen and serfs, or of either. The original significance of the word seems to be in its indication of a small rent-paying community, the rents being rendered in kind or in labor.

Gablatores /gæblətóriyz/. Persons who paid *gabel*, rent, or tribute.

Gablum /gæbləm/. A rent; a tax.

Gabulus denariorum /gəbyələs dənəriórəm/. Rent paid in money.

Gadsden Purchase. A term commonly applied to the territory acquired by the United States from Mexico by treaty of December 30, 1853, known as the Gadsden Treaty.

Gafol /gával/. The same word as "gabel" or "gavel." Rent; tax; interest of money.

Gage, v. In old English law, to pawn or pledge; to give as security for a payment or performance; to wage or wager.

Gage, n. In old English law, a pawn or pledge; something deposited as security for some act or the payment of money on failure or non-performance.

A mortgage is a *dead-gage* or ever profit it yields, it redeems whole amount secured is paid.

In French law, the contract of the article pawned.

Gager de deliverance /gáyjər də dəliverən(t)s/. In old English law, when he who has distrained, being sued, has not delivered the cattle distrained, then he shall not only avow the distress, but *gager deliverance*, i.e., put in surety or pledge that he will deliver them.

Gager del ley /gáyjər dèl léy/. Wager of law (q.v.).

Gag order. An unruly defendant at trial may constitutionally be bound and gagged to prevent further interruptions in the trial. *Illinois v. Allen*, 397 U.S. 337, 90 S.Ct. 1057, 25 L.Ed.2d 353. Term may also refer to an order by the court, in a trial with a great deal of notoriety, directed to attorneys and witnesses, to not discuss the case with reporters—such order being felt necessary to assure the defendant of a fair trial. Term may also refer to orders of the court directed to reporters to not report court proceedings, or certain aspects thereof. Such latter type orders have been struck down by the Supreme Court as being an unconstitutional obstruction of freedom of the press. See *Nebraska Press Ass'n. v. Stuart*, 427 U.S. 539, 96 S.Ct. 2791.

Gain. Profits; winnings; increment of value. Difference between receipts and expenditures; pecuniary gain. Difference between cost and sale price. Appreciation in value or worth of securities or property.

Excess of revenues over expenses from a specific transaction. Frequently used in the context of describing a transaction not part of a firm's typical, day-to-day operations.

"Gain derived from capital" is a gain, profit, or something of exchangeable value proceeding from the property, severed from the capital however invested, and received or drawn by claimant for his separate use, benefit, and disposal. *Commissioner of Internal Revenue v. Simmons Gin Co.*, C.C.A.10, 43 F.2d 327, 328.

See also **Acquire**; **Acquisition**; **Capital** (*Capital gains*); **Income**; **Profit**; **Return**.

Gainage. At common law, the gain or profit of tilled or planted land, raised by cultivating it; and the draught, plow, and furniture for carrying on the work of the baser kind of *sokemen* or *villeins*.

At common law, tillage, or the profit arising from the beasts employed therein.

Gainage is a term, by which is meant a gain, or advantage, or lucrative.

Gainage is a term, by which is meant a gain, or advantage, or lucrative.

Gainage is a term, by which is meant a gain, or advantage, or lucrative. In general, any calling, occupation, profession or work which one may profitably pursue. Within disability clause of policy, term means ordinary employment of particular insured, or such other employment, if any, as insured may fairly be expected to follow. *Mutual Life Ins. Co. of New York v. Barron*, 198 Ga. 1, 30 S.E.2d 879, 882.

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Slanderous per se. Slanderous in itself; such words as are deemed slanderous without proof of special damages. Generally an utterance is deemed "slanderous per se" when publication (a) charges the commission of a crime; (b) imputes some offensive or loathsome disease which would tend to deprive a person of society; (c) charges a woman is not chaste; or (d) tends to injure a party in his trade, business, office or occupation. *Munafa v. Helfand*, D.C.N.Y., 140 F.Supp. 234, 238. See Restatement, Second, Torts, § 570.

Slate. List of candidates for public office or for positions on board of directors.

Slave. A person who is wholly subject to the will of another; one who has no freedom of action, but whose person and services are wholly under the control of another. One who is under the power of a master, and who belongs to him; so that the master may sell and dispose of his person, of his industry, and of his labor, without his being able to do anything, have anything, or acquire anything, but what must belong to his master. The 13th Amendment abolished slavery.

Slavery. The condition of a slave; that civil relation in which one man has absolute power over the life, fortune, and liberty of another. The 13th Amendment abolished slavery.

Slave-trade. The traffic in slaves, or the buying and selling of slaves for profit.

Slay. This word, in an indictment, adds nothing to the force and effect of the word "kill," when used with reference to the taking of human life. It is particularly applicable to the taking of human life in battle; and, when it is not used in this sense, it is synonymous with "kill."

Sleeping or silent partner. See Silent partner.

Slight. A word of indeterminate meaning, variously defined as inconsiderable; unimportant; trifle; remote; ir

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Slip law. and proi format after its passage.

Slip law print. An annotated pamphlet print (called a slip law print) of each public and private law enacted by Congress is issued shortly after being signed by the President. Slip laws are cumulated into the U.S. Statutes at Large. See Statutes (*Statutes at large*).

Slip opinion. An individual court decision published separately soon after it is rendered.

Slot machine. Within statute prohibiting operation of slot machines or similar gambling device, an apparatus by which a person depositing money therein may, by chance, get directly or indirectly money or articles of value worth either more or less than the money deposited. *Elder v. Camp*, 193 Ga. 320, 18 S.E.2d 622, 624.

Slough. An arm of a river, flowing between islands and the main-land, and separating the islands from one another. Sloughs have not the breadth of the main river, nor does the main body of water of the stream flow through them.

Slowdown. An organized effort by workers in a plant by which production is slowed to bring pressure on the employer for better terms and conditions of working.

Sluiceway. An artificial channel into which water is let by a sluice. Specifically, a trench constructed over the bed of a stream, so that logs or lumber can be floated down to a convenient place of delivery.

Slum. A squalid, run-down section of a city, town or village, ordinarily inhabited by the very poor and destitute classes; overcrowding is usually a prevailing characteristic.

Slush fund. Money collected or spent for corrupt purposes such as illegal lobbying or the like. *Boehm v. United States*, C.C.A.Mo., 123 F.2d 791, 812.

Small Business Administration. The fundamental purposes of the Small Business Administration (SBA) are to: aid, counsel, assist, and protect the interests of small business; insure that small business concerns receive a fair proportion of Government purchases, contracts, and subcontracts, as well as of the sales of Government property; make loans to small business concerns, State and local development companies, and the victims of floods or other catastrophes, or of certain types of economic injury; license, regulate, and make loans to small business investment companies; improve the management skills of small business owners, potential owners, and managers; conduct studies of the economic environment; and guarantee leases entered into by small business concerns as well as surety bonds issued to them.

Small business corporation. A corporation which satisfies the definition of I.R.C. § 1371(a), § 1244(c)(2) or both. Satisfaction of I.R.C. § 1371(a) permits a Subchapter S election, while satisfaction of § 1244 enables the shareholders of the corporation to claim an ordinary loss on the worthlessness of the stock.

Small Business Investment Act. Federal legislation enacted in 1958 under which investment companies may be organized for supplying long term equity capital to small businesses.

Small Claims Court. A special court (sometimes also called "Conciliation Court") which provides expeditious, informal, and inexpensive adjudication of small claims. Jurisdiction of such courts is usually limited to collection of small debts and accounts. Proceedings are very informal with parties normally representing themselves. These courts are often divisions or departments of courts of general jurisdiction.

Small estate probate. See Estate.

Small loan acts. Statutes in effect in nearly all the States fixing the maximum legal rate of interest and other terms on short-term loans by banks and finance companies.

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SERVITUS PROJICIENDI

Servitium scuti /sərvɪʃh(iy)əm sk(y)úwday/. Service of the shield; that is, knight-service.

Servitium socæ /sərvɪʃh(iy)əm sówsiy/. Service of the plow; that is, socage.

Servitors of bills /sərvədərz əv bílz/. In old English practice, servants or messengers of the marshal of the king's bench, sent out with bills or writs to summon persons to that court. Thereafter commonly called "tipstaves."

Servitude. The state of a person who is subjected, voluntarily or otherwise, to another person as his servant. A charge or burden resting upon one estate for the benefit or advantage of another; a species of incorporeal right derived from the civil law (see *Servitus*) and closely corresponding to the "easement" of the common-law, except that "servitude" rather has relation to the burden or the estate burdened, while "easement" refers to the benefit or advantage or the estate to which it accrues.

Classification

All servitudes which affect lands may be divided into two kinds,—*personal* and *real*. Personal servitudes are those attached to the person for whose benefit they are established, and terminate with his life. This kind of servitude is of three sorts,—usufruct, use, and habitation. Real servitudes, which are also called "predial" or "landed" servitudes, are those which the owner of an estate enjoys on a neighboring estate for the benefit of his own estate. They are called "predial" or "landed" servitudes because, being established for the benefit of an estate, they are rather due to the estate than to the owner personally. *Frost-Johnson Lumber Co. v. Salling's Heirs*, 150 La. 756, 91 So. 207, 245; *Tide-Water Pipe Co. v. Bell*, 280 Pa. 104, 124 A. 351, 354.

Real servitudes are divided, in the civil law, into *rural* and *urban* servitudes. Rural servitudes are such as are established for the benefit of a landed estate; such, for example, as a right of way over the servient tenement, or of access to a spring, a coal-mine, a sand-pit, or a wood that is upon it. Urban servitudes are such as are established for the benefit of one building over another. (But the buildings need not be in the city, as imply.) They are such as the right of support, or of view, sewer, or the like.

Servitudes are also classed as *positive* and *negative*. A positive servitude is one which obliges the owner of the servient estate to permit or suffer something to be done on his property by another. A negative servitude is one which does not bind the servient proprietor to permit something to be done upon his property by another, but merely restrains him from making a certain use of his property which would impair the easement enjoyed by the dominant tenement. *Rowe v. Nally*, 81 Md. 367, 32 A. 198.

Involuntary servitude. See that title.

Servitus /sərvədəs/. Lat. In the civil law, slavery; bondage; the state of service. An institution of the conventional law of nations, by which one person is subjected to the dominion of another, contrary to natural right.

Also a service or servitude; an easement.

Servitus actus /sərvədəs æktəs/. The servitude or right of walking, riding, or driving over another's ground. A species of right of way.

Servitus altius non tollendi /sərvədəs ælsh(iy)əs nɔn tolənday/. The servitude of not building higher. A right attached to a house, by which its proprietor can prevent his neighbor from building his own house higher.

Servitus aquæ ducendæ /sərvədəs ækwiy d(y)uwséndiy/. The servitude of leading water; the right of leading water to one's own premises through another's land.

Servitus aquæ educendæ /sərvədəs ækwiy iyd(y)uwséndiy/. The servitude of leading off water; the right of leading off the water from one's own onto another's ground.

Servitus aquæ hauriendæ /sərvədəs ækwiy hòhriyéndiy/. The servitude or right of draining water from another's spring or well.

Servitus fumi immittendi /sərvədəs fyúwmay iməténday/. The servitude or right of leading off smoke or vapor through the chimney or over the ground of one's neighbor.

Servitus itineris /sərvədəs aytínərəs/. The servitude or privilege of walking, riding, and being carried over another's ground. A species of right of way.

Servitus luminum /sərvədəs l(y)úwmanəm/. The servitude of lights; the right of making or having windows or other openings in a wall belonging to another, or in a common wall, in order to obtain light for one's building.

Servitus ne luminibus officiatur /sərvədəs niy l(y)umínəbəs əfɪshiyédər/. A servitude not to hinder lights; the right of having one's lights or windows unobstructed or darkened by a neighbor's building, etc.

Servitus ne prospectus offendatur /sərvədəs niy prəspéktəs əfendédər/. A servitude not to obstruct one's prospect, *i.e.*, not to intercept the view from one's house.

Servitus oneris ferendi /sərvədəs ównərəs fərənday/. The servitude of bearing weight; the right to let one's building rest upon the building, wall, or pillars of another's building.

Servitus pascendi /sərvədəs pásénday/. The servitude of pasturing; the right of pasturing one's cattle on another's ground; otherwise called "*jus pascendi*."

Servitus pecoris ad aquam adpulsam /sərvədəs pékərəs æd ækwəm ædpúlsəm/. A right of driving one's cattle on a neighbor's land to water.

Servitus prædii rustici /sərvədəs priydiyay réstəsay/. The servitude of a rural or country estate; a rural

S

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 arbéynay/

S A prædial estate for the benefit of another.

Servitus projiciendi /sərvədəs prəjɪshiyénday/. The servitude of projecting; the right of building a projection from one's house in the open space belonging to one's neighbor.

Inviolata. Intact; not violated; free from substantial impairment. *Com. v. Almeida*, 362 Pa. 596, 68 A.2d 595.

In viridi observantia /in vīrəday ɔbzərvəntsh(iy)ə/. Present to the minds of men, and in full force and operation.

Invitation. In the law of negligence, and with reference to trespasses on realty, invitation is the act of one who solicits or incites others to enter upon, remain in, or make use of, his property or structures thereon, or who so arranges the property or the means of access to it or of transit over it as to induce the reasonable belief that he expects and intends that others shall come upon it or pass over it. Thus the proprietor of a store, theatre or amusement park "invites" the public to come upon his premises for such purposes as are connected with its intended use.

The differences in duties of care owed as between and among licensees, business guests and social guests have been eliminated in many jurisdictions so that today reasonable care is owed to all lawful visitors and this phrase includes all but trespassers. *Mounsey v. Ellard*, 363 Mass. 693, 297 N.E.2d 43.

An invitation may be *express*, when the owner or occupier of the land by words invites another to come upon it or make use of it or of something thereon; or it may be *implied* when such owner or occupier by acts or conduct leads another to believe that the land or something thereon was intended to be used as he uses them, and that such use is not only acquiesced in by the owner or occupier, but is in accordance with the intention or design for which the way or place or thing was adapted and prepared and allowed to be used.

See also **Attractive nuisance doctrine**; **Invitee**.

Invitation to bid. Type of advertisement used by one who desires bids to be submitted for a particular job; it usually contains sufficient specifications to permit an intelligent bid.

Invited error. Underlying basis for rule of "invited error" is that where one party offers inadmissible evidence, which is received, opponent may then offer similar facts whose only claim to admission is that they negative or explain or counterbalance prior inadmissible evidence, presumably upon the same fact, subject or issue. *Wynn v. Sundquist*, 259 Or. 125, 485 P.2d 1085, 1090. See also **Error**.

Invitee. A person is an "invitee" on land of another if

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(1) ... and, (2) his ... or with ... s to be ... uality of ... v. Mi-
 I. Dames laid down the rule that as to those who enter premises upon business which concerns the occupier, and upon his invitation express or implied, the latter is under an affirmative duty to protect them, not only against dangers of which he knows, but also against those which with reasonable care he might discover. The case has been accepted in all common law jurisdictions, and the invitee, or as he is sometimes called the business visitor, is placed upon a higher footing

than a licensee. The typical example, of course, is the customer in a store. There is however a conflict of decisions as to whether certain visitors are to be included in the definition of invitee. The minority view is that there must be some economic benefit to the occupier before his duty to the visitor attaches. The majority view holds however that the basis of liability is not any economic benefit to the occupier, but a representation to be implied when he encourages others to enter to further a purpose of his own, that reasonable care has been exercised to make the place safe for those who come for that purpose; e.g. persons attending free public lectures, persons using municipal parks, playgrounds, libraries and the like. The element of "invitation" however must exist.

See also **Licensee**; **Public invitee**.

Invito /inváydown/. Lat. Being unwilling. Against or without the assent or consent.

Invito beneficium non datur /inváydown bēnəfish(i)yem nōn dəyua/. A benefit is not conferred on one who is unwilling to receive it; that is to say, no one can be compelled to accept a benefit.

In vocibus videndum non a quo sed ad quid sumatur /in vōwsəbəs vədéndəm nōn éy kwów sèd æd kwíd sāméytər/. In discourses, it is to be considered not from what, but to what, it is advanced.

Invoice. A written account, or itemized statement of merchandise shipped or sent to a purchaser, consignee, factor, etc., with the quantity, value or prices and charges annexed, and may be as appropriate to a consignment or a memorandum shipment as it is to a sale. *Joseph B. Cooper & Son, Inc. v. Finlay Depts., Inc.*, 11 Misc.2d 382, 174 N.Y.S.2d 265, 269. Document showing details of a sale or purchase transaction. A list sent to a purchaser, factor, consignee, etc., containing the items, together with the prices and charges of merchandise sent or to be sent to him. A writing made on behalf of an importer, specifying the merchandise imported, and its true cost or value. See also **Consular invoice**.

Invoice book. A book in which invoices are copied.

Involuntary. Without will or power of choice; opposed to volition or desire. An involuntary act is that which is performed with constraint (*q.v.*) or with repugnance, or without the will to do it. An action is involuntary, then, which is performed under duress, force, or coercion.

As to involuntary Bankruptcy; Indebtedness; Non-suit; and Trust, see those titles.

Involuntary alienation. A loss of or parting with property by attachment, levy, sale for taxes or other debts. See also **Involuntary conveyance**.

Involuntary confession. Confession is "involuntary" if it is not the product of an essentially free and unrestrained choice of its maker or where maker's will is overborne at the time of the confession. *People v. Pickerel*, 32 Ill.App.3d 822, 336 N.E.2d 778, 780. Term refers to confessions that are extracted by any threats of violence, or obtained by direct or implied promises, or by exertion of improper influence. *Phillips v. State*, Okl.Cr., 330 P.2d 209, 214. See also **Interrogation**.

Involuntary conversion. The loss or destruction of property through theft, casualty, or condemnation. Any gain realized on an involuntary conversion can, at the taxpayer's election, be considered nonrecognizable for Federal income tax purposes if the owner reinvests the proceeds within a prescribed period of time in property that is similar or related in service or use. I.R.C. § 1033.

Involuntary conversion for federal income tax purposes must result from (1) destruction of property in whole or in part; or (2) theft; or (3) actual seizure; or (4) requisition or condemnation or threat of imminence of requisition or condemnation. *Hitke v. C. I. R.*, C.A.Ill., 296 F.2d 639, 643, 644.

Involuntary conveyance. A transfer of real property without the consent of the owner, such as in a divorce, in condemnation, etc. See also **Involuntary alienation**; **Sheriff's sale**.

Involuntary deposit. In the law of bailments, one made by the accidental leaving or placing of personal property in the possession of another, without negligence on the part of the owner, or, in cases of fire, shipwreck, inundation, riot, insurrection, or the like extraordinary emergencies, by the owner of personal property committing it out of necessity to the care of any person.

Involuntary discontinuance. A discontinuance is involuntary where, in consequence of technical omission, misleading, or the like, the suit is regarded as out of court, as where the parties undertake to refer a suit that is not referable, or omit to enter proper continuances.

Involuntary lien. A lien, such as a tax lien, judgment lien, etc., which attaches to property without the consent of the owner, rather than a mortgage lien, to which the owner agrees.

Involuntary manslaughter. The unlawful killing of a human being in the commission not amounting to felony, or in the lawful act which might produce death in a wrongful manner, or without due caution. An unlawful homicide, unintentional act which constitutes such disharmful consequences to another as would be the result of wanton or reckless conduct. *Com. v. McCauley*, 355 Mass. 554, 246 N.E.2d 425, 428. See also **Manslaughter**.

Involuntary payment. One obtained by fraud, oppression, or extortion, or to avoid the use of force to coerce it, or to obtain the release of the person or property from detention.

Involuntary servitude. The condition of one who is compelled by force, coercion, or imprisonment, and against his will, to labor for another, whether he is paid or not. *Ex parte Wilson*, 114 U.S. 417, 5 S.Ct. 935, 29 L.Ed. 89; *In re Slaughterhouse Cases*, 83 U.S. (16 Wall.) 69, 21 L.Ed. 394; *Robertson v. Baldwin*, 165 U.S. 275, 17 S.Ct. 326, 41 L.Ed. 715. Slavery, peonage, or compulsory labor for debts; all of which are prohibited by the 13th Amendment, U.S.Const.

Involuntary transfer. See **Involuntary conveyance**.

Involuntary trust. An implied trust which arises because the law imposes trust-like consequences on certain transactions where, for example, an agent breaches his fiduciary duty and buys property in his own name which rightfully should have been purchased for the benefit of his principal (constructive trust) or A supplies the funds for purchase of property by B with the understanding that A will own it but title will be taken in the name of B (resulting trust).

In witness whereof /in wítnəs (h)wèròv/. The initial words of the concluding clause in deeds: "In witness whereof the said parties have hereunto set their hands", etc. A translation of the Latin phrase "*in cujus rei testimonium*".

Iota. The minutest quantity possible. Iota is the smallest Greek letter. The word "jot" is derived therefrom.

IOU. A memorandum of debt, consisting of these letters ("I owe you"), a sum of money and the debtor's signature, is termed an "IOU".

Ipsæ leges cupiunt ut jure regantur /ípsiy líyjiz kyúwpijənt ət júriy rəgəntər/. The laws themselves require that they should be governed by right.

Iipse /ípsiy/. Lat. He himself; the same; the very person.

Iipse dixit /ípsiy díksət/. He himself said it; a bare assertion resting on the authority of an individual.

Ipsissimis verbis /ípsísíməs vərbəs/. In the identical words; opposed to "substantially".

Ipsso facto /ípsow fáktow/. By the fact itself; by the mere fact. By the mere effect of an act or a fact.

Ipsso jure /ípsow júriy/. By the law itself; by the mere operation of law.

IRA. Individual Retirement Account.

/áyrə fyúrər bríyvəs èst/. Anger is a
 /wɔdəs/. Lat. Moved or excited by
 assault *demesne*.

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Retirement Annuity.

IRB. Individual Retirement Bond.

I.R.C. Internal Revenue Code.

I.R.D. Income in respect of decedent.

Ire ad largum /áyríy əd lárgəm/. Lat. To go at large; to escape; to be set at liberty.

Iron-safe clause. A clause in policies of fire insurance, requiring the insured to preserve his books and inventory in an iron or fireproof safe, or in some secure place not exposed to a fire which would destroy the building. This provision casts on the insured the responsibility for the loss of books and records if due to the wrongful act or negligence of himself or his employees in failing to comply with the requirement.

Irrational. Unreasonable, foolish, illogical, absurd; a person may be irrational in such sense, and still not be insane in the legal sense.

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L. This letter, as a Roman numeral, stands for the number "fifty." It is also used as an abbreviation for "law," "liber," (a book) "lord," and some other words of which it is the initial.

La. Fr. The. The definite article in the feminine gender. Occurs in some legal terms and phrases.

Label. Anything appended to a larger writing, as a codicil.

A narrow slip of paper or parchment affixed to a deed or writ, in order to hold the appending seal.

An affixation to or marking on a manufactured article, giving information as to its nature or quality, or the contents of a material, package or container, or the name of the maker, etc. *Higgins v. Keuffel*, 140 U.S. 428, 11 S.Ct. 731, 35 L.Ed. 470. The informational content of such labels is often governed by federal and state laws; e.g. Fair Packaging and Labeling Act. 15 U.S.C.A. § 1457.

In English law, a copy of a writ in the exchequer.

↘ **Labina** /ləbáynə/. In old records, water land.

Labor. Work; toil; service; mental or physical exertion. Term normally refers to work for wages as opposed to work for profits; though the word is sometimes construed to mean service rendered or part played in production of wealth. *Britt v. Cotter Butte Mines*, 108 Mont. 174, 89 P.2d 266, 267. Includes superintendence or supervision of work. *Wandling v. Broaddus*, Mo., 10 S.W.2d 651, 655; *United States for Use and Benefit of Farwell, Ozmun, Kirk & Co. v. Shea-Adamson Co.*, D.C.Minn., 21 F.Supp. 831, 837.

Term "labor" as used in the Clayton Act is not limited to the work of manual laborers or of mechanics, but comprises intellectual labor as well. *U. S. v. National Ass'n of Real Estate Boards*, D.C.D.C., 84 F.Supp. 802, 803.

A Spanish land measure, in use in Mexico and formerly in Texas, equivalent to 177½ acres.

See also **Agricultural labor**; **Farm labor or laborer**; **Laborer**.

Labor a jury. To tamper with a jury; to endeavor to influence them in their verdict, or their verdict generally. Jury tampering is a crime. See e.g. 18 U.S.C.A. §§ 1503, 1504.

Laborariis /ləybərériyəs/. An ancient writ against persons who refused to serve and do labor, and who had no means of living; or against such as, having served in the winter, refused to serve in the summer.

Labor contract. Contract between employer and employees (i.e. union) which governs working conditions, wages, fringe benefits, and grievances. See **Collective bargaining agreement**; **Master agreement**; **More favorable terms clause**.

Labor dispute. Term generally includes any controversy concerning terms, tenure, hours, wages, fringe benefits, or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment. National Labor Relations Act, § 2(9). However, not every activity of labor organization and not even every controversy in which it may become involved is "labor dispute" within National Labor Relations Act. *N. L. R. B. v. International Longshoremen's Ass'n*, Md. 332 F.2d 992, 995, 996.

Laborer. The word ordinarily denotes one who subsists by physical labor. *American Surety Co. of New York v. Stuart*, Tex.Civ.App., 151 S.W.2d 886, 888. One who, as a means of livelihood, performs work and labor for another. See **Farm labor or laborer**; **Labor Work**.

Laborers' lien. Species of non-possessory lien which gives preference to laborer who works on job for payment of his wages ahead of general creditors. Such liens are generally governed by state statutes. See **Mechanic's lien**.

Labor-management relations. Term used to describe broad spectrum of activities which concern relationship of employees to employers both union and non-union. See **Fair Labor Standards Act**; **Labor-Management Relations Act**; **National Labor Relations Act**; **National Labor Relations Board**.

Labor-Management Relations Act. Federal statute (Taft-Hartley Act) which regulates certain union activities, permits suits against unions for proscribed acts, prohibits certain strikes and boycotts and provides machinery for settling strikes which involve national emergencies. 29 U.S.C.A. § 141 et seq.

Labor organization. Means a labor organization engaged in an industry affecting commerce and includes any organization of any kind, any agency, or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, or dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and any conference, gen-

that a grant of "all his woods" (*omnes boscos suos*) will pass the land, as well as the trees growing upon it.

Woodwards. In English law, officers of the forest, whose duty consists in looking after the wood and vert and venison, and preventing offenses relating to the same.

Words. Symbols indicating ideas and subject to contraction and expansion to meet the idea sought to be expressed. Such have been referred to as labels whose content and meaning are continually shifting with the times. Massachusetts Protective Ass'n v. Bayersdorfer, C.C.A.Ohio, 105 F.2d 595, 597.

As used in law, this term generally signifies the technical terms and phrases appropriate to particular instruments, or aptly fitted to the expression of a particular intention in legal instruments. See the subtitles following.

Words actionable in themselves. In libel and slander, refer to words which are libelous or slanderous per se. See **Actionable per se**.

Words of art. The vocabulary or terminology of a particular art or science, and especially those expressions which are idiomatic or peculiar to it.

Words of limitation. See **Limitation**.

Words of procreation. To create an estate tail by deed, it is necessary that words of procreation should be used in order to confine the estate to the descendants of the first grantee, as in the usual form of limitation, —"to A. and the heirs of his body."

Words of purchase. See **Purchase**.

Work. To exert one's self for a purpose; to put forth effort for the attainment of an object; to be engaged in the performance of a task, duty, or the like. The term covers all forms of physical or mental exertions, or both combined, for the attainment of some object other than recreation or amusement. Tennessee Coal, Iron & R. Co. v. Muscoda Local No. 123, Ala., 321 U.S. 590, 64 S.Ct. 698, 703, 705, 88 L.Ed. 949. See also **Labor**.

Work and labor. The name of one of the common counts in actions of *assumpsit*, being for work and labor done and materials furnished by the plaintiff for the defendant.

Workaway. Extra man employed on vessel as an accommodation to himself. The Tashmoo, D.C.N.Y., 48 F.2d 366, 368.

Worker. See **Workman**.

Workers' Compensation Acts. See **Workmen's Compensation Acts**.

Workhouse. Place of confinement for persons convicted of lesser offenses. Such imprisonment is usually for a relatively short duration.

Working capital. Cash and other quick assets. Crock-er v. Waltham Watch Co., 315 Mass. 397, 53 N.E.2d 230, 237. In accounting the difference between current assets and current liabilities. In public utilities the amount of cash required by a business to carry on operations.

Working interest. See **Royalty**.

Working papers. By statute in certain states, such must be filed by one employing a minor.

Discovery. See **Work product rule**.

Workman. One who labors; one employed to do business for another. One employed in manual labor, skilled or unskilled; an artificer, mechanic, or artisan.

Workmen's or Workers' Compensation Acts. State statutes which provide for fixed awards to employees or their dependents in case of employment related accidents and diseases, dispensing with proof of negligence and legal actions. Some of the acts go beyond the simple determination of the right to compensation, and provide insurance systems, either under state supervision or otherwise. The various state acts vary as to extent of workers and employment covered, amount and duration of benefits, etc.

The effect of most workmen's or workers' compensation acts is to make the employer strictly liable to an employee for injuries sustained by the employee which arise out of and in the course of employment, without regard to the negligence of the employer or that of the employee. Where the Act applies, it has been uniformly held that this remedy is exclusive and bars any common-law remedy which the employee may have had, the compensation scheduled under the act being the sole measure of damage.

Federal employees are covered by the Federal Employees Compensation Act; seamen by the Jones Act; longshoremen and harbor workers by the Longshoremen's and Harbor Workers' Compensation Act. Additional benefits to disabled workers are provided under Title II of the Social Security Act.

Workmen's or workers' compensation boards or courts. Such exist in many states with jurisdiction to review cases arising under workmen's or workers' compensation acts and related rules and regulations.

Workmen's or workers' compensation insurance. Insurance coverage purchased by employers to cover risks under workmen's or workers' compensation laws. Such is usually mandated by state acts, unless the employer is self-insured. See also **Insurance**.

Work of national importance. Under the Selective Service Act providing that conscientious objectors should be assigned to such work means work of value to the nation for the common defense and general welfare. 50 U.S.C.A. Appendix § 305(g). United States ex rel. Zucker v. Osborne, D.C.N.Y., 54 F.Supp. 984, 986, 987.

Work of necessity. As excepted from operation of Sunday closing statutes embraces all work reasonably essential to the economic, social or moral welfare of the people, viewed in light of the habits and customs of the age in which they live and of the community in which they reside. Francisco v. Commonwealth, 180 Va. 371, 23 S.E.2d 234, 238, 239.

Work product rule. A party may obtain discovery of documents and tangible things otherwise discoverable under Rule 26(b)(1) and prepared in anticipation of litigation or for trial by or for another party or by or for that other party's representative (including his attorney, consultant, surety, indemnitor, insurer, or

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Benders Federal Revenue Law 1916
(4 pages)

L. BENDER'S

FEDERAL REVENUE LAW,

1916

THE REVENUE ACT OF SEPTEMBER 8, 1916
WITH
NOTES AND COMMENTARIES

ALSO

FEDERAL TAXATION IN GENERAL

BY THE PUBLISHER'S EDITORIAL STAFF



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Bender's federal revenue
law, 1916

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PREFACE.

↑ Wars and rumors of wars teach governments new tricks of taxation. The word, trick, is not unworthy. Taxation has been defined as "the art of so plucking the goose as to secure the largest amount of feathers with the least amount of squawking."¹ Any nationwide excitement facilitates the imposition of new burdens. Jingo is a great captain of the forces of revenue and expenditure. Public opinion, or sentiment, wise or otherwise, is powerful upon public men. "In imposing a tax, the Legislature acts upon its constituents. This is, in general, a sufficient security against erroneous and oppressive taxation." Marshall, Ch.J., in *McCulloch v. Maryland, infra*. Whenever there is a real or pretended need of money, ways and means must and will be found. Sovereignty, especially popular sovereignty, owns no limitations. We have Federal and State sovereignty, and in ordinary times the former has not often nor long used its taxing power to any great extent. General tendencies of centralization and special temporary needs are now again awakening both the people and the government to a sense of things not formerly established in the national habits.

¹ Colbert (1619-1683), Louis XIV's Finance Comptroller, a really great statesman who, when he died, had to be buried at night, for fear of outrages by vindictive "geese."



Internal Revenue Service IRS.gov

DEPARTMENT OF THE TREASURY

Policy Statement 20-1 (Formerly P-1-18)

Effective Date: June 29, 2004

1. Penalties enhance voluntary compliance: The Internal Revenue Service has a responsibility to collect the proper amount of tax revenue in the most efficient manner. Penalties provide the Service with an important tool to achieve that goal because they enhance voluntary compliance by taxpayers. In order to make the most efficient use of penalties, the Service will design, administer, and evaluate penalty programs based on how those programs can most efficiently encourage voluntary compliance.
2. Penalties encourage voluntary compliance by: (1) demonstrating the fairness of the tax system to compliant taxpayers; and (2) increasing the cost of noncompliance.
3. In order to effectively use penalties to encourage compliant conduct, examiners and their managers must consider the applicability of penalties in each case, and fully develop the penalty issue when the initial consideration indicates that penalties should apply. That is, examiners and their managers must consider the elements of each potentially applicable penalty and then fully develop the facts to support the application of the penalty, or to establish that the penalty does not apply, when the initial consideration indicates that penalties should apply. Full development of the penalty issue is important for Appeals to sustain a penalty and for Counsel to successfully defend that penalty in litigation.
4. Abusive transactions, frivolous returns, and other abusive taxpayer conduct undermine the fairness and integrity of the federal tax system and undercut voluntary compliance. Thus, it is particularly important in those cases for examiners and their managers to consider the potential applicability of penalties, and to develop fully the facts to either support the application of the penalty or to demonstrate that penalties should not apply. Consistent development and proper application of the accuracy-related and fraud penalties in abusive transaction cases will help curb this activity by imposing tangible economic consequences on taxpayers who engage in those transactions. In addition, consistent development and proper application of the promoter and preparer penalties in abusive transaction cases will help curb this activity by providing an economic deterrent for promoting abusive transactions and preparing returns claiming tax benefits from abusive transactions. An abusive transaction is one where a significant purpose of the transaction is the avoidance or evasion of Federal tax.
5. Special Rule for Listed Transactions. The Service will fully develop accuracy-related or fraud penalties in all cases where an underpayment of tax is attributable to a listed transaction. For purposes of this Policy Statement, a listed transaction is a transaction the Service has identified as a listed transaction pursuant to the regulations under § 6011 of the Code.
6. In limited circumstances where doing so will promote sound and efficient tax administration, the Service may approve a reduction of otherwise applicable penalties or penalty waiver for a group or class of taxpayers as part of a Service-wide resolution strategy to encourage efficient and prompt resolution of cases of noncompliant taxpayers.
7. In considering the application of penalties to a particular case, all Service functions must develop procedures that will promote:
 - a. Consistency in the application of penalties compared to similar cases;
 - b. Unbiased analysis of the facts in each case; and
 - c. The proper application of the law to the facts of the case.
8. The Service will demonstrate the fairness of the tax system to all taxpayers by:
 - a. Providing every taxpayer against whom the Service proposes to assess penalties with a reasonable opportunity to provide evidence that the penalty should not apply;
 - b. Giving full and fair consideration to evidence in favor of not imposing the penalty, even after the Service's initial consideration supports imposition of a penalty; and
 - c. Determining penalties when a full and fair consideration of the facts and the

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law support doing so.

This means that penalties are not a "bargaining point" in resolving the taxpayer's other tax adjustments. Rather, the imposition of penalties in appropriate cases serves as an incentive for taxpayers to avoid careless or overly aggressive tax reporting positions.

9. The Service will continue to develop, monitor, and revise programs to help taxpayers voluntarily comply with the law and avoid penalties.
 10. To promote consistent development, consideration, and application of penalties, the Service prescribes guidelines in a Penalty Handbook that all operating divisions and functions will follow. The Office of Penalty and Interest Administration must review and approve changes to the Penalty Handbook for consistency with Service Policy before making recommended changes.
 11. The Service collects statistical and demographic information to evaluate penalties and penalty administration, and to determine the effectiveness of penalties in promoting voluntary compliance. The Service continually evaluates the impact of the penalty program on compliance and recommends changes when the Internal Revenue Code or penalty administration does not effectively promote voluntary compliance.
 12. Approved: Mark E. Matthews, Deputy Commissioner for Services and Enforcement
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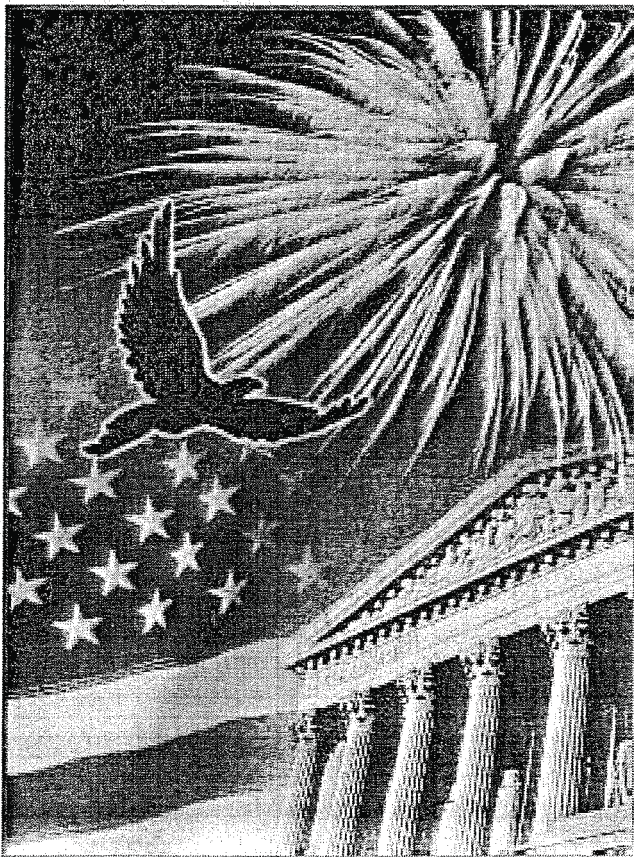
EXHIBIT C
IRS Publication 556 Appeal Rights
(4 pages)



Department of the Treasury
Internal Revenue Service

Publication 556
(Rev. August 2005)
Cat. No. 15104N

Examination of Returns, Appeal Rights, and Claims for Refund



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The IRS Mission

Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all.

Important Reminder

Fast track mediation. The IRS offers fast track mediation services to help taxpayers resolve many disputes resulting from:

- Examinations (audits),
- Offers in compromise,
- Trust fund recovery penalties, and
- Other collection actions.

See *Fast track mediation* under *If You Do Not Agree*.

Introduction

The Internal Revenue Service (IRS) accepts most federal tax returns as filed. However, the IRS examines (or audits) some returns to determine if income, expenses, and credits are being reported accurately.

If your return is selected for examination, it does not suggest that you made an error or are dishonest. Returns are chosen by computerized screening, by random sample, or by an income document matching program. See *Examination selection criteria*, later. You should also know that many examinations result in a refund or acceptance of the tax return without change.

This publication discusses general rules and procedures that the IRS follows in examinations. It explains what happens during an examination and your appeal rights, both within the IRS and in the federal court system. It also explains how to file a claim for refund of tax you already paid.

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As a taxpayer, you have the right to be treated fairly, professionally, promptly, and courteously by IRS employees. Publication 1, Your Rights as a Taxpayer, explains your rights when dealing with the IRS.

Comments and suggestions. We welcome your comments about this publication and your suggestions for future editions.

You can write to us at the following address:

Internal Revenue Service
 Individual Forms and Publications Branch
 SE:W:CAR:MP:T:I
 1111 Constitution Ave. NW, IR-6406
 Washington, DC 20224

We respond to many letters by telephone. Therefore, it would be helpful if you would include your daytime phone number, including the area code, in your correspondence.

You can email us at *taxforms@irs.gov*. (The asterisk must be included in the address.) Please put "Publications Comment" on the subject line. Although we cannot respond individually to each email, we do appreciate your feedback and will consider your comments as we revise our tax products.

Tax questions. If you have a tax question, visit *www.irs.gov* or call 1-800-829-1040. We cannot answer tax questions at either of the addresses listed above.

Ordering forms and publications. Visit *www.irs.gov/formspubs* to download forms and publications, call 1-800-829-3676, or write to the National Distribution Center at the address shown under *How To Get Tax Help* in the back of this publication.

Useful Items

You may want to see:

Publication

- 1 Your Rights as a Taxpayer
- 5 Your Appeal Rights and How To Prepare a Protest If You Don't Agree
- 547 Casualties, Disasters, and Thefts
- 594 The IRS Collection Process
- 910 Guide to Free Tax Services
- 971 Innocent Spouse Relief (And Separation of Liability and Equitable Relief)
- 1546 The Taxpayer Advocate Service of the IRS
- 1660 Collection Appeal Rights
- 3605 Fast Track Mediation
- 3920 Tax Relief for Victims of Terrorist Attacks

Form (and Instructions)

- 843 Claim for Refund and Request for Abatement

- 1040X Amended U.S. Individual Income Tax Return
- 2848 Power of Attorney and Declaration of Representative
- 4506 Request for Copy of Tax Return
- 4506-T Request for Transcript of Tax Return
- 8379 Injured Spouse Claim and Allocation
- 8857 Request for Innocent Spouse Relief (And Separation of Liability and Equitable Relief)

See *How To Get Tax Help*, near the end of this publication, for information about getting these publications and forms.

Examination of Returns

Your return may be examined for a variety of reasons, and the examination may take place in any one of several ways. After the examination, if any changes to your tax are proposed, you can either agree with those changes and pay any additional tax you may owe, or you can disagree with the changes and appeal the decision.

Examination selection criteria. Your return may be selected for examination on the basis of computer scoring. A computer program called the Discriminant Inventory Function System (DIF) assigns a numeric score to each individual and some corporate tax returns after they have been processed. If your return is selected because of a high score under the DIF system, the potential is high that an examination of your return will result in a change to your income tax liability.

Your return may also be selected for examination on the basis of information received from third-party documentation, such as Forms 1099 and W-2, that does not match the information reported on your return. Or, your return may be selected to address both the questionable treatment of an item and to study the behavior of similar taxpayers (a market segment) in handling a tax issue.

In addition, your return may be selected as a result of information received from other sources on potential non-compliance with the tax laws or inaccurate filing. This information can come from a number of sources, including newspapers, public records, and individuals. The information is evaluated for reliability and accuracy before it is used as the basis of an examination or investigation.

Notice of IRS contact of third parties. The IRS must give you reasonable notice before contacting other persons about your tax matters. You must be given reasonable notice in advance that, in examining or collecting your tax liability, the IRS may contact third parties such as your neighbors, banks, employers, or employees. The IRS must also give you notice of specific contacts by providing you with a record of persons contacted on both a periodic basis and upon your request.

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This provision does not apply:

- To any pending criminal investigation,
- When providing notice would jeopardize collection of any tax liability,
- Where providing notice may result in reprisal against any person, or
- When you authorized the contact.

Taxpayer Advocate Service. The Taxpayer Advocate Service is an independent organization within the IRS whose goal is to help taxpayers resolve problems with the IRS. If you have an ongoing issue with the IRS that has not been resolved through normal processes, or you have suffered, or are about to suffer a significant hardship as a result of the administration of the tax laws, contact the Taxpayer Advocate Service.



Before contacting the Taxpayer Advocate, you should first discuss any problem with a supervisor. Your local Taxpayer Advocate will assist you if you are unable to resolve the problem with the supervisor.

For more information, see Publication 1546. See *How To Get Tax Help*, near the end of this publication for more information about contacting the Taxpayer Advocate Service.

Comments from small business. The Small Business and Agricultural Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards have been established to receive comments from small business about federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities of each agency and rate their responsiveness to small business. If you wish to comment on the enforcement actions of the IRS, you can take any of the following steps.

- Fax your comments to 1-202-481-5719.
- Write to the following address:
Office of the National Ombudsman
U.S. Small Business Administration
409 3rd Street, SW
Washington, DC 20416.
- Call 1-888-734-3247.
- Send an email to ombudsman@sba.gov.
- File a comment or complaint online at www.sba.gov/ombudsman.

If Your Return Is Examined

Some examinations are handled entirely by mail. Examinations not handled by mail can take place in your home,

your place of business, an Internal Revenue office, or the office of your attorney, accountant, or enrolled agent. If the time, place, or method is not convenient for you, the examiner will try to work out something more suitable. However, the IRS makes the final determination of when, where, and how the examination will take place.

Throughout the examination, you can act on your own behalf or have someone represent you or accompany you. If you filed a joint return, either you or your spouse, or both, can meet with the IRS. You can have someone represent or accompany you. This person can be any federally authorized practitioner, including an attorney, a certified public accountant, an enrolled agent (a person enrolled to practice before the IRS), an enrolled actuary, or the person who prepared the return and signed it as the preparer.

If you want someone to represent you in your absence, you must furnish that person with proper written authorization. You can use Form 2848 or any other properly written authorization. If you want to consult with an attorney, a certified public accountant, an enrolled agent, or any other person permitted to represent a taxpayer during an interview for examining a tax return or collecting tax, you should make arrangements with that person to be available for the interview. In most cases, the IRS must suspend the interview and reschedule it. The IRS cannot suspend the interview if you are there because of an administrative summons.

Third party authorization. If you checked the box in the signature area of your income tax return (Form 1040, Form 1040A, or Form 1040EZ) to allow the IRS to discuss your return with another person (a third party designee), this authorization does not replace Form 2848. The box you checked on your return only authorizes the other person to receive information about the processing of your return and the status of your refund during the period your return is being processed. For more information, see the instructions for your return.

Confidentiality privilege. Generally, the same confidentiality protection that you have with an attorney also applies to certain communications that you have with federally authorized practitioners.

Confidential communications are those that:

- Advise you on tax matters within the scope of the practitioner's authority to practice before the IRS,
- Would be confidential between an attorney and you, and
- Relate to noncriminal tax matters before the IRS, or
- Relate to noncriminal tax proceedings brought in federal court by or against the United States.

In the case of communications in connection with the promotion of a person's participation in a tax shelter, the confidentiality privilege does not apply to written communications between a federally authorized practitioner and that person, any director, officer, employee, agent, or representative of that person, or any other person holding a capital or profits interest in that person.

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A tax shelter is any entity, plan, or arrangement, a significant purpose of which is the avoidance or evasion of income tax.

Recordings. You can make an audio recording of the examination interview. Your request to record the interview should be made in writing. You must notify the examiner 10 days in advance and bring your own recording equipment. The IRS also can record an interview. If the IRS initiates the recording, you must be notified 10 days in advance and you can get a copy of the recording at your expense.

Transfers to another area. Generally, your return is examined in the area where you live. But if your return can be examined more quickly and conveniently in another area, such as where your books and records are located, you can ask to have the case transferred to that area.

Repeat examinations. The IRS tries to avoid repeat examinations of the same items, but sometimes this happens. If your tax return was examined for the same items in either of the 2 previous years and no change was proposed to your tax liability, please contact the IRS as soon as possible to see if the examination should be discontinued.

The Examination

An examination usually begins when you are notified that your return has been selected. The IRS will tell you which records you will need. The examination can proceed more easily if you gather your records before any interview.

Any proposed changes to your return will be explained to you or your authorized representative. It is important that you understand the reasons for any proposed changes. You should not hesitate to ask about anything that is unclear to you.



The IRS must follow the tax laws set forth by Congress in the Internal Revenue Code. The IRS also follows Treasury Regulations, other rules, and procedures that were written to administer the tax laws. The IRS also follows court decisions. However, the IRS can lose cases that involve taxpayers with the same issue and still apply its interpretation of the law to your situation.

Most taxpayers agree to changes proposed by examiners, and the examinations are closed at this level. If you do not agree, you can appeal any proposed change by following the procedures provided to you by the IRS. A more complete discussion of appeal rights is found later under *Appeal Rights*.

If You Agree

If you agree with the proposed changes, you can sign an agreement form and pay any additional tax you may owe. You must pay interest on any additional tax. If you pay when you sign the agreement, the interest is generally figured from the due date of your return to the date of your payment.

If you do not pay the additional tax when you sign the agreement, you will receive a bill that includes interest. If you pay the amount due within 10 business days of the

billing date, you will not have to pay more interest or penalties. This period is extended to 21 calendar days if the amount due is less than \$100,000.

If you are due a refund, you will receive it sooner if you sign the agreement form. You will be paid interest on the refund.

If the IRS accepts your tax return as filed, you will receive a letter in a few weeks stating that the examiner proposed no changes to your return. You should keep this letter with your tax records.

If You Do Not Agree

If you do not agree with the proposed changes, the examiner will explain your appeal rights. If your examination takes place in an IRS office, you can request an immediate meeting with the examiner's supervisor to explain your position. If an agreement is reached, your case will be closed.

If you cannot reach an agreement with the supervisor at this meeting, or if the examination took place outside of an IRS office, the examiner will write up your case explaining your position and the IRS' position. The examiner will forward your case for processing.

Fast track mediation. The IRS offers fast track mediation services to help taxpayers resolve many disputes resulting from:

- Examinations (audits),
- Offers in compromise,
- Trust fund recovery penalties, and
- Other collection actions.

Most cases that are not docketed in any court qualify for fast track mediation. Mediation can take place at a conference you request with a supervisor, or later. The process involves an Appeals Officer who has been trained in mediation. You may represent yourself at the mediation session, or someone else can act as your representative. For more information, see Publication 3605.

30-day letter and 90-day letter. Within a few weeks after your closing conference with the examiner and/or supervisor, you will receive a package with:

- A letter (known as a 30-day letter) notifying you of your right to appeal the proposed changes within 30 days,
- A copy of the examination report explaining the examiner's proposed changes,
- An agreement or waiver form, and
- A copy of Publication 5.

You generally have 30 days from the date of the 30-day letter to tell the IRS whether you will accept or appeal the proposed changes. The letter will explain what steps you should take, depending on which action you choose. Be sure to follow the instructions carefully. *Appeal Rights* are explained later.

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Title 26 IRC and CFR; IRS Privacy Act Statement and PRA Notice
(14 pages)

**Internal Revenue Code
as amended through August 31, 2005**

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—P.L. 101-508, Sec. 11531(b)(3), added "or the alternative tax energy preference deduction under section 56(b)" before "and" in para. (b)(1), effective for tax yrs. begin. after 12/31/90.

—P.L. 101-508, Sec. 11801(c)(2)(E), deleted "(and the last sentence of section 56(f)(2)(B))" after "164(a)(5)" in para. (b)(2), effective 11/5/90 except as provided in Sec. 11821(b) of this Act reproduced at note following Code Sec. 56.

In 1988, P.L. 100-647, Sec. 2001(c)(1), redesignated subsecs. (c) and (d) as subsecs. (d) and (e) and added new subsec. (c)... Sec. 2001(c)(3)(B), added "(and the last sentence of section 56(f)(2)(B))" before the period at the end of para. (b)(2), effective for tax yrs. begin. after 12/31/86.

In 1986, P.L. 99-499, Sec. 516(a), added Code Sec. 59A, as part of Part VII of subchapter A of chapter 1, effective for tax yrs. begin. after 12/31/86.

PART VIII REPEALED [SUPPLEMENTAL MEDICARE PREMIUM]

Sec.

59B. Repealed [Supplemental medicare premium.]

In 1989, P.L. 101-234, Sec. 102(a), repealed as if not enacted Sec. 111(a) of P.L. 100-360, which added Part VIII to Subchapter A of chapter 1.

Prior to repeal, Part VIII read as follows:

"PART VIII. SUPPLEMENTAL MEDICARE PREMIUM

"Sec.

"59B. Supplemental medicare premium."

In 1988, P.L. 100-360, Sec. 111(a), [repealed as if not enacted by Sec. 102(a) of P.L. 101-234, see above] added Part VIII to Subchapter A of chapter 1.

Sec. 59B. Repealed.

In 1989, P.L. 101-234, Sec. 102(a), repealed as if not enacted Sec. 111(a) of P.L. 100-360, which added Code Sec. 59B, effective tax yrs. begin. after 12/31/88.

In 1988, P.L. 100-360, Sec. 111(a), [repealed as if not enacted by Sec. 102(a) of P.L. 101-234, see above] added Code Sec. 59B as part of Part VIII of subchapter A of chapter 1, effective for tax yrs. begin. after 12/31/88. Sec. 111(d) of this Act provides:

Subchapter B.—Computation of Taxable Income

Part

- I. Definition of gross income, adjusted gross income, taxable income, etc.
- II. Items specifically included in gross income.
- III. Items specifically excluded from gross income.
- IV. Determination of marital status. [Tax exemption requirements for State and local bonds.]
- V. Deductions for personal exemptions.
- VI. Itemized deductions for individuals and corporations.
- VII. Additional itemized deductions for individuals.
- VIII. Special deductions for corporations.
- IX. Items not deductible.
- X. Terminal railroad corporations and their shareholders.
- XI. Special rules relating to corporate preference items.

In 1986, P.L. 99-514, Sec. 1301(b), amended Part IV. This Act did not amend the item for Part IV on the list of Parts for Subchapter B, but Congress presumably intended to do so.

In 1982, P.L. 97-248, Sec. 204(c)(2), added part XI.

In 1977, P.L. 95-30, Sec. 101(e)(3), amended the item for Part IV.

Prior to amendment the item for Part IV read as follows:

"IV. Standard deduction for individuals."

In 1976, P.L. 94-455, Sec. 1901(b)(4)(C), substituted "taxable income, etc." for "and taxable income" in the item for Part I

In 1962, P.L. 87-870, Sec. 1, added part X

PART I.—DEFINITION OF GROSS INCOME, ADJUSTED GROSS INCOME, TAXABLE INCOME, ETC.

Sec.

- 61. Gross income defined.
- 62. Adjusted gross income defined.
- 63. Taxable income defined.
- 64. Ordinary income defined.
- 65. Ordinary loss defined.
- 66. Treatment of community income.
- 67. 2-percent floor on miscellaneous itemized deductions.
- 68. Overall limitation on itemized deductions.

In 1990, P.L. 101-508, Sec. 11103(d), added item 68.

In 1986, P.L. 99-514, Sec. 132(d), added item 67.

In 1984, P.L. 98-369, Sec. 424(b)(2)(C), deleted "where spouses live apart" from the end of item 66.

In 1980, P.L. 96-605, Sec. 101(b), added item 66.

In 1976, P.L. 94-455, Sec. 1901(b)(4)(A), added items 64 and 65... Sec. 1901(b)(4)(B), substituted "taxable income, etc." for "and taxable income" in the heading for Part I

Sec. 61. Gross income defined.

(a) General definition.

Except as otherwise provided in this subtitle, gross income means all income from whatever source derived, including (but not limited to) the following items:

- (1) Compensation for services, including fees, commissions, fringe benefits, and similar items;
- (2) Gross income derived from business;
- (3) Gains derived from dealings in property;
- (4) Interest;
- (5) Rents;
- (6) Royalties;
- (7) Dividends;
- (8) Alimony and separate maintenance payments;
- (9) Annuities;
- (10) Income from life insurance and endowment contracts;
- (11) Pensions;
- (12) Income from discharge of indebtedness;
- (13) Distributive share of partnership gross income;
- (14) Income in respect of a decedent; and
- (15) Income from an interest in an estate or trust.

(b) Cross references.

For items specifically included in gross income, see part II (sec. 71 and following). For items specifically excluded from gross income, see part III (sec. 101 and following).

In 2002, P.L. 107-134, Sec. 105, of this Act, reads as follows:

"Sec. 105 EXCLUSION OF CERTAIN CANCELLATIONS OF INDEBTEDNESS

"(a) In general. For purposes of the Internal Revenue Code of 1986—

"(1) gross income shall not include any amount which (but for this section) would be includable in gross income by reason of the discharge (in whole or in part) of indebtedness of any taxpayer if the discharge is by reason of the death of an individual incurred as the result of the terrorist attacks against the United States on September 11, 2001, or as the result of illness incurred as a result of an attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002 and

"(2) return requirements under section 6050P of such Code shall not apply to any discharge described in paragraph (1).

"(b) Effective date. This section shall apply to discharges made on or after September 11, 2001, and before January 1, 2002."

In 2001, P.L. 107-16, Sec. 803, of this Act, reads as follows:

"Sec. 803. NO FEDERAL INCOME TAX ON RESTITUTION RECEIVED BY VICTIMS OF THE NAZI REGIME OR THEIR HEIRS OR ESTATES

"(a) In general. For purposes of the Internal Revenue Code of 1986, any excludable restitution payments received by an eligible individual (or the individual's heirs or estate) and any excludable interest—

"(1) shall not be included in gross income; and

"(2) shall not be taken into account for purposes of applying any provision of such Code which takes into account excludable income in comput-

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Income

Part II

a separate return by a married individual within the meaning of section 7703.

(2) **Inflation adjustments.** In the case of any taxable year beginning in a calendar year after 1991, each dollar amount contained in paragraph (1) shall be increased by an amount equal to—

- (A) such dollar amount, multiplied by
- (B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting "calendar year 1990" for "calendar year 1992" in subparagraph (B) thereof.

(c) Exception for certain itemized deductions.

For purposes of this section, the term "itemized deductions" does not include—

- (1) the deduction under section 213 (relating to medical, etc. expenses),
- (2) any deduction for investment interest (as defined in section 163(d)), and
- (3) the deduction under section 165(a) for casualty or theft losses described in paragraph (2) or (3) of section 165(c) or for losses described in section 165(d).

(d) Coordination with other limitations.

This section shall be applied after the application of any other limitation on the allowance of any itemized deduction.

(e) Exception for estates and trusts.

This section shall not apply to any estate or trust.

• Caution: Subsecs. (f) and (g), following, are effective for tax. yrs. begin. after 12/31/2005. For sunset provisions, see Sec. 901 of P.L. 107-16 reproduced in the history of this Code Sec.

(f) Phaseout of limitation.

(1) In general. In the case of taxable years beginning after December 31, 2005, and before January 1, 2010, the reduction under subsection (a) shall be equal to the applicable fraction of the amount which would (but for this subsection) be the amount of such reduction.

(2) **Applicable fraction.** For purposes of paragraph (1), the applicable fraction shall be determined in accordance with the following table:

For taxable years beginning in calendar year—	The applicable fraction is—
2006 and 2007.....	%
2008 and 2009.....	1/2.

(g) Termination.

This section shall not apply to any taxable year beginning after December 31, 2009.

In 2002, P.L. 107-358, Sec. 2, added subsec. (c) in Sec. 901 of P.L. 107-16 [see below], effective 12/17/2002.

In 2001, P.L. 107-16, Sec. 103(a), added subsecs. (f) and (g), effective for tax. yrs. begin. after 12/31/2005.

—P.L. 107-16, Sec. 901, of this Act [as amended by Sec. 2 of P.L. 107-358, see above], reads as follows:

"Sec. 901. SUNSET OF PROVISIONS OF ACT.

"(a) In general. All provisions of, and amendments made by, this Act shall not apply—

(1) to taxable, plan, or limitation years beginning after December 31, 2010, or

(2) in the use of title V, to estates of decedents dying, gifts made, or generation skipping transfers, after December 31, 2010.

"(b) Application of certain laws. The Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 shall be applied and administered to years, estates, gifts, and transfers described in subsection (a)

as if the provisions and amendments described in subsection (a) had never been enacted.

"(c) **Exception.** Subsection (a) shall not apply to section 803 (relating to no federal income tax on restitution received by victims of the Nazi regime or their heirs or estates)."

In 1998, P.L. 105-277, Sec. 4004(b)(2), substituted "for casualty or theft losses described in paragraph (2) or (3) of section 165(c) or for losses described in section 165(d)" for "for losses described in subsection (c)(3) or (d) of section 165" in para. (c)(3), effective for tax. yrs. begin. after 12/31/90.

In 1993, P.L. 103-66, Sec. 13201(b)(3)(E), substituted "1992" for "1989" in subpara. (b)(2)(B), effective for tax. yrs. begin. after 12/31/92.

— P.L. 103-66, Sec. 13204, deleted subsec. (f), effective 8/10/93.

Prior to deletion, subsec. (f) read as follows:

"(f) **Termination.** This section shall not apply to any taxable year beginning after December 31, 1995."

In 1990, P.L. 101-508, Sec. 11103(a), added Code Sec. 68, effective for tax. yrs. begin. after 12/31/90.

PART II — ITEMS SPECIFICALLY INCLUDED IN GROSS INCOME
Sec.

- 71. Alimony and separate maintenance payments.
- 72. Annuities; certain proceeds of endowment and life insurance contracts.
- 73. Services of child.
- 74. Prizes and awards.
- 75. Dealers in tax-exempt securities.
- 76. Repealed. [Mortgages made or obligations issued by joint-stock land banks.]
- 77. Commodity credit loans.
- 78. Dividends received from certain foreign corporations by domestic corporations choosing foreign tax credit.
- 79. Group-term life insurance purchased for employees.
- 80. Restoration of value of certain securities.
- 81. Repealed. [Increase in vacation pay suspense account]
- 82. Reimbursement of moving expenses. [Reimbursement for expenses of moving.]
- 83. Property transferred in connection with performance of services.
- 84. Transfer of appreciated property to political organizations.
- 85. Unemployment compensation.
- 86. Social security and tier 1 railroad retirement benefits.
- 87. Alcohol fuel credit.
- 88. Certain amounts with respect to nuclear decommissioning costs.
- 89. Repealed. Benefits provided under certain employee benefit plans.]
- 90. Illegal federal irrigation subsidies.

In 1989, P.L. 101-239, Sec. 7822(c), amended item 90.

Prior to amendment item 90 read as follows:

"90. Federal irrigation subsidies."

—P.L. 101-140, Sec. 202(b), repealed item 89.

Prior to repeal, item 89 read as follows:

"89. Benefits provided under certain employee benefit plans."

In 1987, P.L. 100-203, Sec. 10201(b)(6), repealed item 81.

Prior to repeal, item 81 read as follows:

"81. Increase in vacation pay suspense account."

—P.L. 100-203, Sec. 10611(b), added item 90.

In 1986, P.L. 99-514, Sec. 805(c)(1)(B), amended item 81.

Prior to amendment, item 81 read as follows:

"81. Certain increases in suspense accounts."

—P.L. 99-514, Sec. 1151(j)(1), added item 89.

In 1984, P.L. 98-369, Sec. 91(f)(2), added item 88.

In 1983, P.L. 98-21, Sec. 121(f)(3), redesignated item 86 as 87 and added new item 86.

In 1980, P.L. 96-223, Sec. 232(c)(3), added item 86.

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affiliated group as defined in section 1504(a), determined—

- (i) by substituting "50 percent" for "80 percent" each place it appears, and
- (ii) without regard to paragraphs (2) and (4) of section 1504(b).

(C) Allocation of deduction. Except as provided in regulations, the deduction under subsection (a) shall be allocated among the members of the expanded affiliated group in proportion to each member's respective amount (if any) of qualified production activities income.

(5) **Trade or business requirement.** This section shall be applied by only taking into account items which are attributable to the actual conduct of a trade or business.

(6) **Coordination with minimum tax.** The deduction under this section shall be allowed for purposes of the tax imposed by section 55; except that for purposes of section 55, the deduction under subsection (a) shall be 9 percent of the lesser of—

- (A) qualified production activities income (determined without regard to part IV of subchapter A), or
- (B) alternative minimum taxable income (determined without regard to this section) for the taxable year.

In the case of an individual, subparagraph (B) shall be applied by substituting "adjusted gross income" for "alternative minimum taxable income". For purposes of the preceding sentence, adjusted gross income shall be determined in the same manner as provided in paragraph (2).

(7) **Regulations.** The Secretary shall prescribe such regulations as are necessary to carry out the purposes of this section.

In 2004, P.L. 108-357, Sec. 102(a), added Code Sec. 199, effective for tax yrs. begin. after 12/31/2004.

PART VII.—ADDITIONAL ITEMIZED DEDUCTIONS FOR INDIVIDUALS

Sec.

- 211. Allowance of deductions.
- 212. Expenses for production of income.
- 213. Medical, dental, etc., expenses.
- 214. Repealed. [Expenses for household and dependent care services necessary for gainful employment.]
- 215. Alimony, etc., payments.
- 216. Deduction of taxes, interest, and business depreciation by cooperative housing corporation tenant-stockholder.
- 217. Moving expenses.
- 218. Contributions to candidates for public office. [Repealed.]
- 219. Retirement savings.
- 220. Archer MSAs.
- 221. Interest on education loans.
- 222. Qualified tuition and related expenses.
- 223. Health savings accounts.
- 224. Cross reference.

In 2003, P.L. 108-173, Sec. 1201(a), redesignated item 223 as 224, and added new item 223

In 2001, P.L. 107-16, Sec. 431(c)(4), deleted item 222 and added items 222 and 223.

Prior to deletion, item 222 read as follows:
"222. Cross reference."

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In 2000, P.L. 106-554, Sec. 1(a)(7) [which enacted into law Sec. 202(b)(9) of H.R. 5662], amended item 220.

Prior to amendment, item 220 read as follows:

- 1. "220. Medical savings accounts."

In 1997, P.L. 105-34, Sec. 202(d), deleted item 221 and added new 221 and 222.

Prior to deletion, item 221 read as follows:

- "221. Cross reference."

In 1996, P.L. 104-191, Sec. 301(i), deleted item 220 and added new items 220 and 221.

Prior to deletion, item 220 read as follows:

- "220. Cross reference."

In 1990, P.L. 101-508, Sec. 11802(e)(3), repealed items 220 and 221, and added new item 220.

Prior to repeal, items 220 and 221 read as follows:

- "220. Jury duty pay remitted to employer.
- "221. Cross References."

In 1988, P.L. 100-647, Sec. 6007(c), repealed item 220 and added items 220 and 221.

Prior to repeal, item 220 read as follows:

- "220. Cross references."

In 1986, P.L. 99-514, Sec. 131(b)(3), repealed item 221... Sec. 135(b)(2), repealed items 222 and 223 and added item 220... Sec. 301(b)(5)(B), substituted "reference" for "references" in item 223 [before redesignation by Sec. 135(b)(1) of this Act.]

Prior to repeal, item 221 read as follows:

- "221. Deduction for two-earner married couples."

Prior to repeal, items 222 and 223 [as amended by P.L. 99-514, Sec. 301(b)(5), above] read as follows:

- "Sec. 222. Adoption expenses."
- "Sec. 223. Cross references."

In 1981, P.L. 97-34, Sec. 103(c)(3), redesignated item 221 as 222 and added new item 221... Sec. 125(b), redesignated item 222 [as redesignated by Sec. 103(c)(3) of this Act] as 223 and added new item 222... Sec. 311(h)(11), repealed item 220.

Prior to repeal, item 220 read as follows:

- "220. Retirement savings for certain married individuals."

In 1978, P.L. 95-600, Sec. 113(a)(1), repealed Code Sec. 218. This Act did not amend the list of Code Secs. for Part VII, but presumably Congress intended to.

Prior to repeal, the heading for Code Sec. 218 read as follows:

- "Sec. 218. Contributions to candidates for public office."

In 1976, P.L. 94-455, Sec. 504(b)(2), repealed item 214.

Prior to repeal, item 214 read as follows:

- "214. Expenses for household and dependent care services necessary for gainful employment."

—P.L. 94-455, Sec. 1501(c), amended item 220 and added item 221.

Prior to amendment, item 220 read as follows:

- "220. Cross references."

In 1974, P.L. 93-406, Sec. 2002(h)(1), redesignated item 219 as 220 and added new item 219.

In 1971, P.L. 92-178, Sec. 702(c), redesignated item 218 as 219, and added new item 218... Sec. 210(b), amended item 214.

Prior to amendment, item 214 read as follows:

- "Expenses for care of certain dependents."

In 1964, P.L. 82-272, Sec. 213(a)(2), redesignated item 217 as 218, and added new item 217.

In 1962, P.L. 87-834, Sec. 28(b), amended item 216.

Prior to amendment, item 216 read as follows:

- "Amounts representing taxes and interest paid to cooperative housing corporation."

Sec. 211. Allowance of deductions.

In computing taxable income under section 63, there shall be allowed as deductions the items specified in this part, subject to the exceptions provided in part IX (section 261 and following, relating to items not deductible).

in 1977, P.L. 95-30, Sec. 102(b)(3), substituted "section 63" for "section 63(a)", effective for tax yrs begin. after 12/31/76

Sec. 212. Expenses for production of income.

In the case of an individual, there shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year—

- (1) for the production or collection of income;

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definition of moving expenses), irrespective of the dollar limitations contained in section 217(b)(3) and the conditions contained in section 217(c), as well as items not described in section 217 (b), such as a loss sustained on the sale or exchange of personal property, storage charges, taxes, or expenses of refitting rugs or draperies.

(5) *Attributable to employment or self-employment.* Any amount received or accrued from an employer, a client, a customer, or similar person in connection with the performance of services for such employer, client, customer, or similar person, is attributable to employment or self-employment. Thus, for example, if an employer reimburses an employee for a loss incurred on the sale of the employee's house, reimbursement is attributable to the performance of services if made because of the employer-employee relationship. Similarly, if an employer in order to prevent an employee's sustaining a loss on a sale of a house acquires the property from the employee at a price in excess of fair market value, the employee is considered to have received a payment attributable to employment to the extent that such payment exceeds the fair market value of the property.

(b) *Effective date.*—(1) *In general.* Except as provided in subparagraph (2) of this paragraph, paragraph (a) of this section is applicable only to amounts received or accrued in taxable years beginning after December 31, 1969.

(2) *Election with respect to payments or reimbursements for expenses paid or incurred before January 1, 1971.* Paragraph (a) of this section does not apply with respect to moving expenses paid or incurred before January 1, 1971, in connection with the commencement of work by an employee at a new principal place of work where such employee had been notified by his employer on or before December 19, 1969, of such move and the employee makes an election under paragraph (h) of § 1.217-2.

[T.D. 7195. 37 FR 13533. July 11. 1972. as amended by T.D. 7578. 43 FR 59355. Dec. 20. 1978]

§ 1.83-1 Property transferred in connection with the performance of services.

(a) *Inclusion in gross income.*—(1) *General rule.* Section 83 provides rules for the taxation of property transferred to an employee or independent contractor (or beneficiary thereof) in connection with the performance of services by such employee or independent contractor. In general, such property is not taxable under section 83(a) until it has been transferred (as defined in § 1.83-3(a)) to such person and become substantially vested (as defined in § 1.83-3(b)) in such person. In that case, the excess of—

(i) The fair market value of such property (determined without regard to any lapse restriction, as defined in § 1.83-3(i)) at the time that the property becomes substantially vested, over

(ii) The amount (if any) paid for such property,

shall be included as compensation in the gross income of such employee or independent contractor for the taxable year in which the property becomes substantially vested. Until such property becomes substantially vested, the transferor shall be regarded as the owner of such property, and any income from such property received by the employee or independent contractor (or beneficiary thereof) or the right to the use of such property by the employee or independent contractor constitutes additional compensation and shall be included in the gross income of such employee or independent contractor for the taxable year in which such income is received or such use is made available. This paragraph applies to a transfer of property in connection with the performance of services even though the transferor is not the person for whom such services are performed.

(2) *Life insurance.* The cost of life insurance protection under a life insurance contract, retirement income contract, endowment contract, or other contract providing life insurance protection is taxable generally under section 61 and the regulations thereunder during the period such contract remains substantially nonvested (as defined in § 1.83-3(b)). For the taxation of life insurance protection under a split-

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provide services in the construction of an office building on property owned by X corporation. X corporation has 100 shares of preferred stock outstanding and an additional 500 shares of common stock outstanding. The preferred stock has a liquidation value of \$1,000^x, which is equal to the value of all assets owned by X. Therefore, the book value of the common stock in X corporation is \$0. Under the terms of the transfer, if B wishes to dispose of the stock, B must offer to sell the stock to X for 150 percent of the then existing book value of B's common stock. The stock is also subject to a substantial risk of forfeiture until B performs the agreed-upon services. B makes a timely election under section 83(b) to include the value of the stock in gross income in 1971. Under these facts and circumstances, the restriction to which the shares of X corporation common stock are subject is a nonlapse restriction. In determining the fair market value of the X common stock at the time of transfer, the book value formula price would ordinarily be regarded as determinative of such value. However, the fair market value of X common stock at the time of transfer, subject to the book value restriction, is greater than \$0 since B was willing to agree to provide valuable personal services in exchange for the stock. In determining the fair market value of the stock, the expected book value after construction of the office building would be given great weight. The likelihood of completion of construction would be a factor in determining the expected book value after completion of construction.

[T.D. 7554, 43 FR 31918, July 24, 1978]

↓
 § 1.83-6 Deduction by employer.

(a) *Allowance of deduction*—(1) *General rule*. In the case of a transfer of property in connection with the performance of services, or a compensatory cancellation of a nonlapse restriction described in section 83(d) and § 1.83-5, a deduction is allowable under section 162 or 212 to the person for whom the services were performed. The amount of the deduction is equal to the amount included as compensation in the gross income of the service provider under section 83 (a), (b), or (d)(2), but only to the extent the amount meets the requirements of section 162 or 212 and the regulations thereunder. The deduction is allowed only for the taxable year of that person in which or with which ends the taxable year of the service provider in which the amount is included as compensation. For purposes of this paragraph, any amount excluded from gross income under section

79 or section 101(b) or subchapter N is considered to have been included in gross income.

(2) *Special Rule*. For purposes of paragraph (a)(1) of this section, the service provider is deemed to have included the amount as compensation in gross income if the person for whom the services were performed satisfies in a timely manner all requirements of section 6041 or section 6041A, and the regulations thereunder, with respect to that amount of compensation. For purposes of the preceding sentence, whether a person for whom services were performed satisfies all requirements of section 6041 or section 6041A, and the regulations thereunder, is determined without regard to § 1.6041-3(c) (exception for payments to corporations). In the case of a disqualifying disposition of stock described in section 421(b), an employer that otherwise satisfies all requirements of section 6041 and the regulations thereunder will be considered to have done so timely for purposes of this paragraph (a)(2) if Form W-2 or Form W-2c, as appropriate, is furnished to the employee or former employee, and is filed with the federal government, on or before the date on which the employer files the tax return claiming the deduction relating to the disqualifying disposition.

(3) *Exceptions*. Where property is substantially vested upon transfer, the deduction shall be allowed to such person in accordance with his method of accounting (in conformity with sections 446 and 461). In the case of a transfer to an employee benefit plan described in § 1.162-10(a) or a transfer to an employees' trust or annuity plan described in section 404(a)(5) and the regulations thereunder, section 83(h) and this section do not apply.

(4) *Capital expenditure, etc*. No deduction is allowed under section 83(h) to the extent that the transfer of property constitutes a capital expenditure, an item of deferred expense, or an amount properly includible in the value of inventory items. In the case of a capital expenditure, for example, the basis of the property to which such capital expenditure relates shall be increased at the same time and to the same extent as any amount includible in the employee's gross income in respect of

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such transfer. Thus, for example, no deduction is allowed to a corporation in respect of a transfer of its stock to a promoter upon its organization, notwithstanding that such promoter must include the value of such stock in his gross income in accordance with the rules under section 83.

(5) *Transfer of life insurance contract (or an undivided interest therein)*—(i) *General rule.* In the case of a transfer of a life insurance contract (or an undivided interest therein) described in §1.61-22(c)(3) in connection with the performance of services, a deduction is allowable under paragraph (a)(1) of this section to the person for whom the services were performed. The amount of the deduction, if allowable, is equal to the sum of the amount included as compensation in the gross income of the service provider under §1.61-22(g)(1) and the amount determined under §1.61-22(g)(1)(ii).

(ii) *Effective date—(A) General rule.* Paragraph (a)(5)(1) of this section applies to any split-dollar life insurance arrangement (as defined in §1.61-22(b)(1) or (2)) entered into after September 17, 2003. For purposes of this paragraph (a)(5), an arrangement is entered into as determined under §1.61-22(j)(1)(ii).

(B) *Modified arrangements treated as new arrangements.* If an arrangement entered into on or before September 17, 2003 is materially modified (within the meaning of §1.61-22(j)(2)) after September 17, 2003, the arrangement is treated as a new arrangement entered into on the date of the modification.

(6) *Effective date.* Paragraphs (a)(1) and (2) of this section apply to deductions for taxable years beginning on or after January 1, 1995. However, taxpayers may also apply paragraphs (a)(1) and (2) of this section when claiming deductions for taxable years beginning before that date if the claims are not barred by the statute of limitations. Paragraphs (a)(3) and (4) of this section are effective as set forth in §1.83-8(b).

(b) *Recognition of gain or loss.* Except as provided in section 1032, at the time of a transfer of property in connection with the performance of services the transferor recognizes gain to the extent that the transferor receives an

amount that exceeds the transferor's basis in the property. In addition, at the time a deduction is allowed under section 83(h) and paragraph (a) of this section, gain or loss is recognized to the extent of the difference between (1) the sum of the amount paid plus the amount allowed as a deduction under section 83(h), and (2) the sum of the taxpayer's basis in the property plus any amount recognized pursuant to the previous sentence.

(c) *Forfeitures.* If, under section 83(h) and paragraph (a) of this section, a deduction, an increase in basis, or a reduction of gross income was allowable (disregarding the reasonableness of the amount of compensation) in respect of a transfer of property and such property is subsequently forfeited, the amount of such deduction, increase in basis or reduction of gross income shall be includible in the gross income of the person to whom it was allowable for the taxable year of forfeiture. The basis of such property in the hands of the person to whom it is forfeited shall include any such amount includible in the gross income of such person, as well as any amount such person pays upon forfeiture.

(d) *Special rules for transfers by shareholders—(1) Transfers.* If a shareholder of a corporation transfers property to an employee of such corporation or to an independent contractor (or to a beneficiary thereof), in consideration of services performed for the corporation, the transaction shall be considered to be a contribution of such property to the capital of such corporation by the shareholder, and immediately thereafter a transfer of such property by the corporation to the employee or independent contractor under paragraphs (a) and (b) of this section. For purposes of this (1), such a transfer will be considered to be in consideration for services performed for the corporation if either the property transferred is substantially nonvested at the time of transfer or an amount is includible in the gross income of the employee or independent contractor at the time of transfer under §1.83-1(a)(1) or §1.83-2(a). In the case of such a transfer, any money or other property paid to the shareholder for such stock shall be considered to be paid to the corporation

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Section 1.12741 also issued under 26 U.S.C. 1275(d).
 Section 1.1274-2 also issued under 26 U.S.C. 1275(d).
 Section 1.12743 also issued under 26 U.S.C. 1275(d).
 Section 1.1274-4 also issued under 26 U.S.C. 1275(d).
 Section 1.12745 also issued under 26 U.S.C. 1275(d).
 Section 1.1274A-1 also issued under 26 U.S.C. 1274A(e) and 26 U.S.C. 1275(d).
 Section 1.1275-1 also issued under 26 U.S.C. 1275(d).
 Section 1.1275-2 also issued under 26 U.S.C. 1275(d).
 Section 1.1275-3 also issued under 26 U.S.C. 1275(d).
 Section 1.1275-4 also issued under 26 U.S.C. 1275(d).
 Section 1.1275-5 also issued under 26 U.S.C. 1275(d).
 Section 1.1275-6 also issued under 26 U.S.C. 1275(d).
 Section 1.1275-7 also issued under 26 U.S.C. 1275(d).
 Section 1.12861 also issued under 26 U.S.C. 1275(D) and 1286(f).
 Section 1.1286-2 also issued under 26 U.S.C. 1286(f).
 Section 1.1287-1 also issued under 26 U.S.C. 165(j)(3).
 Section 1.1291-1 also issued under 26 U.S.C. 1291.
 Section 1.1291-9 also issued under 26 U.S.C. 1291(d)(2).
 Section 1.1291-10 also issued under 26 U.S.C. 1291(d)(2).
 Section 1.1293-1 also issued under 26 U.S.C. 1293.
 Section 1.1294-1T also issued under 26 U.S.C. 1294.
 Section 1.1295-1 also issued under 26 U.S.C. 1295.
 Section 1.1295-3 also issued under 26 U.S.C. 1295.
 Section 1.12961 also issued under 26 U.S.C. 1296(g) and 26 U.S.C. 1298(f).
 Section 1.1296(e)-1 also issued under 26 U.S.C. 1296(e).
 Section 1.1297-3T also issued under 26 U.S.C. 1297(b)(1).
 Section 1.1301-1 also issued under 26 U.S.C. 1301(c).
 Section 1.1361-1(j) (6), (10) and (11) also issued under 26 U.S.C. 1361(d)(2)(B)(iii).
 Section 1.1361-1(l) also issued under 26 U.S.C. 1361(e)(5)(C).
 Sections 1.1362-1, 1.1362-2, 1.1362-3, 1.1362-4, 1.1362-5, 1.1362-6, 1.1362-7, and 1.1363-1 also issued under 26 U.S.C. 1377.
 Section 1.1368-1(f) and (g) also issued under 26 U.S.C. 1377(c).
 Section 1.1368-2(b) also issued under 26 U.S.C. 1368(c).
 Section 1.1374-1 also issued under 26 U.S.C. 1374(e) and 337(d).

Section 1.13742 also issued under 26 U.S.C. 1374(e) and 337(d).
 Section 1.13743 also issued under 26 U.S.C. 1374(e) and 337(d).
 Section 1.1374-4 also issued under 26 U.S.C. 1374(e) and 337(d).
 Section 1.13745 also issued under 26 U.S.C. 1374(e) and 337(d).
 Section 1.1374-6 also issued under 26 U.S.C. 1374(e) and 337(d).
 Section 1.1374-7 also issued under 26 U.S.C. 1374(e) and 337(d).
 Section 1.1374-8 also issued under 26 U.S.C. 1374(e) and 337(d).
 Section 1.1374-8T also issued under 26 U.S.C. 337(d) and 1374(e).
 Section 1.13749 also issued under 26 U.S.C. 1374(e) and 337(d).
 Section 1.137410 also issued under 26 U.S.C. 1374(e) and 337(d).
 Section 1.1374-10T also issued under 26 U.S.C. 337(d) and 1374(e).
 Section 1.1377-1 also issued under 26 U.S.C. 1377(a)(2) and (c).
 Section 1.1394-1 also issued under 26 U.S.C. 1397D.
 Section 1.13961 also issued under 26 U.S.C. 1397D.
 Section 1.1397E-1 also issued under 26 U.S.C. 1397E(b) and (d).

SOURCE: T.D. 6500, 25 FR 11910, Nov. 26, 1960; 25 FR 14021, Dec. 31, 1960, unless otherwise noted.

GAIN OR LOSS ON DISPOSITION OF PROPERTY

DETERMINATION OF AMOUNT OF AND RECOGNITION OF GAIN OR LOSS

§ 1.1001-1 Computation of gain or loss.

(a) General rule. Except as otherwise provided in subtitle A of the Code, the gain or loss realized from the conversion of property into cash, or from the exchange of property for other property differing materially either in kind or in extent, is treated as income or as loss sustained. The amount realized from a sale or other disposition of property is the sum of any money received plus the fair market value of any property (other than money) received. The fair market value of property is a question of fact, but only in rare and extraordinary cases will property be considered to have no fair market value. The general method of computing such gain or loss is prescribed by section 1001 (a) through (d) which contemplates that from the amount realized upon the sale or exchange there shall be withdrawn a sum sufficient to

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restore the adjusted basis prescribed by section 1011 and the regulations thereunder (i.e., the cost or other basis adjusted for receipts, expenditures, losses, allowances, and other items chargeable against and applicable to such cost or other basis). The amount which remains after the adjusted basis has been restored to the taxpayer constitutes the realized gain. If the amount realized upon the sale or exchange is insufficient to restore to the taxpayer the adjusted basis of the property, a loss is sustained to the extent of the difference between such adjusted basis and the amount realized. The basis may be different depending upon whether gain or loss is being computed. For example, see section 1015(a) and the regulations thereunder. Section 1001(e) and paragraph (f) of this section prescribe the method of computing gain or loss upon the sale or other disposition of a term interest in property the adjusted basis (or a portion) of which is determined pursuant, or by reference, to section 1014 (relating to the basis of property acquired from a decedent) or section 1015 (relating to the basis of property acquired by gift or by a transfer in trust).

(b) *Real estate taxes as amounts received.* (1) Section 1001(b) and section 1012 state rules applicable in making an adjustment upon a sale of real property with respect to the real property taxes apportioned between seller and purchaser under section 164(d). Thus, if the seller pays (or agrees to pay) real property taxes attributable to the real property tax year in which the sale occurs, he shall not take into account, in determining the amount realized from the sale under section 1001(b), any amount received as reimbursement for taxes which are treated under section 164(d) as imposed upon the purchaser. Similarly, in computing the cost of the property under section 1012, the purchaser shall not take into account any amount paid to the seller as reimbursement for real property taxes which are treated under section 164(d) as imposed upon the purchaser. These rules apply whether or not the contract of sale calls for the purchaser to reimburse the seller for such real property taxes paid or to be paid by the seller.

(2) On the other hand, if the purchaser pays (or is to pay) an amount representing real property taxes which are treated under section 164(d) as imposed upon the seller, that amount shall be taken into account both in determining the amount realized from the sale under section 1001(b) and in computing the cost of the property under section 1012. It is immaterial whether or not the contract of sale specifies that the sale price has been reduced by, or is in any way intended to reflect, the taxes allocable to the seller. See also paragraph (b) of § 1.1012-1.

(3) Subparagraph (1) of this paragraph shall not apply to a seller who, in a taxable year prior to the taxable year of sale, pays an amount representing real property taxes which are treated under section 164(d) as imposed on the purchaser, if such seller has elected to capitalize such amount in accordance with section 266 and the regulations thereunder (relating to election to capitalize certain carrying charges and taxes).

(4) The application of this paragraph may be illustrated by the following examples:

Example 1. Assume that the contract price on the sale of a parcel of real estate is \$50,000 and that real property taxes thereon in the amount of \$1,000 for the real property tax year in which occurred the date of sale were previously paid by the seller. Assume further that \$750 of the taxes are treated under section 164(d) as imposed upon the purchaser and that he reimburses the seller in that amount in addition to the contract price. The amount realized by the seller is \$50,000. Similarly, \$50,000 is the purchaser's cost. If, in this example, the purchaser made no payment other than the contract price of \$50,000, the amount realized by the seller would be \$49,250, since the sales price would be deemed to include \$750 paid to the seller in reimbursement for real property taxes imposed upon the purchaser. Similarly, \$49,250 would be the purchaser's cost.

Example 2. Assume that the purchaser in example (1), above, paid all of the real property taxes. Assume further that \$250 of the taxes are treated under section 164(d) as imposed upon the seller. The amount realized by the seller is \$50,250. Similarly, \$50,250 is the purchaser's cost, regardless of the taxable year in which the purchaser makes actual payment of the taxes.

Example 3. Assume that the seller described in the first part of example (1), above, paid

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§ 1.1012-1

he makes no other charitable contributions. On the date of transfer the securities have a fair market value of \$100,000 and an adjusted basis to A of 80,000.

(b) The present value of the right of a male age 65 to receive a life annuity of \$5,000 per annum, payable in equal installments at the end of each monthly period, is \$59,755 (\$5,000 x [11.469 + 0.482]), determined in accordance with section 101(b) of the Code, paragraph (e)(1)(iii)(b)(2) of § 1.101-2, and section 3 of Rev. Rul. 62-216, C.B. 1962-2, 30. Thus, A makes a charitable contribution to the church of \$40,245 (\$100,000 - \$59,755). See Rev. Rul. 84162, 19842 C.B. 200, for transfers for which the valuation date falls after November 23, 1984. (See § 601.601(d)(2)(ii)(b) of this chapter.) For the applicable valuation tables in connection therewith, see § 20.2031-7(d)(6) of this chapter. See, however, § 1.7520-3(b) (relating to exceptions to the use of standard actuarial factors in certain circumstances).

(c) Under paragraph (b) of this section, the adjusted basis for determining gain on the bargain sale is \$11,951 (\$20,000 x \$59,755 / \$100,000). Accordingly, A has a recognized long-term capital gain of \$47,804 (\$59,755 - \$11,951) on the bargain sale. Such gain is to be reported by A ratably over the period of years measured by the expected return multiple under the contract, but only from that portion of the annual payments which is a return of his investment in the contract under section 72 of the Code. For such purposes, the investment in the contract is \$59,755, that is, the present value of the annuity.

(d) The computation and application of the exclusion ratio, the gain, and the ordinary annuity income are as follows, determined by using the expected return multiple of 15.0 applicable under table I of § 1.72-9:

A's expected return (annual payments of \$5,000 x 15)	\$75,000.00
Exclusion ratio (\$59,755 investment in contract divided by expected return of \$75,000)	79.7%
Annual exclusion (annual payments of \$5,000 x 79.7%)	\$3,985.00
Ordinary annuity income (\$5,000 - \$3,985)	\$1,015.00
Long-term capital gain per year (\$47,804/15) with respect to the annual exclusion	\$3,186.93

(e) The exclusion ratio of 79.7 percent applies throughout the life of the contract. During the first 15 years of the annuity, A is required to report ordinary income of \$1,015 and long-term capital gain of \$3,186.93 with respect to the annuity payments he receives. After the total long-term capital gain of \$47,804 has been reported by A, he is required to report only ordinary income of \$1,015.00 per annum with respect to the annuity payments he receives.

(d) *Effective date.* This section applies only to sales and exchanges made after December 19, 1969.

(e) *Cross reference.* For rules relating to the treatment of liabilities on the sale or other disposition or encumbered property, see § 1.1001-2.

[T.D. 7207, 37 FR 20798, Oct. 5, 1972, as amended by T.D. 7741, 45 FR 81745, Dec. 12, 1980; T.D. 8176, 53 FR 5570, Feb. 25, 1988; 53 FR 11002, Apr. 4, 1988; T.D. 8540, 59 FR 30148, June 10, 1994]

61.1012-1 Basis of property.

(a) *General rule.* In general, the basis of property is the cost thereof. The cost is the amount paid for such property in cash or other property. This general rule is subject to exceptions stated in subchapter O (relating to gain or loss on the disposition of property), subchapter C (relating to corporate distributions and adjustments), subchapter K (relating to partners and partnerships), and subchapter P (relating to capital gains and losses), chapter 1 of the code.

(b) *Real estate taxes as part of cost.* In computing the cost of real property, the purchaser shall not take into account any amount paid to the seller as reimbursement for real property taxes which are treated under section 164(d) as imposed upon the purchaser. This rule applies whether or not the contract of sale calls for the purchaser to reimburse the seller for such real estate taxes paid or to be paid by the seller. On the other hand, where the purchaser pays (or assumes liability for) real estate taxes which are treated under section 164(d) as imposed upon the seller, such taxes shall be considered part of the cost of the property. It is immaterial whether or not the contract of sale specifies that the sale price has been reduced by, or is in any way intended to reflect, real estate taxes allocable to the seller under section 164(d). For illustrations of the application of this paragraph, see Paragraph (b) of § 1.1001-1.

(c) *Sale of stock—(1) In general.* If shares of stock in a corporation are sold or transferred by a taxpayer who purchased or acquired lots of stock on different dates or at different prices, and the lot from which the stock was sold or transferred cannot be adequately identified, the stock sold or transferred shall be charged against the earliest of such lots purchased or



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Privacy Act Statement and Paperwork Reduction Act Notice

This notice is given under the Privacy Act of 1974 and the Paperwork Reduction Act of 1995. The Privacy Act and Paperwork Reduction Act requires that the Internal Revenue Service inform businesses and other entities the following when asking for information.

The information on this form will carry out the Internal Revenue laws of the United States. We will comply with Internal Revenue Code (IRC) section 6109 and the regulations hereunder, which generally require the inclusion of an Employer Identification Number (EIN) on certain returns, statements, or other documents filed with the Internal Revenue Service. Information on this form may be used to determine which Federal tax returns are required to file and to provide related forms and publications. This Form will be disclosed to the Social Security Administration for their use in determining compliance with applicable laws. An EIN will not be issued unless you provide all of the requested information, which applies to your entity.

Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by IRC section 6103.

Note: This page contains one or more references to the Internal Revenue Code (IRC), Treasury Regulations, court cases, or other official tax guidance. References to these legal authorities are included for the convenience of those who would like to read the technical reference material. To access the applicable IRC sections, Treasury Regulations, or other official tax guidance, visit the Tax Code, Regulations, and Official Guidance page. To access any Tax Court case opinions issued after September 24, 1995, visit the Opinions Search page of the United States Tax Court.

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Department of the Treasury
Internal Revenue Service

Notice 609

(Revised July 2002)

Privacy Act Notice

The Privacy Act of 1974 says that when we ask you for information, we must first tell you our legal right to ask for the information, why we are asking for it, and how it will be used. We must also tell you what could happen if you do not provide it and whether or not you must respond under the law.

This notice applies to tax returns and any papers filed with them. It also applies to any questions we need to ask you so we can complete, correct, or process your return; figure your tax; and collect tax, interest, or penalties.

Our legal right to ask for information is found in Internal Revenue Code sections 6001, 6011, and 6012(a) and their regulations. They say that you must file a return or statement with us for any tax you are liable for. Your response is mandatory under these sections.

Code section 6109 and its regulations say that you must show your social security number or individual taxpayer identification number on what you file. You must also fill in all parts of the tax form that apply to you. This is so we know who you are and can process your return and papers. You do not have to check the boxes for the Presidential Election Campaign Fund.

We ask for tax return information to carry out the U.S. tax laws. We need it to figure and collect the right amount of tax.

We may give the information to the Department of Justice and to other Federal agencies, as provided by law. We may also give it to cities, states, the District of Columbia, and U.S. commonwealths or possessions to carry out their tax laws. And we may give it to certain foreign governments under tax treaties they have with the United States. We may also disclose this information

Cat. No. 45963A

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Department of the Treasury
Internal Revenue Service

Notice 609
(Revised July 2002)

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This notice applies to tax returns and any papers filed with them. It also applies to any questions we need to ask you so we can complete, **correct**, or process **your** return; figure your tax; and **collect** tax, interest, or penalties.

Our legal right to ask for **information** is found in Internal Revenue Code sections 6001, 6011, and 6012(a) and their regulations. They say that you must file a return or statement with us for any tax you are liable for. Your response is **mandatory** under these sections.

Code section 6109 and its regulations say that **you** must show your social security number or individual taxpayer identification number on what you file. You must also fill in all parts of **the** tax form that apply to you. This is so we know who you are and can process your **return** and papers. **You** do not have to check the boxes for the Presidential Election Campaign Fund.

We ask for tax return information to carry out the U.S. tax laws. We need it to figure and collect the right amount of tax.

We may give the information to the Department of Justice and to other Federal agencies, as **provided** by law. We may also give it to cities, states, the District of Columbia, and U.S. commonwealths or possessions to carry out their tax laws. And we may give it to certain foreign governments under tax treaties **they** have with the United States. We may also disclose this information

CR. No. 45963A

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EXHIBIT E
Title 26 IRC and CFR; IRS Privacy Act Statement and PRA Notice
(18 pages)

Internal Revenue Service, Treasury

§ 1.1-1

NORMAL TAXES AND SURTAXES
 DETERMINATION OF TAX LIABILITY
 TAX ON INDIVIDUALS

§ 1.1-1 Income tax on individuals.

(a) *General rule.* (1) Section 1 of the Code imposes an income tax on the income of every individual who is a citizen or resident of the United States and, to the extent provided by section 871(b) or 877(b), on the income of a non-resident alien individual. For optional tax in the case of taxpayers with adjusted gross income of less than \$10,000 (less than \$5,000 for taxable years beginning before January 1, 1970) see section 3. The tax imposed is upon taxable income (determined by subtracting the allowable deductions from gross income). The tax is determined in accordance with the table contained in section 1. See subparagraph (2) of this paragraph for reference guides to the appropriate table for taxable years beginning on or after January 1, 1964, and before January 1, 1965, taxable years beginning after December 31, 1964, and before January 1, 1971, and taxable years beginning after December 31, 1970. In certain cases credits are al-

lowed against the amount of the tax. See part IV (section 31 and following), subchapter A, chapter 1 of the Code. In general, the tax is payable upon the basis of returns rendered by persons liable therefor (subchapter A (sections 6001 and following), chapter 61 of the Code) or at the source of the income by withholding. For the computation of tax in the case of a joint return of a husband and wife, or a return of a surviving spouse, for taxable years beginning before January 1, 1971, see section 2. The computation of tax in such a case for taxable years beginning after December 31, 1970, is determined in accordance with the table contained in section 1(a) as amended by the Tax Reform Act of 1969. For other rates of tax on individuals, see section 5(a). For the imposition of an additional tax for the calendar years 1968, 1969, and 1970, see section 51(a).

(2)(i) For taxable years beginning on or after January 1, 1964, the tax imposed upon a single individual, a head of a household, a married individual filing a separate return, and estates and trusts is the tax imposed by section 1 determined in accordance with the appropriate table contained in the following subsection of section 1:

	Taxable years beginning in 1964	Taxable years beginning after 1964 but before 1971	Taxable years beginning after Dec. 31, 1970 (references in this column are to the Code as amended by the Tax Reform Act of 1969)
Single individual	Sec. 1(a)(1)	Sec. 1(a)(2)	Sec. 1(c).
Head of a household	Sec. 1(b)(1)	Sec. 1(b)(2)	Sec. 1(b).
Married individual filing a separate return.	Sec. 1(a)(1)	Sec. 1(a)(2)	Sec. 1(d).
Estates and trusts	Sec. 1(a)(1)	Sec. 1(a)(2)	Sec. 1(d).

(ii) For taxable years beginning after December 31, 1970, the tax imposed by section 1(d), as amended by the Tax Reform Act of 1969, shall apply to the income effectively connected with the conduct of a trade or business in the United States by a married alien individual who is a nonresident of the United States for all or part of the taxable year or by a foreign estate or trust. For such years the tax imposed by section 1(c), as amended by such Act, shall apply to the income effectively connected with the conduct of a trade or business in the United States by an unmarried alien individual (other

than a surviving spouse) who is a non-resident of the United States for all or part of the taxable year. See paragraph (b)(2) of § 1.871-8.

(3) The income tax imposed by section 1 upon any amount of taxable income is computed by adding to the income tax for the bracket in which that amount falls in the appropriate table in section 1 the income tax upon the excess of that amount over the bottom of the bracket at the rate indicated in such table.

(4) The provisions of section 1 of the Code, as amended by the Tax Reform Act of 1969, and of this paragraph may

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Internal Revenue Service, Treasury

§ 602.101

(2) Eligible organizations interested in participating in the Internal Revenue Service Tax Counseling for the Elderly program should request an application from the:

Program Manager, Tax Counseling for the Elderly, Taxpayer Service Division TX-TL, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, (202) 566-4904.

IRS shall follow those guidelines whenever practicable. For products with an extended shelf life, such as those related to filing and paying taxes, the IRS will not print any pictures or biographical data relating to missing children without obtaining from the National Center a waiver of the 3-month shelf-life guideline.

Subpart I—Use of Penalty Mail in the Location and Recovery of Missing Children

SOURCE: T.D. 8848, 64 FR 69398, Dec. 13, 1999, unless otherwise noted.

(d) *Reports and contact official.* IRS shall compile and submit to OJJDP reports on its experience in implementing Public Law 99-87, 99 Stat. 290, as required by that office. The IRS contact person is: Chief, Business Publications Section (or successor office), Tax Forms and Publications Division, Technical Publications Branch, OP:FS:FP:P:3, Room 5613, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224.

§ 601.901 Missing children shown on penalty mail.

(a) *Purpose.* To support the national effort to locate and recover missing children, the Internal Revenue Service (IRS) joins other executive departments and agencies of the Government of the United States in using official mail to disseminate photographs and biographical information on hundreds of missing children.

(e) *Period of applicability.* This section is applicable December 13, 1999 through December 31, 2002.

[T.D. 8848, 64 FR 69398, Dec. 13, 1999; 65 FR 15862, Mar. 24, 2000]

(b) *Procedures for obtaining and disseminating data.* (1) The IRS shall publish pictures and biographical data related to missing children in domestic penalty mail containing annual tax forms and instructions, taxpayer information publications, and other IRS products directed to members of the public in the United States and its territories and possessions.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

§ 602.101 OMB Control numbers.

(2) Missing children information shall not be placed on the "Penalty Indicia," "OCR Read Area," "Bar Code Read Area," and "Return Address" areas of letter-size envelopes.

(3) The IRS shall accept photographic and biographical materials solely from the National Center for Missing and Exploited Children (National Center). Photographs that were reasonably current as of the time of the child's disappearance, or those which have been updated to reflect a missing child's current age through computer enhancement technique, shall be the only acceptable form of visual media or pictorial likeness used in penalty mail.

(a) *Purpose.* This part collects and displays the control numbers assigned to collections of information in Internal Revenue Service regulations by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. The Internal Revenue Service intends that this part comply with the requirements of §§ 1320.7(f), 1320.12, 1320.13, and 1320.14 of 5 CFR part 1320 (OMB regulations implementing the Paperwork Reduction Act), for the display of control numbers assigned by OMB to collections of information in Internal Revenue Service regulations. This part does not display control numbers assigned by the Office of Management and Budget to collections of information of the Bureau of Alcohol, Tobacco, and Firearms.

(b) *Display.*

CFR part or section where identified and described	Current OMB control No.
1.1(h)-1(e)	1545-1654
1.23-5	1545-0074

(c) *Withdrawal of data.* The shelf life of printed penalty mail is limited to 3 months for missing child cases. The

1.1-1 Missing in current CFR Publications But is not applicable.

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Bureau of Alcohol, Tobacco, and Firearms.

(b) Cross-reference. For display of control numbers assigned by the Office of Management and Budget to Internal Revenue Service collections of information in the Statement of Procedural Rules (26 CFR, part 601), see 26 CFR 601.9000.

(c) Display

26 CFR part or section	initiated and	Current OMB control number
§ 1.1-1		1545-0067
§ 1.25-1T		1545-0922
§ 1.25-2T		1545-0922
§ 1.25-3T		1545-0922

§1.1-1 1545-0067

§ 1.25-7T	1545-0922	§ 1.81-3T O/A-29	1545-0771
§ 1.25-8T	1545-0922	§ 1.81-4	1545-0771
§ 1.25-1	1545-0618	§ 1.81-15	1545-0771
§ 1.31-2(a)	1545-0074	§ 1.83-1	1545-0129
§ 1.37-1(c)	1545-0074	§ 1.82-2	1545-1148
§ 1.37-3(c)	1545-0074	§ 1.83-1	1545-0074
§ 1.41-1(a)(i) and (c)	1545-0074	§ 1.87-3T	1545-0110
§ 1.42-1T	1545-0998	§ 1.87-3T	1545-1018
§ 1.42-2T	1545-1008	§ 1.71-1T	1545-0074
§ 1.43-2(b)	1545-0074	§ 1.72-4	1545-0074
§ 1.44A	1545-0068	§ 1.72-6	1545-0074
§ 1.44A-3(a)	1545-0074	§ 1.72-9	1545-0074
§ 1.44B-1	1545-0219	§ 1.72-17(e)	1545-0074
§ 1.44C	1545-0214	§ 1.72-17A(c)	1545-0074
§ 1.44C-3	1545-0780	§ 1.72-17A(e)	1545-0074
§ 1.44C-6	1545-0780	§ 1.72-18(b)	1545-0074
§ 1.46-1(p)	1545-0123	§ 1.78-2	1545-0074
§ 1.46-5(e)(2)	1545-0155	§ 1.78-3	1545-0074
§ 1.46-5(n)(4)	1545-0155	§ 1.83-2(b), (c), and (e)	1545-0074
§ 1.46-5(o)(3)(v)	1545-0155	§ 1.83-5(b)	1545-0074
§ 1.46-5(o)(2)	1545-0155	§ 1.103-10(a)(2)(i)	1545-0940
§ 1.46-6	1545-0155	§ 1.103-10(a)(2)(ii)(A)	1545-0123
§ 1.46-11(c)	1545-0155	§ 1.103-10(c)	1545-0123
§ 1.47-1(b)	1545-0188	§ 1.100-18AT	1545-0720
§ 1.47-1(e)(1)	1545-0188	§ 1.100(a)-3T	1545-0874
§ 1.47-1(e)(2)	1545-0188	§ 1.100(a)-4T	1545-0874
§ 1.47-1(f)	1545-0155	§ 1.100A-2	1545-0720
§ 1.47-3(a)	1545-0188	§ 1.105-4	1545-0069
§ 1.47-3(b)	1545-0155	§ 1.105-6	1545-0069
§ 1.47-3(c)	1545-0155	§ 1.105-6	1545-0069
§ 1.47-4(a)	1545-0123	§ 1.105-7	1545-0069
§ 1.47-5(a)	1545-0092	§ 1.105-8	1545-0069
§ 1.47-6	1545-0099	§ 1.105-9	1545-0069
§ 1.48-12(a)(2)(v)	1545-0155	§ 1.105-10	1545-0069
§ 1.48-12(a)(3)(i)	1545-0155	§ 1.108(a)-1	1545-0045
§ 1.48-12(a)(3)	1545-0155	§ 1.108(a)-2	1545-0045
§ 1.48-12(a)(4)	1545-0155	§ 1.117-5	1545-0889
§ 1.48-12(a)(7)	1545-0155	§ 1.117-1	1545-0067
§ 1.50A-1	1545-0189	§ 1.120-3(b)(1)	1545-0057
§ 1.50A-2	1545-0189	§ 1.120-3(c)(1)	1545-0057
§ 1.50A-3	1545-0189	§ 1.121-1	1545-0072
§ 1.50A-4	1545-0189	§ 1.121-2	1545-0072

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Form **2555**
 Department of the Treasury
 Internal Revenue Service (99)

Foreign Earned Income

OMB No. 1545-0067

2004

Attachment
 Sequence No. **34**

▶ See separate instructions. ▶ Attach to Form 1040.

For Use by U.S. Citizens and Resident Aliens Only

Name shown on Form 1040

Your social security number

Part I General Information

- 1 Your foreign address (including country)
- 2 Your occupation
- 3 Employer's name ▶
- 4a Employer's U.S. address ▶
- 4b Employer's foreign address ▶
- 5 Employer is (check any that apply):
 - a A foreign entity
 - b A U.S. company
 - c Self
 - d A foreign affiliate of a U.S. company
 - e Other (specify) ▶
- 6a If, after 1981, you filed Form 2555 to claim either of the exclusions or Form 2555-EZ to claim the foreign earned income exclusion, enter the last year you filed the form. ▶
- 6b If you did not file Form 2555 or 2555-EZ after 1981 to claim either of the exclusions, check here and go to line 7.
- 6c Have you ever revoked either of the exclusions? Yes No
- 6d If you answered "Yes," enter the type of exclusion and the tax year for which the revocation was effective. ▶
- 7 Of what country are you a citizen/national? ▶
- 8a Did you maintain a separate foreign residence for your family because of adverse living conditions at your tax home? See **Second foreign household** on page 3 of the instructions. Yes No
- 8b If "Yes," enter city and country of the separate foreign residence. Also, enter the number of days during your tax year that you maintained a second household at that address. ▶
- 9 List your tax home(s) during your tax year and date(s) established. ▶

Next, complete either Part II or Part III. If an item does not apply, enter "NA." If you do not give the information asked for, any exclusion or deduction you claim may be disallowed.

Part II Taxpayers Qualifying Under Bona Fide Residence Test (See page 2 of the instructions.)

- 10 Date bona fide residence began ▶, and ended ▶
- 11 Kind of living quarters in foreign country ▶
 - a Purchased house
 - b Rented house or apartment
 - c Rented room
 - d Quarters furnished by employer
- 12a Did any of your family live with you abroad during any part of the tax year? Yes No
- 12b If "Yes," who and for what period? ▶
- 13a Have you submitted a statement to the authorities of the foreign country where you claim bona fide residence that you are not a resident of that country? (See instructions.) Yes No
- 13b Are you required to pay income tax to the country where you claim bona fide residence? (See instructions.) Yes No
- If you answered "Yes" to 13a and "No" to 13b, you do not qualify as a bona fide resident. Do not complete the rest of this part.**
- 14 If you were present in the United States or its possessions during the tax year, complete columns (a)-(d) below. Do not include the income from column (d) in Part IV, but report it on Form 1040.

(a) Date arrived in U.S.	(b) Date left U.S.	(c) Number of days in U.S. on business	(d) Income earned in U.S. on business (attach computation)	(a) Date arrived in U.S.	(b) Date left U.S.	(c) Number of days in U.S. on business	(d) Income earned in U.S. on business (attach computation)

- 15a List any contractual terms or other conditions relating to the length of your employment abroad. ▶
- 15b Enter the type of visa under
- 15c Did your visa limit the length
- 15d Did you maintain a home in
- 15e If "Yes," enter address of you. ▶

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If "Yes," attach explanation Yes No
 Yes No
 ies of the occupants, and their relationship



Form **1040**

Department of the Treasury—Internal Revenue Service
U.S. Individual Income Tax Return 2004

(99) IRS Use Only—Do not write or staple in this space.

Label

(See instructions on page 16.)

Use the IRS label. Otherwise, please print or type.

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For the year Jan. 1–Dec. 31, 2004, or other tax year beginning _____, 2004, ending _____, 20		OMB No. 1545-0074
Your first name and initial	Last name	Your social security number
If a joint return, spouse's first name and initial	Last name	Spouse's social security number
Home address (number and street). If you have a P.O. box, see page 16.		Apt. no.
City, town or post office, state, and ZIP code. If you have a foreign address, see page 16.		

▲ Important! ▲
You must enter your SSN(s) above.

Presidential Election Campaign
(See page 16.)

Note. Checking "Yes" will not change your tax or reduce your refund.
Do you, or your spouse if filing a joint return, want \$3 to go to this fund?

	You	Spouse
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

Filing Status

Check only one box.

- 1 Single
- 2 Married filing jointly (even if only one had income)
- 3 Married filing separately. Enter spouse's SSN above and full name here. ▶
- 4 Head of household (with qualifying person). (See page 17.) If the qualifying person is a child but not your dependent, enter this child's name here. ▶
- 5 Qualifying widow(er) with dependent child (see page 17)

Exemptions

If more than four dependents, see page 18.

6a Yourself. If someone can claim you as a dependent, do not check box 6a

b Spouse

(1) First name	Last name	(2) Dependent's social security number	(3) Dependent's relationship to you	(4) <input type="checkbox"/> if qualifying child for child tax credit (see page 18)

d Total number of exemptions claimed Add numbers on lines above ▶

Boxes checked on 6a and 6b _____
No. of children on 6c who:
• lived with you _____
• did not live with you due to divorce or separation (see page 18) _____
Dependents on 6c not entered above _____

Income

Attach Form(s) W-2 here. Also attach Forms W-2G and 1099-R if tax was withheld.

If you did not get a W-2, see page 19.

Enclose, but do not attach, any payment. Also, please use Form 1040-V.

7 Wages, salaries, tips, etc. Attach Form(s) W-2	7	
8a Taxable interest. Attach Schedule B if required	8a	
b Tax-exempt interest. Do not include on line 8a	8b	
9a Ordinary dividends. Attach Schedule B if required	9a	
b Qualified dividends (see page 20)	9b	
10 Taxable refunds, credits, or offsets of state and local income taxes (see page 20)	10	
11 Alimony received	11	
12 Business income or (loss). Attach Schedule C or C-EZ	12	
13 Capital gain or (loss). Attach Schedule D if required. If not required, check here ▶ <input type="checkbox"/>	13	
14 Other gains or (losses). Attach Form 4797	14	
15a IRA distributions	15a	
b Taxable amount (see page 22)	15b	
16a Pensions and annuities	16a	
b Taxable amount (see page 22)	16b	
17 Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E	17	
18 Farm income or (loss). Attach Schedule F	18	
19 Unemployment compensation	19	
20a Social security benefits	20a	
b Taxable amount (see page 24)	20b	
21 Other income. List type and amount (see page 24)	21	
22 Add the amounts in the far right column for lines 7 through 21. This is your total income ▶	22	

Adjusted Gross Income

23 Educator expenses (see page 26)	23	
24 Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106 or 2106-EZ	24	
25 IRA deduction (see page 26)	25	
26 Student loan interest deduction (see page 28)	26	
27 Tuition and fees deduction (see page 29)	27	
28 Health savings account deduction. Attach Form 8889	28	
29 Moving expenses. Attach Form 3903	29	
30 One-half of self-employment tax	30	
31 Self-employment tax	31	
32 Self-employment tax	32	
33 Penalty on early withdrawal of savings	33	
34a Alimony paid	34a	
35 Add lines 23	35	
36 Subtract line 35 from line 22. This is your adjusted gross income ▶	36	

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Dual Status

- 324 You transferred your tax due on income not effectively connected to a U.S. trade or business incorrectly from your Form 1040, page 2. We changed your return accordingly
- 325 We can't allow your earned income credit. It appears you don't qualify. We changed your return accordingly. If you believe you do qualify, you should file an amended return on Form 1040X and provide the U.S. address and length of time you lived in the U.S.

International Form 1040

IMF Input Computer Prints
Codes

- 340 We can't allow a deduction for a U.S. government cost-of-living allowance. We changed your return accordingly
- 341 Your credit on Form 8689, "Allocation of Income Tax to the Virgin Islands", can't be more than the tax due on your Form 1040. We changed your return accordingly.
- 342 We can't allow your Guam withholding since we've unable to determine your place of residence. We changed your return accordingly.

Form 1040NR

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IMF Input Computer Prints
Codes

- 401 You can't deduct state and local tax payments as a negative amount on page 1 of Form 1040NR. Since we're unable to determine from Form W-2 the amount of state/local tax paid, we disallowed the deduction and changed your return accordingly.
- 402 We can't allow your scholarship or fellowship exclusion. You didn't attach the required supporting statement. We changed your return accordingly.
- 403 Gambling winnings are exempt from tax due to a U.S. tax treaty with your country of residence. We changed your return accordingly
- 404 We disallowed your treaty exemption because you didn't answer questions "K" and "L" on page 5 of Form 1040NR. We changed your return accordingly.
- 405 We can't allow the exemption for your teaching income because article 19 of the China Treaty allows the exemption for only three years. We changed your return accordingly.
- 406 We can't allow your treaty exemption. The treaty you claimed is not a valid tax treaty. We changed your return accordingly.
- 407 Because you didn't reply to our request for more information we disallowed your treaty exemption and changed your return accordingly.
- 408 The amount you entered as U.S. tax withheld at source doesn't match the amount shown on Form(s) 1042S.
- 409 We can't allow your tax treaty exclusion on the tax form you filed. You didn't file Form 1040NR as required to exclude income under a tax treaty. We changed your return accordingly. If you believe you do qualify for the tax treaty exclusion, you should file an amended return on Form 1040X.
- 410 We can't allow itemized deductions against income that is not effectively connected to a U.S. trade or business. We changed your return accordingly.

Any line marked with # is for official use only

3(15)(129)9.(10)

Veteran's Disability Compensation—Public Law DS-479, Sect 301

(1) Veterans notified that they are retroactively entitled to Veterans Administration (VA) pension or compensation can exclude this amount from gross income. In order to qualify for this exclusion the veteran must waive an equal amount of retirement pay that he/she may receive from the VA benefits eligibility can be, and usually is retroactive. the taxpayer can file claims for refund of taxes paid on these amounts.

(2) When a claim is received in A/C, review the claim for completeness following the guidelines in IRM 3(15)60, "Processing Procedures for Claims and Amended Returns".

(a) Disallow the claim if the statute is barred.

(b) Disallow the claim if it is not for a retroactive exclusion of the Veterans Administration benefits.

Caution: Many claims are received where the claim amount is for additional benefits. These claims are not allowable because the benefits have not been included in the taxable income.

(c) A copy of the VA Form 20-09113 or an Official VA letter granting the retroactive benefit that clearly states "in lieu of VA Form 20-3883" must be attached to the claim.

(3) If the required document is not attached, suspend the claim and correspond with the taxpayer. If the taxpayer does not furnish the necessary information by the end of the suspense period, reject the claim.

3(15)(129)9.(11) (1-1-93)

Adjustment to Virgin Island Forms 1040 and 1040A

(1) Route claims received from taxpayers residing in the Virgin Islands to PSC for processing.

(2) Action:

(a) Check TC 150 DLN for blocking series 98 (Virgin Island);

(b) Write "Virgin Island TP" on the transmittal; and

(c) Send 86C Letter to taxpayer notifying him/her of the transfer.

3(15)(129)9.(12) (1-1-93)

Underreporter/CP2000 Issues

(1) The Underreporter Program (URP) is the compliance program which compares amounts of wages, interest, dividends, etc., reported by the payers with the amounts reported by the individual taxpayers. Discrepancies in incoming and increased withholding credits are identified. A CP2000 notice is sent to a taxpayer to propose a change to tax and/or credits. The current URP processing year is usually 18 to 24 months prior to the current tax year. (e.g., The tax year 1991 will be processed by URP in the calendar year 1993.) As a result of taxpayers receiving CP2000 or Statutory Notices from URP, A/C will also receive correspondences and/or Forms 1040X. In addition, A/C will also receive taxpayer correspondence and returns that have been reviewed by URB.

(2) Route Forms 1040X, (that relate or refer to URP) for the current URP processing year, to URB. Follow regular adjustments procedures for:

(a) other than current-URP processing year Forms 1040X and,

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IMF	Description
000-049	Adjustments with original return unless specified otherwise below.
050-070	Form 1040 Virgin Island (PSC) cover over process
100-129	Reserved.
150-179	Tax, Penalty, Interest, or freeze release without original return.
180-198	Tax, penalty, interest, or freeze release without original return. CP 55 generated. Not valid for MFTs 29 and 55.
199	Expired balance write-offs (TC 534/535) Non-refile DLN.
200-289	Forms 1040X processed by Document Perfection.
280-299	FORM 1040X Disaster Claims
300-309	Barred assessment. CP 55 generated. Valid for MFT 30 and 29.
310	Reserved
320-349	DATC, Non-refile DLN's Only
400-439	Excise Tax Fuel Claims with Form 843. Preassessment Refund only.
440-449	Disallowed claims with no filing requirements. Not valid for MFTs 29 and 55.
480-489	Form 6249 claim with Form 843. Non-refile DLN. Preassessment refund only.
490-499	Gasohol claim with Form 843. Non-refile DLN. Preassessment refund only.
500-519	URP (Timely, full paid) Adjustments (CP-2000)
520-539	Adjustments to Civil Penalty Modules. CP 55 generated for TC 290 blocked 530-539 (except if the prior DLN is 59X)
540-549	SFR Assessments (1st Notice)
550-589	URP (Other than timely, full paid) adjustments (CP-2000)
590-599	W-4 Civil Penalty Adjustments
600-619	URP (Timely, full paid) adjustments (Statutory Notices)
630-639	Reserved
640-649	SFR Assessments (Statutory Notice) 90-Day Letter Issued
650-679	URP (Other than timely) adjustments (Statutory Notice)
680-698	Sick Pay claims-Public Law 95-30.
700-739	Substantiated Math Error Protest with a TC 576 on the module.
740-769	Unsubstantiated Math Error Protest.
770-779	Adjustment to set math error deferred action on a module.
780-789	Adjustment without original return to set math error deferred action on module (CP 55 generated)
790-799	Technical Unit Adjustments
800-809	Offer In Compromise
900-909	Carryback Adjustments without original return (CP 55 generated).
910-919	Carryback adjustments below tolerance without original return--no CP 55 generated.
920-929	Carryback Adjustment with original return. (CP 55 not generated).
930-939	Reserved

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IMF	Description
950-959	Carryback claim reassessments processed with TC 298 for statute imminent years.
960-969	Penalty appeals indicator set. CP 55 generated. Refile DLN. Does not generate CP 55 on a civil penalty module if prior control DLN is 59X.
970-979	Penalty appeals indicator released. Refile DLN.
980-989	Complete claim disallowance without original return (generates CP 55). Does not generate CP 55 on a civil penalty module if prior control DLN is 59X.
990-999	Complete claim disallowance with original return (does not generate CP 55).
IRA	
000-099	Description
500-599	All adjustments except those specified below. Non-refile DLN.
700-769	Adjustments created by the Revenue Act of 1978 and Public Law 95-458. Non-refile DLN.
800-899	Mathematical/Clerical Errors.
960-969	Offers in Compromise.
970-979	Penalty Appeals Indicator Set. Refile DLN.
	Penalty Appeals Indicator Released. Refile DLN.
BMF	
000-049	Description
050-059	Adjustments with the original return attached, except those with mathematical error adjustments, SC Technical adjustments, Offers in Compromise. Not valid for Forms 11C, 706, 708, 730.
060-069	Same as above, except for Forms 2290 and 4638* only.
070-079	Same as above, except for Forms 706 and 709 only.
080-089	Forms 11 and 11B
090-099	Same as above, except for Form 11-C only.
100-129	Same as above, except for Form 730 only.
130-139	Non-tax adjustments without the original return. Non-refile DLN.
140-149	FTD penalty adjustment with CP 194 or CP 207. Refile DLN.
150-179	FTD penalty CP 207 or CP 194 per processing 3(15)(107)0. Non-refile DLN.
180-198	Tax adjustments without the original return, including penalty, interest and/or freeze release adjustments. Non-refile DLN. When using this blocking series, no unpostable checks are made for prior examination or math/clerical error because the original return has not been secured. Exercise caution when adjusting accounts using this blocking series.
199	Tax, penalty, interest, or freeze release without original return. CP 155 generated. Valid for all MFTs except 06, 13, 36 and 67.
200-289	Expired balance write-offs. (TC 534/535). Non-refile DLN.
290-299	Forms 1120X processed in Returns Analysis.
300-309	Forms 1120X processed by Document Perfection.
390-398	Barred assessment. CP 155 generated. U.S./U.K. Tax Treaty claims

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Form 1040 X

Files Management and Services
Exhibit 35(61)0-11

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Forms Reference Index

Documents which are specifically referenced in the Files procedures are cross-referenced here as an administrative aid

Form	Title (purpose)	IRM 35(61) Se
5XX/FTG	Cards & Transmittals	2.10
708	Estate and Generation-Skipping Transfer Tax Return	7.3
706 NA	Estate Tax Return - Alien	7.3
706 (for POA)	Estate Tax (Power Of Attorney)	3.(26)
709	Gift (and Generation-Skipping Transfer Tax Return)	3.5 & 7.3
720	Quarterly Federal Excise Tax Return	5.8
813(Part 2)	Document Register	Various
843	Claim for Refund and Request for Abatement	3.(25)
011	Application for Taxpayer Assistance Order to Relieve Hardship	1.6
928	Return by a Transferor of Property to a Foreign Corporation, Trust, Estate or Partnership	3.(27)
940-942	Employer's Annual Federal Unemployment (FUTA) Tax Return / Employer's Quarterly Tax Return for Household Employees	2.1
941 facsimile	Employers Quarterly Federal Tax Return	2.5 & 3.(35)
964(Form Obsoleted)	Election of Shareholders (Liquidation)	7.(11)
966	Corp. Dissolution (Liquidation)	7.(11)
990-BL	Information and Excise Tax Return for Black Lung Benefit Trusts and Certain Related Persons	3.6
990/990-PF	Return of Org. Exempt from Income Tax (Exempt Private Foundation) / Return of Private Foundation	2.7
990-T	Exempt Organization Business Income Tax Return	Exhibit 3
1040	U.S. Individual Income Tax Return	7.6
1040EZ	Income Tax Return for Single Filers With No Dependents	3.8
1040C	U.S. Departing Alien Income Tax Return	Exhibit 3
1040X	Amended U.S. Individual Income Tax Return for U.S. Sources Income of Foreign Persons	3.(25) & Exhibit 3
1042	Withholding Tax Return	2.3 & 3.(10)
1042S	Income Subject to Withholding	3.(10)
1096	U.S. Annual Summary & Transmittal of U.S. Information Return	3.(13)
1120-FSC	U.S. Income Tax Return of a Foreign Sales Corporation	3.2
1120-IC-DISC	Interest Charged Domestic International Sales Corporation Return	3.2
1120	Corp. Tax Return	3.(11) & Exhibit 1
1120X	Claim	3.(25) & Exhibit 3
1332	Block & Selection Record	Various
2031 (Form Obsoleted)	Waiver Certificate to Collection Social Security Coverage	Exhibit 3
2119	Sale or Exchange of Principle Residence	5.(24)
2275	Record request Charge and Recharge (Charge-out Request)	Various
2345	Batch Transmittal	2.3
2553	Election—Small Business Corp.	3.(12)
2818	Power of Attorney and Declaration of Representatives	3.(32)
3011A	Transmittal (Refund Litigation Case)	4.3
3115	Accounting Method Change	Exhibit 3
3177	Notice of Action (Entity)	(10).2
3189	Deficiency Dividend Deduction	3.(14)
3210	Document Transmittal	Exhibit 25
3520	Creations of or Transfers to Certain Foreign Trusts	3.(30)
3520A	Annual Return of Foreign Trusts with U.S. Beneficiaries	3.(30)
3780	Index Cards (Form Obsoleted 12/74)	3.(20)
3893	Re-Entry Control Sheet	2.5
3906(Form Obsoleted)	Block Record	Various
4180	Flag Sheet	2.5, 6.3 & 8.1
4210 (Form Obsoleted)	Block Divider Card	2.2
4251	Return Charged-Out	Various
4338	Information or Certified Transcript Request	2.1 & 2.5

MT 3500-202

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Form **1040X**
(Rev. November 2004)

Department of the Treasury—Internal Revenue Service

Amended U.S. Individual Income Tax Return

OMB No. 1545-0091

▶ See separate instructions.

This return is for calendar year ▶

, or fiscal year ended ▶

Please print or type	Your first name and initial	Last name	Your social security number
	If a joint return, spouse's first name and initial	Last name	Spouse's social security number
	Home address (no. and street) or P.O. box if mail is not delivered to your home		Apt. no.
	City, town or post office, state, and ZIP code. If you have a foreign address, see page 2 of the instructions.		Phone number ()
			For Paperwork Reduction Act Notice, see page 6.

- A** If the name or address shown above is different from that shown on the original return, check here
- B** Has the original return been changed or audited by the IRS or have you been notified that it will be? Yes No
- C** Filing status. Be sure to complete this line. **Note.** You cannot change from joint to separate returns after the due date.
- On original return ▶ Single Married filing jointly Married filing separately Head of household Qualifying widow(er)
- On this return ▶ Single Married filing jointly Married filing separately Head of household* Qualifying widow(er)
- * If the qualifying person is a child but not your dependent, see page 2.

Use Part II on the back to explain any changes		A. Original amount or as previously adjusted (see page 3)	B. Net change—amount of increase or (decrease)—explain in Part II	C. Correct amount
Income and Deductions (see pages 2-6)				
	1 Adjusted gross income (see page 3)	1		
	2 Itemized deductions or standard deduction (see page 3)	2		
	3 Subtract line 2 from line 1	3		
	4 Exemptions. If changing, fill in Parts I and II on the back	4		
	5 Taxable income. Subtract line 4 from line 3	5		
Tax Liability	6 Tax (see page 4). Method used in col. C	6		
	7 Credits (see page 4)	7		
	8 Subtract line 7 from line 6. Enter the result but not less than zero	8		
	9 Other taxes (see page 4)	9		
	10 Total tax. Add lines 8 and 9	10		
Payments	11 Federal income tax withheld and excess social security and tier 1 RRTA tax withheld. If changing, see page 4	11		
	12 Estimated tax payments, including amount applied from prior year's return	12		
	13 Earned income credit (EIC)	13		
	14 Additional child tax credit from Form 8812	14		
	15 Credits from Form 2439, Form 4136, or Form 8885	15		
	16 Amount paid with request for extension of time to file (see page 5)			16
	17 Amount of tax paid with original return plus additional tax paid after it was filed			17
	18 Total payments. Add lines 11 through 17 in column C			18
Refund or Amount You Owe				
	19 Overpayment, if any, as shown on original return or as previously adjusted by the IRS			19
	20 Subtract line 19 from line 18 (see page 5)			20
	21 Amount you owe. If line 10, column C, is more than line 20, enter the difference and see page 5			21
	22 If line 10, column C, is less than line 20, enter the difference			22
	23 Amount of line 22 you want refunded to you			23
	24 Amount of line 22 you want applied to your estimated tax	24		

Sign Here

Joint return? See page 2. Keep a copy for your records.

Under penalties of perjury, I declare that I have filed an original return and that I have examined this amended return, including accompanying schedules and statements, and to the best of my knowledge and belief, this amended return is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which the preparer has any knowledge.

Your signature	Date	Spouse's signature. If a joint return, both must sign.	Date
----------------	------	--	------

Paid Preparer's Use Only	Preparer's signature	Date	Check if self-employed <input type="checkbox"/>	Preparer's SSN or PTIN
	Firm's name (or yours if self-employed), address, and ZIP code	EIN	Phone no. ()	

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Form 1040X (Rev. 11-2004)

Transaction Codes Pocket Guide



IRS

Department of the Treasury
Internal Revenue Service

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Trans. Code	File	D/C	Title	Trans. Code	File	D/C
120	I/B		Account Disclosure Code	160	B/A	D
121	E		Employee Plan Characteristics	161	I/B/A	C
122	E		Reversal of Employee Plan	162	I/B/A	
			Characteristics	166	I/B/A	D
123	E		Update of Employee Plan Characteristics	167	I/B/A	C
125	E		Plan Termination	170	I/B	D
126	E		Reversal of Termination	171	I/B	C
127	E		Administrator Data Change	176	I/B	D
128	E		Administrator Data Change	177	I/B	C
129	I		HHS Request	180	B	D
130	I/B		Entire Account Frozen from Refunding	181	B	C
131	I/B		Reversal of TC 130 Refund Freeze	186	B	D
132	I		Reversed TC 130	187	B	C
136	B		Suppress FTD Alert	190	I/B/A	D
137	B		Reverse Suppress	191	I/B/A	C
140	I		IRP Delinquency Inquiry	196	I/B/A	D
141	I/B/E		Delinquency Inquiry	197	I/B/A	C
142	I/B/E		Delinquency Investigation	200	I/A	D
148	I/B		Issuance of TDA or TDI Assembly	201	I/A	C
149	I/B		Reversal of TC 148			
150	I/B/E/A/P	D	Return Filed & Tax Liability Assessed	234	B	D
150	I/A		Entity Created by TC 150	235	B	C
151	E/A		Reversal of TC 150 or 154	238	B	D
152	I/A		Entity Updated by TC 150	239	B	C
154	E		Posting F5330 Data	240	I/B/A	D
155	E		1 st Correspondence Letter Sent	241	I/B/A	C
156	E		Subsequent Correspondence Sent			
157	E		Schedule A			
157	B		Form 5578, Non-Discrimination Certification			
159	I		Settlement Data			

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ADP Systems Code

TC	DR/CR	File	Abbr. & Title	Doc. Code
149		I,B	RV F TDA-I Reversal of TC 148	77

→ (20) TC 150—A tax liability assessed from the original return establishes a tax module. SC computer generated while processing the return. Any remittance received with the return (TC 610). A TC 150 with a doc code 51 and a TC 610 in the module possibly indicates return lost in service center is prejournalized. IMF/BMF/IRAF: All credits posted to a tax module are frozen from offsetting or refunding until a 150 is posted. Will cause a TC 650 (which is prejournalized) to be printed on the Settlement Register if the 150 contains a Federal Depositary amount. *BMF: Assessment may be credit for Form CT-1, 720, and 941. (See TC 976, 977 for Amended Return) IMF Returns with Tax Class Document Code 210 and Blocking Series 000/299 are SFR returns. These returns should be noted with "Return filed by Service".

TC	DR/CR	File	Abbr. Title	Doc. Code
150	Debit* (NPJ)	I,B	RET FILED E,A,P: Return Filed & Tax Liability Assessed Abbreviation to be Recorded on TDA's (Form TY-D69) is: TAX ON RET EPMF: 30, 31, 37, 38 IRAF: 11,12,21,22,51,73 PMF: 69	IMF: 05, 06, 07, 08, 09, 10, 11, 12, 21, 22, 26, 27, 51, 72, 73, BMF: 03, 05, 06, 07, 08, 09, 10, 11, 12, 13, 16, 25, 20, 23, 29, 36, 59, 60, 51, 35, 38, 40-44, 46, 65-67, 71, 81, 83, 90-93, 95

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(21) TC 150—This TC 150 when posted to the Entity Transaction Section indicates the Master File entity was created from the posting of the return.

TC	DR/CR	File	Abbr. & Title	Doc. Code
150		I A	ENT BY 150 Entity Created by TC Transaction 150	Generated

NOTE: TC 150 with Doc Code 51—possibly indicates "TC 610 post-ed-return lost in service center."

(22) TC 151—EPMF: Reverses return data. Action Code 30 reverses TC 154. IRAF: Report Suppression, the TC 150 return data will not be extracted for report purposes. TC 150 or 154 when 971 code is 19 must be posted and balance of module must be zero. Used when F5329 filed in error.

TC	DR/CR	File	Abbr. & Title	Doc. Code
151		E,A	RV RFT Reversal of TC 150 or 154	77

(23) TC 152—Designates a return which updated entity data and is posted to the Entity Transaction Section.

TC	DR/CR	File	Abbr. & Title	Doc. Code
152		I A	UPD BT 150 Entity Updated by TC Transaction 150	Generated

(7) The Assessment "23C" date will ordinarily be the Monday of the 2nd week following the week in which these transactions are processed and posted to the IMF Accounts, unless otherwise designated by Accounts Division in appropriate publications.

(8) When notices are to be sent to taxpayers that are identified as Spanish speaking District Office (DO) 66 and mail filing requirement of "7" the Computer Paragraph Number is in the 700 series.

(9) Extracts of IMF Accounts are not permitted when the extracts may be used outside of IRS, unless the Privacy Act or the Freedom of Information Act is utilized.

(10) Do not generate Check Digit for Accounts posted to the Invalid Segment.

(11) The term "Module Balance" as used throughout this Section is the algebraic sum of posted and assessed transactions excluding interest transactions.

(12) The term "Net Module Balance" is the algebraic sum of Assessed Transactions and consists of Module Balance, Interest Assessed and Interest Paid.

(13) The term "Total Balance" is the algebraic sum of "Module Balance," Accrued Failure to Pay Penalty (Total Penalty less Assessed Penalty) and Total Interest (Assessed Interest plus Accrued) and Interest Paid.

(14) Service Center Codes supersede Region Code. Generate the Service Center Code from the governing District Offices Code.

(15) When prescribed transactions post to a tax module, or a tax module must be analyzed for a scheduled action, compute interest, Failure-to-Pay-Penalty and/or delinquency penalty as required. Assess interest, assess Failure-to-Pay-Penalty when applicable, and assess delinquency penalty as prescribed in subsequent sub-sections. When interest and Failure-to-Pay-Penalty computations are made and not assessed, accrue the amounts of each computation.

(16) Non-Compute 1040—the input return record sent to MCC will contain a "Non-Compute" code of "2". MCC will determine if the return was timely filed; if not timely the non-compute code will be changed to a "1". Code "2" indicates special processing.

(17) Bypass normal processing, opening of modules, UPC, etc. when encountering Political Checkoff and IRA input "dummy" returns.

30(55)4.2 (1-1-96)

Types of Transcripts

- (1) SPECIFIC
- (2) OPEN
- (3) COMPLETE
- (4) ENTITY
- (5) STEX (B Freeze)
- (6) RFND LIT (TC 520)
- (7) REFUND (TC 846)
- (8) REFUND-E (TC 846)
- (9) \$1,000,000 Refund Transcript
- (10) TDI-REFUND
- (11) Refund-S (TC 846)
- (12) TRANS-844 (TC 844)
- (13) LITIGATION (TC 520)
- (14) EXES-TC 840

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- (15) OIC (TC 480)
- (16) NMFL (TC 480)
- (17) KITA (TC 01X)
- (18) COMBAT ZON
- (19) UNREVTC 520 (TC 520)
- (20) TDI RESRCH (See Project 720)
- (21) INTEL (See Project 735)
- (22) REACT NMF (TC 130)
- (23) CSED
- (24) MARRIED FILED SEPARATELY (TC 424)
- (25) MULTIPLE FILER (TC 424)
- (26) Cr EI Decd (See Project 439)
- (27) TRFPENACT
- (28) VIRGIN IS (TC 150)
- (29) STAT TRANSCRIPT
- (30) QUEST W-4 (See Project 411)
- (31) FOLLOW-UP W-4 (See Project 411)
- (32) AMRH (See Project 712)
- (33) AM-X (See Project 712)
- (34) CV PN CRED
- (35) SC ADDRESS
- (36) Hostage
- (37) NRPS
- (38) DECDESCR
- (39) STIM
- (40) UNP 71 REL
- (41) RSED
- (42) A/R Clean-Up (see Project 713)
- (43) LPCANCEL
- (44) PMTOVERCAN
- (45) OICDEFAULT
- (46) DEFAULTFSC
- (48) TDIFRZ-150
- (49) TDI-EXAM
- (50) HighRisk
- (51) Deferral
- (52) HighDollar



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30(55)4.3 (1-1-96)
Computer Paragraph Notices

- (1) 04—ES Penalty Waiver
- (2) 01—Deferral Reminder
- (3) 08—Refund Issued—SSA Records need correction
- (4) 09—Earned Income Credit Refund
- (5) 10—Combination CP 12 and CP 45
- (6) 11—Math Error—Bal Due
- (7) 12—Math Error—Overpayment
- (8) 13—Math Error—Settlement
- (9) 14/14E—Bal Due No Error
- (10) 15—Civil Penalty Assessment
- (11) 15B—100% Civil Penalty Assessment
- (12) 16—Math Error—Overpayment to other taxes (CP 12/49 combination)
- (13) 17—Refund unfrozen Excess ES Credits

MT 3000-353 page 30(55)0-8 (1-1-96)

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IR Manual
30(55)4.2

IMF Operations

You are hereby put on NOTICE that the within document/letter must be filed as a permanent part of my IRS/ITA/AIMS/IMF 23c record. If any such record/s has/have been deleted or substituted, this demand still applies. Recorder's INITIALS:

- (15) OIC (TC 480)
- (16) NMFL (TC 480)
- (17) KITA (TC 01X)
- (18) COMBAT ZON
- (19) UNREVTG 520 (TC 520)
- (20) TDI RESRCH (See Project 720)
- (21) INTEL (See Project 735)
- (22) REACT NMF (TC 130)
- (23) CSED
- (24) MARRIED FILED SEPARATELY (TC 424)
- (25) MULTIPLE FILER (TC 424)
- (26) Cr El Decd (See Project 439)
- (27) TRFPENACT
- (28) VIRGIN IS (TC 150)
- (29) STAT TRANSCRIPT
- (30) QUEST W-4 (See Project 411)
- (31) FOLLOW-UP W-4 (See Project 411)
- (32) AMRH (See Project 712)
- (33) AM-X (See Project 712)
- (34) CV PN CRED
- (35) SC ADDRESS
- (36) Hostage
- (37) NRPS
- (38) DECDESCR
- (39) STIM
- (40) UNP 71 REL
- (41) RSED
- (42) AVR Clean-Up (see Project 713)

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3(15)(129)9.(11) 11-1-07
Adjustment to Virgin Island Forms 1040 and 1040A

- (1) Route claims received from taxpayers residing in the Virgin Islands to PSC for processing.
- (2) Action:
 - (a) Check TC 150 DLN for blocking series 98 (Virgin Island);
 - (b) Write "Virgin Island TP" on the transmittal; and
 - (c) Send BEC Letter to taxpayer notifying him/her of the transfer.

3(15)(128)9.(12) 11-1-07
Underreporter/CP2000 Issues

- (1) The Underreporter Program (URP) is the compliance program which compares amounts of wages, interest, dividends, etc., reported by the payors with the amounts reported by the individual taxpayers. Discrepancies in income and increased withholding credits are identified. A CP2000 notice is sent to a taxpayer to propose a change to tax and/or credits. The current URP processing year is usually 18 to 24 months prior to the current tax year. (e.g., The tax year 1991 will be processed by URP in the calendar year 1993.) As a result of taxpayers receiving CP2000s or Statutory Notices from URP, A/C will receive correspondence and/or Forms 1040's. In addition, A/C will also receive taxpayer correspondence and returns that have been reviewed by URB.
- (2) Route Forms 1040X (that relate or refer to URP) for the current URP processing year, to URB. Follow regular adjustments procedures to:
 - (a) other than current URP processing year Forms 1040X and,

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MT 3(15)00-261

PAGE 3(15)(128)0-98 (1-1-05)

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Withholding on foreign taxpayers

Code Sec. 1445(b)(4)(B)(i)(II)

—P.L. 98-369, Sec. 130(b), amended subsec. (c), effective for payments made after 3/1/84, in tax yrs. end. after 3/1/84.

Prior to amendment, subsec. (c) read as follows:

“(c) Exception for Guam corporations.

“For purposes of this section, the term ‘foreign corporation’ does not include a corporation created or organized in Guam or under the law of Guam.”

—P.L. 98-369, Sec. 474(r)(29)(I)(i), deleted “or section 1451” after “provided in section 1441” in subsec. (a) . . . Sec. 474(r)(29)(I)(ii), deleted “, except that, in the case of interest described in section 1451 (relating to tax-free covenant bonds), the deduction and withholding shall be at the rate specified therein” after “30 percent thereof” in subsec. (a), effective for tax yrs. begin. after 12/31/83 and to carrybacks from tax yrs. begin. after 12/31/83. Sec. 475(b) of this Act provides a special rule as follows:

“(b) Tax-free covenant bonds. The amendments made by subsections (j) and (r)(29) of section 474 shall not apply with respect to obligations issued before January 1, 1984.”

In 1982, P.L. 97-248, Sec. 342, provides:

“Sec. 342. WITHHOLDING OF TAX ON NONRESIDENT ALIENS AND FOREIGN CORPORATIONS.

“Not later than 2 years after the date of the enactment of this Act, the Secretary of the Treasury or his delegate shall prescribe regulations establishing certification procedures, refund procedures, or other procedures which ensure that any benefit of any treaty relating to withholding of tax under sections 1441 and 1442 of the Internal Revenue Code of 1954 is available only to persons entitled to such benefit.”

In 1976, P.L. 94-455, Sec. 1906(b)(13)(A), substituted “Secretary” for “Secretary or his delegate” each place it appeared in subsec. (b), effective 2/1/77.

In 1972, P.L. 92-606, Sec. 1(e)(2), added subsec. (c), effective 11/1/72.

In 1971, P.L. 92-178, Sec. 313(c)(1), deleted “and” the last place it appeared in subsec. (a) . . . Sec. 313(c)(2), added “, and the reference in section 1441(c)(8) to section 871(a)(1)(C) shall be treated as referring to section 881(a)(3)” before the period at the end of subsec. (a), effective for payments occurring on or after 4/1/72.

In 1966, P.L. 89-809, Sec. 104(c), amended Code Sec. 1442, effective for tax yrs. begin. after 12/31/66.

Prior to amendment, Code Sec. 1442 read as follows.

“Sec. 1442. Withholding of tax on foreign corporations.

“In the case of foreign corporations subject to taxation under this subtitle not engaged in trade or business within the United States, there shall be deducted and withheld at the source in the same manner and on the same items of income as is provided in section 1441 or section 1451 a tax equal to 30 percent thereof, except that, in the case of interest described in section 1451 (relating to tax-free covenant bonds), the deduction and withholding shall be at the rate specified therein.”

Sec. 1443. Foreign tax-exempt organizations.

(a) Income subject to section 511.

In the case of income of a foreign organization subject to the tax imposed by section 511, this chapter shall apply to income includible under section 512 in computing its unrelated business taxable income, but only to the extent and subject to such conditions as may be provided under regulations prescribed by the Secretary.

(b) Income subject to section 4948.

In the case of income of a foreign organization subject to the tax imposed by section 4948(a), this chapter shall apply, except that the deduction and withholding shall be at the rate of 4 percent and shall be subject to such conditions as may be provided under regulations prescribed by the Secretary.

In 1976, P.L. 94-455, Sec. 1906(b)(13)(A), substituted “Secretary” for “Secretary or his delegate” each place it appeared in Code Sec. 1443, effective 2/1/77.

In 1969, P.L. 91-172, Sec. 101(i)(22), added the heading of subsec. (a), and added subsec. (b), effective 1/1/70.

—P.L. 91-172, Sec. 121(d)(2)(C), substituted “income” for “rents” in subsec. (a), effective for tax yrs. begin. after 12/31/69.

Sec. 1444. Withholding on Virgin Islands source income.

For purposes of determining the withholding tax liability incurred in the Virgin Islands pursuant to this title (as made applicable to the Virgin Islands) with respect to amounts received from sources within the Virgin Islands by citizens

and resident alien individuals of the United States, and corporations organized in the United States, the rate of withholding tax under sections 1441 and 1442 on income subject to tax under section 871(a)(1) or 881 shall not exceed the rate of tax on such income under section 871(a)(1) or 881, as the case may be.

In 1988, P.L. 100-647, Sec. 1012(x), deleted “(as modified by section 934A)” before “shall not exceed”, effective for tax yrs. begin. after 12/31/86.

In 1983, P.L. 97-455, Sec. 1(b), added Code Sec. 1444, effective for payments made after 1/13/83.

Sec. 1445. Withholding of tax on dispositions of United States real property interests.

(a) General rule.

Except as otherwise provided in this section, in the case of any disposition of a United States real property interest (as defined in section 897(c)) by a foreign person, the transferee shall be required to deduct and withhold a tax equal to 10 percent of the amount realized on the disposition.

(b) Exemptions.

(1) In general. No person shall be required to deduct and withhold any amount under subsection (a) with respect to a disposition if paragraph (2), (3), (4), (5), or (6) applies to the transaction.

(2) Transferor furnishes nonforeign affidavit. Except as provided in paragraph (7), this paragraph applies to the disposition if the transferor furnishes to the transferee an affidavit by the transferor stating, under penalty of perjury, the transferor’s United States taxpayer identification number and that the transferor is not a foreign person.

(3) Nonpublicly traded domestic corporation furnishes affidavit that interests in corporation not United States real property interests. Except as provided in paragraph (7), this paragraph applies in the case of a disposition of any interest in any domestic corporation if the domestic corporation furnishes to the transferee an affidavit by the domestic corporation stating, under penalty of perjury, that—

(A) the domestic corporation is not and has not been a United States real property holding corporation (as defined in section 897(c)(2)) during the applicable period specified in section 897(c)(1)(A)(ii), or

(B) as of the date of the disposition, interests in such corporation are not United States real property interests by reason of section 897(c)(1)(B).

(4) Transferee receives qualifying statement.

(A) In general. This paragraph applies to the disposition if the transferee receives a qualifying statement at such time, in such manner, and subject to such terms and conditions as the Secretary may by regulations prescribe.

(B) Qualifying statement. For purposes of subparagraph (A), the term “qualifying statement” means a statement by the Secretary that—

(i) the transferor either—

(I) has reached agreement with the Secretary (or such agreement has been reached by the transferee) for the payment of any tax imposed by section 871(b)(1) or 882(a)(1) on any gain recognized by the transferor on the disposition of the United States real property interest, or

(II) is exempt from any tax imposed by section 871(b)(1) or 882(a)(1) on any gain recognized by the transferor on the disposition of the United States real property interest, and

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BUDGET RECONCILIATION ACT

P.L. 101-239

[page 1415]

(such as the United States) if the corporation's primary location for tax jurisdiction purposes (e.g., its place of management and control) is in fact in that country, rather than its place of organization. Treasury has exchanged notes on exemption from tax on transportation income with numerous countries. Generally, in establishing the criteria for the reciprocal tax exemption on transportation income in the 1986 Act, Congress did not intend to condition the exemption of corporations organized in any particular country on that country's grant of an equivalent exemption covering corporations which are properly treated as residents of that foreign country under its tax laws. Thus, a foreign country could be viewed as generally providing U.S. corporations a tax exemption even if it does not exempt from tax corporations organized in the United States, but treated as residents of that country under its laws, assuming those laws would treat a U.S. corporation as a local resident only on the basis that such corporation's center of management or control, or comparable attribute, was in that foreign country.

Possessions of the United States

When Congress enacted the four percent tax on U.S. source gross transportation income, Congress anticipated that this tax, by increasing U.S. taxation of persons from foreign countries that have not provided reciprocal exemptions to U.S. persons, would encourage those foreign countries to amend their tax laws to provide such reciprocal exemptions.

→ The income tax laws of the United States are currently in effect, completely or partially, in Guam, the Commonwealth of the Northern Mariana Islands ("CNMI"), the U.S. Virgin Islands, and American Samoa as their own income tax systems. These jurisdictions are termed "possessions" of the United States for tax purposes. To transform the Code into a local tax code, each possession, in effect, substitutes its name for the name "United States" where appropriate in the Code. The possessions generally are treated as foreign countries for U.S. tax purposes. Similarly, the United States generally is treated as a foreign country for purposes of possessions taxation. This word-substitution system is known as the "mirror system." As a result of changes brought about by the 1986 Act, individual possessions are able to take steps that would permit them to amend their tax laws internally. As of this time, certain possessions have taken the necessary steps to permit such internal amendment, but others have not.⁹⁰

Thus, for example, a U.S. corporation operating a transportation business traversing a route between a possession on the mirror system and the United States would generally be subject in the possession to the four percent tax on the possession source gross transportation income, unless United States law provides an exemption from the equivalent tax for corporations organized in the possession. Similarly, a corporation organized in that possession operating on the same route would generally be subject in the United

⁹⁰ Under the 1986 Act, Guam, CNMI, and American Samoa are eligible to amend their internal income tax laws independently of the Code as mirrored, upon the effective date of an "implementing agreement" between the possession and the United States. To date, American Samoa has an implementing agreement in effect, and Guam has entered into such an agreement effective 1991.

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EXHIBIT F
The Constitution of the United States of America – Article V
(3 pages)

THE
CONSTITUTION
OF THE
UNITED STATES
OF AMERICA

As Amended

—
Unratified Amendments

—
Analytical Index



PRESENTED BY MR. HYDE

January 31, 2000 • Ordered to be printed

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON: 2000

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F	1	3

ARTICLES IN ADDITION TO, AND AMENDMENT OF, THE CONSTITUTION OF THE UNITED STATES OF AMERICA, PROPOSED BY CONGRESS, AND RATIFIED BY THE LEGISLATURES OF THE SEVERAL STATES, PURSUANT TO THE FIFTH ARTICLE OF THE ORIGINAL CONSTITUTION ¹²

ARTICLE [I.]¹³

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; of the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

ARTICLE [II.]

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

ARTICLE [III.]

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

ARTICLE [IV.]

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ARTICLE [V.]

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the

EXHIBIT	PAGE	of
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¹²The first ten amendments of the Constitution of the United States (and two others, one of which failed of ratification and the other which later became the 27th amendment) were proposed to the legislatures of the several States by the First Congress on September 25, 1789. The first ten amendments were ratified by the following States, and the notifications of ratification by the Governors thereof were successively communicated by the President to Congress: New Jersey, November 20, 1789; Maryland, December 19, 1789; North Carolina, December 22, 1789; South Carolina, January 19, 1790; New Hampshire, January 25, 1790; Delaware, January 28, 1790; New York, February 24, 1790; Pennsylvania, March 10, 1790; Rhode Island, June 7, 1790; Vermont, November 3, 1791; and Virginia, December 15, 1791.

Ratification was completed on December 15, 1791.

The amendments were subsequently ratified by the legislatures of Massachusetts, March 2, 1791.

CONSTITUTION OF THE UNITED STATES

Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

ARTICLE [VI.]

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

ARTICLE [VII.]

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

ARTICLE [VIII.]

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE [IX.]

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparate others retained by the people.

ARTICLE [X.]

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

[ARTICLE XI.]

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

PROPOSAL AND RATIFICATION

The eleventh amendment to the Constitution of the United States was proposed to the legislatures of the several States by the Third Congress, on the 4th of March 1794; and was declared in a message from the President to Congress, dated the 8th of January, 1798, to have been ratified by the legislatures of three-fourths of the States.

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**DEBBIE VAHE DECLARATION
EXHIBIT H-3**

STATUTE CLEARED ORIGINAL DELINQUENT RETURN FRESNO STATUTE TEAM JEW DATE 1-3-06

ENVELOPE LEGAL NOTICE: PREPARED, SIGNED, AND FILED UNDER DURESS - ULL

SEE VERIFIED NOTICE ATTACHED

8922101320115-7

Form 1040 Department of the Treasury—Internal Revenue Service U.S. Individual Income Tax Return 1999 (99) IRS Use Only—Do not write or staple in this space.

Label (See instructions on page 18.) Your first name and initial: CLARE L. Last name: READING. Your social security number: [redacted] 4550. Spouse's social security number: [redacted]. Home address: 2425 EAST FOX STREET, MESA, ARIZONA 85213.

IMPORTANT! You must enter your SSN(s) above.

Presidential Election Campaign Do you want \$3 to go to this fund? If a joint return, does your spouse want \$3 to go to this fund?

Filing Status 1 Single 2 Married filing joint return (even if only one had income) 3 Married filing separate return. Enter spouse's social security no. above and full name here. 4 Head of household (with qualifying person). (See page 18.) If the qualifying person is a child but not a dependent, enter this child's name here. 5 Qualifying widow(er) with dependent child (year spouse died > 19). (See page 18.)

Government Exhibit VaheExH-3

Exemptions 6a [x] Yourself. If your parent (or someone else) can claim you as a dependent on his or her tax return, do not check box 6a. b [] Spouse. c Dependents: (1) First name Last name (2) Dependent's social security number (3) Dependent's relationship to you (4) [x] if qualifying child for child tax credit (see page 19). d Total number of exemptions claimed: 1

Income 7 Wages, salaries, tips, etc. Attach Form(s) W-2. 8a Taxable interest. Attach Schedule B if required. b Tax-exempt interest. DO NOT include on line 8a. 9 Ordinary dividends. Attach Schedule B if required. 10 Taxable refunds, credits, or offsets of state and local income taxes (see page 21). 11 Alimony received. 12 Business income or (loss). Attach Schedule C or C-EZ. 13 Capital gain or (loss). Attach Schedule D if required. If not required, check here. 14 Other gains or (losses). Attach Form 4797. 15a Total IRA distributions. 15b Taxable amount (see page 22). 16a Total pensions and annuities. 16b Taxable amount (see page 22). 17 Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E. 18 Farm income or (loss). Attach Schedule F. 19 Unemployment compensation. 20a Social security benefits. 20b Taxable amount (see page 24). 21 Other income. List type and amount (see page 24). 22 Add the amounts in the far right column for lines 7 through 21. This is your total income: 6.00

Adjusted Gross Income 23 IRA deduction (see page 26). 24 Student loan interest deduction (see page 26). 25 Medical savings account deduction. Attach Form 8853. 26 Moving expenses. Attach Form 3903. 27 One-half of self-employment tax. Attach Schedule SE. 28 Self-employed health insurance deduction (see page 28). 29 Keogh and self-employed SEP and SIMPLE plans. 30 Penalty on early withdrawal of savings. 31a Alimony paid b Recipient's SSN. 32 Add lines 23 through 31a. 33 Subtract line 32 from line 22. This is your adjusted gross income: 0.00

For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see page 54. Cat. No. 11320B Form 1040 (1999)

LEGAL NOTICE: PREPARED, SIGNED, AND FILED UNDER DURESS - ULL

Intra-SC Reject or Routing Slip		Name/Unit	Date
		31102	1-10-7
X	Route to	X	Reason
	Accounting <input type="checkbox"/> IMF		Missing or illegible data
	Adjustments <input type="checkbox"/> BMF		<input type="checkbox"/> EIN <input type="checkbox"/> Signature
	Batching and Numbering <input type="checkbox"/> NMF		<input type="checkbox"/> SSN <input type="checkbox"/> Tax period
	Clearing and Deposit <input type="checkbox"/> EPMF		<input type="checkbox"/> Name <input type="checkbox"/> Filing requirements
	Collection <input type="checkbox"/> IRAF		<input type="checkbox"/> Address <input type="checkbox"/> Form
	Criminal Investigation <input type="checkbox"/> IRP		<input type="checkbox"/> Other (specify)
	<input type="checkbox"/> QRDT <input type="checkbox"/> ITPP <input type="checkbox"/> CAWR		Review for necessary action
	Data Control (Balancing) <input type="checkbox"/> Other file:		Renumber to
	Document Services		<input type="checkbox"/> Tax class <input type="checkbox"/> Doc.code
	Entity Control		<input type="checkbox"/> Other:
	Error Resolution		Unpostable code: Cycle:
	Examination (Audit)		Action Code:
	Files		Reinput
	Reject Correction		Questionable items
	Returns Analysis		<input type="checkbox"/> Form W-2 <input type="checkbox"/> Contributions
	Statute Control		<input type="checkbox"/> Other data:
	Other activity (explain)		Other (explain)

Form 4227 (Rev. 12-01)

Cat. No. 269151

Department of the Treasury
Internal Revenue Service

Tax and Credits

Standard Deduction for Most People

Single: \$4,300
 Head of household: \$6,350
 Married filing jointly or Qualifying widow(er): \$7,200
 Married filing separately: \$3,600

34	Amount from line 33 (adjusted gross income)	34	0.00
35a	Check if: <input type="checkbox"/> You were 65 or older, <input type="checkbox"/> Blind; <input type="checkbox"/> Spouse was 65 or older, <input type="checkbox"/> Blind. Add the number of boxes checked above and enter the total here	35a	
b	If you are married filing separately and your spouse itemizes deductions or you were a dual-status alien, see page 30 and check here	35b	<input type="checkbox"/>
36	Enter your itemized deductions from Schedule A, line 28, OR standard deduction shown on the left. But see page 30 to find your standard deduction if you checked any box on line 35a or 35b or if someone can claim you as a dependent	36	0.00
37	Subtract line 36 from line 34	37	0.00
38	If line 34 is \$94,975 or less, multiply \$2,750 by the total number of exemptions claimed on line 6d. If line 34 is over \$94,975, see the worksheet on page 31 for the amount to enter	38	2,750.00
39	Taxable income. Subtract line 38 from line 37. If line 38 is more than line 37, enter -0-	39	
40	Tax (see page 31). Check if any tax is from a <input type="checkbox"/> Form(s) 8814 b <input type="checkbox"/> Form 4972	40	
41	Credit for child and dependent care expenses. Attach Form 2441	41	
42	Credit for the elderly or the disabled. Attach Schedule R	42	
43	Child tax credit (see page 33)	43	
44	Education credits. Attach Form 8863	44	
45	Adoption credit. Attach Form 8839	45	
46	Foreign tax credit. Attach Form 1116 if required	46	
47	Other. Check if from a <input type="checkbox"/> Form 3800 b <input type="checkbox"/> Form 8396 c <input type="checkbox"/> Form 8801 d <input type="checkbox"/> Form (specify)	47	
48	Add lines 41 through 47. These are your total credits	48	0.00
49	Subtract line 48 from line 40. If line 48 is more than line 40, enter -0-	49	

Other Taxes

50	Self-employment tax. Attach Schedule SE	50	
51	Alternative minimum tax. Attach Form 6251	51	
52	Social security and Medicare tax on tip income not reported to employer. Attach Form 4137	52	
53	Tax on IRAs, other retirement plans, and MSAs. Attach Form 5329 if required	53	
54	Advance earned income credit payments from Form(s) W-2	54	
55	Household employment taxes. Attach Schedule H	55	
56	Add lines 49 through 55. This is your total tax	56	0.00

Payments

57	Federal income tax withheld from Forms W-2 and 1099	57	
58	1999 estimated tax payments and amount applied from 1998 return	58	
59a	Earned income credit. Attach Sch. EIC if you have a qualifying child	59a	
b	Nontaxable earned income: amount and type		
60	Additional child tax credit. Attach Form 8812	60	
61	Amount paid with request for extension to file (see page 48)	61	
62	Excess social security and RRTA tax withheld (see page 48)	62	
63	Other payments. Check if from a <input type="checkbox"/> Form 2439 b <input type="checkbox"/> Form 4136	63	
64	Add lines 57, 58, 59a, and 60 through 63. These are your total payments	64	

Refund

Have it directly deposited! See page 48 and fill in 66b, 66c, and 66d.

65	If line 64 is more than line 56, subtract line 56 from line 64. This is the amount you OVERPAID	65	
66a	Amount of line 65 you want REFUNDED TO YOU	66a	
b	Routing number	c	Type: <input type="checkbox"/> Checking <input type="checkbox"/> Savings
d	Account number		
67	Amount of line 65 you want APPLIED TO YOUR 2000 ESTIMATED TAX	67	

Amount You Owe

68	If line 56 is more than line 64, subtract line 64 from line 56. This is the AMOUNT YOU OWE . For details on how to pay, see page 49	68	0.00
69	Estimated tax penalty. Also include on line 68	69	

Sign Here

Joint return? See page 18. Keep a copy for your records.

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your signature <i>UNDER DURESS</i> <i>Walter Louise Reading</i>	Date <i>12/06/2006</i>	Your occupation <i>"DOMESTIC ENGINEER"</i>	Daytime telephone number (optional)
Spouse's signature. If a joint return, BOTH must sign.	Date	Spouse's occupation	

Paid Preparer's Use Only

Preparer's signature	Date	Check if self-employed <input type="checkbox"/>	Preparer's SSN or PTIN
Firm's name (or yours if self-employed) and address	EIN	ZIP code	

LEGAL NOTICE: PREPARED, SIGNED, AND FILED UNDER DURESS - We SEE VERIFIED NOTICE ATTACHED.

SCHEDULES A&B
(Form 1040)

Schedule A— Itemized Deductions

OMB No. 1545-0074

1999

Attachment
Sequence No. **07**

Department of the Treasury
Internal Revenue Service (99)

(Schedule B is on back)

▶ Attach to Form 1040. ▶ See Instructions for Schedules A and B (Form 1040).

Name(s) shown on Form 1040

Your social security number

CLARE L. READING

4550

Medical and Dental Expenses	1	Caution. Do not include expenses reimbursed or paid by others. Medical and dental expenses (see page A-1)	1				
	2	Enter amount from Form 1040, line 34. 2	2				
	3	Multiply line 2 above by 7.5% (.075)	3				
	4	Subtract line 3 from line 1. If line 3 is more than line 1, enter -0-	4				
Taxes You Paid (See page A-2.)	5	State and local income taxes	5				
	6	Real estate taxes (see page A-2)	6				
	7	Personal property taxes	7				
	8	Other taxes. List type and amount ▶	8				
	9	Add lines 5 through 8	9				
Interest You Paid (See page A-3.)	10	Home mortgage interest and points reported to you on Form 1098	10				
	11	Home mortgage interest not reported to you on Form 1098. If paid to the person from whom you bought the home, see page A-3 and show that person's name, identifying no., and address ▶	11				
	12	Points not reported to you on Form 1098. See page A-3 for special rules	12				
	13	Investment interest. Attach Form 4952 if required. (See page A-3.)	13				
	14	Add lines 10 through 13	14				
Gifts to Charity If you made a gift and got a benefit for it, see page A-4.	15	Gifts by cash or check. If you made any gift of \$250 or more, see page A-4	15				
	16	Other than by cash or check. If any gift of \$250 or more, see page A-4. You MUST attach Form 8283 if over \$500	16				
	17	Carryover from prior year	17				
	18	Add lines 15 through 17	18				
Casualty and Theft Losses	19	Casualty or theft loss(es). Attach Form 4684. (See page A-5.)	19				
Job Expenses and Most Other Miscellaneous Deductions (See page A-5 for expenses to deduct here.)	20	Unreimbursed employee expenses—job travel, union dues, job education, etc. You MUST attach Form 2106 or 2106-EZ if required. (See page A-5.) ▶	20				
	21	Tax preparation fees	21				
	22	Other expenses—investment, safe deposit box, etc. List type and amount ▶	22				
	23	Add lines 20 through 22	23				
	24	Enter amount from Form 1040, line 34. 24	24				
	25	Multiply line 24 above by 2% (.02)	25				
	26	Subtract line 25 from line 23. If line 25 is more than line 23, enter -0-	26				
Other Miscellaneous Deductions	27	Other—from list on page A-6. List type and amount ▶ Deduction for Labor under the Just Compensation clause of the Fifth Amendment See Form 8275	27				0 00
Total Itemized Deductions	28	Is Form 1040, line 34, over \$126,600 (over \$63,300 if married filing separately)? <input type="checkbox"/> No. Your deduction is not limited. Add the amounts in the far right column for lines 4 through 27. Also, enter this amount on Form 1040, line 36. } <input type="checkbox"/> Yes. Your deduction may be limited. See page A-6 for the amount to enter. }	28				0 00

For Paperwork Reduction Act Notice, see Form 1040 instructions. Cat. No. 11330X Schedule A (Form 1040) 1999

LEGAL NOTICE: Prepared, Signed, and Filed under duress - W

Form **8275**

(Rev. May 2001)

Department of the Treasury
Internal Revenue Service

Disclosure Statement

Do not use this form to disclose items or positions that are contrary to Treasury regulations. Instead, use Form 8275-R, Regulation Disclosure Statement. See separate instructions.

▶ Attach to your tax return.

OMB No. 1545-0889

Attachment Sequence No. **92**

Name(s) shown on return

Clare L Reading

Identifying number shown on return

4550

Part I General Information (see instructions)

(a) Rev. Rul., Rev. Proc., etc.	(b) Item or Group of Items	(c) Detailed Description of Items	(d) Form or Schedule	(e) Line No.	(f) Amount
1 26 CFR Sec. 1.83-1	Gross Income in Excess	Property Transferred in connection with the performance of services.	Sched. A	14	0.00
2 26 U.S.C. Sec. 212(1)	Deductions Exclusions	All necessary expenses for the production of compensation (Labor is a necessary expense)	Sched. A	27	0.00
3 26 CFR 1.1001	Computation of Gain/Loss	Deduction for the fair market value of Labor Property in exchange for comensation.	Form 1040	36	0.00

Part II Detailed Explanation (see instructions)

1 See Part IV and Attached "VERIFIED NOTICE OF COMPLETING AND FILING THE ATTACHED RETURN AT ALL TIMES INVOLUNTARILY BY FORCE UNDER THREAT, DURESS, COERCION, INTIMIDATION AND FEAR OF PROSECUTION."

2

3

Part III Information About Pass-Through Entity. To be completed by partners, shareholders, beneficiaries, or residual interest holders.

Complete this part only if you are making adequate disclosure for a pass-through item.

Note: A pass-through entity is a partnership, S corporation, estate, trust, regulated investment company (RIC), real estate investment trust (REIT), or real estate mortgage investment conduit (REMIC).

1 Name, address, and ZIP code of pass-through entity	2 Identifying number of pass-through entity
	3 Tax year of pass-through entity / / to / /
	4 Internal Revenue Service Center where the pass-through entity filed its return

For Paperwork Reduction Act Notice, see separate instructions.

Cat. No. 61935M

Form **8275** (Rev. 5-2001)

Part IV Explanations (continued from Parts I and/or II)

Deductions and exclusions for the Cost of Compensation for Labor property protected under the Fifth Amendment to the Constitution for the United States of America stating in pertinent part: "No person (human being) shall . . . be deprived of Life, Liberty or Property . . . nor shall private property be taken for public use without just compensation." Claimant is therefore restoring the fair market value of his Labor Property pursuant to the "Just Compensation" clause the Fifth Amendment as herein established." (ALL RIGHTS AND TITLE TO THE VALUE OF LABOR PROPERTY IS A RIGHT UNDER THE COMMON LAW AS ALL STATUTES MUST BE CONSTRUED IN HARMONY WITH THE CONSTITUTION.

The statutory and regulatory authority for deductions, exclusions and restoration of Compensation for Labor Property is found in the Following:

(a) 26 U.S.C. Sec. 212(1) "In the case of an individual (Human Being) the shall be allowed as a deduction all the ordinary and necessary expenses. (Labor is an ordinary and necessary expense)

(b) The election to itemize on a Form 1040 is codified at 26 U.S.C. Sec. 63(e)(2)

(c) The deduction is an election authorized by 26 U.S.C. Sec. 183(e)(3)

(d) The election is that the activity that caused the production of compensation was an activity not engaged for profit

(e) Title 26 U.S.C. Sec. 183(b)(1) allows the deduction when the non taxable activity election is made

(f) Title 26 U.S.C. Sec. 183(c) authorizes deductions under section 212.

(g) 26 CFR Sec. 1.83-1 Property transferred in connection with the performance of services - This section provides that only the excess over the amount paid for (Labor) property shall be included in gross income.

(h) 26 CFR Sec. 1.1001 Computation of gain or loss. The fair market value of property is a question of fact, but only in rare and extraordinary cases will property (Labor) be considered to have no fair market value. (The loss of Life and Liberty for compensation in exchange for cash or other property is the cost incurred and no gain or profit is realized.)

(i) 26 CFR Sec. 1.1012-1 Basis of property - The cost is the amount paid for such property (Labor) in cash or other property.

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I declare under penalty of perjury that all statements made herein are true and correct to the best of my knowledge and belief. All Rights are herein Retained without recourse to me.

Signature: *Clare Louise Reading* Date: *12/04/2006*



Certified Mail: 7004 2890 0001 9657 8493

Clare Reading
Non-Federal/Resident Delivery
c/o 2425 E. Fox St.
Mesa, Arizona [85213]

Department of the Treasury
Internal Revenue Service
Fresno, CA 93888-0002

Re: Assigned Treasury Account: [REDACTED] 4550

**VERIFIED NOTICE OF COMPLETING AND FILING THE ATTACHED
RETURN AT ALL TIMES INVOLUNTARILY BY FORCE UNDER THREAT,
DURESS, COERCION, INTIMIDATION AND FEAR OF PROSECUTION**

NOTICE IS HEREBY GIVEN: that Clare Reading (hereinafter referred to as “Belligerent Claimant” or “Claimant”) on this 6th day of DECEMBER 2006, officially serves this VERIFIED NOTICE OF COMPLETING AND FILING THE ATTACHED RETURN AT ALL TIMES INVOLUNTARILY BY FORCE UNDER THREAT, DURESS, COERCION, INTIMIDATION AND FEAR OF PROSECUTION, as an attachment to Form 1040 for tax year December 31, 1999 is herein included. Notice is hereby given to all fiduciaries of Claimant’s conviction to what Claimant has researched and discovered to be true regarding her duty to file a federal income tax return under the existing internal revenue laws. Claimant’s research of the internal revenue laws stems from court rulings that ignorance of the law is no excuse; it can be practiced in any country, and Claimant has attempted to understand what the law commands or forbids.

Under existing circumstances and by force of Public Policy, Claimant has no alternative other than to prepare the return to the best of Claimant’s knowledge, understanding and belief. Claimant herein establishes for the record that, although Claimant has not found any statutory laws that lead her to believe she is required to file a Form 1040, the return attached hereto for tax year December 31, 1999 has been prepared, signed and submitted involuntarily, by force, under compulsory performance and at all times under threat, duress, coercion, intimidation and fear of prosecution.

The submitted return is not a voluntary self-assessment that Claimant agrees or concedes is due. Claimant specifically denies that any liability exists under the existing internal revenue laws. Therefore, the amount listed, if any, may not be summarily assessed pursuant to Internal Revenue Code Section 6201 or 6213. Additionally, the federal courts have determined that a return document does not need to be perfectly accurate or even complete if it is substantially in compliance with the requirement of a return. See e. g. *Zellerbach Paper Co. v. Hevering*, 293 U.S. 172 (1934); *United States v. Long*, 618 F.2d 74 (9th Cir. 1980); *United States v. Porth*, 426 F.2d 519 (10th Cir.) cert. Denied 400 U.S. 824 (1970); *United States v. Moore*, 627 F.2d 830 (7th Cir.). The attached return is in full compliance within the meaning of Internal Revenue Code Section 6702, even though Claimant denies a federal tax liability exists.

VERIFIED NOTICE OF FILING FORM 1040 RETURN UNDER
THREAT, DURESS, COERCION AND INTIMIDATION

Clare Reading, Claimant
Total Exhibits: 60, Notary page 18

Thus, although Claimant is required to sign this return under penalty of perjury, this return is signed involuntarily under threat, duress, coercion, intimidation, and is correct to the best of Claimant's knowledge and belief. Claimant does not, however, pretend to be familiar with the thousands of pages contained in the Code or its supporting regulations. Thus, because it is the policy of the IRS to refuse to process any return without a signature, Claimant has signed the return. For the record, it is not Claimant's intent to confess or admit any liability through the signature on the return.

Claimant is with knowledge that top executives of the past have denounced the tax laws as utterly incomprehensible and such remains the case to this very day. President Ronald Reagan, during his tenure espoused in May of 1983: *"Our federal tax system is, in short, utterly impossible, utterly unjust and completely counterproductive [it] reeks with injustice and is fundamentally un-American . . . it has earned a rebellion and it is time we rebelled."* And United States Treasury Secretary Paul O'Neil, head of the Department of the Treasury, stated on February 21, 2003, *"Our tax code is an abomination. The complexity of our code strangles our prosperity, and it's a drag on our ability to create jobs in this nation."*

The courts have openly stated: *"We must note here, as a matter of judicial knowledge, that most lawyers have only scant knowledge of tax law."* *Bursten v. United States*, 395 F 2d 976, 981 (5th Cir.1968). With this in mind, Claimant has prepared and files the submitted return based on the facts and the law, as Claimant understands it; and no other assertions are intended or implied.

I.

Clare Reading Proceeds As A Belligerent Claimant Of Her Rights

Claimant is with the understanding that Rights can only be recognized if they are invoked. The courts have held that one who is not willing to assert a right to the point of belligerence, loses that right all together. Therefore, Clare Reading, a sentient being of good conscience proceeds as a "Belligerent Claimant" of her Rights – as anything less would be presumed to waive these Rights.

"The privilege against self-incrimination is neither accorded to the passive resistant, nor the person who is ignorant of his rights, nor to one indifferent thereto. It is a fighting clause. Its benefits can be retained only by sustained combat. It cannot be claimed by attorney or solicitor. It is valid only when insisted upon by a belligerent Claimant in person." *McAlister v. Henkel*, 201 U.S. 90, 26 S.Ct. 385, 50 L.Ed. 671; *Commonwealth v. Shaw*, 4 Cush. 594, 50 Am.Dec. 813; *Orum v. State*, 38 Ohio App. 171, 175 N.E. 876. **"The one who is persuaded by honeyed words or moral suasion to testify or produce documents rather than make a last ditch stand, simply loses the protection."** *United States v. Johnson*, 76 F. Supp. 538, February 26, 1947.

In light of the court's determination as stated in *Johnson* supra, such a standing must be applicable to all acts when confronted with the often abusive awesome machinery of the Department of the Treasury – Internal Revenue Service and the Department of Justice *qui tam* actors.

II.

Clare Reading Involuntarily Prepares, Signs And Submits All Forms Attached Hereto Involuntarily Under Duress

Claimant does not wish to be in violation of the internal revenue laws, specifically 26 U.S.C. §7206 **Fraud and false statements which states:**

“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. . . 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.”

Therefore, Claimant has signed the attached Form 1040 return involuntarily under threat, duress, coercion, intimidation and retains all Rights without recourse for any oversight or misunderstanding of the internal revenue laws due to their complexity. The court ruled:

“When a defendant challenges a conviction for willful filing of an inaccurate . . . Form . . . claiming it was signed involuntarily under duress and therefore violated Fifth Amendment rights, *if the form has not been voluntarily signed, the conviction and judgment will be vacated and the indictment dismissed.*” *United States v. Willoz*, (1971, CA5 La) 449 F.2d 1321, 71-2 USTC, 16016.

Courts have further ruled: “*In the interpretation of statutes levying taxes, it is the established rule not to extend their provisions, by implication, beyond the clear import of the language used, or to enlarge their operations so as to embrace matters not specifically pointed out. In case of doubt they are construed most strongly against the Government, and in favor of the citizen.*” *Gould v. Gould*, 245 U.S. 151 (1917) citing *United States v. Wigglesworth*, 2 Story, 369; *American Net & Twine Co. v. Worthington*, 141 U.S. 468, 474; *Benziger v. United States*, 192 U.S. 38, 55.

III.

The 1040 Return Filed Is Not Frivolous, And Is In Compliance With Supreme Court Precedent

Claimant herein puts the Department of the Treasury – Internal Revenue Service on notice that the return attached hereto does not constitute a “frivolous” return pursuant to Code Section 6702. The return is based on applicable United States Supreme Court decisions, Internal Revenue Code Sections, Privacy Act Notice provisions, and numerous other references. As such, it cannot be termed “frivolous” *on any basis* as defined by the United States Supreme Court. In addition, the return is not designed to “*delay or impede the administration of Federal Income Tax laws,*” since it is intended to be Claimant’s *final statement* under those statutes. Additionally, no IRS employee has the delegated authority to impose a “frivolous” penalty for filing a proper return. Claimant, having first hand knowledge of applicability of the internal revenue laws specific to her Common Law tax liability, would be committing perjury under both 18 U.S.C. § 1621 and 26 U.S.C. § 7206 if she

proceeded in any other manner. Therefore, Claimant can only attest to having “Zero” *income* for the year referenced hereto.

Claimant has read the “Frivolous Arguments” information posted at www.irs.gov, and does not make or allude to any such positions. Claimant seeks to dispel all attempts instituted by Service employees that may deem Claimant’s position as frivolous, without merit or baseless. It must be noted, all positions and claims made within this affidavit are taken directly from the language of internal revenue laws. In as much as Service employees may seek to ignore certain facts and employ others, United States Supreme Court rulings speak unambiguously to the definition of frivolous.

Historically, and to this very day, employees of the Internal Revenue Service resort to the terms “frivolous” or “without merit,” relieving them of the burden of having to address issues founded on sound legal principles, precedent and doctrines of law relied upon by Claimant. To the detriment of Claimant, the presumed [s]ubject *taxpayer* looking to the law for remedy, the Service will interpret the statute to its discretion and penalize those taking principled legal positions contrary to IRS Public Policy. Be that as it may, Claimant has relied on precedent, statutes and regulations when discerning the internal revenue laws as applicable to his unique situation.

Claimant relies on how the Supreme Court defines the term “frivolous” in so stating; ***“In relevant part, Judge Schroeder’s lead opinion concluded that a district court could dismiss a complaint as factually frivolous only if the allegations conflicted with judicially noticeable facts, that is, facts capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.”*** *Hernandez v. Denton*, 861 F.2d 1421 (1988).

The Court went on to intimate further, that ***“... a complaint, containing as it does both factual allegations and legal conclusions, is frivolous where it lacks an arguable basis either in law or in fact.”*** *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). Claimant concludes that such clear cogent and irrefutable definition as opined by the Supreme Court shall be the cornerstone and the foundation by which doctrines are herein grounded. *Hernandez*, supra, went on to state in pertinent part, ***“... to dismiss them as frivolous without any factual development is to disregard the age-old insight that many allegations might be strange, but true; for truth is always strange, Stranger than fiction,”*** Lord Byron, Don Juan, canto XIV, stanza 101 (T. Steffan, E. Steffan, & W. Pratt eds. 1977). It is incumbent upon us to observe – with respect – what the Supreme Court and the Constitution have established for the purpose of due process protections guaranteed. (*Emphasis Added.*)

IV.

IRS Has Discretion To Employ Selective Prosecution, Ignore The Law And Act In Direct Violation Of Their Own Statutes And Regulations

Claimant is with evidence that officials, officers, agents and employees of the Service routinely violate statutes and implementing regulations, resulting in the of selective prosecution of Citizens that rely on Public Law and not IRS Public Policy when complying with the internal revenue laws. This abuse gave rise to the IRS Restructuring Reform Act of 1998. Although Congress passed the Act, it has not quelled the financial terrorist activities of Service employees. Therefore Claimant files the attached Form 1040 return involuntarily by force and under compulsion – not by conviction or belief that Claimant has a known legal duty. The courts stated:

“Simply stated, neither the Secretary nor the Service is in compliance with its own internal procedures which requires promulgation of regulations . . . This is violation of administrative law and voids the agency action.” Lojeskio v. Boandl, 626 F. Supp. 530, 533 (D.C., E.D. Pa. 1985), affirmed in part and reversed in part at 788 F. 2d 195, 198 (3rd. Cir. 1986).

Claimant is apprized of the devastating blow handed down by the “awesome machinery” of the United States Government against Citizens taking a position contrary to Public Policy. Relevant to the internal revenue laws, Claimant includes information that establishes how officials of this Government proceed against American Citizens in regards to taxing Labor Property – with lawless, ruthless and utter contempt steeped in subjugation. The following statements are shining examples of the tyranny Claimant and any American that attempts to earn a living in these 50 United States may suffer stating as follows:

In Benders Federal Revenue Law 1916 it is quoted: *“Wars and Rumors of Wars teach government new tricks of Taxation. The Word Trick is not unworthy. Taxation has been defined as the ‘art of plucking the goose as to secure the largest amount of feathers with the least amount of squawking.’ Whenever there is a real or pretend need for money, ways and means must and will be found.”* (See Exhibit B.)

Excerpts of IRS Policy Statement 20-1: “Penalties enhance voluntary compliance: *Penalties* provide the Service with an important tool to achieve that goal because they *enhance voluntary compliance by taxpayers*. Penalties encourage voluntary compliance by: (1) demonstrating the fairness of the tax system to compliant taxpayers; and (2) *increasing the cost of noncompliance.*” (See Exhibit B.)

IRS Publication 556 states in pertinent part: *“The IRS must follow the tax laws as set forth by Congress and the Internal Revenue Code.* The IRS also follows Treasury Regulations, other rules and procedures that were written to administer the internal revenue laws. **The IRS also follows court decisions.** *However, the IRS can lose cases that involve taxpayers with the same issue and still apply its interpretation of the law to your situation.”* (See Exhibit C.)

The above statements and publications put out by officials of the IRS confirm their enforcement of Public Policy and NOT the internal revenue laws. Claimant is with evidence that employees of the IRS often act above the law as sanctioned financial terrorists – acting in absolute contempt of the Constitution, the United States Supreme Court and Congress. Nonetheless, Claimant herein complies with the internal revenue laws in accordance to what the law commands or forbids, as she understands it.

V.

Internal Revenue Code Plagued With Legalese And Words Of Art

Clare Reading is with evidence that when having to confront the legalese written by Government staff attorneys in the Internal Revenue Code or any legal Code, all words are “Words of Art” and cannot be relied upon for their literal meaning. The courts stated: *“There is no surer way to*

misread any document than to read it literally,” Guiseppi v. Walling, 144 F.2d 608, 624 (2nd Cir. 1944). Claimant herein notices all parties concerned of the following:

“Words of Art” is defined in Black’s Law Fifth Edition (1979) on page 1439 as: “*The vocabulary or terminology of a particular art or science, and especially those expressions which are idiomatic or particular to it.*” (See Exhibit A)

The *science* in this instant case is legalese. For example, the word *person* in the definition section of the Internal Revenue Code found at 26 U.S.C. § 7701, *et seq.*, states in pertinent part:

“(a) When used in this title, *where not otherwise distinctly expressed* or manifestly incompatible with the intent thereof— (1) **Person** The term “*Person*” shall be construed to mean and include an individual, a trust, estate, partnership, association, company or corporation.”

To ask a man of average intelligence if he considered a *person* to be corporation, he would likely answer in the negative. The United States Supreme Court has consistently held:

“*Since in common usage, the term ‘person’ does not include the sovereign and statutes employing that term are ordinarily construed to exclude it.*” *United States v. Cooper*, 312 US 600, 604, 61 S.Ct. 742 (1941).

Claimant is with knowledge that the word *person* is one semantic example of millions of idiomatic words and terms manipulated by attorneys in the United States responsible for contriving subjugating legislative enactments. With this manipulation of words classified as legalese: (1) the truth is only relative to who’s telling it; (2) shall can mean may; (3) may can mean must; (4) yes can mean no; (5) a citizen is a corporation; (6) black is white; (7) night is day; and (8) two plus two equals five, six, nine, or all of the above, *etc.* For these reasons, Claimant cannot, and does not depend on or apply, the common usage of any words and/or phrases as used in their literal meaning, but relies wholly on the Common Law espoused in the Constitution and precedents established by the United States Supreme Court.

VI. Income v. Compensation

UNITED STATES SUPREME COURT PRECEDENT: The word “income” is not defined in the Internal Revenue Code; but, as stated below, it can only be derived from corporate activity. The Supreme Court has held this numerous times:

In *United States v Ballard*, 535 F.2d 400, 404; it states:

“Whatever difficulty there may be about a precise and scientific definition of ‘income’, it imports, as used here... the idea of gain or increase arising from corporate activities,” *Doyle v. Mitchel*, 247 U.S. 179. “Certainly the term ‘income’ “has no broader meaning in the 1913 Act than in that of 1909 (*See Stratton’s Independence v. Howbert*, 231 U.S. 399, 416, 417) and we assume that there is no difference in its meaning as used in the two acts.”

In Southern Pacific Company v. John Z. Lowe Jr., 247 U.S. 330, 335 continues:

Bowers v. Kerbaugh-Empire Company, 271 U.S. 887 (1926) page 174; Goodrich v. Edwards, 255 U.S. 527; United States v. Supplee-Biddle Hardware Co., 256 U.S. 189; United States v. Phellis, 257 U.S. 156; Miles v. Safe Deposit & T. Co., 259 U.S. 247; Irwin v. Gavitt, 286 U.S. 161; Edwards v. Cuba R.Co., 268; Burnett v. Harmel, 287 U.S. 103, 108, (1932); Lucas v. Earl, 281 U.S. 111.

Income (within the meaning of the Sixteenth Amendment, the Income Tax Acts of 1913, 1916, 1917, and the Corporation Tax Act of 1909), is defined in Eisner v. Macomber, 252 U.S. 189, 207 (1901): “**Income may be defined as a gain derived from capital, from labor, or from both combined, including profit gained through sale or conversion of capital ...**” It includes the gain from capital realized by a single, isolated sale of property held as an investment, as well as profits realized by sales in a business of buying and selling such property. (Gray v. Darlington, 15 Wall. 63, and Lynch v. Turrish, 247 U.S. 221, distinguished. Affirmed.)

In determining the definition of the word “income” thus arrived at, this court has consistently refused to enter into the refinements of lexicographers or economists and has approved, in the definitions quoted, what it believed to be the commonly understood meaning of the term which must have been in the minds of the people when they adopted the Sixteenth Amendment to the Constitution. Doyle v. Mitchell Brothers Co., 247 U.S. 179, 185; Eisner v. Macomber, 252 U.S. 189, 206, 207.

“The Corporation Excise Tax Act of August 5, 1909, c. 6, 36 Stat. 11, 112, was not an income tax law, but a definition of **the word “income”** was so necessary in its administration that in an early case it **was formulated as “the gain derived from capital, from labor, or from both combined.”** Merchants' L. & T. CO. v. Smietanka, 255 U.S. 509 (1921) 41 S.Ct. 386, citing Stratton's Independence v. Howbert, 231 U.S. 399, 415.

- (a.) Edwards v. Keith, (C.C.A.) 231 F. 111 (1916) “. . . **one does not derive income by rendering services and charging for them.**”
- (b.) Oliver v. Halstead, 86 S.E. Rep 2nd 85e9 (1955) “**There is a clear distinction between ‘profit’ and ‘wages’, or a compensation for labor. Compensation for labor (wages) cannot be regarded as profit within the meaning of the law. The word ‘profit,’ as ordinarily used, means the gain made upon business or investment – a different thing altogether from the mere compensation for labor.**”
- (c.) “. . . **whatever may constitute income, therefore must have essential feature of gain to the recipient.** This was true when the 16th Amendment became effective, it was true at the time of Eisner v. Macomber, supra, it was true under Section 22(a) of the Internal Revenue Code of 1939, and it is likewise true under Section 61(a) of the I.R.S. Code of 1954. If there is not gain, there is not income. . . **Congress has taxed income not compensation.**” Conner v. United States, 303 F Supp. 1187, West page 1191 (1969).

Claimant agrees with the United States Supreme Court decisions and numerous other court rulings regarding the definition of “income.” Claimant states as referenced and defined in numerous court decisions *supra*; income and compensation have two very distinct meanings. **Income** is defined as

profit or gain, unlike **Compensation**, defined as an equal exchange for labor in the form of remunerations for a loss sustained. Any attempt by an Act of Congress or the Internal Revenue Service to regard Claimant's labor as having ZERO value, is an attempt to reduce Claimant's status to that of a statutory wage slave. With this in mind, Claimant files the Form 1040 return attached hereto at all times recognizing, deducting, reducing and restoring the sweat equity of Claimant's Labor Property as protected under the *Just Compensation Clause* to the Fifth Amendment to the United States Constitution.

VII.

Definitions Pertinent To The Computation Of A Federal Tax Liability To Include The Cost Of Labor

Claimant proceeds with the understanding that the internal revenue laws are written in "Words of Art" and cannot be relied upon in their literal sense - including the definitions relied upon as they relate to filing the attached return. Most are of common usage, but must be explicitly defined so as not to be mischaracterized by employees of the Internal Revenue Service or other Government officials applying their own "*interpretation*." The following definitions are cited in **Black's Law Dictionary Fifth Edition 1979** (see Exhibit A):

- (a.) **Income.** The gain derived from capital, from labor . . .
- (b.) **Labor.** Work; toil; service; mental or physical exertion.
- (c.) **Work.** To exert one's self for a purpose; to put for effort for the attainment of an object . . .
- (d.) **Compensation.** *Equivalent in money for a loss sustained . . . giving back an equivalent in either money which is but the measure of value, or in actual value otherwise conferred.*
- (e.) **Gain.** Difference between cost and sale price. Excess of revenues over expenses from a specific transaction.
- (f.) **Profit.** Excess of revenues over expenses for the transaction.
- (g.) **Cost.** Expense; *price.* The sum or equivalent expended, paid or charged for something.
- (h.) **Excess.** Act or amount which goes beyond that which is usual, proper or necessary.
- (i.) **Internal revenue.** Governmental revenues from internal sources by way of taxes as contrasted with revenues from customs and foreign sources.

VIII.

The United States Exercises Absolute Power And Control Over The Life, Liberty And Property Of Clare Reading By Force With Absolute Control Of The Legal System

Clare Reading is the victim of what can be best defined as "statutory slavery" wherein legislative Acts of Congress have resulted in the absolute control of Claimant's Life, Liberty and Property via statutory enactments and Public Policy. Although Claimant is not employed by this or any

Government, Claimant cannot act or proceed to earn a living without agents of this Government seeking to intervene with Claimant's private affairs under some colorable law. This Government – having absolute control over Claimant's Life, Liberty and Property – commands Claimant to ask permission to earn a livelihood by way of license, permit, or both – always demanding a fee.

Claimant's compensation for Labor Property (Goose for Plucking) is under constant attack with federal and state government intervention, converting Rights into privileges by licenses, permits and registrations. This intervention comes by way of statutory federal and state taxation proposing a head tax on Claimant's Right (not privilege) to earn a living, reducing Claimant's status to that of a "Statutory Slave." For these and other reasons stated herein, Claimant includes the following definitions cited in **Black's Law Dictionary Fifth Edition 1979** (see **Exhibit A**).

- (a.) **Slave.** A person who is wholly subject to the will of another; *one who has no freedom of action*, but whose person and services are wholly under the control of another. *One who is under the power of a master*, and who belongs to him; *so that the master may sell and dispose of his person, of his industry, and of his labor, without his being able to do anything, or acquire anything, but what must belong to his master.*
- (b.) **Slavery.** The condition of *a slave; that civil relation in which one man has absolute power over the life, fortune and liberty of another.*
- (c.) **Servitude.** *The state of a person who is subjected, voluntarily or otherwise, to another person as his servant.* Servitudes are also classed as positive or negative. A positive servitude is one which obliges the owner of the servant estate to permit or suffer something to be done on his property by another. *A negative servitude is one that does not bind the servient proprietor to permit something to be done upon his property by another, but merely restrains him from making a certain use of his property* which would impair the easement enjoyed by the dominant tenement. *Rowe v. Nally*, 81 Md. 367, 32 A. 198.
- (d.) **Involuntary.** *Without will or power of choice*; opposed to volition or desire. *An involuntary act is that which is performed with constraint or with repugnance*, or without the will to do it. *An action is involuntary*, then, *which is performed under duress, force or coercion.*
- (e.) **Involuntary Servitude.** *The condition of one who is compelled by force, coercion, or imprisonment*, and against his will, *to labor for another*, whether he is paid or not.
- (f.) **Privilege.** A particular benefit or advantage enjoyed by a person, company, or class, beyond the common advantage of other citizens. *An exceptional or extraordinary power or exemption.* A right, power, franchise, or immunity held by a person or class, against or beyond the course of the law.
- (g.) **Right.** *A power, privilege, or immunity guaranteed under a constitution, statutes or decisional laws*, or claimed as a result of long usage.

Claimant is compelled to involuntarily file this return, being forced by officials, officers, agents and employees employed by the *awesome machinery* of the United States Government or one of its

instrumentalities, who have absolute control over Claimant's *life, liberty and property* under the doctrine of the "*collective entity*" and proceed via Public Policy. If Claimant does not, Claimant risks criminal prosecution and may be subjected to one of several statutory violations not limited to willful failure to file, tax evasion, and other alleged statutory violations of the internal revenue laws.

Completing the forms may result in Claimant's alleged liability for the payment of an internal revenue tax derived from Claimant's Labor Property. Claimant was not justly compensated prior to the assessment of the alleged tax liability which means that Claimant's condition has been reduced to that of a Slave – forced to turn over personal Labor Property – or in the alternative, face possible imprisonment or the confiscation of other property Claimant may possess. Therefore, Claimant at all times protests and involuntarily completes and files the attached Form 1040 return in fear and under duress, coercion, intimidation and threat of criminal prosecution. For these reasons, Claimant believes she is being statutorily subjected to the condition of Slavery, Involuntary Servitude and/or Peonage.

IX.

Zero Liability, Unknown Liability And Objection Return

Claimant's study of the income tax laws and internal revenue laws has resulted in Claimant being absolutely confused as to what the law commands or forbids. This confusion stems from Service employees' reckless and intentional acts of ignoring the law as written, and interpreting them to their discretion. Claimant's reliance on the Constitution, Acts of Congress, United States Supreme Court rulings and Title 26 of the United States Code – which protects Claimant's Labor Property - has been met with absolute resistance and retaliation. This retaliation has resulted in Service officials, officers, agents and employees name-calling, stonewalling, and labeling Claimant as a "*domestic terrorist*", completely ignoring the Common Law, statutes and regulations. Therefore, Claimant submits this Zero Liability, Unknown Liability and Objection return at all times involuntarily, under duress and protests with knowledge that it is IRS's published policy to ignore clearly established law and precedent. Claimant acts with reliance upon the following:

- (a.) With respect to the information Claimant included in the return, the courts have ruled: "A (1040) form with 'zeros' inserted in the spaces provided...qualified as a return." See *United States v. Long*, 618 F.2d 74 (9th Cir. 1980); *United States v. Kimball*, 896 F.2d 1218 (9th Cir. 1990); and a Las Vegas bankruptcy Court held the "zeros entered on the Form 1040 constitute a return." (*Cross v. United States*, 91-2 USTC p. 50, 318; Banker L. Rep. P. 7404.)
- (b.) It should also be noted that Claimant had "Zero" income according to The Supreme Court's definition of income since in *Merchant's Loan & Trust Co. v. Smietanka*, 225 U.S. 509 at pages 518 and 519 the court held that "The word (income) must be given the same meaning in all of the income tax Acts of Congress that was given to it in the Corporation Excise Tax Act of 1909." Therefore, since Claimant did not realize any compensation taxable as "income" under the Corporation Excise Tax Act of 1909, Claimant can only attest to having "Zero" income for the year in question.

The courts further stated: "It is clearly established that all citizens must file a tax return . . . despite the hazards of self incrimination . . . The court intimates that full disclosure of the amounts and sources of income must be made, *unless the taxpayer makes an objection on his return asserting*

his privilege not to incriminate himself.” *United States v. Sullivan*, 274 U.S. 259; *Heligman v. United States*, 407 F.2d 448; *Garner v. United States*, 501 F.2d 228; affirmed March 23, 1976, 74 S.Ct. 100.

X.

**Clare Reading Files IRS Invalid Form 1040
Under Threat, Duress, Coercion And Intimidation**

Clare Reading is with evidence factually sufficient to conclude that the Form 1040 information return does not comply with the Paperwork Reduction Act codified at 44 U.S.C. § 3512 and is a Virgin Islands tax return on Virgin Island sources of “Income.” Because Claimant is not now nor has ever been a resident of the Virgin Islands, Claimant believes that completing and filing Form 1040 will subject Claimant to possible criminal prosecution under 26 U.S.C. § 7206(1) - ***filing a return in which he knows to be false***, as others have suffered this fate. The following Government documents are evidence factually sufficient to confirm the Form 1040 is not the proper form Claimant, indigenous to these 50 United States of North America, is required to file – but does so involuntarily under threat, duress, coercion, intimidation and fear of criminal prosecution.

- 1.1 That Claimant is with Government evidence and documents from several Internal Revenue Manuals identifying the Form 1040, 2555 and 1040X as a foreign-earned income information return; and Claimant does not now nor has she ever derived “foreign-earned Income”(see **Exhibit E**).
- 1.2 That Treasury Regulations at 26 CFR § 1.1-1. – Income tax on individuals. (a) General rule; (1) **Section 1 of the Code** imposes an income tax on the income of every individual who is a citizen or resident of the United States . . . 26 CFR § 602.101 – OMB Control numbers. This displays the control numbers assigned to collections of information in Internal Revenue Service regulations by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (see **Exhibit E**).
- 1.3 That the OMB number assigned to 26 CFR § 1.1-1 – “Income tax on individuals” and reflected in the upper right corner of Form 2555 U.S. Foreign Earned Income appears to be OMB No. 1545-0067, instructing Claimant attach Form 1040 when filing this return (see **Exhibit E**).
- 1.4 That Form 1040 assigned OMB No. 1545-0074 fails to comply with the Paperwork Reduction Act codified at 44 U.S.C. § 3512 and does not contain a valid current OMB control number - deemed a “Bootleg Form.” (see **Exhibit E**)
- 1.5 That the IRS Privacy Act Statement and Paperwork Reduction Act Notice, which can be found at www.irs.gov, states in pertinent part: **“Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a valid OMB control number;”** therefore, Claimant cannot be penalized for failing to file Form 1040 or any other IRS Form that does not comply with the Act. (see **Exhibit D**)

NOTICE IS HEREBY GIVEN: that Clare Reading has never received compensation from, or earned income in, the Virgin Islands or any other foreign possession of the United States federal

corporation. Claimant believes, based on Government documents from Internal Revenue Manuals, that filing Form 1040 is applicable to revenues derived from foreign sources. Claimant further agrees with the IRS Privacy Act Statement and Paperwork Reduction Act Notice that Claimant is not subject to any penalty for failing to comply with collection of information due to the invalid OMB control number displayed on all Form 1040's. Notwithstanding these facts, Claimant will not throw caution to the wind, and files the Form 1040 - involuntarily and under duress as stated herein and throughout.

XI.

Clare Reading Has An Unrestricted Constitutionally Protected Right To Restore The Value Of Labor Pursuant To The Just Compensation Clause Of The Fifth Amendment To The Constitution.

Clare Reading believes her Labor is a property right protected under the Common Law of the Constitution. The *Just Compensation Clause* of the Fifth Amendment states in pertinent part: “. . . ***nor shall any person be deprived of life, liberty, or property . . . be taken for public use without just compensation.***” (see Exhibit F). Claimant is aware that all federal income tax levied on labor is taken for public use and is, therefore, subject to the *Just Compensation Clause* of the Fifth Amendment. “***Congress and the President, like the courts, possess no power not derived from the Constitution,***” *Ex Parte Quirin*, 63 S.Ct. 2, 10, 317 U.S. 1 (1942); and “[T]he Constitution [is] the supreme law established by the people,” *Muskrat v. United States*, 31 S.Ct. 250, 254 (1911). Claimant is aware that the IRS has given itself the discretion to ignore that body of law that does not benefit its position. Nevertheless, United States Supreme Court held:

“The property that every man has is his personal labor, as it is the original foundation of all other property so it is the most sacred and inviolable...to hinder his employing [it]...in what manner he thinks proper, without injury to his neighbor, is a plain violation of the most sacred property.” *Butcher's Union Co. v. Crescent City Co.*, 111 US 746.

“Property is everything which has an exchangeable value, and the right of property includes the power to dispose of it according to the will of the owner. Labor is property, and as such merits protection. The right to make it available is next in importance to the rights of life and liberty.” *Slaughter-House Cases*, 83 U.S. 36 (1872).

“Justice Stevens explained that he believes that money is property . . . and as such, it is entitled to the constitutional protections normally afforded to property . . .” (Stevens, J., concurring. *Landell v. Sorrell*, (Vt. 2000)).

“This leaves only the district's interest in control over how its money was spent and the state's interest in control over the allocation of resources for processing as property interests that could possibly rise to the status of "property". Certainly the state and school district have cognizable property interests in their financial resources; money is property in the most traditional sense.” *United States v. Granberry*, (E.D.Mo. 1989) 725 F. Supp. 446, 453.

Upon completing the Form 1040 return, Claimant effectively restored the fair market value of her Labor Property for which she is fully entitled. Claimant is with information that it is the policy of the Internal Revenue Service to ignore United States Supreme Court precedent, internal revenue statutes and regulations to “interpret” the law to their discretion – routinely to the peril of the alleged taxpayer. Nonetheless, Claimant calculates and computes *any* alleged federal income tax liability to restore back to Claimant the fair market value of her labor as just compensation to wit:

- 2.1 That Claimant is with evidence in accordance to the law that Claimant’s compensation for Labor Property is taken for public use and is protected under the *Just Compensation Clause* of the Fifth Amendment. Therefore Claimant is exercising that Right and has restored back the “fair market value” of said compensation for Labor Property in connection with the performance of services pursuant to the Constitutional Common Law, United States Supreme Court precedent and applicable statutory enactments.
- 2.2 That Claimant has determined in accordance to the law that there was no excess over the amount paid for the fair market value of said compensation for Labor Property that could be determined as “gross income” pursuant to Constitutional Common Law, United States Supreme Court precedent and applicable statutory enactments.
- 2.3 That Claimant has recognized and deducted all applicable expenses for production of Claimant’s compensation for Labor Property pursuant to Constitutional Common Law, United States Supreme Court precedent and applicable statutory enactments.
- 2.4 That Claimant has recognized and deducted any gain or profit realized over the amount paid for the fair market value of said compensation for Labor Property pursuant to Constitutional Common Law, United States Supreme Court precedent and applicable statutory enactments.

XII.

Clare Reading Calculates The Cost Basis Of The Fair Market Value Of Labor Property Transferred In Connection With The Performance Of Services

Claimant proceeds in compliance with the statutory provision of 26 U.S.C. § 83, *et. seq.*, excluding the fair market value of compensation for Labor Property in connection with the performance of services. Title 26 United States Code § 83 states, *only* the *excess* of the “fair market value” of property in the connection with the performance of services shall be included in gross income (see **Exhibit D**).

Pursuant to 26 U.S.C. § 61(b): For items specifically included in gross income, see part II (sec. 71 and following), the computation of an income tax liability come under the provisions of 26 U.S.C. § 83 or 26 CFR § 1.83-1 “**Property transferred in connection with the performance of services.** (a) Inclusion in gross income – (1) General Rule. **Section 83 Provides rules for the taxation of property transferred to an employee or independent contractor in connection with the performance of services. . . such property is not taxable** under § 83(a) **until it has been transferred** . . . to such person and become substantially vested . . . in such person. **In that case, the excess of . . . The fair market value of such property . . . at the time the property becomes substantially vested, over . . . the amount paid** for such property **shall be included as compensation in the gross income**

. . .” This section clearly states only the excess of the fair market value over the amount paid shall be included in gross income.

- 3.1 **Example:** Tom the Taxpayer was employed by ABC Company, and was compensated at \$25.00/hour (property transferred for the performance of services), the amount paid for the performance of Tom’s services. The cost and fair market value of Tom the Taxpayer’s property in connection with the performance of his services for ABC Company totals \$25.00/hour. Therefore, the amount paid of \$25.00/hour is the cost of Tom the Taxpayer’s Labor Property and the fair market value exchanged for the same. Accordingly, as provided in 26 U.S.C. § 83, Tom’s cost shall not be included in gross income. Here, no excess over the fair market value of the cost of Tom’s labor was realized as a profit or gain and is not to be included in gross income.
- 3.2 26 CFR § 1.83-3(g) **“Amount paid.** For purposes of § 83 and the regulations thereunder, the term “amount paid” refers to the value of any money or property paid for the transfer of property . . .” Relevant to § 83 above, the ‘amount paid’ is the cost of the fair market value of Claimant’s Labor Property, the *just compensation* for which Claimant is entitled.
- 3.3 26 CFR § 1.83-4(b)(2) **“Basis. *If property*** to which § 1.83-1 applies is transferred at arm’s length, the basis of the property in the hands of the transferee shall be determined under section 1012 . . .” Accordingly, the basis is the cost of Claimant’s compensation for Labor Property.
- 3.4 26 CFR § 1.83-6(b) **Recognition of gain or loss.** “. . . at the time of transfer of property in connection with the performance of services the transferor recognizes gain to the extent that the transferor receives an amount that exceeds the transferor’s basis in the property.” Here, section 83 provides that ‘gain’ is only recognized to the extent Claimant’s ‘basis is exceeded’ in the transfer of Labor Property, confirming that only the *excess* is to be *included* in *gross income*.
- 3.5 26 U.S.C. § 212 “Expenses for production of income. In the case of an individual, *there shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred* during the taxable year— (1) for the production or collection of income;” Although the term “income” is used to imply gain or profit, this section recognizes Claimant’s right to deduct all ordinary and *necessary* ‘*expenses*’ relevant to compensation for the value of Claimant’s Labor Property.
- 3.6 26 CFR § 1.1001-1 **“Computation of gain or loss.** (a) The fair market value of property is a question of fact, but only in rare and extraordinary cases will property be considered to have no fair market value.” Claimant does not consider her Labor Property the “*rare and extraordinary*” case wherein such property has no fair market value. To the contrary, the courts have ruled that it is the most sacred of all property rights. Therefore, the *cost* of Claimant’s Labor Property, having intrinsic value, carries a fair market value that Claimant has a Right to *restore* under the *Just Compensation Clause* of the Constitution, as herein exercised.
- 3.7 26 CFR § 1.1012-1 **“Basis of property.** (a) In general, the basis of the property is the cost thereof. The cost is the amount paid for such property in cash or other property.” Here, the basis is the cost of Claimant’s compensation for Labor Property. As in this example, if the cost

of Tom the Taxpayer's compensation for Labor Property is \$25.00/hour, this amount is the cost basis for which Tom the Taxpayer charged in exchange for such labor— and NO PROFIT or GAIN is realized.

In summary, this Act of Congress recognizes the value of Labor Property and affords Claimant the Common Law Right to restore back that value. This Act is *in pari materia* with the Common Law *Just Compensation Clause* of the Fifth Amendment and avoids violating Article XIII Sec.1 to the Constitution that states in pertinent part: "Neither slavery nor involuntary servitude shall exist within the United States, or any place subject to their jurisdiction." The U.S. Supreme Court in *Bailey v. Alabama*, 219 U.S. 219, ruled that: "No person can be compelled to specific performance to labor for others" and that the enforcement of such service results in a prohibited condition of peonage. A constitutional prohibition cannot be transgressed indirectly by creating a statutory presumption any more than direct enactment."

XIII.

Affidavit Of Specific Negative Averment

PLEASE TAKE NOTICE: that **Clare Reading** fully accepts, and offers to pay any amount employees of the Internal Revenue Service may reassess and determine for tax year December 31, 1999 regarding Claimant's compensation for Labor Property and hereby promises to discharge all verifiable liability, claims and charges associated therewith upon evidence of the following:

1. Claimant has not seen or been presented with any evidence that Claimant is voluntarily preparing and filing Form 1040 for tax year December 31, 1999, nor does Claimant believe any such evidence exists.
2. Claimant has not seen or been presented with any evidence that Claimant is not preparing and filing Form 1040 for tax year December 31, 1999 under threat, duress, coercion, intimidation and fear of prosecution, nor does Claimant believe any such evidence exists.
3. Claimant has not seen or been presented with any evidence that Claimant is not protected under the *Due Process Clause* of the Fifth Amendment, nor does Claimant believe any such evidence exists.
4. Claimant has not seen or been presented with any evidence that Claimant is not protected under the *Equal Protection Clause* of the Fourteenth Amendment, nor does Claimant believe any such evidence exists.
5. Claimant has not seen or been presented with any evidence that employees of the Internal Revenue Service do not admit to interpreting the internal revenue laws to their discretion, nor does Claimant believe any such evidence exists.
6. Claimant has not seen or been presented with any evidence that the Internal Revenue Code is not a complex code of legalese riddled with "Words of Art", nor does Claimant believe any such evidence exists.

7. Claimant has not seen or been presented with any evidence that words and terms within the Internal Revenue Code are to be given "*common usage*" as understood by a person of average intelligence, nor does Claimant believe any such evidence exists.
8. Claimant has not seen or been presented with any evidence that employees of the Internal Revenue Service are not required to comply with Acts of Congress, nor does Claimant believe any such evidence exists.
9. Claimant has not seen or been presented with any evidence that employees of the Internal Revenue Service are not required to comply with landmark United States Supreme Court decisions, nor does Claimant believe any such evidence exists.
10. Claimant has not seen or been presented with any evidence that employees of the Internal Revenue Service are not required by Acts of Congress to comply with internal revenue statutes and implementing regulations, nor does Claimant believe any such evidence exists.
11. Claimant has not seen or been presented with any evidence that IRS Publications, Policy Manuals, Memorandums and like internal instruction materials override or supercede United States Supreme Court rulings and Acts of Congress, nor does Claimant believe any such evidence exists.
12. Claimant has not seen or been presented with any evidence of the specific statute and regulation making Claimant liable for the payment of a federal income tax, nor does Claimant believe any such evidence exists.
13. Claimant has not seen or been presented with any evidence that Form 1040 is not a Virgin Islands tax return, nor does Claimant believe any such evidence exists.
14. Claimant has not seen or been presented with any evidence that Claimant is required to file Form 1040, nor does Claimant believe any such evidence exists.
15. Claimant has not seen or been presented with any evidence that Claimant is prohibited from filing a Zero Liability return, nor does Claimant believe any such evidence exists.
16. Claimant has not seen or been presented with any evidence that Claimant is prohibited from filing an Objection return if Claimant believes the information provided could be self-incriminating, nor does Claimant believe any such evidence exists.
17. Claimant has not seen or been presented with any evidence that Claimant's compensation for Labor is not a property right subject to the *Just Compensation Clause* of the Fifth Amendment, nor does Claimant believe any such evidence exists.
18. Claimant has not seen or been presented with any evidence that Claimant's Labor is not the cost incurred in exchange for other property, and such cost is prohibited from being restored back to Claimant for its fair market value, nor does Claimant believe any such evidence exists.

19. Claimant has not seen or been presented with any evidence that Claimant's compensation for Labor resulted in a gain or profit and is gross income within the meaning of an Act of Congress, nor does Claimant believe any such evidence exists.
20. Claimant has not seen or been presented with any evidence that Claimant is prohibited from restoring the fair market value of Claimant's Labor, nor does Claimant believe any such evidence exists.
21. Claimant has not seen or been presented with any evidence that Claimant's compensation for Labor Property has no fair market value, nor does Claimant believe any such evidence exists.
22. Claimant has not seen or been presented with any evidence that Claimant cannot compute the cost basis of the fair market value of Claimant's compensation for Labor Property to be excluded from gross income, nor does Claimant believe any such evidence exists.
23. Claimant has not seen or been presented with any evidence that Claimant's Labor Property is a commodity and an article of commerce, nor does Claimant believe any such evidence exists.
24. Claimant has not seen or been presented with any evidence that Claimant has performed the functions of a public office created by an Act of Congress and defined in the internal revenue laws, nor does Claimant believe any such evidence exists.
25. Claimant has not seen or been presented with any evidence that Claimant has operated a statutory Trade or Business created by an Act of Congress and defined in the internal revenue laws, nor does Claimant believe any such evidence exists.
26. Claimant has not seen or been presented with any evidence that Claimant is a statutory *employee* created by an Act of Congress and defined in the internal revenue laws, nor does Claimant believe any such evidence exists.
27. Claimant has not seen or been presented with any evidence that Claimant is a statutory *employer* created by an Act of Congress and defined in the internal revenue laws, nor does Claimant believe any such evidence exists.
28. Claimant has not seen or been presented with any evidence that Claimant is a statutory *American employer* created by an Act of Congress and defined in the internal revenue laws, nor does Claimant believe any such evidence exists.
29. Claimant has not seen or been presented with any evidence that Claimant is the statutory *person* created by an Act of Congress and defined in the internal revenue laws, nor does Claimant believe any such evidence exists.
30. Claimant has not seen or been presented with any evidence that Claimant is the statutory *natural person* created by an Act of Congress and defined in the internal revenue laws, nor does Claimant believe any such evidence exists.

ATTACHMENTS:

Completed and Signed IRS Form 1040 For Tax Year: December 31, 1999
Form 8275 Disclosure Statement For Tax Years: December 31, 1999

EXHIBITS INCLUDED WITH VERIFIED NOTICE:

EXHIBIT A: Definitions from Black's Law Fifth Edition (17 pages)
EXHIBIT B: Benders Federal Revenue Law 1916 (4 pages)
EXHIBIT C: IRS Publication 556 Appeal Rights (4 pages)
EXHIBIT D: Title 26 IRC and CFR; IRS Privacy Act Statement and PRA Notice (14 pages)
EXHIBIT E: Form 1040 Filing Requirement Cited at CFR, IRS Manuals, etc. (18 pages)
EXHIBIT F: The Constitution of the United States of America – Article V (3 pages)

Mailed to:

US Attorney General
Alberto Gonzales
Department of Justice
950 Pennsylvania Ave NW
Washington D.C. 20530-0001
Certified Mail: 7004 2890 0001 9657 8486

Department of the Treasury
Internal Revenue Service
Area 11, Area Director
600 17th Street
Denver, CO 80202-2490
Certified Mail: 7004 2890 0001 9657 8462

Department of the Treasury
Internal Revenue Service
Philadelphia Service Center
600 Arch Street
Philadelphia, PA 19106
Certified Mail: 7004 2890 0001 9657 8479

Department of The Treasury
Internal Revenue Service
Attn: Ann Taylor #86-17536
300 W. Congress, Stop 5126 TUC
Tucson, Arizona 85701
Certified Mail: 7004 2890 0001 9657 8455

VERIFIED NOTICE OF FILING FORM 1040 RETURN UNDER
THREAT, DURESS, COERCION AND INTIMIDATION

Clare Reading, Claimant
Total Exhibits: 60, Notary page 18

EXHIBIT A
Definitions from Black's Law Fifth Edition
(17 pages)

BLACK'S LAW DICTIONARY

Definitions of the Terms and Phrases of
American and English Jurisprudence,
Ancient and Modern

By

HENRY CAMPBELL BLACK, M. A.

Author of Treatises on Judgments, Tax Titles, Intoxicating Liquors,
Bankruptcy, Mortgages, Constitutional Law, Interpretation
of Laws, Rescission and Cancellation of Contracts, Etc.

FIFTH EDITION

BY

THE PUBLISHER'S EDITORIAL STAFF

Contributing Authors

JOSEPH R. NOLAN

Associate Justice, Massachusetts Supreme Judicial Court
and

M. J. CONNOLLY

Associate Professor of Linguistics
and Eastern Languages, Boston College

ST. PAUL MINN.
WEST PUBLISHING CO.
1979

EXHIBIT	PAGE	of
A	1	17

that a grant of "all his woods" (*omnes boscos suos*) will pass the land, as well as the trees growing upon it.

Woodwards. In English law, officers of the forest, whose duty consists in looking after the wood and vert and venison, and preventing offenses relating to the same.

Words. Symbols indicating ideas and subject to contraction and expansion to meet the idea sought to be expressed. Such have been referred to as labels whose content and meaning are continually shifting with the times. *Massachusetts Protective Ass'n v. Bayersdorfer*, C.C.A.Ohio, 105 F.2d 595, 597.

As used in law, this term generally signifies the technical terms and phrases appropriate to particular instruments, or aptly fitted to the expression of a particular intention in legal instruments. See the subtitles following.

Words actionable in themselves. In libel and slander, refer to words which are libelous or slanderous per se. See **Actionable per se**.

Words of art. The vocabulary or terminology of a particular art or science, and especially those expressions which are idiomatic or peculiar to it.

Words of limitation. See **Limitation**.

Words of procreation. To create an estate tail by deed, it is necessary that words of procreation should be used in order to confine the estate to the descendants of the first grantee, as in the usual form of limitation,—"to A. and the heirs of his body."

Words of purchase. See **Purchase**.

Work. To exert one's self for a purpose; to put forth effort for the attainment of an object; to be engaged in the performance of a task, duty, or the like. The term covers all forms of physical or mental exertions, or both combined, for the attainment of some object other than recreation or amusement. *Tennessee Coal, Iron & R. Co. v. Muscoda Local No. 123*, Ala., 321 U.S. 590, 64 S.Ct. 698, 703, 705, 88 L.Ed. 949. See also **Labor**.

Work and labor. The name of one of the common counts in actions of *assumpsit*, being for work and labor done and materials furnished by the plaintiff for the defendant.

Workaway. Extra man employed c commodation to himself. *The Tasl* F.2d 366, 368.

Worker. See **Workman**.

Workers' Compensation Acts. See **Workmen's Compensation Acts**.

Workhouse. Place of confinement for persons convicted of lesser offenses. Such imprisonment is usually for a relatively short duration.

Working capital. Cash and other quick assets. *Crock-er v. Waltham Watch Co.*, 315 Mass. 397, 53 N.E.2d 230, 237. In accounting the difference between current assets and current liabilities. In public utilities the amount of cash required by a business to carry on operations.

Working interest. See **Royalty**.

Working papers. By statute in certain states, such must be filed by one employing a minor.

Discovery. See **Work product rule**.

Workman. One who labors; one employed to do business for another. One employed in manual labor, skilled or unskilled; an artificer, mechanic, or artisan.

Workmen's or Workers' Compensation Acts. State statutes which provide for fixed awards to employees or their dependents in case of employment related accidents and diseases, dispensing with proof of negligence and legal actions. Some of the acts go beyond the simple determination of the right to compensation, and provide insurance systems, either under state supervision or otherwise. The various state acts vary as to extent of workers and employment covered, amount and duration of benefits, etc.

The effect of most workmen's or workers' compensation acts is to make the employer strictly liable to an employee for injuries sustained by the employee which arise out of and in the course of employment, without regard to the negligence of the employer or that of the employee. Where the Act applies, it has been uniformly held that this remedy is exclusive and bars any common-law remedy which the employee may have had, the compensation scheduled under the act being the sole measure of damage.

Federal employees are covered by the Federal Employees Compensation Act; seamen by the Jones Act; longshoremen and harbor workers by the Longshoremen's and Harbor Workers' Compensation Act. Additional benefits to disabled workers are provided under Title II of the Social Security Act.

Workmen's or workers' compensation boards or courts. Such exist in many states with jurisdiction to review cases arising under workmen's or workers' compensation acts and related rules and regulations.

Workmen's or workers' compensation insurance. Insurance coverage purchased by employers to cover risks under workmen's or workers' compensation laws. Such is usually mandated by state acts, unless the employer is self-insured. See also **Insurance**.

Work of national importance. Under the Selective Service Act providing that conscientious objectors d to such work means work of value the common defense and general .C.A. Appendix § 305(g). *United Tucker v. Osborne*, D.C.N.Y., 54 987.

As excepted from operation of Sunday closing statutes embraces all work reasonably essential to the economic, social or moral welfare of the people, viewed in light of the habits and customs of the age in which they live and of the community in which they reside. *Francisco v. Commonwealth*, 180 Va. 371, 23 S.E.2d 234, 238, 239.

Work product rule. A party may obtain discovery of documents and tangible things otherwise discoverable under Rule 26(b)(1) and prepared in anticipation of litigation or for trial by or for another party or by or for that other party's representative (including his attorney, consultant, surety, indemnitor, insurer, or

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Privatorum conventio juri publico non derogat /prāvstōrām kənvēnsh(i)yow jūray pəbləkow nōn dērəgst/. The agreement of private individuals does not derogate from the public right [law].

Privatum /prəvéydəm/. Lat. Private. *Privatum jus*, private law.

Privatum commodum publico cedit /prəvéydəm kómədəm pəbləkow síydət/. Private good yields to public. The interest of an individual should give place to the public good.

Privatum incommodum publico bono pensatur /prəvéydəm inkómədəm pəbləkow bównow penséydər/. Private inconvenience is made up for by public benefit.

Privies /prívíyɪz/. Those who are partakers or have an interest in any action or thing, or any relation to another. *Brown v. Fidelity Union Trust Co.*, 126 N.J.Eq. 406, 9 A.2d 311, 326; *Hamelik v. Sypek*, 152 Misc. 799, 274 N.Y.S. 875. They are of six kinds:

(1) Privies of blood; such as the heir to his ancestor.

(2) Privies in representation; as executors or administrators to their deceased testator or intestate.

(3) Privies in estate; as grantor and grantee, lessor and lessee, assignor and assignee, etc.

(4) Privies in respect to contract.

(5) Privies in respect of estate and contract; as where the lessee assigns his interest, but the contract between lessor and lessee continues, the lessor not having accepted of the assignee.

(6) Privies in law; as the lord by escheat, a tenant by the curtesy, or in dower, the incumbent of a benefice, a husband suing or defending in right of his wife, etc.

"Privies," in the sense that they are bound by the judgment, are those who acquired an interest in the subject-matter after the rendition of the judgment. "Privies" to a judgment are those whose succession to the rights of property affected occurs after the institution of the suit and form a party to it.

Privigna /prəvígnə/. Lat. In the civil law, a stepdaughter.

Privignus /prəvígnəs/. Lat. In the civil law, a son of a husband or wife by a former marriage; a stepson.

Privilege. A particular and peculiar benefit or advantage enjoyed by a person, company, or class, beyond the common advantages of other citizens. An exceptional or extraordinary power or exemption. A right, power, franchise, or immunity held by a person or class, against or beyond the course of the law.

An exemption from some burden or attendance, with which certain persons are indulged, from a supposition of law that the stations they fill, or the offices they are engaged in, are such as require all their time and care, and that, therefore, without this indulgence, it would be impracticable to execute such offices to that advantage which the public good requires. That which releases one from the performance of a duty or obligation, or exempts one from a liability which he would otherwise be required to perform, or sustain in common with all other persons.

A peculiar advantage, exemption, or immunity. See also **Exemption**; **Immunity**.

See also Doctor-patient privilege; Executive privilege; Husband-wife privilege; Journalist's privilege; Legislative immunity; Marital communications privilege; Newsmen's privilege; Patient-physician privilege; Priest-penitent privilege; Privileged communications; Right.

Attorney-client, doctor-patient, etc. privilege. See **Privileged communications**.

Civil law. A right which the nature of a debt gives to a creditor, and which entitles him to be preferred before other creditors. Civil Code La. art. 3186. It is merely an accessory of the debt which it secures, and falls with the extinguishment of the debt. The civil law privilege became, by adoption of the admiralty courts, the admiralty lien. *The J. E. Rumbell*, 148 U.S. 1, 13 S.Ct. 498, 37 L.Ed 345.

Communications. See **Privileged communications**.

Discovery. When interrogatories, depositions or other forms of discovery seek information which is otherwise privileged, the party from whom it is sought may claim his privilege. Fed.R.Civil P. 26; Fed.R. Crim.P. 16. See also **Protective order**; **Work product rule**.

Evidence. See **Privileged communications**; **Privileged evidence**.

Exclusive privilege. See **Exclusive privilege**.

Executive privilege. The protection afforded to confidential presidential communications. However, the generalized need for confidentiality of high level communications cannot sustain an absolute unqualified presidential privilege. *U. S. v. Nixon*, 418 U.S. 683, 94 S.Ct. 3090, 41 L.Ed.2d 1039. See also **Executive privilege**.

Journalist's privilege. See **Journalist's privilege**; **Newsmen's privilege**; **Shield laws**.

Libel and slander. An exemption from liability for the speaking or publishing of defamatory words concerning another, based on the fact that the statement was made in the performance of a political, judicial, social, or personal duty. Privilege is either *absolute* or *conditional*. The former protects the speaker or publisher without reference to his motives or the truth or falsity of the statement. This may be claimed in respect, for instance, to statements made in legislative debates, in reports of military officers to their superiors in the line of their duty, and statements made by judges, witnesses, and jurors in trials in court. Conditional privilege (called also "qualified privilege") will protect the speaker or publisher unless actual malice and knowledge of the falsity of the statement is shown. This may be claimed where the communication related to a matter of public interest, or where it was necessary to protect one's private interest and was made to a person having an interest in the same matter. *Saroyan v. Burkett*, 57 Cal.2d 706, 21 Cal.Rptr. 557, 558, 371 P.2d 293.

For defense of "constitutional privilege" in libel actions, see **Libel**.

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RIGHT

Rial /riyál/. A piece of gold coin current for 10s., in the reign of Henry VI, at which time there were half-rials and quarter-rials or rial-farthings. In the beginning of Queen Elizabeth's reign, golden rials were coined at 15s. a piece; and in the time of James I there were rose-rials of gold at 30s. and spur-rials at 15s.

Ribaud /riybów/. A rogue; vagrant; whoremonger; a person given to all manner of wickedness.

Rider. A schedule or small piece of paper reflecting an amendment, addition or endorsement annexed to some part of a roll, document, or record. Any kind of a schedule or writing annexed to a document which cannot well be incorporated in the body of such document. Such are deemed to be incorporated into the terms of the document. Thus, in passing bills through a legislature, when a new clause or law is added after the bill has passed through committee, such new law or clause is termed a "rider." Another common example of a rider is an attachment to an insurance policy that modifies the conditions of the policy by expanding or restricting its benefits or excluding certain conditions from coverage. With the use of the rider the entire document does not have to be rewritten or redrafted again.

Rien culp. In old pleading, not guilty.

Rien dit. In old pleading, says nothing (*nil dicit*).

Rien luy doit. In old pleading, owes him nothing. The plea of *nil debet*.

Riens en arriere. Nothing in arrear. A plea in an action of debt for arrearages of account.

Riens passa per le fait. Nothing passed by the deed. A plea by which a party might avoid the operation of a deed, which had been enrolled or acknowledged in court; the plea of *non est factum* not being allowed in such case.

Riens per descent. Nothing by descent. The plea of an heir, where he is sued for his ancestor's debt, and has no land from him by descent, or assets in his hands.

Rier county /rir káwntiy/. In old English law, after-county; i.e., after the end of the county court. A time and place appointed by the sheriff for the receipt of the king's money after the end of his county, or county court.

Rifflare /riflériy/. To take away anything by force.

Rigging the market. A term of the stock-exchange, denoting the practice of inflating the price of given stocks, or enhancing their quoted value, by a system of pretended purchases, designed to give the air of an unusual demand for such stocks.

Right. As a noun, and taken in an *abstract* sense, means justice, ethical correctness, or consonance with the rules of law or the principles of morals. In this signification it answers to one meaning of the Latin "*jus*," and serves to indicate law in the abstract, considered as the foundation of all rights, or the complex of underlying moral principles which impart the character of justice to all positive law, or give it an ethical content. As a noun, and taken in a *concrete* sense, a power, privilege, faculty, or de-

mand, inherent in one person and incident upon another. Rights are defined generally as "powers of free action." And the primal rights pertaining to men are enjoyed by human beings purely as such, being grounded in personality, and existing antecedently to their recognition by positive law. But leaving the abstract moral sphere, and giving to the term a juristic content, a "right" is well defined as "a capacity residing in one man of controlling, with the assent and assistance of the state, the actions of others."

As an adjective, the term "right" means just, morally correct, consonant with ethical principles or rules of positive law. It is the opposite of wrong, unjust, illegal.

A power, privilege, or immunity guaranteed under a constitution, statutes or decisional laws, or claimed as a result of long usage. See **Bill of rights**; **Civil liberties**; **Civil Rights Acts**; **Natural rights**.

In a narrower signification, an interest or title in an object of property; a just and legal claim to hold, use, or enjoy it, or to convey or donate it, as he may please.

A legally enforceable claim of one person against another, that the other shall do a given act, or shall not do a given act. Restatement of the Law of Property, § 1.

That which one person ought to have or receive from another, it being withheld from him, or not in his possession. In this sense "right" has the force of "claim," and is properly expressed by the Latin "*jus*."

See also Conditional right; Correlative rights; Droit; Jus; Natural rights; Power; Recht; Vested rights.

General Classification

Rights may be described as *perfect* or *imperfect*, according as their action or scope is clear, settled, and determinate, or is vague and unfixed.

Rights are also either *in personam* or *in rem*. A right *in personam* is one which imposes an obligation on a definite person. A right *in rem* is one which imposes an obligation on persons generally; i.e., either on all the world or on all the world except certain determinate persons. Thus, if I am entitled to exclude all persons from a given piece of land, I have a right *in rem* in respect of that land; and, if there are one or more persons, A., B., and C., whom I am not entitled to exclude from it, my right is still a right *in rem*.

Rights may also be described as either *primary* or *secondary*. *Primary* rights are those which can be created without reference to rights already existing. *Secondary* rights can only arise for the purpose of protecting or enforcing primary rights. They are either preventive (protective) or remedial (reparative).

Preventive or *protective secondary* rights exist in order to prevent the infringement or loss of primary rights. They are judicial when they require the assistance of a court of law for their enforcement, and extrajudicial when they are capable of being exercised by the party himself. *Remedial* or *reparative secondary* rights are also either judicial or extrajudicial. They may further be divided into (1) rights of restitution or restoration, which entitle the person

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RIGHT

injured to be replaced in his original position; (2) rights of enforcement, which entitle the person injured to the performance of an act by the person bound; and (3) rights of satisfaction or compensation.

With respect to the ownership of external objects of property, rights may be classed as *absolute* and *qualified*. An absolute right gives to the person in whom it inheres the uncontrolled dominion over the object at all times and for all purposes. A qualified right gives the possessor a right to the object for certain purposes or under certain circumstances only. Such is the right of a bailee to recover the article bailed when it has been unlawfully taken from him by a stranger.

Rights are also either *legal* or *equitable*. The former is the case where the person seeking to enforce the right for his own benefit has the legal title and a remedy at law. The latter are such as are enforceable only in equity; as, at the suit of *cestui que trust*. Procedurally, under Rules of Civil Procedure, both legal and equitable rights are enforced in the same court under a single cause of action.

Constitutional Rights

There is also a classification of rights, with respect to the constitution of civil society. Thus, according to Blackstone, "the rights of persons, considered in their natural capacities, are of two sorts,—*absolute* and *relative*; absolute, which are such as appertain and belong to particular men, merely as individuals or single persons; relative, which are incident to them as members of society, and standing in various relations to each other." 1 Bl.Comm. 123.

→ Rights are also classified in constitutional law as natural, civil, and political, to which there is sometimes added the class of "personal rights."

Natural rights are those which grow out of the nature of man and depend upon personality, as distinguished from such as are created by law and depend upon civilized society; or they are those which are plainly assured by natural law; or those which, by fair deduction from the present physical, moral, social, and religious characteristics of man, he must be invested with, and which he ought to have realized for him in a jural society, in order to fulfill the ends to which his nature calls him. Such are the rights of life, liberty, privacy, and good reputation.

Civil rights are such as belong to every citizen of the state or country, or, in a wider sense, to all its inhabitants, and are not connected with the organization or administration of government. They include the rights of property, marriage, equal protection of the laws, freedom of contract, trial by jury, etc. Or, as otherwise defined, civil rights are rights appertaining to a person by virtue of his citizenship in a state or community. Such term may also refer, in its very general sense, to rights capable of being enforced or redressed in a civil action. Also, a term applied to certain rights secured to citizens of the United States by the Thirteenth and Fourteenth amendments to the Constitution, and by various acts of Congress (e.g. Civil Rights Acts) made in pursuance thereof. See **Bill of Rights; Civil liberties; Civil Rights Acts.**

Political rights consist in the power to participate, directly or indirectly, in the establishment or adminis-

tration of government, such as the right of citizenship, that of suffrage, the right to hold public office, and the right of petition.

Personal rights is a term of rather vague import, but generally it may be said to mean the right of personal security, comprising those of life, limb, body, health, reputation, and the right of personal liberty.

Other Compound and Descriptive Terms

Bill of rights. See that title.

Common right. See **Common.**

Declaration of rights. See **Bill of Rights.**

Exclusive right. See that title.

Marital rights. See **Marital.**

Mere right. In the law of real estate, the mere right of property in land; the right of a proprietor, but without possession or even the right of possession; the abstract right of property.

Patent right. See **Patent.**

Petition of right. See **Petition.**

Private rights. Those rights which appertain to a particular individual or individuals, and relate either to the person, or to personal or real property.

Right heir. See **Heir.**

Riparian rights. See **Riparian.**

Stock rights. See **Stock.**

Vested rights. See **Vested.**

Right and wrong test. Under this test of criminal responsibility, if, at the time of committing an act, the party was laboring under such a defect of reason from disease of the mind as not to know the nature and quality thereof, that he did not know that he was doing what was wrong, he should not be held criminally responsible for his act. *State v. Wallace*, 170 Or. 60, 131 P.2d 222, 229, 230. See **Insanity** with respect to other criminal responsibility defenses. See also **M'Naghten Rule.**

Right in action. This is a phrase frequently used in place of *chose in action*, and having an identical meaning.

Right in court. See **Rectus in curia.**

Right of action. The right to bring suit; a legal right to maintain an action, growing out of a given transaction or state of facts and based thereon. Right of action pertains to remedy and relief through judicial procedure. *Landry v. Acme Flour Mills Co.*, 202 Okl. 170, 211 P.2d 512, 515. Right of injured one to secure redress for violation of his rights. *Fields v. Synthetic Ropes, Inc.*, 9 Storey 135, 215 A.2d 427, 432. A right presently to enforce a cause of action by suit. *McMahon v. U. S.*, C.A.Pa., 186 F.2d 227, 230. See also **Cause of action.**

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COMPARATIVE NEGLIGENCE

quences of defendant's negligence after it was or should have been apparent.

Comparative rectitude. Doctrine wherein relief by divorce is granted to the party least in fault when both have shown grounds for divorce. *Weber v. Weber*, 256 Ark. 549, 508 S.W.2d 725, 729.

Comparison of handwriting. A comparison by the juxtaposition of two writings, in order, by such comparison, to ascertain whether both were written by the same person.

A method of proof resorted to where the genuineness of a written document is disputed; it consists in comparing the handwriting of the disputed paper with that of another instrument which is proved or admitted to be in the writing of the party sought to be charged, in order to infer, from their identity or similarity in this respect, that they are the work of the same hand. Expert testimony with respect to such proof is permitted by Fed.Evid. Rule 702, and non-expert testimony is governed by Rule 901.

Compascuum /kəmpæskyuwəm/. Belonging to commonage *Jus compascuum*, the right of common pasture.

Compassing. Imagining or contriving, or plotting. In English law, "compassing the king's death" is treason. 4 Bl.Comm. 76.

Compaternitas /kəmpətərnətəs/. In the canon law, a kind of spiritual relationship contracted by baptism.

Compaternity. Spiritual affinity, contracted by sponsorship in baptism.

Compatibility. As applied to offices, such relation and consistency between the duties of two offices that they may be held and filled by one person. Harmonious relationship as between husband and wife.

Compel. To urge forcefully; under extreme pressure. Word "compel" as used in constitutional right to be free from being compelled in a criminal case to be a witness against one's self means to be subjected to some coercion, fear, terror, inducement, trickery or threat—either physically or psychologically, blatantly or subtly; the hallmark of compulsion is the presence of some operative force producing an involuntary response. *U. S. v. Escandar*, C.A.Fla., 465 F.2d 438, 442.

Compellativus /kəmpələtáyvəs/. An adversary or accuser.

Compelling state interest. Term used to uphold state action in the face of attack grounded on Equal Protection or First Amendment rights because of serious need for such state action. Also employed to justify state action under police power of state. *Printing Industries of Gulf Coast v. Hill* (D.C.Tex.).

Compensable death. Within Work Acts is one which results to employment accident arising out of and in course of employment.

Compensable injury. A "compensable injury" under the Worker's Compensation Act is one caused by an accident arising out of and in the course of the employment. *McCauley v. Harris*, 164 Neb. 216, 82 N.W.2d 30, 32; *Seymour v. Journal-Star Printing Co.*, 174 Neb. 150, 116 N.W.2d 297, 299.

Compensacion /kəmpensas(i)yówn/. In Spanish law, compensation; set-off. The extinction of a debt by another debt of equal dignity between persons who have mutual claims on each other.

Compensating balance. The balance a borrower from a bank is required by the bank to keep on deposit.

Compensating tax. See Use tax.

Compensatio /kəmpənséysh(i)yow/. Lat. In the civil law, compensation, or set-off. A proceeding resembling a set-off in the common law, being a claim on the part of the defendant to have an amount due to him from the plaintiff deducted from his demand. 3 Bl.Comm. 305.

Compensatio criminis /kəmpənséysh(i)yow krímənəs/. (Set-off of crime or guilt). The compensation or set-off of one crime against another; the plea or defense of recrimination in a suit for a divorce; that is, that the complainant is guilty of the same kind of offense with which the respondent is charged.

Compensation. Indemnification; payment of damages; making amends; making whole; giving an equivalent or substitute of equal value. That which is necessary to restore an injured party to his former position. Remuneration for services rendered, whether in salary, fees, or commissions. Consideration or price of a privilege purchased.

Equivalent in money for a loss sustained; equivalent given for property taken or for an injury done to another; giving back an equivalent in either money which is but the measure of value, or in actual value otherwise conferred; recompense in value; recompense or reward for some loss, injury, or service, especially when it is given by statute; remuneration for the injury directly and proximately caused by a breach of contract or duty; remuneration or satisfaction for injury or damage of every description. An act which a court orders to be done, or money which a court or other tribunal orders to be paid, by a person whose acts or omissions have caused loss or injury to another, in order that thereby the person damaged may receive equal value for his loss, or be made whole in respect of his injury. *Hughson Condensed Milk Co. v. State Board of Equalization*, 23 Cal.App.2d 281, 73 P.2d 290, 292. See also **Damages**.

See also Commission; Daily rate of pay; Deferred compensation; Fee; Salary; Unreasonable compensation; Wages.

For "Extra compensation" and "Fair and reasonable compensation", see these titles.

Eminent domain. Payment to owners of lands taken exercise of the power of eminent compensation.

Id worker's compensation. Pay-employed or injured worker or his

Unemployment period. Period fixed by unemployment or worker's compensation statutes during which unemployed or injured worker is to receive compensation.

Compensatory damages. See **Damages**.

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Corse-present /kórs prèzant/. In old English law, a mortuary, thus termed because, when a mortuary became due on the death of a man, the best or second-best beast was, according to custom, offered or presented to the priest, and carried with the corpse. In Wales a corse-present was due upon the death of a clergyman to the bishop of the diocese, till abolished by 12 Anne St. 2, c. 6. 2 Bl.Comm. 426.

Corsned /kórsnèd/. In Saxon law, the morsel of exeration. A species of ordeal in use among the Saxons, performed by eating a piece of bread over which the priest had pronounced a certain imprecation. If the accused ate it freely, he was pronounced innocent; but, if it stuck in his throat, it was considered as a proof of his guilt. 4 Bl.Comm. 345.

Cortes /kórtés/kortéz/. The name of the legislative assemblies, the parliament or congress, of Spain and Portugal.

Cortis /kórdəs/. A court or yard before a house.

Cortularium /kórchəlériyəm/, or **cortarium** /kortériyəm/. In old records, a yard adjoining a country farm.

Corvée /korvéy/. In French law, gratuitous labor exacted from the villages or communities, especially for repairing roads, constructing bridges.

Corvée seigneuriale /korvéy seynyèriyál/. Services due the lord of the manor.

Cosa juzgada /kówsa huwsgáða/. In Spanish law, a cause or matter adjudged (*res judicata*).

Cosas comunes /kówsas komúwne(y)s/. In Spanish law, a term corresponding to the *res communes* of the Roman law, and descriptive of such things as are open to the equal and common enjoyment of all persons and not to be reduced to private ownership, such as the air, the sea, and the water of running streams.

Coshering /kózberıŋ/. See **Coshering**.

Cosduna /kózduwnə/. In feudal law, a custom or tribute.

Cosen, cozen /kózən/. In old English law, to cheat.

Cosenage /kóz(ə)naj/. (Also spelled "Cosinage," "Cousinage.") In old English law, a writ that lay for the heir where the *tresail*, i.e., the father of the *besail*, or great-grandfather, was seised of lands in fee at his death, and a stranger entered upon the land and abated. 3 Bl.Comm. 186. Kindred; cousinship; relationship; affinity. 3 Bl.Comm. 186.

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Coshering /kósheriŋ/. In old English law, a feudal prerogative or custom for lords to lie and feast themselves at their tenants' houses.

Cosmopathic /kózməpəθək/. Open to the access of supernormal knowledge or emotion supposedly from a preternatural world; applied to methods of healing.

Cost. Expense; price. The sum or equivalent expended, paid or charged for something. Expenses awarded by court to prevailing party. See e.g. Fed.R.Civil P. 54(d). See also **Actual cost**; **Costs**; **Net cost**; **Rate**.

Cost accounting. That branch of accounting which deals with methods and systems of compiling and analyzing costs in selling and manufacturing. Classifying, summarizing, recording, reporting, and allocating current or predicted costs.

Cost basis. In accounting, the value placed on an asset in a financial statement in terms of its cost; used in determining capital gains or losses.

Cost bond. See **Costs**, *infra*.

Cost contract. See **Cost-plus contract**, *infra*.

Cost depletion. In accounting and taxation, depletion computed in oil production without reference to discovery or percentage depletion. *Magale v. U. S.*, 118 Ct.Cl. 183, 93 F.Supp. 1004.

Cost-plus contract. One which fixes the amount to be paid the contractor on a basis, generally, of the cost of the material and labor, plus an agreed percentage thereof as profits. Such contracts are used when costs of production or construction are unknown or difficult to ascertain in advance.

Costs of collection. Strictly, expenses involved in endeavoring to make collection, as of a promissory note; but as used in or with reference to such notes, the phrase is synonymous with attorney's fees. There is commonly a provision to this effect in such notes. It does not refer to costs of suit, which are recoverable by law.

Imputed cost. A value expressing cost which is derived from or based on factors other than actual cost records; estimated costs.

Cost and freight (C.A.F.). Quoted sales price includes cost of goods and freight but not insurance or other special charges.

Co-stipulator. A joint promisor.

Cost of living clause. A provision, commonly in labor agreements, and also in certain pension or retirement programs, giving an automatic wage or benefit increase tied in some way to cost-of-living rises in the economy. Cost of living is usually measured by the Consumer Price Index (CPI) (*q.v.*).

Costs. A pecuniary allowance, made to the successful party (and recoverable from the losing party), for his expenses in prosecuting or defending an action or a distinct proceeding within an action. Fed.R.Civil P. 54(d); Fed.R.App.P. 39. Generally, "costs" do not include attorney fees unless such fees are by a statute denominated costs or are by statute allowed to be recovered as costs in the case. Fees and charges required by law to be paid to the courts or some of their officers, the amount of which is fixed by statute or court rule; e.g. filing and service fees. See also **Closing costs**; **Fee**; **Security for costs**; **Service charge**.

Bill of costs. A certified, itemized statement of the amount of costs in an action or suit.

náysay tówda líjjiy pərsépəktə, yúwnə ələkwə partíkyələ íyjes prəpózədə, jùwdakériy, vèl rəspòndíríy/. It is improper, without looking at the whole of a law, to give judgment or advice, upon a view of any one clause of it.

In civile est, nisi tota sententia inspecta, de aliqua parte judicare /insivəliý èst, náysay tówdə sənənsəh(iy)ə inspékta, diy ələkwə párdiy jùwdakériy/. It is irregular, or legally improper, to pass an opinion upon any part of a sentence, without examining the whole.

In civilibus ministerium excusat, in criminalibus non item /in səviləbəs minəstíríyəm əkskyúwzət, in krimənəyləbəs nòn áydəm/. In civil matters agency (or service) excuses, but not so in criminal matters.

Incivism /insəvizəm/. Unfriendliness to the state or government of which one is a citizen.

In claris non est locus conjecturis /in klérəs nòn èst lówkəs kònjəkt(y)úras/. In things obvious there is no room for conjecture.

Inclusa /inklòzə/. In old records, a home close or inclosure near the house.

Inclose. To surround; to encompass; to bound; fence, or hem in, on all sides. To shut up.

Inclosed lands. Lands which are actually inclosed and surrounded with fences.

Inclosure. In old English law, act of freeing land from rights of common, commonable rights, and generally all rights which obstruct cultivation and the productive employment of labor on the soil.

Land surrounded by some visible obstruction. An artificial fence around one's estate. See **Close**.

Include. (Lat. *Includere*, to shut in, keep within.) To confine within, hold as in an inclosure, take in, attain, shut up, contain, inclose, comprise, comprehend, embrace, involve. Term may, according to context, express an enlargement and have the meaning of *and* or *in addition to*, or merely specify a particular thing already included within general words theretofore used. "Including" within statute is interpreted as a word of enlargement or of illustrative application as well as a word of limitation. *Premier Products Co. v. Cameron*, 240 Or. 123, 400 P.2d 227, 228.

Included offense. In criminal law, a crime which is part of another crime; e.g. included in every murder is assault and battery. One which is established by proof of the same or less than all of the facts, or a less c...

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541, 420 S.W.2d 201, 209.

Inclusio unius est exclusio alterius /inklúwzh(iy)ow yənáyəs èst əksklúwzh(iy)ow óltíríyəs/. The inclusion of one is the exclusion of another. The certain designation of one person is an absolute exclusion of all others. *Burgin v. Forbes*, 293 Ky. 456, 169 S.W.2d 321, 325.

Inclusive. Embraced; comprehended; comprehending the stated limits or extremes. Opposed to "exclusive."

Inclusive survey. In land law, one which includes within its boundaries prior claims excepted from the computation of the area within such boundaries and excepted in the grant.

Incola. Lat. In the civil law, an inhabitant; a dweller or resident. Properly, one who has transferred his domicile to any country.

Incolas domicilium facit /ínkələs dòməsíl(i)yəm féysət/. Residence creates domicile.

Income. The return in money from one's business, labor, or capital invested; gains, profits, salary, wages, etc.

The gain derived from capital, from labor or effort, or both combined, including profit or gain through sale or conversion of capital. Income is not a gain accruing to capital or a growth in the value of the investment, but is a gain, a profit, something of exchangeable value, proceeding from the property, severed from the capital, however invested or employed, and coming in, being derived, that is, received or drawn by the recipient for his separate use, benefit, and disposal. *Goodrich v. Edwards*, 255 U.S. 527, 41 S.Ct. 390, 65 L.Ed. 758. The true increase in amount of wealth which comes to a person during a stated period of time.

See also Allocation of income; Blocked income; Clear reflection of income; Constructive receipt of income; Deferred income; Earned income; Earnings; Fixed income; Gross income; Net income; Net operating income; Personal income; Profit; Split income; Taxable income; Unearned income.

Accrued income. Income earned during a certain accounting period but not paid or received.

Deferred income. Income received before it is earned, such as rents received in one accounting period for use of the premises in the following period.

Earned income. Income derived from one's own labor or through active participation in a business as distinguished from income from, for example, dividends or investments. See also **Earnings**.

Fixed income. That type of income which is stable over a considerable period of time such as a pension or annuity.

Gross income. The total income of a business or individual before deductions; including salary, commissions, royalties, gains from dealings in property, interest, dividends, etc. I.R.C. § 61.

Imputed income. Value assigned to property or income, sometimes artificially for tax purposes, as in the case of a non-interest bearing or low interest bearing loan between persons or organizations related to each other. I.R.C. § 483. The value of property enjoyed by the taxpayer as part of his salary; e.g. use of home provided by employer to employee.

Net (business) income. Net profit of business arrived at by deducting operating expenses and taxes from gross profit.

Nonoperating income. Income of a business from investments and not from operations.

Exceptio temporis /əksépsh(iy)ow témpərəs/. An exception or plea analogous to that of the statute of limitations in our law; viz., that the time prescribed by law for bringing such actions has expired.

Exceptis excipiendis /əkséptas əksipiéndəs/. Lat. With all necessary exceptions.

Exceptor. In old English law, a party who entered an exception or plea.

Except right of way. Recitals "less the right of way" and "except right of way" in granting clause of deed have well-defined accepted certain and unambiguous meaning by which grantor conveys entire interest in servient estate and at same time expressly recognizes and acknowledges dominant estate. *Jennings v. Amerada Petroleum Corporation*, 179 Okl. 561, 66 P.2d 1069, 1071.

Excerpta /əksérptə/ or **excerpts** /éksérpts/. Extracts.

Ex certa scientia /èks sárdə sayénsh(iy)ə/. Of certain or sure knowledge. These words were anciently used in patents, and imported full knowledge of the subject-matter on the part of the king.

Excess. Act or amount which goes beyond that which is usual, proper, or necessary. Degree or amount by which one thing or number exceeds another. See also **Excessive**.

Excess clause. In insurance policy, such clause provides for insurer's liability up to limits of policy covering excess loss only after exhaustion of other valid insurance. *Underground Const. Co., Inc. v. Pacific Indem. Co.*, 49 Cal.App.3d 62, 122 Cal.Rptr. 330, 333.

Excess condemnation. Taking more property under condemnation than is actually needed. See **Condemnation**.

Excess insurance. That amount of insurance coverage which is beyond the dollar amount of coverage of one carrier but which is required to pay a particular loss as distinguished from "other insurance" which may be used to pay or contribute to the loss. See also **Excess policy**.

Excess jurisdiction. Such exists where a court, having jurisdiction of persons and subject matter of the case before it, exceeds its power in trial of such case by dealing with matters about which it is without power or authority to act; and error in synonymous with ruling in *ex Robrock v. Robrock*, 105 Ohio 234, 239.

Excessive. Greater than what is general term for what goes beyond amount. *Austin St. Ry. Co. v. Oldham*, Tex.Civ.App., 109 S.W.2d 235, 237. Tending to or marked by excess, which is the quality or state of exceeding the proper or reasonable limit or measure.

Excessive assessment. A tax assessment grossly disproportionate as compared with other assessments. *Southern California Telephone Co. v. Los Angeles County*, 45 Cal.App.2d 111, 113 P.2d 773, 776.

Excessive bail. The 8th Amendment to the U.S. Constitution prohibits excessive bail. Bail in a sum more than will be reasonably sufficient to prevent evasion of the law by flight or concealment; bail which is per se unreasonably great and clearly disproportionate to the offense involved, or shown to be so by the special circumstances of the particular case. *Blunt v. U. S.*, 322 A.2d 579. See also **Bail Reform Act**, 18 U.S.C.A. § 3146.

Excessive damages. See **Damages**.

Excessive drunkenness. Drunkenness is excessive where a party is so far deprived of his reason and understanding as to render him incapable of understanding character and consequences of his act. See **Driving while intoxicated**.

Excessive fine or penalty. The 8th Amendment to the U.S. Constitution prohibits excessive fines. A state may not constitutionally imprison a person for inability to pay a fine if he would not have been imprisoned on a showing of ability to pay the fine and on payment of the fine. *Tate v. Short*, 401 U.S. 395, 91 S.Ct. 668, 28 L.Ed.2d 130. Any fine or penalty which seriously impairs the capacity of gaining a business livelihood. See **Corporal punishment**; **Excessive punishment**; **Punishment**.

Excessive force. That amount of force which is beyond the need and circumstances of the particular event or which is not justified in the light of all the circumstances as in the case of deadly force to protect property as contrasted with protecting life. See **Self defense**.

Excessively. To excess.

Excessively intoxicated. Exists where one is so intoxicated as to be so far deprived of his reason and understanding as to render him incapable of knowing the character and consequences of his act. See **Driving while intoxicated**.

Excessive punishment. Any sentence or fine which does not commensurate with the gravity of the offense or the criminal record of the defendant. Excessive length of a sentence may be cruel and unusual punishment within the meaning of the prohibition in the 8th Amendment, U.S. Constitution. *Weems v. U. S.*, 217 U.S. 349, 30 S.Ct. 544, 54 L.Ed. 793. See **Corporal punishment**; **Excessive fine or penalty**; **Punishment**.

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Automobile's speed is "excessive" is car beyond driver's control.

A verdict which is result of passion *ib v. Murray*, 26 Cal.App.2d 153, 79 The test of whether a verdict is whether the amount thereof is such as

to shock the conscience of the court. *Scheidegger v. Thompson*, Mo.App., 174 S.W.2d 216, 222. See **Remittitur**.

Excessivum in jure reprobatur. **Excessus in re quallbet jure reprobatur communi** /èksesáyvəm in júriy rəprəbéydər. eksésəs in riy kwéyləbat júriy rəprəbéydər kəmyúwhay/. Excess in law is reprehended. Excess in anything is reprehended at common law.

PROFESSION

learning are extended to other departments of affairs, other vocations also receive the name, which implies professed attainments in special knowledge as distinguished from mere skill.

Act of professing; a public declaration respecting something. Profession of faith in a religion.

Professional association. Any group of professional people organized to practice their profession together, though not necessarily in corporate or partnership form. A group of professionals organized for education, social activity, lobbying and the like; e.g. bar or medical association. See also Corporation (*Professional*).

Professional corporation. See Corporation.

Professional responsibility. See Canon; Code of Professional Responsibility.

Proffer. To offer or tender, as, the production of a document and offer of the same in evidence.

Proffered evidence. See Proffer.

Proficua /prɒfɪkyuə/. L. Lat. In old English law, profits; especially the "issues and profits" of an estate in land.

Profit. Most commonly, the gross proceeds of a business transaction less the costs of the transaction; i.e. net proceeds. Excess of revenues over expenses for a transaction; sometimes used synonymously with net income for the period. Gain realized from business or investment over and above expenditures.

Profit means accession of good, valuable results, useful consequences, avail, gain, as an office of profit, excess of returns over expenditures or excess of income over expenditure. U. S. v. Mintzes, D.C.Md., 304 F.Supp. 1305, 1312.

The benefit, advantage, or pecuniary gain accruing to the owner or occupant of land from its actual use; as in the familiar phrase "rents, issues and profits," or in the expression "mesne profits."

A division sometimes made of incorporeal hereditaments. Profits are divided into *profits à prendre* and *profits à rendre* (q.v.).

Community of profits. See that title.

Gross profit. The difference between sales and cost of goods sold, but excluding expenses and taxes. See also Gross income.

Mesne profits. Intermediate profits; that is, profits which have been accruing between two given periods. Value of use or occupation of land during time it was held by one in wrongful possession and is commonly measured in terms of rents and profits. Thus, if a party has recovered the land its ejectment, he frequently brings an action for mesne profits. The purpose of recovering the profits accruing or arising out of the land when his title to the possession accrues and the time of his recovery in time, and such an action is thence termed an "action for mesne profits."

Net profit. The amount arrived at by deducting from total sales the cost of goods sold and all expenses. See also Net income; Net profits.

Operating profit. The profit arrived at by deducting from sales all expenses attributable to operations but excluding expenses and income related to non-operating activities such as interest payments.

Paper profit. Profit not yet realized as derived from an appreciation in value of an asset not yet sold.

Profit and loss. The gain or loss arising from goods bought or sold, or from carrying on any other business, the former of which, in bookkeeping, is placed on the creditor's side; the latter on the debtor's side. See also Profit and loss account; Profit and loss statement.

Profit à prendre /prɒfɪt à prɒndər/. Called also "right of common." A right exercised by one man in the soil of another, accompanied with participation in the profits of the soil thereof. A right to take a part of the soil or produce of the land. A right to take from the soil, such as by logging, mining, drilling, etc. The taking (profit) is the distinguishing characteristic from an easement.

Right of "profit à prendre" is a right to make some use of the soil of another, such as a right to mine metals, and it carries with it the right of entry and the right to remove and take from the land the designated products or profit and also includes right to use such of the surface as is necessary and convenient for exercise of the profit. *Costa Mesa Union School Dist. of Orange County v. Security First Nat. Bank*, 254 Cal.App.2d 4, 62 Cal.Rptr. 113, 118.

Profit à rendre /prɒfɪt à rɒndər/. Such as is received at the hands of and rendered by another. The term comprehends rents and services.

Surplus profits. Within the meaning of a statute prohibiting the declaration of corporate dividends other than from such profits, means the excess of receipts over expenditures, or net earnings or receipts, or gross receipts, less expenses of operation. Of a corporation, the difference over and above the capital stock, debts, and liabilities.

Undistributed profits. Profits which have not been distributed to the stockholders in the form of dividends though earned by the corporation. See also Undistributed profits tax.

Undivided profits. See that title.

Profit and loss account. A transfer account of all income and expense accounts which is closed into the surplus account of a corporation or the capital account of a partnership.

Profit and loss statement. A statement showing the income and expenses of a business over a stated time; the difference being the profit or loss for the period.

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g advantage of unusual or exceptions to make excessive profits; e.g. for essential goods at inflated prices in emergency or war.

Profit margin. Sales minus all expenses as a single amount. Frequently used to mean the ratio of sales minus all operating expenses divided by sales.

Profit-sharing plan. A plan established and maintained by an employer to provide for the participation in his

G

GAAP. Generally accepted accounting principles.

GAAS. Generally accepted auditing standards.

Gabel /gəbél/. An excise; a tax on movables; a rent, custom, or service. A tax, impost, or excise duty, especially in continental Europe. Formerly, in France, such term referred specifically to the tax on salt, but also applied to taxes on other industrial products.

Land gabel. See **Land gabel**.

Gabella /gəbēlə/. The Law Latin form of "gabel," (q.v.). Also, in Teutonic and early English history, the peasantry constituting a village or hamlet; the holdings of such a group of freemen and serfs, or of either. The original significance of the word seems to be in its indication of a small rent-paying community, the rents being rendered in kind or in labor.

Gablatores /gəblətóriyz/. Persons who paid *gabel*, rent, or tribute.

Gablum /gəbləm/. A rent; a tax.

Gabulus denariorum /gəbyələs dənəriyórem/. Rent paid in money.

Gadsden Purchase. A term commonly applied to the territory acquired by the United States from Mexico by treaty of December 30, 1853, known as the Gadsden Treaty.

Gafol /gəvəl/. The same word as "gabel" or "gavel." Rent; tax; interest of money.

Gage, v. In old English law, to pawn or pledge; to give as security for a payment or performance; to wage or wager.

Gage, n. In old English law, a pawn or pledge; something deposited as security for some act or the payment of money on failure or non-performance.

A mortgage is a *dead-gage* on ever profit it yields, it redeems whole amount secured is paid.

In French law, the contract of the article pawned.

Gager de deliverance /géyjer də dəliverən(t)s/. In old English law, when he who has distrained, being sued, has not delivered the cattle distrained, then he shall not only avow the distress, but *gager deliverance*, i.e., put in surety or pledge that he will deliver them.

Gager del ley /géyjer dèl léy/. Wager of law (q.v.).

Gag order. An unruly defendant at trial may constitutionally be bound and gagged to prevent further interruptions in the trial. *Illinois v. Allen*, 397 U.S. 337, 90 S.Ct. 1057, 25 L.Ed.2d 353. Term may also refer to an order by the court, in a trial with a great deal of notoriety, directed to attorneys and witnesses, to not discuss the case with reporters—such order being felt necessary to assure the defendant of a fair trial. Term may also refer to orders of the court directed to reporters to not report court proceedings, or certain aspects thereof. Such latter type orders have been struck down by the Supreme Court as being an unconstitutional obstruction of freedom of the press. See *Nebraska Press Ass'n. v. Stuart*, 427 U.S. 539, 96 S.Ct. 2791.

Gain. Profits; winnings; increment of value. Difference between receipts and expenditures; pecuniary gain. Difference between cost and sale price. Appreciation in value or worth of securities or property.

Excess of revenues over expenses from a specific transaction. Frequently used in the context of describing a transaction not part of a firm's typical, day-to-day operations.

"Gain derived from capital" is a gain, profit, or something of exchangeable value proceeding from the property, severed from the capital however invested, and received or drawn by claimant for his separate use, benefit, and disposal. *Commissioner of Internal Revenue v. Simmons Gin Co.*, C.C.A.10, 43 F.2d 327, 328.

See also *Acquire*; *Acquisition*; *Capital (Capital gains)*; *Income*; *Profit*; *Return*.

Gainage. At common law, the gain or profit of tilled or planted land, raised by cultivating it; and the draught, plow, and furniture for carrying on the work of the baser kind of *sokemen* or *villeins*.

At common law, tillage, or the profit arising from the beasts employed therein.

Gainage is a trade, advantageous, or lucrative.

Gainage is a trade, advantageous, or lucrative.

Gainage is a trade, advantageous, or lucrative. In general, any calling, occupation, profession or work which one may profitably pursue. Within disability clause of policy, term means ordinary employment of particular insured, or such other employment, if any, as insured may fairly be expected to follow. *Mutual Life Ins. Co. of New York v. Barron*, 198 Ga. 1, 30 S.E.2d 879, 882.

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Slanderous per se. Slanderous in itself; such words as are deemed slanderous without proof of special damages. Generally an utterance is deemed "slanderous per se" when publication (a) charges the commission of a crime; (b) imputes some offensive or loathsome disease which would tend to deprive a person of society; (c) charges a woman is not chaste; or (d) tends to injure a party in his trade, business, office or occupation. *Munaf v. Helfand*, D.C.N.Y., 140 F.Supp. 234, 238. See Restatement, Second, Torts, § 570.

Slate. List of candidates for public office or for positions on board of directors.

Slave. A person who is wholly subject to the will of another; one who has no freedom of action, but whose person and services are wholly under the control of another. One who is under the power of a master, and who belongs to him; so that the master may sell and dispose of his person, of his industry, and of his labor, without his being able to do anything, have anything, or acquire anything, but what must belong to his master. The 13th Amendment abolished slavery.

Slavery. The condition of a slave; that civil relation in which one man has absolute power over the life, fortune, and liberty of another. The 13th Amendment abolished slavery.

Slave-trade. The traffic in slaves, or the buying and selling of slaves for profit.

Slay. This word, in an indictment, adds nothing to the force and effect of the word "kill," when used with reference to the taking of human life. It is particularly applicable to the taking of human life in battle; and, when it is not used in this sense, it is synonymous with "kill."

Sleeping or silent partner. See *Silent partner*.

Slight. A word of indeterminate meaning, variously defined as inconsiderable; unimportant; trifle; remote; or 344, 356, 30 :

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Slip law. and proper format after its passage.

Slip law print. An annotated pamphlet print (called a slip law print) of each public and private law enacted by Congress is issued shortly after being signed by the President. Slip laws are cumulated into the U.S. Statutes at Large. See *Statutes (Statutes at large)*.

Slip opinion. An individual court decision published separately soon after it is rendered.

Slot machine. Within statute prohibiting operation of slot machines or similar gambling device, an apparatus by which a person depositing money therein may, by chance, get directly or indirectly money or articles of value worth either more or less than the money deposited. *Elder v. Camp*, 193 Ga. 320, 18 S.E.2d 622, 624.

Slough. An arm of a river, flowing between islands and the main-land, and separating the islands from one another. Sloughs have not the breadth of the main river, nor does the main body of water of the stream flow through them.

Slowdown. An organized effort by workers in a plant by which production is slowed to bring pressure on the employer for better terms and conditions of working.

Sluiceway. An artificial channel into which water is let by a sluice. Specifically, a trench constructed over the bed of a stream, so that logs or lumber can be floated down to a convenient place of delivery.

Slum. A squalid, run-down section of a city, town or village, ordinarily inhabited by the very poor and destitute classes; overcrowding is usually a prevailing characteristic.

Slush fund. Money collected or spent for corrupt purposes such as illegal lobbying or the like. *Boehm v. United States*, C.C.A.Mo., 123 F.2d 791, 812.

Small Business Administration. The fundamental purposes of the Small Business Administration (SBA) are to: aid, counsel, assist, and protect the interests of small business; insure that small business concerns receive a fair proportion of Government purchases, contracts, and subcontracts, as well as of the sales of Government property; make loans to small business concerns, State and local development companies, and the victims of floods or other catastrophes, or of certain types of economic injury; license, regulate, and make loans to small business investment companies; improve the management skills of small business owners, potential owners, and managers; conduct studies of the economic environment; and guarantee leases entered into by small business concerns as well as surety bonds issued to them.

Small business corporation. A corporation which satisfies the definition of I.R.C. § 1371(a), § 1244(c)(2) or both. Satisfaction of I.R.C. § 1371(a) permits a Subchapter S election, while satisfaction of § 1244 enables the shareholders of the corporation to claim an ordinary loss on the worthlessness of the stock.

Small Business Investment Act. Federal legislation enacted in 1958 under which investment companies may be organized for supplying long term equity capital to small businesses.

Small Claims Court. A special court (sometimes also called "Conciliation Court") which provides expeditious, informal, and inexpensive adjudication of small claims. Jurisdiction of such courts is usually limited to collection of small debts and accounts. Proceedings are very informal with parties normally representing themselves. These courts are often divisions or departments of courts of general jurisdiction.

Small estate probate. See *Estate*.

Small loan acts. Statutes in effect in nearly all the States fixing the maximum legal rate of interest and other terms on short-term loans by banks and finance companies.

Servitium scuti /sərvɪʃ(ɪ)əm sk(y)úwday/. Service of the shield; that is, knight-service.

Servitium socæ /sərvɪʃ(ɪ)əm sówsɪy/. Service of the plow; that is, socage.

Servitors of bills /sərvədərz əv bílz/. In old English practice, servants or messengers of the marshal of the king's bench, sent out with bills or writs to summon persons to that court. Thereafter commonly called "tipstaves."

Servitude. The state of a person who is subjected, voluntarily or otherwise, to another person as his servant. A charge or burden resting upon one estate for the benefit or advantage of another; a species of incorporeal right derived from the civil law (see Servitus) and closely corresponding to the "easement" of the common-law, except that "servitude" rather has relation to the burden or the estate burdened, while "easement" refers to the benefit or advantage or the estate to which it accrues.

Classification

All servitudes which affect lands may be divided into two kinds,—*personal* and *real*. Personal servitudes are those attached to the person for whose benefit they are established, and terminate with his life. This kind of servitude is of three sorts,—usufruct, use, and habitation. Real servitudes, which are also called "predial" or "landed" servitudes, are those which the owner of an estate enjoys on a neighboring estate for the benefit of his own estate. They are called "predial" or "landed" servitudes because, being established for the benefit of an estate, they are rather due to the estate than to the owner personally. *Frost-Johnson Lumber Co. v. Salling's Heirs*, 150 La. 756, 91 So. 207, 245; *Tide-Water Pipe Co. v. Bell*, 280 Pa. 104, 124 A. 351, 354.

Real servitudes are divided, in the civil law, into *rural* and *urban* servitudes. Rural servitudes are such as are established for the benefit of a landed estate; such, for example, as a right of way over the servient tenement, or of access to a spring, a coal-mine, a sand-pit, or a wood that is upon it. Urban servitudes are such as are established for the benefit of one building over another. (But the buildings need not be in the city, as they imply.) They are such as the right of support, or of view, sewer, or the like.

Servitudes are also classed as *positive* and *negative*. A positive servitude is one which obliges the owner of the servient estate to permit or suffer something to be done on his property by another. A negative servitude is one which does not bind the servient proprietor to permit something to be done upon his property by another, but merely restrains him from making a certain use of his property which would impair the easement enjoyed by the dominant tenement. *Rowe v. Nally*, 81 Md. 367, 32 A. 198.

Involuntary servitude. See that title.

Servitus /sərvədəs/. Lat. In the civil law, slavery; bondage; the state of service. An institution of the conventional law of nations, by which one person is subjected to the dominion of another, contrary to natural right.

Also a service or servitude; an easement.

Servitus actus /sərvədəs æktəs/. The servitude or right of walking, riding, or driving over another's ground. A species of right of way.

Servitus altius non tollendi /sərvədəs ælsh(ɪ)əs nɒn tolənday/. The servitude of not building higher. A right attached to a house, by which its proprietor can prevent his neighbor from building his own house higher.

Servitus aquæ ducendæ /sərvədəs ækwɪy d(y)uwséndɪy/. The servitude of leading water; the right of leading water to one's own premises through another's land.

Servitus aquæ educendæ /sərvədəs ækwɪy ɪd(y)uwséndɪy/. The servitude of leading off water; the right of leading off the water from one's own onto another's ground.

Servitus aquæ hauriendæ /sərvədəs ækwɪy hòhriyéndɪy/. The servitude or right of draining water from another's spring or well.

Servitus fumi immittendi /sərvədəs fyúwmay iməténday/. The servitude or right of leading off smoke or vapor through the chimney or over the ground of one's neighbor.

Servitus itineris /sərvədəs aytínərəs/. The servitude or privilege of walking, riding, and being carried over another's ground. A species of right of way.

Servitus luminum /sərvədəs l(y)úwmənəm/. The servitude of lights; the right of making or having windows or other openings in a wall belonging to another, or in a common wall, in order to obtain light for one's building.

Servitus ne luminibus officiatur /sərvədəs nɪy l(y)umínəbəs əfɪʃɪyéydər/. A servitude not to hinder lights; the right of having one's lights or windows unobstructed or darkened by a neighbor's building, etc.

Servitus ne prospectus offendatur /sərvədəs nɪy prɒspéktəs ɒfendéydər/. A servitude not to obstruct one's prospect, i.e., not to intercept the view from one's house.

Servitus oneris ferendi /sərvədəs ównərəs fərənday/. The servitude of bearing weight; the right to let one's building rest upon the building, wall, or pillars of another's building.

Servitus pascendi /sərvədəs pəsénday/. The servitude of pasturing; the right of pasturing one's cattle on another's ground; otherwise called "*jus pascendi*."

Servitus pecoris ad aquam adpulsam /sərvədəs pékərəs æd ækwəm ædpólsəm/. A right of driving one's cattle on a neighbor's land to water.

Servitus prædii rustici /sərvədəs prɪydiyay rástəsay/. The servitude of a rural or country estate; a rural

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S *ærbéynay*/. ; an urban A prædial estate upon one estate for the benefit of another.

Servitus projiciendi /sərvədəs prɒjɪʃɪyénday/. The servitude of projecting; the right of building a projection from one's house in the open space belonging to one's neighbor.

Inviolate. Intact; not violated; free from substantial impairment. *Com. v. Almeida*, 362 Pa. 596, 68 A.2d 595.

In viridi observantia /in vīrəday ɔbzərvəʃnsh(iy)ə/. Present to the minds of men, and in full force and operation.

Invitation. In the law of negligence, and with reference to trespasses on realty, invitation is the act of one who solicits or incites others to enter upon, remain in, or make use of, his property or structures thereon, or who so arranges the property or the means of access to it or of transit over it as to induce the reasonable belief that he expects and intends that others shall come upon it or pass over it. Thus the proprietor of a store, theatre or amusement park "invites" the public to come upon his premises for such purposes as are connected with its intended use.

The differences in duties of care owed as between and among licensees, business guests and social guests have been eliminated in many jurisdictions so that today reasonable care is owed to all lawful visitors and this phrase includes all but trespassers. *Mounsey v. Ellard*, 363 Mass. 693, 297 N.E.2d 43.

An invitation may be *express*, when the owner or occupier of the land by words invites another to come upon it or make use of it or of something thereon; or it may be *implied* when such owner or occupier by acts or conduct leads another to believe that the land or something thereon was intended to be used as he uses them, and that such use is not only acquiesced in by the owner or occupier, but is in accordance with the intention or design for which the way or place or thing was adapted and prepared and allowed to be used.

See also **Attractive nuisance doctrine**; **Invitee**.

Invitation to bid. Type of advertisement used by one who desires bids to be submitted for a particular job; it usually contains sufficient specifications to permit an intelligent bid.

Invited error. Underlying basis for rule of "invited error" is that where one party offers inadmissible evidence, which is received, opponent may then offer similar facts whose only claim to admission is that they negative or explain or counterbalance prior inadmissible evidence, presumably upon the same fact, subject or issue. *Wynn v. Sundquist*, 259 Or. 125, 485 P.2d 1085, 1090. See also **Error**.

Invitee. A person is an "invitee" on land of another if

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(1) ... and, (2) his ... or with ... s to be ... uality of ... v. Mi-cha ... I. Dames laid down the rule that as to those who enter premises upon business which concerns the occupier, and upon his invitation express or implied, the latter is under an affirmative duty to protect them, not only against dangers of which he knows, but also against those which with reasonable care he might discover. The case has been accepted in all common law jurisdictions, and the invitee, or as he is sometimes called the business visitor, is placed upon a higher footing

than a licensee. The typical example, of course, is the customer in a store. There is however a conflict of decisions as to whether certain visitors are to be included in the definition of invitee. The minority view is that there must be some economic benefit to the occupier before his duty to the visitor attaches. The majority view holds however that the basis of liability is not any economic benefit to the occupier, but a representation to be implied when he encourages others to enter to further a purpose of his own, that reasonable care has been exercised to make the place safe for those who come for that purpose; e.g. persons attending free public lectures, persons using municipal parks, playgrounds, libraries and the like. The element of "invitation" however must exist.

See also **Licensee**; **Public invitee**.

Invito /inváydown/. Lat. Being unwilling. Against or without the assent or consent.

Invito beneficium non datur /inváydown bēnəfish(i)yəm nɔn dəyúə/. A benefit is not conferred on one who is unwilling to receive it; that is to say, no one can be compelled to accept a benefit.

In vocibus videndum non a quo sed ad quid sumatur /in vóvəsəbəs vədéndəm nɔn éy kwów sèd æd kwíd səméytər/. In discourses, it is to be considered not from what, but to what, it is advanced.

Invoice. A written account, or itemized statement of merchandise shipped or sent to a purchaser, consignee, factor, etc., with the quantity, value or prices and charges annexed, and may be as appropriate to a consignment or a memorandum shipment as it is to a sale. *Joseph B. Cooper & Son, Inc. v. Finlay Depts., Inc.*, 11 Misc.2d 382, 174 N.Y.S.2d 265, 269. Document showing details of a sale or purchase transaction. A list sent to a purchaser, factor, consignee, etc., containing the items, together with the prices and charges of merchandise sent or to be sent to him. A writing made on behalf of an importer, specifying the merchandise imported, and its true cost or value. See also **Consular invoice**.

Invoice book. A book in which invoices are copied.

Involuntary. Without will or power of choice; opposed to volition or desire. An involuntary act is that which is performed with constraint (*q.v.*) or with repugnance, or without the will to do it. An action is involuntary, then, which is performed under duress, force, or coercion.

As to involuntary Bankruptcy; Indebtedness; Non-suit; and Trust, see those titles.

Involuntary alienation. A loss of or parting with property by attachment, levy, sale for taxes or other debts. See also **Involuntary conveyance**.

Involuntary confession. Confession is "involuntary" if it is not the product of an essentially free and unrestrained choice of its maker or where maker's will is overborne at the time of the confession. *People v. Pickerele*, 32 Ill.App.3d 822, 336 N.E.2d 778, 780. Term refers to confessions that are extracted by any threats of violence, or obtained by direct or implied promises, or by exertion of improper influence. *Phillips v. State*, Okl.Cr., 330 P.2d 209, 214. See also **Interrogation**.

Involuntary conversion. The loss or destruction of property through theft, casualty, or condemnation. Any gain realized on an involuntary conversion can, at the taxpayer's election, be considered nonrecognizable for Federal income tax purposes if the owner reinvests the proceeds within a prescribed period of time in property that is similar or related in service or use. I.R.C. § 1033.

Involuntary conversion for federal income tax purposes must result from (1) destruction of property in whole or in part; or (2) theft; or (3) actual seizure; or (4) requisition or condemnation or threat of imminence of requisition or condemnation. *Hitke v. C. I. R.*, C.A.III., 296 F.2d 639, 643, 644.

Involuntary conveyance. A transfer of real property without the consent of the owner, such as in a divorce, in condemnation, etc. See also **Involuntary alienation**; **Sheriff's sale**.

Involuntary deposit. In the law of bailments, one made by the accidental leaving or placing of personal property in the possession of another, without negligence on the part of the owner, or, in cases of fire, shipwreck, inundation, riot, insurrection, or the like extraordinary emergencies, by the owner of personal property committing it out of necessity to the care of any person.

Involuntary discontinuance. A discontinuance is involuntary where, in consequence of technical omission, misleading, or the like, the suit is regarded as out of court, as where the parties undertake to refer a suit that is not referable, or omit to enter proper continuances.

Involuntary lien. A lien, such as a tax lien, judgment lien, etc., which attaches to property without the consent of the owner, rather than a mortgage lien, to which the owner agrees.

Involuntary manslaughter. The unlawful killing of a human being in the commission not amounting to felony, or in the lawful act which might produce death, or without due caution a manner, or without due caution a An unlawful homicide, unintentional act which constitutes such dis- harmful consequences to another wanton or reckless conduct. *Com. v. McCauley*, 355 Mass. 554, 246 N.E.2d 425, 428. See also **Manslaughter**.

Involuntary payment. One obtained by fraud, oppression, or extortion, or to avoid the use of force to coerce it, or to obtain the release of the person or property from detention.

Involuntary servitude. The condition of one who is compelled by force, coercion, or imprisonment, and against his will, to labor for another, whether he is paid or not. *Ex parte Wilson*, 114 U.S. 417, 5 S.Ct. 935, 29 L.Ed. 89; *In re Slaughterhouse Cases*, 83 U.S. (16 Wall.) 69, 21 L.Ed. 394; *Robertson v. Baldwin*, 165 U.S. 275, 17 S.Ct. 326, 41 L.Ed. 715. Slavery, peonage, or compulsory labor for debts; all of which are prohibited by the 13th Amendment, U.S.Const.

Involuntary transfer. See **Involuntary conveyance**.

Involuntary trust. An implied trust which arises because the law imposes trust-like consequences on certain transactions where, for example, an agent breaches his fiduciary duty and buys property in his own name which rightfully should have been purchased for the benefit of his principal (constructive trust) or A supplies the funds for purchase of property by B with the understanding that A will own it but title will be taken in the name of B (resulting trust).

In witness whereof /in wítnəs (h)wèròv/. The initial words of the concluding clause in deeds: "In witness whereof the said parties have hereunto set their hands", etc. A translation of the Latin phrase "*in cujus rei testimonium*".

Iota. The minutest quantity possible. Iota is the smallest Greek letter. The word "jot" is derived therefrom.

IOU. A memorandum of debt, consisting of these letters ("I owe you"), a sum of money and the debtor's signature, is termed an "IOU".

Ipsæ leges cupiunt ut jure regantur /ípsiy líyjiyz kyúwpiyánt ãt júriy rægántər/. The laws themselves require that they should be governed by right.

Ipse /ípsiy/. Lat. He himself; the same; the very person.

Ipse dixit /ípsiy díksət/. He himself said it; a bare assertion resting on the authority of an individual.

Ipsissimis verbis /ípsísíməs vórbəs/. In the identical words; opposed to "substantially".

Ipsso facto /ípsow fáktow/. By the fact itself; by the mere fact. By the mere effect of an act or a fact.

Ipsso jure /ípsow júriy/. By the law itself; by the mere operation of law.

IRA. Individual Retirement Account.

/áyrə fyúrər briyvəs èst/. Anger is a

wdas/. Lat. Moved or excited by assault demesne.

Retirement Annuity.

IRB. Individual Retirement Bond.

I.R.C. Internal Revenue Code.

I.R.D. Income in respect of decedent.

Ire ad largum /áyriy æd lárgəm/. Lat. To go at large; to escape; to be set at liberty.

Iron-safe clause. A clause in policies of fire insurance, requiring the insured to preserve his books and inventory in an iron or fireproof safe, or in some secure place not exposed to a fire which would destroy the building. This provision casts on the insured the responsibility for the loss of books and records if due to the wrongful act or negligence of himself or his employees in failing to comply with the requirement.

Irrational. Unreasonable, foolish, illogical, absurd; a person may be irrational in such sense, and still not be insane in the legal sense.

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L. This letter, as a Roman numeral, stands for the number "fifty." It is also used as an abbreviation for "law," "*liber*," (a book) "lord," and some other words of which it is the initial.

La. Fr. The. The definite article in the feminine gender. Occurs in some legal terms and phrases.

Label. Anything appended to a larger writing, as a codicil.

A narrow slip of paper or parchment affixed to a deed or writ, in order to hold the appending seal.

An affixation to or marking on a manufactured article, giving information as to its nature or quality, or the contents of a material, package or container, or the name of the maker, etc. *Higgins v. Keuffel*, 140 U.S. 428, 11 S.Ct. 731, 35 L.Ed. 470. The informational content of such labels is often governed by federal and state laws; e.g. Fair Packaging and Labeling Act. 15 U.S.C.A. § 1457.

In English law, a copy of a writ in the exchequer.

Labina /ləbáyna/. In old records, water land.

Labor. Work; toil; service; mental or physical exertion. Term normally refers to work for wages as opposed to work for profits; though the word is sometimes construed to mean service rendered or part played in production of wealth. *Britt v. Cotter Butte Mines*, 108 Mont. 174, 89 P.2d 266, 267. Includes superintendence or supervision of work. *Wandling v. Broaddus, Mo.*, 10 S.W.2d 651, 655; *United States for Use and Benefit of Farwell, Ozmun, Kirk & Co. v. Shea-Adamson Co.*, D.C.Minn., 21 F.Supp. 831, 837.

Term "labor" as used in the Clayton Act is not limited to the work of manual laborers or of mechanics, but comprises intellectual labor as well. *U. S. v. National Ass'n of Real Estate Boards*, D.C.D.C., 84 F.Supp. 802, 803.

A Spanish land measure, in use in Mexico and formerly in Texas, equivalent to 177½ acres.

See also **Agricultural labor; Farm labor or laborer; Laborer.**

Labor a jury. To tamper with a jury; to endeavor to influence them in their verdict, or their verdict generally. Jury tampering is a crime. See e.g. 18 U.S.C.A. §§ 1503, 1504.

Laborariis /ləybərériyəs/. An ancient writ against persons who refused to serve and do labor, and who had no means of living; or against such as, having served in the winter, refused to serve in the summer.

Labor contract. Contract between employer and employees (*i.e.* union) which governs working conditions, wages, fringe benefits, and grievances. See **Collective bargaining agreement; Master agreement; More favorable terms clause.**

Labor dispute. Term generally includes any controversy concerning terms, tenure, hours, wages, fringe benefits, or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment. National Labor Relations Act, § 2(9). However, not every activity of labor organization and not even every controversy in which it may become involved is "labor dispute" within National Labor Relations Act. *N. L. R. B. v. International Longshoremen's Ass'n, Md.* 332 F.2d 992, 995, 996.

Laborer. The word ordinarily denotes one who subsists by physical labor. *American Surety Co. of New York v. Stuart, Tex.Civ.App.*, 151 S.W.2d 886, 888. One who, as a means of livelihood, performs work and labor for another. See **Farm labor or laborer; Labor Work.**

Laborers' lien. Species of non-possessory lien which gives preference to laborer who works on job for payment of his wages ahead of general creditors. Such liens are generally governed by state statutes. See **Mechanic's lien.**

Labor-management relations. Term used to describe broad spectrum of activities which concern relationship of employees to employers both union and non-union. See **Fair Labor Standards Act; Labor-Management Relations Act; National Labor Relations Act; National Labor Relations Board.**

Labor-Management Relations Act. Federal statute (Taft-Hartley Act) which regulates certain union activities, permits suits against unions for proscribed acts, prohibits certain strikes and boycotts and provides machinery for settling strikes which involve national emergencies. 29 U.S.C.A. § 141 et seq.

Labor organization. Means a labor organization engaged in an industry affecting commerce and includes any organization of any kind, any agency, or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and any conference, gen-

that a grant of "all his woods" (*omnes boscos suos*) will pass the land, as well as the trees growing upon it.

Woodwards. In English law, officers of the forest, whose duty consists in looking after the wood and vert and venison, and preventing offenses relating to the same.

Words. Symbols indicating ideas and subject to contraction and expansion to meet the idea sought to be expressed. Such have been referred to as labels whose content and meaning are continually shifting with the times. *Massachusetts Protective Ass'n v. Bayersdorfer, C.C.A.Ohio, 105 F.2d 595, 597.*

As used in law, this term generally signifies the technical terms and phrases appropriate to particular instruments, or aptly fitted to the expression of a particular intention in legal instruments. See the subtitles following.

Words actionable in themselves. In libel and slander, refer to words which are libelous or slanderous per se. See **Actionable per se.**

Words of art. The vocabulary or terminology of a particular art or science, and especially those expressions which are idiomatic or peculiar to it.

Words of limitation. See **Limitation.**

Words of procreation. To create an estate tail by deed, it is necessary that words of procreation should be used in order to confine the estate to the descendants of the first grantee, as in the usual form of limitation,—"to A. and the heirs of his body."

Words of purchase. See **Purchase.**

Work. To exert one's self for a purpose; to put forth effort for the attainment of an object; to be engaged in the performance of a task, duty, or the like. The term covers all forms of physical or mental exertions, or both combined, for the attainment of some object other than recreation or amusement. *Tennessee Coal, Iron & R. Co. v. Muscoda Local No. 123, Ala., 321 U.S. 590, 64 S.Ct. 698, 703, 705, 88 L.Ed. 949.* See also **Labor.**

Work and labor. The name of one of the common counts in actions of *assumpsit*, being for work and labor done and materials furnished by the plaintiff for the defendant.

Workaway. Extra man employed on vessel as an accommodation to himself. *The Tashmoo, D.C.N.Y., 48 F.2d 366, 368.*

Worker. See **Workman.**

Workers' Compensation Acts. See **Workmen's Compensation Acts.**

Workhouse. Place of confinement for persons convicted of lesser offenses. Such imprisonment is usually for a relatively short duration.

Working capital. Cash and other quick assets. *Crock-er v. Waltham Watch Co., 315 Mass. 397, 53 N.E.2d 230, 237.* In accounting the difference between current assets and current liabilities. In public utilities the amount of cash required by a business to carry on operations.

Working interest. See **Royalty.**

Working papers. By statute in certain states, such must be filed by one employing a minor.

Discovery. See **Work product rule.**

Workman. One who labors; one employed to do business for another. One employed in manual labor, skilled or unskilled; an artificer, mechanic, or artisan.

Workmen's or Workers' Compensation Acts. State statutes which provide for fixed awards to employees or their dependents in case of employment related accidents and diseases, dispensing with proof of negligence and legal actions. Some of the acts go beyond the simple determination of the right to compensation, and provide insurance systems, either under state supervision or otherwise. The various state acts vary as to extent of workers and employment covered, amount and duration of benefits, etc.

The effect of most workmen's or workers' compensation acts is to make the employer strictly liable to an employee for injuries sustained by the employee which arise out of and in the course of employment, without regard to the negligence of the employer or that of the employee. Where the Act applies, it has been uniformly held that this remedy is exclusive and bars any common-law remedy which the employee may have had, the compensation scheduled under the act being the sole measure of damage.

Federal employees are covered by the Federal Employees Compensation Act; seamen by the Jones Act; longshoremen and harbor workers by the Longshoremen's and Harbor Workers' Compensation Act. Additional benefits to disabled workers are provided under Title II of the Social Security Act.

Workmen's or workers' compensation boards or courts. Such exist in many states with jurisdiction to review cases arising under workmen's or workers' compensation acts and related rules and regulations.

Workmen's or workers' compensation insurance. Insurance coverage purchased by employers to cover risks under workmen's or workers' compensation laws. Such is usually mandated by state acts, unless the employer is self-insured. See also **Insurance.**

Work of national importance. Under the Selective Service Act providing that conscientious objectors should be assigned to such work means work of value to the nation for the common defense and general welfare. *50 U.S.C.A. Appendix § 305(g).* *United States ex rel. Zucker v. Osborne, D.C.N.Y., 54 F.Supp. 984, 986, 987.*

Work of necessity. As excepted from operation of Sunday closing statutes embraces all work reasonably essential to the economic, social or moral welfare of the people, viewed in light of the habits and customs of the age in which they live and of the community in which they reside. *Francisco v. Commonwealth, 180 Va. 371, 23 S.E.2d 234, 238, 239.*

Work product rule. A party may obtain discovery of documents and tangible things otherwise discoverable under Rule 26(b)(1) and prepared in anticipation of litigation or for trial by or for another party or by or for that other party's representative (including his attorney, consultant, surety, indemnitor, insurer, or

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EXHIBIT B
Benders Federal Revenue Law 1916
(4 pages)

L. BENDER'S

FEDERAL REVENUE LAW,

1916

THE REVENUE ACT OF SEPTEMBER 8, 1916
WITH
NOTES AND COMMENTARIES

ALSO
FEDERAL TAXATION IN GENERAL

BY THE PUBLISHER'S EDITORIAL STAFF



ALBANY, N. Y.
MATTHEW BENDER & COMPANY
INCORPORATED
1917

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Bender's federal revenue
law, 1916

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PREFACE.

↑ Wars and rumors of wars teach governments new tricks of taxation. The word, trick, is not unworthy. Taxation has been defined as "the art of so plucking the goose as to secure the largest amount of feathers with the least amount of squawking."¹ Any nationwide excitement facilitates the imposition of new burdens. Jingo is a great captain of the forces of revenue and expenditure. Public opinion, or sentiment, wise or otherwise, is powerful upon public men. "In imposing a tax, the Legislature acts upon its constituents. This is, in general, a sufficient security against erroneous and oppressive taxation." Marshall, Ch.J., in *McCulloch v. Maryland*, *infra*. Whenever there is a real or pretended need of money, ways and means must and will be found. Sovereignty, especially popular sovereignty, owns no limitations. We have Federal and State sovereignty, and in ordinary times the former has not often nor long used its taxing power to any great extent. General tendencies of centralization and special temporary needs are now again awakening both the people and the government to a sense of things not formerly established in the national habits.

¹ Colbert (1619-1683), Louis XIV's Finance Comptroller, a really great statesman who, when he died, had to be buried at night, for fear of outrages by vindictive "geese."



Internal Revenue Service IRS.gov

DEPARTMENT OF THE TREASURY

Policy Statement 20-1 (Formerly P-1-18)

Effective Date: June 29, 2004

1. Penalties enhance voluntary compliance: The Internal Revenue Service has a responsibility to collect the proper amount of tax revenue in the most efficient manner. Penalties provide the Service with an important tool to achieve that goal because they enhance voluntary compliance by taxpayers. In order to make the most efficient use of penalties, the Service will design, administer, and evaluate penalty programs based on how those programs can most efficiently encourage voluntary compliance.
2. Penalties encourage voluntary compliance by: (1) demonstrating the fairness of the tax system to compliant taxpayers; and (2) increasing the cost of noncompliance.
3. In order to effectively use penalties to encourage compliant conduct, examiners and their managers must consider the applicability of penalties in each case, and fully develop the penalty issue when the initial consideration indicates that penalties should apply. That is, examiners and their managers must consider the elements of each potentially applicable penalty and then fully develop the facts to support the application of the penalty, or to establish that the penalty does not apply, when the initial consideration indicates that penalties should apply. Full development of the penalty issue is important for Appeals to sustain a penalty and for Counsel to successfully defend that penalty in litigation.
4. Abusive transactions, frivolous returns, and other abusive taxpayer conduct undermine the fairness and integrity of the federal tax system and undercut voluntary compliance. Thus, it is particularly important in those cases for examiners and their managers to consider the potential applicability of penalties, and to develop fully the facts to either support the application of the penalty or to demonstrate that penalties should not apply. Consistent development and proper application of the accuracy-related and fraud penalties in abusive transaction cases will help curb this activity by imposing tangible economic consequences on taxpayers who engage in those transactions. In addition, consistent development and proper application of the promoter and preparer penalties in abusive transaction cases will help curb this activity by providing an economic deterrent for promoting abusive transactions and preparing returns claiming tax benefits from abusive transactions. An abusive transaction is one where a significant purpose of the transaction is the avoidance or evasion of Federal tax.
5. Special Rule for Listed Transactions. The Service will fully develop accuracy-related or fraud penalties in all cases where an underpayment of tax is attributable to a listed transaction. For purposes of this Policy Statement, a listed transaction is a transaction the Service has identified as a listed transaction pursuant to the regulations under § 6011 of the Code.
6. In limited circumstances where doing so will promote sound and efficient tax administration, the Service may approve a reduction of otherwise applicable penalties or penalty waiver for a group or class of taxpayers as part of a Service-wide resolution strategy to encourage efficient and prompt resolution of cases of noncompliant taxpayers.
7. In considering the application of penalties to a particular case, all Service functions must develop procedures that will promote:
 - a. Consistency in the application of penalties compared to similar cases;
 - b. Unbiased analysis of the facts in each case; and
 - c. The proper application of the law to the facts of the case.
8. The Service will demonstrate the fairness of the tax system to all taxpayers by:
 - a. Providing every taxpayer against whom the Service proposes to assess penalties with a reasonable opportunity to provide evidence that the penalty should not apply;
 - b. Giving full and fair consideration to evidence in favor of not imposing the penalty, even after the Service's initial consideration supports imposition of a penalty; and
 - c. Determining penalties when a full and fair consideration of the facts and the

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law support doing so.

This means that penalties are not a "bargaining point" in resolving the taxpayer's other tax adjustments. Rather, the imposition of penalties in appropriate cases serves as an incentive for taxpayers to avoid careless or overly aggressive tax reporting positions.

9. The Service will continue to develop, monitor, and revise programs to help taxpayers voluntarily comply with the law and avoid penalties.
 10. To promote consistent development, consideration, and application of penalties, the Service prescribes guidelines in a Penalty Handbook that all operating divisions and functions will follow. The Office of Penalty and Interest Administration must review and approve changes to the Penalty Handbook for consistency with Service Policy before making recommended changes.
 11. The Service collects statistical and demographic information to evaluate penalties and penalty administration, and to determine the effectiveness of penalties in promoting voluntary compliance. The Service continually evaluates the impact of the penalty program on compliance and recommends changes when the Internal Revenue Code or penalty administration does not effectively promote voluntary compliance.
 12. Approved: Mark E. Matthews, Deputy Commissioner for Services and Enforcement
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EXHIBIT C
IRS Publication 556 Appeal Rights
(4 pages)

Prod0354

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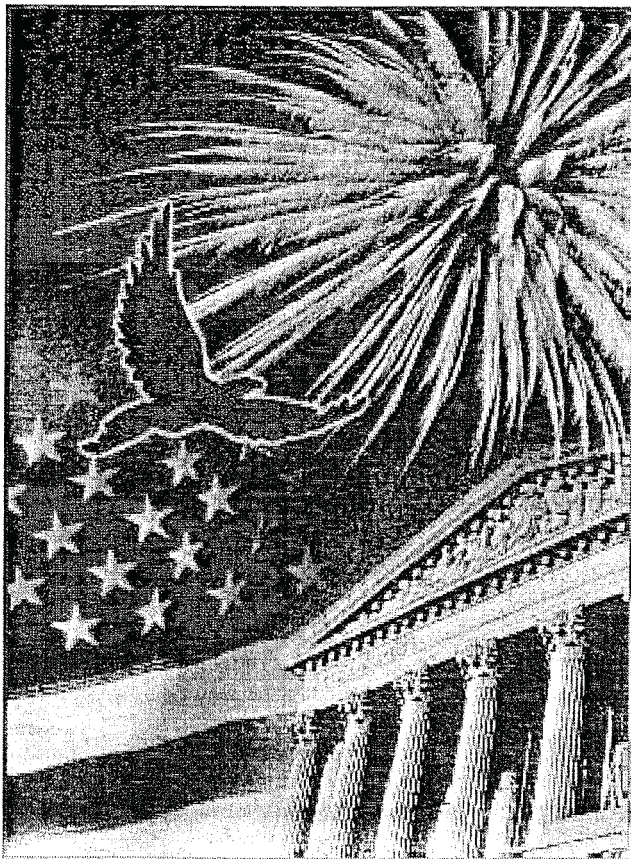


Department of the Treasury
Internal Revenue Service

Publication 556

(Rev. August 2005)
Cat. No. 15104N

Examination of Returns, Appeal Rights, and Claims for Refund



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The IRS Mission

Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all.

Important Reminder

Fast track mediation. The IRS offers fast track mediation services to help taxpayers resolve many disputes resulting from:

- Examinations (audits),
- Offers in compromise,
- Trust fund recovery penalties, and
- Other collection actions.

See *Fast track mediation* under *If You Do Not Agree*.

Introduction

The Internal Revenue Service (IRS) accepts most federal tax returns as filed. However, the IRS examines (or audits) some returns to determine if income, expenses, and credits are being reported accurately.

If your return is selected for examination, it does not suggest that you made an error or are dishonest. Returns are chosen by computerized screening, by random sample, or by an income document matching program. See *Examination selection criteria*, later. You should also know that many examinations result in a refund or acceptance of the tax return without change.

This publication discusses general IRS procedures that the IRS uses to examine and audit tax returns. It happens during an examination and your appeal rights both within the IRS and in the federal court system. It also explains how to file a claim for refund of tax you already paid.

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As a taxpayer, you have the right to be treated fairly, professionally, promptly, and courteously by IRS employees. Publication 1, *Your Rights as a Taxpayer*, explains your rights when dealing with the IRS.

Comments and suggestions. We welcome your comments about this publication and your suggestions for future editions.

You can write to us at the following address:

Internal Revenue Service
Individual Forms and Publications Branch
SE:W:CAR:MP:T:I
1111 Constitution Ave. NW, IR-6406
Washington, DC 20224

We respond to many letters by telephone. Therefore, it would be helpful if you would include your daytime phone number, including the area code, in your correspondence.

You can email us at [*taxforms@irs.gov](mailto:taxforms@irs.gov). (The asterisk must be included in the address.) Please put "Publications Comment" on the subject line. Although we cannot respond individually to each email, we do appreciate your feedback and will consider your comments as we revise our tax products.

Tax questions. If you have a tax question, visit www.irs.gov or call 1-800-829-1040. We cannot answer tax questions at either of the addresses listed above.

Ordering forms and publications. Visit www.irs.gov/formspubs to download forms and publications, call 1-800-829-3676, or write to the National Distribution Center at the address shown under *How To Get Tax Help* in the back of this publication.

Useful Items

You may want to see:

Publication

- 1 Your Rights as a Taxpayer
- 5 Your Appeal Rights and How To Prepare a Protest If You Don't Agree
- 547 Casualties, Disasters, and Thefts
- 594 The IRS Collection Process
- 910 Guide to Free Tax Services
- 971 Innocent Spouse Relief (And Separation of Liability and Equitable Relief)
- 1546 The Taxpayer Advocate Service of the IRS
- 1660 Collection Appeal Rights
- 3605 Fast Track Mediation
- 3920 Tax Relief for Victims of Terrorist Attacks

Form (and Instructions)

- 843 Claim for Refund and Request for Abatement

- 1040X Amended U.S. Individual Income Tax Return
- 2848 Power of Attorney and Declaration of Representative
- 4506 Request for Copy of Tax Return
- 4506-T Request for Transcript of Tax Return
- 8379 Injured Spouse Claim and Allocation
- 8857 Request for Innocent Spouse Relief (And Separation of Liability and Equitable Relief)

See *How To Get Tax Help*, near the end of this publication, for information about getting these publications and forms.

Examination of Returns

Your return may be examined for a variety of reasons, and the examination may take place in any one of several ways. After the examination, if any changes to your tax are proposed, you can either agree with those changes and pay any additional tax you may owe, or you can disagree with the changes and appeal the decision.

Examination selection criteria. Your return may be selected for examination on the basis of computer scoring. A computer program called the Discriminant Inventory Function System (DIF) assigns a numeric score to each individual and some corporate tax returns after they have been processed. If your return is selected because of a high score under the DIF system, the potential is high that an examination of your return will result in a change to your income tax liability.

Your return may also be selected for examination on the basis of information received from third-party documentation, such as Forms 1099 and W-2, that does not match the information reported on your return. Or, your return may be selected to address both the questionable treatment of an item and to study the behavior of similar taxpayers (a market segment) in handling a tax issue.

In addition, your return may be selected as a result of information received from other sources on potential non-compliance with the tax laws or inaccurate filing. This information can come from a number of sources, including newspapers, public records, and individuals. The information is evaluated for reliability and accuracy before it is used as the basis of an examination or investigation.

Notice of IRS contact of third parties. The IRS must give you reasonable notice before contacting other persons about your tax matters. You must be given reasonable notice in advance that, in examining or collecting your tax liability, the IRS may contact third parties such as your neighbors, banks, employers, or employees. The IRS must also give you notice of specific contacts by providing you with a record of persons contacted on both a periodic basis and upon your request.

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This provision does not apply:

- To any pending criminal investigation,
- When providing notice would jeopardize collection of any tax liability,
- Where providing notice may result in reprisal against any person, or
- When you authorized the contact.

Taxpayer Advocate Service. The Taxpayer Advocate Service is an independent organization within the IRS whose goal is to help taxpayers resolve problems with the IRS. If you have an ongoing issue with the IRS that has not been resolved through normal processes, or you have suffered, or are about to suffer a significant hardship as a result of the administration of the tax laws, contact the Taxpayer Advocate Service.



Before contacting the Taxpayer Advocate, you should first discuss any problem with a supervisor. Your local Taxpayer Advocate will assist you if you are unable to resolve the problem with the supervisor.

For more information, see Publication 1546. See *How To Get Tax Help*, near the end of this publication for more information about contacting the Taxpayer Advocate Service.

Comments from small business. The Small Business and Agricultural Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards have been established to receive comments from small business about federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities of each agency and rate their responsiveness to small business. If you wish to comment on the enforcement actions of the IRS, you can take any of the following steps.

- Fax your comments to 1-202-481-5719.
- Write to the following address:
Office of the National Ombudsman
U.S. Small Business Administration
409 3rd Street, SW
Washington, DC 20416.
- Call 1-888-734-3247.
- Send an email to ombudsman@sba.gov.
- File a comment or complaint online at www.sba.gov/ombudsman.

If Your Return Is Examined

Some examinations are handled entirely by mail. Examinations not handled by mail can take place in your home,

your place of business, an Internal Revenue office, or the office of your attorney, accountant, or enrolled agent. If the time, place, or method is not convenient for you, the examiner will try to work out something more suitable. However, the IRS makes the final determination of when, where, and how the examination will take place.

Throughout the examination, you can act on your own behalf or have someone represent you or accompany you. If you filed a joint return, either you or your spouse, or both, can meet with the IRS. You can have someone represent or accompany you. This person can be any federally authorized practitioner, including an attorney, a certified public accountant, an enrolled agent (a person enrolled to practice before the IRS), an enrolled actuary, or the person who prepared the return and signed it as the preparer.

If you want someone to represent you in your absence, you must furnish that person with proper written authorization. You can use Form 2848 or any other properly written authorization. If you want to consult with an attorney, a certified public accountant, an enrolled agent, or any other person permitted to represent a taxpayer during an interview for examining a tax return or collecting tax, you should make arrangements with that person to be available for the interview. In most cases, the IRS must suspend the interview and reschedule it. The IRS cannot suspend the interview if you are there because of an administrative summons.

Third party authorization. If you checked the box in the signature area of your income tax return (Form 1040, Form 1040A, or Form 1040EZ) to allow the IRS to discuss your return with another person (a third party designee), this authorization does not replace Form 2848. The box you checked on your return only authorizes the other person to receive information about the processing of your return and the status of your refund during the period your return is being processed. For more information, see the instructions for your return.

Confidentiality privilege. Generally, the same confidentiality protection that you have with an attorney also applies to certain communications that you have with federally authorized practitioners.

Confidential communications are those that:

- Advise you on tax matters within the scope of the practitioner's authority to practice before the IRS,
- Would be confidential between an attorney and you, and
- Relate to noncriminal tax matters before the IRS, or
- Relate to noncriminal tax proceedings brought in federal court by or against the United States.

In the case of communications in connection with the promotion of a person's participation in a tax shelter, the confidentiality privilege does not apply to written communications between a federally authorized practitioner and that person, any director, officer, employee, agent, or representative of that person, or any other person holding a capital or profits interest in that person.

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A tax shelter is any entity, plan, or arrangement, a significant purpose of which is the avoidance or evasion of income tax.

Recordings. You can make an audio recording of the examination interview. Your request to record the interview should be made in writing. You must notify the examiner 10 days in advance and bring your own recording equipment. The IRS also can record an interview. If the IRS initiates the recording, you must be notified 10 days in advance and you can get a copy of the recording at your expense.

Transfers to another area. Generally, your return is examined in the area where you live. But if your return can be examined more quickly and conveniently in another area, such as where your books and records are located, you can ask to have the case transferred to that area.

Repeat examinations. The IRS tries to avoid repeat examinations of the same items, but sometimes this happens. If your tax return was examined for the same items in either of the 2 previous years and no change was proposed to your tax liability, please contact the IRS as soon as possible to see if the examination should be discontinued.

The Examination

An examination usually begins when you are notified that your return has been selected. The IRS will tell you which records you will need. The examination can proceed more easily if you gather your records before any interview.

Any proposed changes to your return will be explained to you or your authorized representative. It is important that you understand the reasons for any proposed changes. You should not hesitate to ask about anything that is unclear to you.



The IRS must follow the tax laws set forth by Congress in the Internal Revenue Code. The IRS also follows Treasury Regulations, other rules, and procedures that were written to administer the tax laws. The IRS also follows court decisions. However, the IRS can lose cases that involve taxpayers with the same issue and still apply its interpretation of the law to your situation.

Most taxpayers agree to changes proposed by examiners, and the examinations are closed at this level. If you do not agree, you can appeal any proposed change by following the procedures provided to you by the IRS. A more complete discussion of appeal rights is found later under *Appeal Rights*.

If You Agree

If you agree with the proposed changes, you can sign an agreement form and pay any additional tax you may owe. You must pay interest on any additional tax. If you pay when you sign the agreement, the interest is generally figured from the due date of your return to the date of your payment.

If you do not pay the additional tax when you sign the agreement, you will receive a bill that includes interest. If you pay the amount due within 10 business days of the

billing date, you will not have to pay more interest or penalties. This period is extended to 21 calendar days if the amount due is less than \$100,000.

If you are due a refund, you will receive it sooner if you sign the agreement form. You will be paid interest on the refund.

If the IRS accepts your tax return as filed, you will receive a letter in a few weeks stating that the examiner proposed no changes to your return. You should keep this letter with your tax records.

If You Do Not Agree

If you do not agree with the proposed changes, the examiner will explain your appeal rights. If your examination takes place in an IRS office, you can request an immediate meeting with the examiner's supervisor to explain your position. If an agreement is reached, your case will be closed.

If you cannot reach an agreement with the supervisor at this meeting, or if the examination took place outside of an IRS office, the examiner will write up your case explaining your position and the IRS' position. The examiner will forward your case for processing.

Fast track mediation. The IRS offers fast track mediation services to help taxpayers resolve many disputes resulting from:

- Examinations (audits),
- Offers in compromise,
- Trust fund recovery penalties, and
- Other collection actions.

Most cases that are not docketed in any court qualify for fast track mediation. Mediation can take place at a conference you request with a supervisor, or later. The process involves an Appeals Officer who has been trained in mediation. You may represent yourself at the mediation session, or someone else can act as your representative. For more information, see Publication 3605.

30-day letter and 90-day letter. Within a few weeks after your closing conference with the examiner and/or supervisor, you will receive a package with:

- A letter (known as a 30-day letter) notifying you of your right to appeal the proposed changes within 30 days,
- A copy of the examination report explaining the examiner's proposed changes,
- An agreement or waiver form, and
- A copy of Publication 5.

You generally have 30 days from the date of the 30-day letter to tell the IRS whether you will accept or appeal the proposed changes. The letter will explain what steps you should take, depending on which action you choose. Be sure to follow the instructions carefully. *Appeal Rights* are explained later.

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EXHIBIT D
Title 26 IRC and CFR; IRS Privacy Act Statement and PRA Notice
(14 pages)

**Internal Revenue Code
as amended through August 31, 2005**

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Code Sec. 59A

Environmental tax

—P.L. 101-508, Sec. 11531(b)(3), added "or the alternative tax energy preference deduction under section 56(b)" before "and" in para. (b)(1), effective for tax yrs. begin after 12/31/90.

—P.L. 101-508, Sec. 11801(c)(2)(E), deleted "(and the last sentence of section 56(f)(2)(B))" after "164(a)(5)" in para. (b)(2), effective 11/5/90 except as provided in Sec. 11821(b) of this Act reproduced at note following Code Sec. 56.

In 1988, P.L. 100-647, Sec. 2001(c)(1), redesignated subsecs. (c) and (d) as subsecs. (d) and (e) and added new subsec. (c) . . . Sec. 2001(c)(3)(B), added "(and the last sentence of section 56(f)(2)(B))" before the period at the end of para. (b)(2), effective for tax yrs. begin after 12/31/86.

In 1986, P.L. 99-499, Sec. 516(a), added Code Sec. 59A, as part of Part VII of subchapter A of chapter 1, effective for tax yrs. begin after 12/31/86.

PART VIII REPEALED [SUPPLEMENTAL MEDICARE PREMIUM]

Sec.

59B. Repealed [Supplemental medicare premium.]

In 1989, P.L. 101-234, Sec. 102(a), repealed as if not enacted Sec. 111(a) of P.L. 100-360, which added Part VIII to Subchapter A of chapter 1.

Prior to repeal, Part VIII read as follows:

"PART VIII. SUPPLEMENTAL MEDICARE PREMIUM

"Sec.

"59B. Supplemental medicare premium."

In 1988, P.L. 100-360, Sec. 111(a), [repealed as if not enacted by Sec. 102(a) of P.L. 101-234, see above] added Part VIII to Subchapter A of chapter 1.

Sec. 59B. Repealed.

In 1989, P.L. 101-234, Sec. 102(a), repealed as if not enacted Sec. 111(a) of P.L. 100-360, which added Code Sec. 59B, effective tax yrs. begin after 12/31/88.

In 1988, P.L. 100-360, Sec. 111(a), [repealed as if not enacted by Sec. 102(a) of P.L. 101-234, see above] added Code Sec. 59B as part of Part VIII of subchapter A of chapter 1, effective for tax yrs. begin after 12/31/88. Sec. 111(d) of this Act provides:

Subchapter B.—Computation of Taxable Income

Part

- I. Definition of gross income, adjusted gross income, taxable income, etc.
II. Items specifically included in gross income.
III. Items specifically excluded from gross income.
IV. Determination of marital status. [Tax exemption requirements for State and local bonds.]
V. Deductions for personal exemptions.
VI. Itemized deductions for individuals and corporations.
VII. Additional itemized deductions for individuals.
VIII. Special deductions for corporations.
IX. Items not deductible.
X. Terminal railroad corporations and their shareholders.
XI. Special rules relating to corporate preference items.

In 1986, P.L. 99-514, Sec. 1301(b), amended Part IV. This Act did not amend the item for Part IV on the list of Parts for Subchapter B, but Congress presumably intended to do so.

In 1982, P.L. 97-248, Sec. 204(c)(2), added part XI.

In 1977, P.L. 95-30, Sec. 101(e)(3), amended the item for Part IV.

Prior to amendment, the item for Part IV read as follows:

"IV. Standard deduction for individuals."

In 1976, P.L. 94-455, Sec. 1901(b)(4)(C), substituted "taxable income, etc." for "and taxable income" in the item for Part I

In 1962, P.L. 87-870, Sec. 1, added part X

PART I.—DEFINITION OF GROSS INCOME, ADJUSTED GROSS INCOME, TAXABLE INCOME, ETC.

Sec.

- 61. Gross income defined.
62. Adjusted gross income defined.
63. Taxable income defined.
64. Ordinary income defined.
65. Ordinary loss defined.
66. Treatment of community income.
67. 2-percent floor on miscellaneous itemized deductions.
68. Overall limitation on itemized deductions.

In 1990, P.L. 101-508, Sec. 11103(d), added item 68.

In 1986, P.L. 99-514, Sec. 132(d), added item 67.

In 1984, P.L. 98-369, Sec. 424(b)(2)(C), deleted "where spouses live apart" from the end of item 66.

In 1980, P.L. 96-605, Sec. 101(b), added item 66.

In 1976, P.L. 94-455, Sec. 1901(b)(4)(A), added items 64 and 65. . . . Sec. 1901(b)(4)(B), substituted "taxable income, etc." for "and taxable income" in the heading for Part I

Sec. 61. Gross income defined.

(a) General definition.

Except as otherwise provided in this subtitle, gross income means all income from whatever source derived, including (but not limited to) the following items:

- (1) Compensation for services, including fees, commissions, fringe benefits, and similar items;
(2) Gross income derived from business;
(3) Gains derived from dealings in property;
(4) Interest;
(5) Rents;
(6) Royalties;
(7) Dividends;
(8) Alimony and separate maintenance payments;
(9) Annuities;
(10) Income from life insurance and endowment contracts;
(11) Pensions;
(12) Income from discharge of indebtedness;
(13) Distributive share of partnership gross income;
(14) Income in respect of a decedent; and
(15) Income from an interest in an estate or trust.

(b) Cross references.

For items specifically included in gross income, see part II (sec. 71 and following). For items specifically excluded from gross income, see part III (sec. 101 and following).

In 2002, P.L. 107-134, Sec. 105, of this Act, reads as follows:

"Sec. 105 EXCLUSION OF CERTAIN CANCELLATIONS OF INDEBTEDNESS

"(a) In general. For purposes of the Internal Revenue Code of 1986—

"(1) gross income shall not include any amount which (but for this section) would be includible in gross income by reason of the discharge (in whole or in part) of indebtedness of any taxpayer if the discharge is by reason of the death of an individual incurred as the result of the terrorist attacks against the United States on September 11, 2001, or as the result of illness incurred as a result of an attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002 and

"(2) return requirements under section 6050P of such Code shall not apply to any discharge described in paragraph (1).

"(b) Effective date. This section shall apply to discharges made on or after September 11, 2001, and before January 1, 2002."

In 2001, P.L. 107-16, Sec. 803, of this Act, reads as follows:

"SEC. 803. NO FEDERAL INCOME TAX ON RESTITUTION RECEIVED BY VICTIMS OF THE NAZI REGIME OR THEIR HEIRS OR ESTATES

"(a) In general. For purposes of the Internal Revenue Code of 1986, any excludable restitution payments received by an eligible individual (or the individual's heirs w estate) and my excludable interest—

"(1) shall not be included in gross income; and

"(2) shall not be taken into account for purposes of applying any provision of such Code which takes into account excludable income in comput-

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Income

Part II

a separate return by a married individual within the meaning of section 7703).

(2) **Inflation adjustments.** In the case of any taxable year beginning in a calendar year after 1991, each dollar amount contained in paragraph (1) shall be increased by an amount equal to—

- (A) such dollar amount, multiplied by
- (B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting "calendar year 1990" for "calendar year 1992" in subparagraph (B) thereof.

(c) **Exception for certain itemized deductions.**

For purposes of this section, the term "itemized deductions" does not include—

- (1) the deduction under section 213 (relating to medical, etc. expenses),
- (2) any deduction for investment interest (as defined in section 163(d)), and
- (3) the deduction under section 165(a) for casualty or theft losses described in paragraph (2) or (3) of section 165(c) or for losses described in section 165(d).

(d) **Coordination with other limitations.**

This section shall be applied after the application of any other limitation on the allowance of any itemized deduction.

(e) **Exception for estates and trusts.**

This section shall not apply to any estate or trust.

• Caution: Subsecs. (f) and (g), following, are effective for tax yrs. begin. after 12/31/2005. For sunset provisions, see Sec. 901 of P.L. 107-16 reproduced in the history of this Code Sec.

(f) **Phaseout of limitation.**

(1) In general. In the case of taxable years beginning after December 31, 2005, and before January 1, 2010, the reduction under subsection (a) shall be equal to the applicable fraction of the amount which would (but for this subsection) be the amount of such reduction.

(2) **Applicable fraction.** For purposes of paragraph (1), the applicable fraction shall be determined in accordance with the following table:

For taxable years beginning in calendar year—	The applicable fraction is—
2006 and 2007.....	1/2
2008 and 2009.....	1/3

(g) **Termination.**

This section shall not apply to any taxable year beginning after December 31, 2009.

In 2002, P.L. 107-358, Sec. 2, added subsec. (c) in Sec. 901 of P.L. 107-16 (see below), effective 12/17/2002.

In 2001, P.L. 107-16, Sec. 103(a), added subsecs. (f) and (g), effective for tax yrs. begin. after 12/31/2005.

—P.L. 107-16, Sec. 901, of this Act (as amended by Sec. 2 of P.L. 107-358, see above), reads as follows:
 "Sec. 901. SUNSET OF PROVISIONS OF ACT.

"(a) In general. All provisions of, and amendments made by, this Act shall not apply—

"(1) to taxable, plan, or limitation years beginning after December 31, 2010, or

"(2) in the use of title V, to estates of decedents dying, gifts made, or generation skipping transfers, after December 31, 2010.

"(b) Application of certain laws. The Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 shall be applied and administered to years, estates, gifts, and transfers described in subsection (a)

as if the provisions and amendments described in subsection (a) had never been enacted.

"(c) **Exception.** Subsection (a) shall not apply to section 803 (relating to no federal income tax on restitution received by victims of the Nazi regime or their heirs or estates)."

In 1998, P.L. 105-277, Sec. 4004(b)(2), substituted "for casualty or theft losses described in paragraph (2) or (3) of section 165(c) or for losses described in section 165(d)" for "for losses described in subsection (c)(3) or (d) of section 165" in para. (c)(3), effective for tax yrs. begin. after 12/31/90.

In 1993, P.L. 103-66, Sec. 13201(b)(3)(E), substituted "1992" for "1989" in subpara. (b)(2)(B), effective for tax yrs. begin. after 12/31/92.

— P.L. 103-66, Sec. 13204, deleted subsec. (f), effective 8/10/93.

Prior to deletion, subsec. (f) read as follows:

"(f) **Termination.** This section shall not apply to any taxable year beginning after December 31, 1995."

In 1990, P.L. 101-508, Sec. 11103(a), added Code Sec. 68, effective for tax yrs. begin. after 12/31/90.

PART II—ITEMS SPECIFICALLY INCLUDED IN GROSS INCOME Sec.

- 71. Alimony and separate maintenance payments.
- 72. Annuities; certain proceeds of endowment and life insurance contracts.
- 73. Services of child.
- 74. Prizes and awards.
- 75. Dealers in tax-exempt securities.
- 76. Repealed. [Mortgages made or obligations issued by joint-stock land banks.]
- 77. Commodity credit loans.
- 78. Dividends received from certain foreign corporations by domestic corporations choosing foreign tax credit.
- 79. Group-term life insurance purchased for employees.
- 80. Restoration of value of certain securities.
- 81. Repealed. [Increase in vacation pay suspense account]
- 82. Reimbursement of moving expenses. [Reimbursement for expenses of moving.]
- 83. Property transferred in connection with performance of services.
- 84. Transfer of appreciated property to political organizations.
- 85. Unemployment compensation.
- 86. Social security and tier 1 railroad retirement benefits.
- 87. Alcohol fuel credit.
- 88. Certain amounts with respect to nuclear decommissioning costs.
- 89. Repealed. [Benefits provided under certain employee benefit plans.]
- 90. Illegal federal irrigation subsidies.

In 1989, P.L. 101-239, Sec. 7822(c), amended item 90.

Prior to amendment item 90 read as follows:

"90. Federal irrigation subsidies."

—P.L. 101-140, Sec. 202(b), repealed item 89.

Prior to repeal, item 89 read as follows:

"89. Benefits provided under certain employee benefit plans."

In 1987, P.L. 100-203, Sec. 10201(b)(6), repealed item 81.

Prior to repeal, item 81 read as follows:

"81. Increase in vacation pay suspense account."

—P.L. 100-203, Sec. 10611(b), added item 90.

In 1986, P.L. 99-514, Sec. 805(c)(1)(B), amended item 81.

Prior to amendment, item 81 read as follows:

"81. Certain increases in suspense accounts."

—P.L. 99-514, Sec. 1151(b)(1), added item 88.

In 1984, P.L. 98-369, Sec. 91(f)(2), added item 88.

In 1983, P.L. 98-21, Sec. 121(f)(3), redesignated item 86 as 87 and added new item 86.

In 1980, P.L. 96-223, Sec. 232(c)(3), added item 86.

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Code Sec. 199(d)(4)(B)

Deductions

affiliated group as defined in section 1504(a), determined—

- (i) by substituting "50 percent" for "80 percent" each place it appears, and
- (ii) without regard to paragraphs (2) and (4) of section 1504(b).

(C) Allocation of deduction. Except as provided in regulations, the deduction under subsection (a) shall be allocated among the members of the expanded affiliated group in proportion to each member's respective amount (if any) of qualified production activities income.

(5) Trade or business requirement. This section shall be applied by only taking into account items which are attributable to the actual conduct of a trade or business.

(6) Coordination with minimum tax. The deduction under this section shall be allowed for purposes of the tax imposed by section 55; except that for purposes of section 55, the deduction under subsection (a) shall be 9 percent of the lesser of—

- (A) qualified production activities income (determined without regard to part IV of subchapter A), or
- (B) alternative minimum taxable income (determined without regard to this section) for the taxable year.

In the case of an individual, subparagraph (B) shall be applied by substituting "adjusted gross income" for "alternative minimum taxable income". For purposes of the preceding sentence, adjusted gross income shall be determined in the same manner as provided in paragraph (2).

(7) Regulations. The Secretary shall prescribe such regulations as are necessary to carry out the purposes of this section.

In 2004, P.L. 108-357, Sec. 102(a), added Code Sec. 199, effective for tax yrs. begin. after 12/31/2004.

PART VII.—ADDITIONAL ITEMIZED DEDUCTIONS FOR INDIVIDUALS

Sec.

- 211. Allowance of deductions.
- 212. Expenses for production of income.
- 213. Medical, dental, etc., expenses.
- 214. Repealed. [Expenses for household and dependent care services necessary for gainful employment.]
- 215. Alimony, etc., payments.
- 216. Deduction of taxes, interest, and business depreciation by cooperative housing corporation tenant-stockholder.
- 217. Moving expenses.
- 218. Contributions to candidates for public office. [Repealed.]
- 219. Retirement savings.
- 220. Archer MSAs.
- 221. Interest on education loans.
- 222. Qualified tuition and related expenses.
- 223. Health savings accounts.
- 224. Cross reference.

In 2003, P.L. 108-173, Sec. 1201(a), redesignated item 223 as 224, and added new item 223

In 2001, P.L. 107-16, Sec. 431(c)(4), deleted item 222 and added items 222 and 223.

Prior to deletion, item 222 read as follows:
"222. Cross reference."

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In 2000, P.L. 106-554, Sec. 1(a)(7) [which enacted into law Sec. 202(b)(9) of H.R. 5662], amended item 220.

Prior to amendment, item 220 read as follows:

- 1. "220. Medical savings accounts."

In 1997, P.L. 105-34, Sec. 202(d), deleted item 221 and added new 221 and 222.

Prior to deletion, item 221 read as follows:

- "221. Cross reference."

In 1996, P.L. 104-191, Sec. 301(i), deleted item 220 and added new items 220 and 221.

Prior to deletion, item 220 read as follows:

- "220. Cross reference."

In 1990, P.L. 101-508, Sec. 11802(e)(3), repealed items 220 and 221, and added new item 220.

Prior to repeal, items 220 and 221 read as follows:

- "220. Jury duty pay remitted to employer.
- "221. Cross References."

In 1988, P.L. 100-647, Sec. 6007(c), repealed item 220 and added items 220 and 221.

Prior to repeal, item 220 read as follows:

- "220. Cross references."

In 1986, P.L. 99-514, Sec. 131(b)(3), repealed item 221... Sec. 135(b)(2), repealed items 222 and 223 and added item 220... Sec. 301(b)(5)(B), substituted "reference" for "references" in item 223 [before redesignation by Sec. 135(b)(1) of this Act.]

Prior to repeal, item 221 read as follows:

- "221. Deduction for two-earner married couples."

Prior to repeal, items 222 and 223 [as amended by P.L. 99-514, Sec. 301(b)(5), above] read as follows:

- "Sec. 222. Adoption expenses."
- "Sec. 223. Cross references."

In 1981, P.L. 97-34, Sec. 103(c)(3), redesignated item 221 as 222 and added new item 221... Sec. 125(b), redesignated item 222 [as redesignated by Sec. 103(c)(3) of this Act] as 223 and added new item 222... Sec. 311(h)(11), repealed item 220.

Prior to repeal, item 220 read as follows:

- "220. Retirement savings for certain married individuals."

In 1978, P.L. 95-600, Sec. 113(a)(1), repealed Code Sec. 218. This Act did not amend the list of Code Secs. for Part VII, but presumably Congress intended to.

Prior to repeal, the heading for Code Sec. 218 read as follows:

- "Sec. 218. Contributions to candidates for public office."

In 1976, P.L. 94-455, Sec. 504(b)(2), repealed item 214.

Prior to repeal, item 214, read as follows:

- "214. Expenses for household and dependent care services necessary for gainful employment."

—P.L. 94-455, Sec. 1501(c), amended item 220 and added item 221.

Prior to amendment, item 220 read as follows:

- "220. Cross references."

In 1974, P.L. 93-406, Sec. 2002(h)(1), redesignated item 219 as 220 and added new item 219.

In 1971, P.L. 92-178, Sec. 702(c), redesignated item 218 as 219, and added new item 218... Sec. 210(b), amended item 214.

Prior to amendment, item 214 read as follows:

- "Expenses for care of certain dependents."

In 1964, P.L. 82-272, Sec. 213(a)(2), redesignated item 217 as 218, and added new item 217.

In 1962, P.L. 87-834, Sec. 28(b), amended item 216.

Prior to amendment, item 216 read as follows:

- "Amounts representing taxes and interest paid to cooperative housing corporation."

Sec. 211. Allowance of deductions.

In computing taxable income under section 63, there shall be allowed as deductions the items specified in this part, subject to the exceptions provided in part IX (section 261 and following, relating to items not deductible).

In 1977, P.L. 95-30, Sec. 102(b)(3), substituted "section 63" for "section 63(a)", effective for tax yrs begin. after 12/31/76

Sec. 212. Expenses for production of income.

In the case of an individual, there shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year—

- (1) for the production or collection of income;

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definition of moving expenses), irrespective of the dollar limitations contained in section 217(b)(3) and the conditions contained in section 217(c), as well as items not described in section 217 (b), such as a loss sustained on the sale or exchange of personal property, storage charges, taxes, or expenses of refitting rugs or draperies.

(5) *Attributable to employment or self-employment.* Any amount received or accrued from an employer, a client, a customer, or similar person in connection with the performance of services for such employer, client, customer, or similar person, is attributable to employment or self-employment. Thus, for example, if an employer reimburses an employee for a loss incurred on the sale of the employee's house, reimbursement is attributable to the performance of services if made because of the employer-employee relationship. Similarly, if an employer in order to prevent an employee's sustaining a loss on a sale of a house acquires the property from the employee at a price in excess of fair market value, the employee is considered to have received a payment attributable to employment to the extent that such payment exceeds the fair market value of the property.

(b) *Effective date.*—(1) *In general.* Except as provided in subparagraph (2) of this paragraph, paragraph (a) of this section is applicable only to amounts received or accrued in taxable years beginning after December 31, 1969.

(2) *Election with respect to payments or reimbursements for expenses paid or incurred before January 1, 1971.* Paragraph (a) of this section does not apply with respect to moving expenses paid or incurred before January 1, 1971, in connection with the commencement of work by an employee at a new principal place of work where such employee had been notified by his employer on or before December 19, 1969, of such move and the employee makes an election under paragraph (h) of § 1.217-2.

[T.D. 7195. 37 FR 13533. July 11, 1972. as amended by T.D. 7578. 43 FR 59355. Dec. 20, 1978]

§ 1.83-1 Property transferred in connection with the performance of services.

(a) *Inclusion in gross income.*—(1) *General rule.* Section 83 provides rules for the taxation of property transferred to an employee or independent contractor (or beneficiary thereof) in connection with the performance of services by such employee or independent contractor. In general, such property is not taxable under section 83(a) until it has been transferred (as defined in § 1.83-3(a)) to such person and become substantially vested (as defined in § 1.83-3(b)) in such person. In that case, the excess of—

(i) The fair market value of such property (determined without regard to any lapse restriction, as defined in § 1.83-3(i)) at the time that the property becomes substantially vested, over

(ii) The amount (if any) paid for such property, shall be included as compensation in the gross income of such employee or independent contractor for the taxable year in which the property becomes substantially vested. Until such property becomes substantially vested, the transferor shall be regarded as the owner of such property, and any income from such property received by the employee or independent contractor (or beneficiary thereof) or the right to the use of such property by the employee or independent contractor constitutes additional compensation and shall be included in the gross income of such employee or independent contractor for the taxable year in which such income is received or such use is made available. This paragraph applies to a transfer of property in connection with the performance of services even though the transferor is not the person for whom such services are performed.

(2) *Life insurance.* The cost of life insurance protection under a life insurance contract, retirement income contract, endowment contract, or other contract providing life insurance protection is taxable generally under section 61 and the regulations thereunder during the period such contract remains substantially nonvested (as defined in § 1.83-3(b)). For the taxation of life insurance protection under a split-

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provide services in the construction of an office building on property owned by X corporation. X corporation has 100 shares of preferred stock outstanding and an additional 500 shares of common stock outstanding. The preferred stock has a liquidation value of \$1,000, which is equal to the value of all assets owned by X. Therefore, the book value of the common stock in X corporation is \$0. Under the terms of the transfer, if B wishes to dispose of the stock, B must offer to sell the stock to X for 150 percent of the then existing book value of B's common stock. The stock is also subject to a substantial risk of forfeiture until B performs the agreed-upon services. B makes a timely election under section 83(b) to include the value of the stock in gross income in 1971. Under these facts and circumstances, the restriction to which the shares of X corporation common stock are subject is a nonlapse restriction. In determining the fair market value of the X common stock at the time of transfer, the book value formula price would ordinarily be regarded as determinative of such value. However, the fair market value of X common stock at the time of transfer, subject to the book value restriction, is greater than \$0 since B was willing to agree to provide valuable personal services in exchange for the stock. In determining the fair market value of the stock, the expected book value after construction of the office building would be given great weight. The likelihood of completion of construction would be a factor in determining the expected book value after completion of construction.

[T.D. 7554, 43 FR 31918, July 24, 1978]

↓
 § 1.83-6 Deduction by employer.

(a) *Allowance of deduction—(1) General rule.* In the case of a transfer of property in connection with the performance of services, or a compensatory cancellation of a nonlapse restriction described in section 83(d) and § 1.83-5, a deduction is allowable under section 162 or 212 to the person for whom the services were performed. The amount of the deduction is equal to the amount included as compensation in the gross income of the service provider under section 83 (a), (b), or (d)(2), but only to the extent the amount meets the requirements of section 162 or 212 and the regulations thereunder. The deduction is allowed only for the taxable year of that person in which or with which ends the taxable year of the service provider in which the amount is included as compensation. For purposes of this paragraph, any amount excluded from gross income under section

79 or section 101(b) or subchapter N is considered to have been included in gross income.

(2) *Special Rule.* For purposes of paragraph (a)(1) of this section, the service provider is deemed to have included the amount as compensation in gross income if the person for whom the services were performed satisfies in a timely manner all requirements of section 6041 or section 6041A, and the regulations thereunder, with respect to that amount of compensation. For purposes of the preceding sentence, whether a person for whom services were performed satisfies all requirements of section 6041 or section 6041A, and the regulations thereunder, is determined without regard to § 1.6041-3(c) (exception for payments to corporations). In the case of a disqualifying disposition of stock described in section 421(b), an employer that otherwise satisfies all requirements of section 6041 and the regulations thereunder will be considered to have done so timely for purposes of this paragraph (a)(2) if Form W-2 or Form W-2c, as appropriate, is furnished to the employee or former employee, and is filed with the federal government, on or before the date on which the employer files the tax return claiming the deduction relating to the disqualifying disposition.

(3) *Exceptions.* Where property is substantially vested upon transfer, the deduction shall be allowed to such person in accordance with his method of accounting (in conformity with sections 446 and 461). In the case of a transfer to an employee benefit plan described in § 1.162-10(a) or a transfer to an employees' trust or annuity plan described in section 404(a)(5) and the regulations thereunder, section 83(h) and this section do not apply.

(4) *Capital expenditure, etc.* No deduction is allowed under section 83(h) to the extent that the transfer of property constitutes a capital expenditure, an item of deferred expense, or an amount properly includible in the value of inventory items. In the case of a capital expenditure, for example, the basis of the property to which such capital expenditure relates shall be increased at the same time and to the same extent as any amount includible in the employee's gross income in respect of

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such transfer. Thus, for example, no deduction is allowed to a corporation in respect of a transfer of its stock to a promoter upon its organization, notwithstanding that such promoter must include the value of such stock in his gross income in accordance with the rules under section 83.

(5) *Transfer of life insurance contract (or an undivided interest therein)*—(i) *General rule.* In the case of a transfer of a life insurance contract (or an undivided interest therein) described in § 1.61-22(c)(3) in connection with the performance of services, a deduction is allowable under paragraph (a)(1) of this section to the person for whom the services were performed. The amount of the deduction, if allowable, is equal to the sum of the amount included as compensation in the gross income of the service provider under § 1.61-22(g)(1) and the amount determined under § 1.61-22(g)(1)(ii).

(ii) *Effective date*—(A) *General rule.* Paragraph (a)(6)(i) of this section applies to any split-dollar life insurance arrangement (as defined in § 1.61-22(b)(1) or (2)) entered into after September 17, 2003. For purposes of this paragraph (a)(6), an arrangement is entered into as determined under § 1.61-22(j)(1)(ii).

(B) *Modified arrangements treated as new arrangements.* If an arrangement entered into on or before September 17, 2003 is materially modified (within the meaning of § 1.61-22(j)(2)) after September 17, 2003, the arrangement is treated as a new arrangement entered into on the date of the modification.

(6) *Effective date.* Paragraphs (a)(1) and (2) of this section apply to deductions for taxable years beginning on or after January 1, 1995. However, taxpayers may also apply paragraphs (a)(1) and (2) of this section when claiming deductions for taxable years beginning before that date if the claims are not barred by the statute of limitations. Paragraphs (a)(3) and (4) of this section are effective as set forth in § 1.83-8(b).

(b) *Recognition of gain or loss.* Except as provided in section 1032, at the time of a transfer of property in connection with the performance of services the transferor recognizes gain to the extent that the transferor receives an

amount that exceeds the transferor's basis in the property. In addition, at the time a deduction is allowed under section 83(h) and paragraph (a) of this section, gain or loss is recognized to the extent of the difference between (1) the sum of the amount paid plus the amount allowed as a deduction under section 83(h), and (2) the sum of the taxpayer's basis in the property plus any amount recognized pursuant to the previous sentence.

(c) *Forfeitures.* If, under section 83(h) and paragraph (a) of this section, a deduction, an increase in basis, or a reduction of gross income was allowable (disregarding the reasonableness of the amount of compensation) in respect of a transfer of property and such property is subsequently forfeited, the amount of such deduction, increase in basis or reduction of gross income shall be includible in the gross income of the person to whom it was allowable for the taxable year of forfeiture. The basis of such property in the hands of the person to whom it is forfeited shall include any such amount includible in the gross income of such person, as well as any amount such person pays upon forfeiture.

(d) *Special rules for transfers by shareholders*—(1) *Transfers.* If a shareholder of a corporation transfers property to an employee of such corporation or to an independent contractor (or to a beneficiary thereof), in consideration of services performed for the corporation, the transaction shall be considered to be a contribution of such property to the capital of such corporation by the shareholder, and immediately thereafter a transfer of such property by the corporation to the employee or independent contractor under paragraphs (a) and (b) of this section. For purposes of this (1), such a transfer will be considered to be in consideration for services performed for the corporation if either the property transferred is substantially nonvested at the time of transfer or an amount is includible in the gross income of the employee or independent contractor at the time of transfer under § 1.83-1(a)(1) or § 1.83-2(a). In the case of such a transfer, any money or other property paid to the shareholder for such stock shall be considered to be paid to the corporation

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Section 1.12741 also issued under 26 U.S.C. 1275(d).
 Section 1.1274-2 also issued under 26 U.S.C. 1275(d).
 Section 1.12743 also issued under 26 U.S.C. 1275(d).
 Section 1.1274-4 also issued under 26 U.S.C. 1275(d).
 Section 1.12745 also issued under 26 U.S.C. 1275(d).
 Section 1.1274A-1 also issued under 26 U.S.C. 1274A(e) and 26 U.S.C. 1275(d).
 Section 1.1275-1 also issued under 26 U.S.C. 1275(d).
 Section 1.1275-2 also issued under 26 U.S.C. 1275(d).
 Section 1.1275-3 also issued under 26 U.S.C. 1275(d).
 Section 1.1275-4 also issued under 26 U.S.C. 1275(d).
 Section 1.1275-5 also issued under 26 U.S.C. 1275(d).
 Section 1.1275-6 also issued under 26 U.S.C. 1275(d).
 Section 1.1275-7 also issued under 26 U.S.C. 1275(d).
 Section 1.12861 also issued under 26 U.S.C. 1275(D) and 1286(F).
 Section 1.1286-2 also issued under 26 U.S.C. 1286(F).
 Section 1.1287-1 also issued under 26 U.S.C. 165 (j)(3).
 Section 1.1291-1 also issued under 26 U.S.C. 1291.
 Section 1.1291-9 also issued under 26 U.S.C. 1291(d)(2).
 Section 1.1291-10 also issued under 26 U.S.C. 1291(d)(2).
 Section 1.1293-1 also issued under 26 U.S.C. 1293.
 Section 1.1294-1T also issued under 26 U.S.C. 1294.
 Section 1.1295-1 also issued under 26 U.S.C. 1295.
 Section 1.1295-3 also issued under 26 U.S.C. 1295.
 Section 1.12961 also issued under 26 U.S.C. 1296(g) and 26 U.S.C. 1298(f).
 Section 1.1296(e)-1 also issued under 26 U.S.C. 1296(e).
 Section 1.1297-3T also issued under 26 U.S.C. 1297(b)(1).
 Section 1.1301-1 also issued under 26 U.S.C. 1301(c).
 Section 1.1361-1(j) (6), (10) and (11) also issued under 26 U.S.C. 1361(d)(2)(B)(iii).
 Section 1.1361-1(l) also issued under 26 U.S.C. 1361(c)(6)(C).
 Sections 1.1362-1, 1.1362-2, 1.1362-3, 1.1362-4, 1.1362-5, 1.1362-6, 1.1362-7, and 1.1363-1 also issued under 26 U.S.C. 1377.
 Section 1.1368-1(f) and (g) also issued under 26 U.S.C. 1377(c).
 Section 1.1368-2(b) also issued under 26 U.S.C. 1368(c).
 Section 1.1374-1 also issued under 26 U.S.C. 1374(e) and 337(d).

Section 1.13742 also issued under 26 U.S.C. 1374(e) and 337(d).
 Section 1.13743 also issued under 26 U.S.C. 1374(e) and 337(d).
 Section 1.1374-4 also issued under 26 U.S.C. 1374(e) and 337(d).
 Section 1.13745 also issued under 26 U.S.C. 1374(e) and 337(d).
 Section 1.1374-6 also issued under 26 U.S.C. 1374(e) and 337(d).
 Section 1.1374-7 also issued under 26 U.S.C. 1374(e) and 337(d).
 Section 1.1374-8 also issued under 26 U.S.C. 1374(e) and 337(d).
 Section 1.1374-8T also issued under 26 U.S.C. 337(d) and 1374(e).
 Section 1.13749 also issued under 26 U.S.C. 1374(e) and 337(d).
 Section 1.137410 also issued under 26 U.S.C. 1374(e) and 337(d).
 Section 1.1374-10T also issued under 26 U.S.C. 337(d) and 1374(e).
 Section 1.1377-1 also issued under 26 U.S.C. 1377(a)(2) and (c).
 Section 1.1394-1 also issued under 26 U.S.C. 1397D.
 Section 1.13961 also issued under 26 U.S.C. 1397D.
 Section 1.1397E-1 also issued under 26 U.S.C. 1397E(b) and (d).
 SOURCE: T.D. 6500, 25 FR 11910, Nov. 26, 1960; 25 FR 14021, Dec. 31, 1960, unless otherwise noted.

GAIN OR LOSS ON DISPOSITION OF PROPERTY

DETERMINATION OF AMOUNT OF AND RECOGNITION OF GAIN OR LOSS

§ 1.1001-1 Computation of gain or loss.

(a) General rule. Except as otherwise provided in subtitle A of the Code, the gain or loss realized from the conversion of property into cash, or from the exchange of property for other property differing materially either in kind or in extent, is treated as income or as loss sustained. The amount realized from a sale or other disposition of property is the sum of any money received plus the fair market value of any property (other than money) received. The fair market value of property is a question of fact, but only in rare and extraordinary cases will property be considered to have no fair market value. The general method of computing such gain or loss is prescribed by section 1001 (a) through (d) which contemplates that from the amount realized upon the sale or exchange there shall be withdrawn a sum sufficient to

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restore the adjusted basis prescribed by section 1011 and the regulations thereunder (i.e., the cost or other basis adjusted for receipts, expenditures, losses, allowances, and other items chargeable against and applicable to such cost or other basis). The amount which remains after the adjusted basis has been restored to the taxpayer constitutes the realized gain. If the amount realized upon the sale or exchange is insufficient to restore to the taxpayer the adjusted basis of the property, a loss is sustained to the extent of the difference between such adjusted basis and the amount realized. The basis may be different depending upon whether gain or loss is being computed. For example, see section 1015(a) and the regulations thereunder. Section 1001(e) and paragraph (f) of this section prescribe the method of computing gain or loss upon the sale or other disposition of a term interest in property the adjusted basis (or a portion) of which is determined pursuant, or by reference, to section 1014 (relating to the basis of property acquired from a decedent) or section 1015 (relating to the basis of property acquired by gift or by a transfer in trust).

(b) *Real estate taxes as amounts received.* (1) Section 1001(b) and section 1012 state rules applicable in making an adjustment upon a sale of real property with respect to the real property taxes apportioned between seller and purchaser under section 164(d). Thus, if the seller pays (or agrees to pay) real property taxes attributable to the real property tax year in which the sale occurs, he shall not take into account, in determining the amount realized from the sale under section 1001(b), any amount received as reimbursement for taxes which are treated under section 164(d) as imposed upon the purchaser. Similarly, in computing the cost of the property under section 1012, the purchaser shall not take into account any amount paid to the seller as reimbursement for real property taxes which are treated under section 164(d) as imposed upon the purchaser. These rules apply whether or not the contract of sale calls for the purchaser to reimburse the seller for such real property taxes paid or to be paid by the seller.

(2) On the other hand, if the purchaser pays (or is to pay) an amount representing real property taxes which are treated under section 164(d) as imposed upon the seller, that amount shall be taken into account both in determining the amount realized from the sale under section 1001(b) and in computing the cost of the property under section 1012. It is immaterial whether or not the contract of sale specifies that the sale price has been reduced by, or is in any way intended to reflect, the taxes allocable to the seller. See also paragraph (b) of § 1.1012-1.

(3) Subparagraph (1) of this paragraph shall not apply to a seller who, in a taxable year prior to the taxable year of sale, pays an amount representing real property taxes which are treated under section 164(d) as imposed on the purchaser, if such seller has elected to capitalize such amount in accordance with section 266 and the regulations thereunder (relating to election to capitalize certain carrying charges and taxes).

(4) The application of this paragraph may be illustrated by the following examples:

Example 1. Assume that the contract price on the sale of a parcel of real estate is \$50,000 and that real property taxes thereon in the amount of \$1,000 for the real property tax year in which occurred the date of sale were previously paid by the seller. Assume further that \$750 of the taxes are treated under section 164(d) as imposed upon the purchaser and that he reimburses the seller in that amount in addition to the contract price. The amount realized by the seller is \$50,000. Similarly, \$50,000 is the purchaser's cost. If, in this example, the purchaser made no payment other than the contract price of \$50,000, the amount realized by the seller would be \$49,250, since the sales price would be deemed to include \$750 paid to the seller in reimbursement for real property taxes imposed upon the purchaser. Similarly, \$49,250 would be the purchaser's cost.

Example 2. Assume that the purchaser in example (1), above, paid all of the real property taxes. Assume further that \$250 of the taxes are treated under section 164(d) as imposed upon the seller. The amount realized by the seller is \$50,250. Similarly, \$50,250 is the purchaser's cost, regardless of the taxable year in which the purchaser makes actual payment of the taxes.

Example 3. Assume that the seller described in the first part of example (1), above, paid

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he makes no other charitable contributions. On the date of transfer the securities have a fair market value of \$100,000 and an adjusted basis to A of 80,000.

(b) The present value of the right of a male age 65 to receive a life annuity of \$5,000 per annum, payable in equal installments at the end of each monthly period, is \$59,755 (\$5,000 x [11.469 + 0.482]), determined in accordance with section 101(b) of the Code, paragraph (e)(1)(iii)(b)(2) of §1.101-2, and section 3 of Rev. Rul. 62-216 C.B. 1962-2. 30. Thus, A makes a charitable contribution to the church of \$40,245 (\$100,000 - \$59,755). See Rev. Rul. 84162, 19842 C.B. 200, for transfers for which the valuation date falls after November 23, 1984. (See §601.601(d)(2)(ii)(b) of this chapter). For the applicable valuation tables in connection therewith, see §20.2031-7(d)(6) of this chapter. See, however, §1.7520-3(b) (relating to exceptions to the use of standard actuarial factors in certain circumstances).

(c) Under paragraph (b) of this section, the adjusted basis for determining gain on the bargain sale is \$11,951 (\$20,000 x \$59,755 / \$100,000). Accordingly, A has a recognized long-term capital gain of \$47,804 (\$59,755 - \$11,951) on the bargain sale. Such gain is to be reported by A ratably over the period of years measured by the expected return multiple under the contract, but only from that portion of the annual payments which is a return of his investment in the contract under section 72 of the Code. For such purposes, the investment in the contract is \$59,755, that is, the present value of the annuity.

(d) The computation and application of the exclusion ratio, the gain, and the ordinary annuity income are as follows, determined by using the expected return multiple of 15.0 applicable under table I of §1.72-9:

A's expected return (annual payments of \$5,000 x 15)	\$75,000.00
Exclusion ratio (\$59,755 investment in contract divided by expected return of \$75,000)	79.7%
Annual exclusion (annual payments of \$5,000 x 79.7%)	\$3,985.00
Ordinary annuity income (\$5,000-\$3,985)	\$1,015.00
Long-term capital gain per year (\$47,804/15) with respect to the annual exclusion	\$3,186.93

(e) The exclusion ratio of 79.7 percent applies throughout the life of the contract. During the first 15 years of the annuity, A is required to report ordinary income of \$1,015 and long-term capital gain of \$3,186.93 with respect to the annuity payments he receives. After the total long-term capital gain of \$47,804 has been reported by A, he is required to report only ordinary income of \$1,015.00 per annum with respect to the annuity payments he receives.

(d) *Effective date.* This section applies only to sales and exchanges made after December 19, 1969.

(e) *Cross reference.* For rules relating to the treatment of liabilities on the sale or other disposition or encumbered property, see 51.1001-2.

[T.D. 7207, 37 FR 20798, Oct. 5, 1972, as amended by T.D. 7741, 45 FR 81745, Dec. 12, 1980; T.D. 8176, 53 FR 5570, Feb. 25, 1988; 53 FR 11002, Apr. 4, 1988; T.D. 8540, 59 FR 30148, June 10, 1994]

61.1012-1 Basis of property.

(a) *General rule.* In general, the basis of property is the cost thereof. The cost is the amount paid for such property in cash or other property. This general rule is subject to exceptions stated in subchapter O (relating to gain or loss on the disposition of property), subchapter C (relating to corporate distributions and adjustments), subchapter K (relating to partners and partnerships), and subchapter P (relating to capital gains and losses), chapter 1 of the code.

(b) *Real estate taxes as part of cost.* In computing the cost of real property, the purchaser shall not take into account any amount paid to the seller as reimbursement for real property taxes which are treated under section 164(d) as imposed upon the purchaser. This rule applies whether or not the contract of sale calls for the purchaser to reimburse the seller for such real estate taxes paid or to be paid by the seller. On the other hand, where the purchaser pays (or assumes liability for) real estate taxes which are treated under section 164(d) as imposed upon the seller, such taxes shall be considered part of the cost of the property. It is immaterial whether or not the contract of sale specifies that the sale price has been reduced by, or is in any way intended to reflect, real estate taxes allocable to the seller under section 164(d). For illustrations of the application of this paragraph, see Paragraph (b) of §1.1001-1.

(c) *Sale of stock—(1) In general.* If shares of stock in a corporation are sold or transferred by a taxpayer who purchased or acquired lots of stock on different dates or at different prices, and the lot from which the stock was sold or transferred cannot be adequately identified, the stock sold or transferred shall be charged against the earliest of such lots purchased or

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Internal Revenue Service

United States Department of the Treasury

Privacy Act Statement and Paperwork Reduction Act Notice

This notice is given under the Privacy Act of 1974 and the Paperwork Reduction Act of 1995. The Privacy Act and Paperwork Reduction Act requires that the Internal Revenue Service inform businesses and other entities the following when asking for information.

The information on this form will carry out the Internal Revenue laws of the United States. We will comply with Internal Revenue Code (IRC) section 6109 and the regulations hereunder, which generally require the inclusion of an Employer Identification Number (EIN) on certain returns, statements, or other documents filed with the Internal Revenue Service. Information on this form may be used to determine which Federal tax returns are required to file and to provide related forms and publications. This Form will be disclosed to the Social Security Administration for their use in determining compliance with applicable laws. An EIN will not be issued unless you provide all of the requested information, which applies to your entity.

Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by IRC section 6103.

Note: This page contains one or more references to the Internal Revenue Code (IRC), Treasury Regulations, court cases, or other official tax guidance. References to these legal authorities are included for the convenience of those who would like to read the technical reference material. To access the applicable IRC sections, Treasury Regulations, or other official tax guidance, visit the Tax Code, Regulations, and Official Guidance page. To access any Tax Court case opinions issued after September 24, 1995, visit the Opinions Search page of the United States Tax Court.

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**Department of the Treasury
Internal Revenue Service**

**Notice 609
(Revised July 2002)**

Privacy Act Notice

The Privacy Act of 1974 says that when we ask you for information, we must first tell you our legal right to ask for the information, why we are asking for it, and how it will be used. We must also tell you what could happen if you do not provide it and whether or not you must respond under the law.

This notice applies to tax returns and any papers filed with them. It also applies to any questions we need to ask you so we can complete, correct, or process your return; figure your tax; and collect tax, interest, or penalties.

Our legal right to ask for information is found in Internal Revenue Code sections 6001, 6011, and 6012(a) and their regulations. They say that you must file a return or statement with us for any tax you are liable for. Your response is mandatory under these sections.

Code section 6109 and its regulations say that you must show your social security number or individual taxpayer identification number on what you file. You must also fill in all parts of the tax form that apply to you. This is so we know who you are and can process your return and papers. You do not have to check the boxes for the Presidential Election Campaign Fund.

We ask for tax return information to carry out the U.S. tax laws. We need it to figure and collect the right amount of tax.

We may give the information to the Department of Justice and to other Federal agencies, as provided by law. We may also give it to cities, states, the District of Columbia, and U.S. commonwealths or possessions to carry out their tax laws. And we may give it to certain foreign governments under tax treaties they have with the United States. We may also disclose this information

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The information on this form will carry out the Internal Revenue laws of the United States. We will comply with Internal Revenue Code (IRC) section 6109 and the regulations hereunder, which generally require the inclusion of an Employer Identification Number (EIN) on certain returns, statements, or other documents filed with the Internal Revenue Service. Information on this form may be used to determine which Federal tax returns are required to file and to provide related forms and publications. This Form will be disclosed to the Social Security Administration for their use in determining compliance with applicable laws. An EIN will not be issued unless you provide all of the requested information, which applies to your entity.

Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by IRC section 6103.

Note: This page contains one or more references to the Internal Revenue Code (IRC), Treasury Regulations, court cases, or other official tax guidance. References to these legal authorities are included for the convenience of those who would like to read the technical reference material. To access the applicable IRC sections, Treasury Regulations, or other official tax guidance, visit the Tax Code, Regulations, and Official Guidance page. To access any Tax Court case opinions issued after September 24, 1995, visit the Opinions Search page of the United States Tax Court.

[Return to Internet EIN information page](#)

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6/13/06 3:26 PM

Prod0372

US001343



Department of the Treasury
Internal Revenue Service

Notice 609
(Revised July 2002)

Privacy Act Notice

The Privacy Act of 1974 says that when we ask you for information, we must first tell you our legal right to ask for the information, why we are asking for it, and how it will be used. We must also tell you what could happen if you do not provide it and whether or not you must respond under the law.

This notice applies to tax returns and any papers filed with them. It also applies to any questions we need to ask you so we can complete, correct, or process your return; figure your tax; and collect tax, interest, or penalties.

Our legal right to ask for information is found in Internal Revenue Code sections 6001, 6011, and 6012(a) and their regulations. They say that you must file a return or statement with us for any tax you are liable for. Your response is mandatory under these sections.

Code section 6109 and its regulations say that you must show your social security number or individual taxpayer identification number on what you file. You must also fill in all parts of the tax form that apply to you. This is so we know who you are and can process your return and papers. You do not have to check the boxes for the Presidential Election Campaign Fund.

We ask for tax return information to carry out the U.S. tax laws. We need it to figure and collect the right amount of tax.

We may give the information to the Department of Justice and to other Federal agencies, as provided by law. We may also give it to cities, states, the District of Columbia, and U.S. commonwealths or possessions to carry out their tax laws. And we may give it to certain foreign governments under tax treaties they have with the United States. We may also disclose this information

Cat. No. 45963A

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EXHIBIT E
Title 26 IRC and CFR; IRS Privacy Act Statement and PRA Notice
(18 pages)

Internal Revenue Service, Treasury

§ 1.1-1

NORMAL TAXES AND SURTAXES

DETERMINATION OF TAX LIABILITY

TAX ON INDIVIDUALS

§ 1.1-1 Income tax on individuals.

(a) *General rule.* (1) Section 1 of the Code imposes an income tax on the income of every individual who is a citizen or resident of the United States and, to the extent provided by section 871(b) or 877(b), on the income of a non-resident alien individual. For optional tax in the case of taxpayers with adjusted gross income of less than \$10,000 (less than \$5,000 for taxable years beginning before January 1, 1970) see section 3. The tax imposed is upon taxable income (determined by subtracting the allowable deductions from gross income). The tax is determined in accordance with the table contained in section 1. See subparagraph (2) of this paragraph for reference guides to the appropriate table for taxable years beginning on or after January 1, 1964, and before January 1, 1965, taxable years beginning after December 31, 1964, and before January 1, 1971, and taxable years beginning after December 31, 1970. In certain cases credits are al-

lowed against the amount of the tax. See part IV (section 31 and following), subchapter A, chapter 1 of the Code. In general, the tax is payable upon the basis of returns rendered by persons liable therefor (subchapter A (sections 6001 and following), chapter 61 of the Code) or at the source of the income by withholding. For the computation of tax in the case of a joint return of a husband and wife, or a return of a surviving spouse, for taxable years beginning before January 1, 1971, see section 2. The computation of tax in such a case for taxable years beginning after December 31, 1970, is determined in accordance with the table contained in section 1(a) as amended by the Tax Reform Act of 1969. For other rates of tax on individuals, see section 5(a). For the imposition of an additional tax for the calendar years 1968, 1969, and 1970, see section 51(a).

(2)(i) For taxable years beginning on or after January 1, 1964, the tax imposed upon a single individual, a head of a household, a married individual filing a separate return, and estates and trusts is the tax imposed by section 1 determined in accordance with the appropriate table contained in the following subsection of section 1:

	Taxable years beginning in 1964	Taxable years beginning after 1964 but before 1971	Taxable years beginning after Dec. 31, 1970 (references in this column are to the Code as amended by the Tax Reform Act of 1969)
Single individual	Sec. 1(a)(1)	Sec. 1(a)(2)	Sec. 1(c).
Head of a household	Sec. 1(b)(1)	Sec. 1(b)(2)	Sec. 1(b).
Married individual filing a separate return.	Sec. 1(a)(1)	Sec. 1(a)(2)	Sec. 1(d).
Estates and trusts	Sec. 1(a)(1)	Sec. 1(a)(2)	Sec. 1(d).

(ii) For taxable years beginning after December 31, 1970, the tax imposed by section 1(d), as amended by the Tax Reform Act of 1969, shall apply to the income effectively connected with the conduct of a trade or business in the United States by a married alien individual who is a nonresident of the United States for all or part of the taxable year or by a foreign estate or trust. For such years the tax imposed by section 1(c), as amended by such Act, shall apply to the income effectively connected with the conduct of a trade or business in the United States by an unmarried alien individual (other

than a surviving spouse) who is a non-resident of the United States for all or part of the taxable year. See paragraph (b)(2) of § 1.871-8.

(3) The income tax imposed by section 1 upon any amount of taxable income is computed by adding to the income tax for the bracket in which that amount falls in the appropriate table in section 1 the income tax upon the excess of that amount over the bottom of the bracket at the rate indicated in such table.

(4) The provisions of section 1 of the Code, as amended by the Tax Reform Act of 1969, and of this paragraph may

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Internal Revenue Service, Treasury

§ 602.101

(2) Eligible organizations interested in participating in the Internal Revenue Service Tax Counseling for the Elderly program should request an application from the:

Program Manager, Tax Counseling for the Elderly, Taxpayer Service Division TX-TL, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, (202) 566-4904.

Subpart I—Use of Penalty Mail in the Location and Recovery of Missing Children

SOURCE: T.D. 8848, 64 FR 69398, Dec. 13, 1999, unless otherwise noted.

§ 601.901 Missing children shown on penalty mail.

(a) *Purpose.* To support the national effort to locate and recover missing children, the Internal Revenue Service (IRS) joins other executive departments and agencies of the Government of the United States in using official mail to disseminate photographs and biographical information on hundreds of missing children.

(b) *Procedures for obtaining and disseminating data.* (1) The IRS shall publish pictures and biographical data related to missing children in domestic penalty mail containing annual tax forms and instructions, taxpayer information publications, and other IRS products directed to members of the public in the United States and its territories and possessions.

(2) Missing children information shall not be placed on the "Penalty Indicia," "OCR Read Area," "Bar Code Read Area," and "Return Address" areas of letter-size envelopes.

(3) The IRS shall accept photographic and biographical materials solely from the National Center for Missing and Exploited Children (National Center). Photographs that were reasonably current as of the time of the child's disappearance, or those which have been updated to reflect a missing child's current age through computer enhancement technique, shall be the only acceptable form of visual media or pictorial likeness used in penalty mail.

(c) *Withdrawal of data.* The shelf life of printed penalty mail is limited to 3 months for missing child cases. The

IRS shall follow those guidelines whenever practicable. For products with an extended shelf life, such as those related to filing and paying taxes, the IRS will not print any pictures or biographical data relating to missing children without obtaining from the National Center a waiver of the 3-month shelf-life guideline.

(d) *Reports and contact official.* IRS shall compile and submit to OJJDP reports on its experience in implementing Public Law 99-87, 99 Stat. 290, as required by that office. The IRS contact person is: Chief, Business Publications Section (or successor office), Tax Forms and Publications Division, Technical Publications Branch, OP:FS:FP:P:3, Room 5613, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224.

(e) *Period of applicability.* This section is applicable December 13, 1999 through December 31, 2002.

[T.D. 8848, 64 FR 69398, Dec. 13, 1999; 65 FR 15662, Mar. 24, 2000]

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

§ 602.101 OMB Control numbers.

(a) *Purpose.* This part collects and displays the control numbers assigned to collections of information in Internal Revenue Service regulations by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. The Internal Revenue Service intends that this part comply with the requirements of §§ 1320.7(f), 1320.12, 1320.13, and 1320.14 of 5 CFR part 1320 (OMB regulations implementing the Paperwork Reduction Act), for the display of control numbers assigned by OMB to collections of information in Internal Revenue Service regulations. This part does not display control numbers assigned by the Office of Management and Budget to collections of information of the Bureau of Alcohol, Tobacco, and Firearms.

(b) *Display.*

CFR part or section where identified and described	Current OMB control No.
1.1(h)-1(e)	1545-1654
1.23-5	1545-0074

1.1-1 Missing in current CFR publications But is NOT applicable.

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Bureau of Alcohol, Tobacco, and Firearms.

(b) *Cross-reference.* For display of control numbers assigned by the Office of Management and Budget to Internal Revenue Service collections of information in the Statement of Procedural Rules (26 CFR, part 601), see 26 CFR 601.9000.

(c) *Display*

26 CFR part or sec. no.	repealed and	Current OMB control number
§ 1.1-1		1545-0067
§ 1.25-1T		1545-0922
§ 1.25-2T		1545-0922
§ 1.25-3T		1545-0922

§ 1.1-1 1545-0067

§ 1.25-7T	1545-0922	§ 1.81-2T O/A-29	1545-0771
§ 1.25-8T	1545-0922	§ 1.81-4	1545-0771
§ 1.25-1	1545-0919	§ 1.81-15	1545-0771
§ 1.31-2(a)	1545-0074	§ 1.82-1	1545-0139
§ 1.37-1(c)	1545-0074	§ 1.82-2	1545-1148
§ 1.37-3(d)	1545-0074	§ 1.83-1	1545-0074
§ 1.41-1(a)(2) and (c)	1545-0074	§ 1.87-2T	1545-0110
§ 1.42-1T	1545-0908	§ 1.87-3T	1545-1018
§ 1.42-2T	1545-1008	§ 1.71-1T	1545-0074
§ 1.43-2(b)	1545-0074	§ 1.72-1	1545-0074
§ 1.44A	1545-0068	§ 1.72-6	1545-0074
§ 1.44A-2(a)	1545-0074	§ 1.72-9	1545-0074
§ 1.44B-1	1545-0219	§ 1.72-17(e)	1545-0074
§ 1.44C	1545-0214	§ 1.72-17A(c)	1545-0074
§ 1.44C-5	1545-0780	§ 1.72-17A(e)	1545-0074
§ 1.44C-6	1545-0780	§ 1.73-18(b)	1545-0074
§ 1.45-1(p)	1545-0123	§ 1.79-2	1545-0074
§ 1.45-5(a)(2)	1545-0155	§ 1.79-3	1545-0074
§ 1.45-5(h)(4)	1545-0155	§ 1.83-20(a), (c), and (e)	1545-0074
§ 1.45-5(i)(5)(v)	1545-0155	§ 1.83-5(b)	1545-0074
§ 1.45-5(o)(2)	1545-0155	§ 1.103-10(a)(2)(v)	1545-0940
§ 1.46-6	1545-0155	§ 1.103-10(a)(2)(v)(ii)	1545-0123
§ 1.46-11(g)	1545-0198	§ 1.103-10(a)	1545-0123
§ 1.47-1(b)	1545-0198	§ 1.103-18AT	1545-0720
§ 1.47-1(e)(1)	1545-0186	§ 1.103(a)-3T	1545-0874
§ 1.47-1(e)(2)	1545-0186	§ 1.103(a)-4T	1545-0874
§ 1.47-1(f)	1545-0155	§ 1.103A-2	1545-0720
§ 1.47-3(a)	1545-0155	§ 1.105-4	1545-0069
§ 1.47-3(b)	1545-0155	§ 1.105-5	1545-0069
§ 1.47-3(c)	1545-0155	§ 1.105-6	1545-0069
§ 1.47-4(a)	1545-0123	§ 1.105-7	1545-0069
§ 1.47-5(a)	1545-0092	§ 1.105-8	1545-0069
§ 1.47-6	1545-0099	§ 1.105-9	1545-0069
§ 1.48-12(a)(2)(v)	1545-0155	§ 1.105-10	1545-0069
§ 1.48-12(a)(3)(v)	1545-0155	§ 1.108(a)-1	1545-0048
§ 1.48-12(a)(5)	1545-0155	§ 1.108(a)-2	1545-0048
§ 1.48-12(a)(6)	1545-0155	§ 1.117-5	1545-0859
§ 1.48-12(a)(7)	1545-0155	§ 1.119-1	1545-0067
§ 1.50A-1	1545-0189	§ 1.120-3(b)(1)	1545-0057
§ 1.50A-2	1545-0189	§ 1.120-3(c)(1)	1545-0057
§ 1.50A-3	1545-0189	§ 1.121-1	1545-0072
§ 1.50A-4	1545-0189	§ 1.121-2	1545-0072

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Form **1040**

Department of the Treasury—Internal Revenue Service
U.S. Individual Income Tax Return 2004

(99) IRS Use Only—Do not write or staple in this space.

Label

(See instructions on page 16.)

Use the IRS label. Otherwise, please print or type.

Presidential Election Campaign (See page 16.)

For the year Jan. 1–Dec. 31, 2004, or other tax year beginning _____, 2004, ending _____, 20

Your first name and initial _____ Last name _____

If a joint return, spouse's first name and initial _____ Last name _____

Home address (number and street). If you have a P.O. box, see page 16. _____ Apt. no. _____

City, town or post office, state, and ZIP code. If you have a foreign address, see page 16. _____

OMB No. 1545-0074

Your social security number _____

Spouse's social security number _____

▲ Important! ▲
You must enter your SSN(s) above.

Note. Checking "Yes" will not change your tax or reduce your refund.
Do you, or your spouse if filing a joint return, want \$3 to go to this fund? **You** **Spouse**
 Yes No Yes No

Filing Status

Check only one box.

- 1 Single
- 2 Married filing jointly (even if only one had income)
- 3 Married filing separately. Enter spouse's SSN above and full name here. ▶
- 4 Head of household (with qualifying person). (See page 17.) If the qualifying person is a child but not your dependent, enter this child's name here. ▶
- 5 Qualifying widow(er) with dependent child (see page 17)

Exemptions

If more than four dependents, see page 18.

6a Yourself. If someone can claim you as a dependent, do not check box 6a

b Spouse

c Dependents:		(2) Dependent's social security number	(3) Dependent's relationship to you	(4) <input checked="" type="checkbox"/> if qualifying child for child tax credit (see page 18)
(1) First name	Last name			
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>

d Total number of exemptions claimed _____ Add numbers on lines above ▶

Boxes checked on 6a and 6b _____
No. of children on 6c who:
• lived with you _____
• did not live with you due to divorce or separation (see page 18) _____
Dependents on 6c not entered above _____

Income

Attach Form(s) W-2 here. Also attach Forms W-2G and 1099-R if tax was withheld.

If you did not get a W-2, see page 19.

Enclose, but do not attach, any payment. Also, please use Form 1040-V.

7	Wages, salaries, tips, etc. Attach Form(s) W-2	7
8a	Taxable interest. Attach Schedule B if required	8a
b	Tax-exempt interest. Do not include on line 8a	8b
9a	Ordinary dividends. Attach Schedule B if required	9a
b	Qualified dividends (see page 20)	9b
10	Taxable refunds, credits, or offsets of state and local income taxes (see page 20)	10
11	Alimony received	11
12	Business income or (loss). Attach Schedule C or C-EZ	12
13	Capital gain or (loss). Attach Schedule D if required. If not required, check here ▶ <input type="checkbox"/>	13
14	Other gains or (losses). Attach Form 4797	14
15a	IRA distributions	15a
b	Taxable amount (see page 22)	15b
16a	Pensions and annuities	16a
b	Taxable amount (see page 22)	16b
17	Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E	17
18	Farm income or (loss). Attach Schedule F	18
19	Unemployment compensation	19
20a	Social security benefits	20a
b	Taxable amount (see page 24)	20b
21	Other income. List type and amount (see page 24)	21
22	Add the amounts in the far right column for lines 7 through 21. This is your total income ▶	22

Adjusted Gross Income

23	Educator expenses (see page 26)	23
24	Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106 or 2106-EZ	24
25	IRA deduction (see page 26)	25
26	Student loan interest deduction (see page 28)	26
27	Tuition and fees deduction (see page 29)	27
28	Health savings account deduction. Attach Form 8889	28
29	Moving expenses. Attach Form 3903	29

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30	One-half of s	
31	Self-employe	
32	Self-employe	
33	Penalty on e	
34a	Alimony paid	
35	Add lines 23	35
36	Subtract line 35 from line 22. This is your adjusted gross income ▶	36

Dual Status

- 324 You transferred your tax due on income not effectively connected to a U.S. trade or business incorrectly from your Form 1040, page 2. We changed your return accordingly
- 325 We can't allow your earned income credit. It appears you don't qualify. We changed your return accordingly. If you believe you do qualify, you should file an amended return on Form 1040X and provide the U.S. address and length of time you lived in the U.S.

International Form 1040

IMF Input Computer Prints Codes

- 340 We can't allow a deduction for a U.S. government cost-of-living allowance. We changed your return accordingly
- 341 Your credit on Form 8689, "Allocation of Income Tax to the Virgin Islands", can't be more than the tax due on your Form 1040. We changed your return accordingly.
- 342 We can't allow your Guam withholding since we've unable to determine your place of residence. We changed your return accordingly.

Form 1040NR

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IMF Input Computer Prints Codes

- 401 You can't deduct state and local tax payments as a negative amount on page 1 of Form 1040NR. Since we're unable to determine from Form W-2 the amount of state/local tax paid, we disallowed the deduction and changed your return accordingly.
- 402 We can't allow your scholarship or fellowship exclusion. You didn't attach the required supporting statement. We changed your return accordingly.
- 403 Gambling winnings are exempt from tax due to a U.S. tax treaty with your country of residence. We changed your return accordingly
- 404 We disallowed your treaty exemption because you didn't answer questions "K" and "L" on page 5 of Form 1040NR. We changed your return accordingly.
- 405 We can't allow the exemption for your teaching income because article 19 of the China Treaty allows the exemption for only three years. We changed your return accordingly.
- 406 We can't allow your treaty exemption. The treaty you claimed is not a valid tax treaty. We changed your return accordingly.
- 407 Because you didn't reply to our request for more information we disallowed your treaty exemption and changed your return accordingly.
- 408 The amount you entered as U.S. tax withheld at source doesn't match the amount shown on Form(s) 1042S.
- 409 We can't allow your tax treaty exclusion on the tax form you filed. You didn't file Form 1040NR as required to exclude income under a tax treaty. We changed your return accordingly. If you believe you do qualify for the tax treaty exclusion, you should file an amended return on Form 1040X.
- 410 We can't allow itemized deductions against income that is not effectively connected to a U.S. trade or business. We changed your return accordingly.

Any line marked with # is for official use only

3(15)(129)9.(10)

Veteran's Disability Compensation—Public Law DS-479, Sect 301

(1) Veterans notified that they are retroactively entitled to Veterans Administration (VA) pension or compensation can exclude this amount from gross income. In order to qualify for this exclusion the veteran must waive an equal amount of retirement pay that he/she may receive from the VA benefits eligibility can be, and usually is retroactive. the taxpayer can file claims for refund of taxes paid on these amounts.

(2) When a claim is received in A/C, review the claim for completeness following the guidelines in IRM 3(15)60, "Processing Procedures for Claims and Amended Returns".

(a) Disallow the claim if the statute is barred.

(b) Disallow the claim if it is not for a retroactive exclusion of the Veterans Administration benefits.

Caution: Many claims are received where the claim amount is for additional benefits. These claims are not allowable because the benefits have not been included in the taxable income.

(c) A copy of the VA Form 20-09113 or an Official VA letter granting the retroactive benefit that clearly states "in lieu of VA Form 20-3883" must be attached to the claim.

(3) If the required document is not attached; suspend the claim and correspond with the taxpayer. If the taxpayer does not furnish the necessary information by the end of the suspense period, reject the claim.

→ 3(15)(129)9.(11) (1-1-93)

Adjustment to Virgin Island Forms 1040 and 1040A

(1) Route claims received from taxpayers residing in the Virgin Islands to PSC for processing.

(2) Action:

→ (a) Check TC 150 DLN for blocking series 98 (Virgin Island);

(b) Write "Virgin Island TP" on the transmittal; and

(c) Send 86C Letter to taxpayer notifying him/her of the transfer.

3(15)(129)9.(12) (1-1-93)

Underreporter/CP2000 Issues

(1) The Underreporter Program (URP) is the compliance program which compares amounts of wages, interest, dividends, etc., reported by the payers with the amounts reported by the individual taxpayers. Discrepancies in incoming and increased withholding credits are identified. A CP2000 notice is sent to a taxpayer to propose a change to tax and/or credits. The current URP processing year is usually 18 to 24 months prior to the current tax year. (e.g., The tax year 1991 will be processed by URP in the calendar year 1993.) As a result of taxpayers receiving CP2000 or Statutory Notices from URP, A/C will also receive correspondences and/or Forms 1040X. In addition, A/C will also receive taxpayer correspondence and returns that have been reviewed by URB.

(2) Route Forms 1040X, (that relate or refer to URP) for the current URP processing year, to URB. Follow regular adjustments procedures for:

(a) other than current URP processing year Forms 1040X and,

MT 3(15)00-261

page 3(15)(129)0-98 (1-1-96)

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IMF	Description
000-049	Adjustments with original return unless specified otherwise below.
050-070	Form 1040 Virgin Island (PSC) cover over process
100-129	Reserved.
150-179	Tax, Penalty, Interest, or freeze release without original return.
180-198	Tax, penalty, interest, or freeze release without original return. CP 55 generated. Not valid for MFTs 29 and 55.
199	Expired balance write-offs (TC 534/535) Non-refile DLN.
200-289	Forms 1040X processed by Document Perfection.
280-299	FORM 1040X Disaster Claims
300-309	Barred assessment. CP 55 generated. Valid for MFT 30 and 29.
310	Reserved
320-349	DATC, Non-refile DLN's Only
400-439	Excise Tax Fuel Claims with Form 843. Preassessment Refund only.
440-449	Disallowed claims with no filing requirements. Not valid for MFTs 29 and 55.
480-489	Form 6249 claim with Form 843. Non-refile DLN. Preassessment refund only.
490-499	Gasohol claim with Form 843. Non-refile DLN. Preassessment refund only.
500-519	URP (Timely, full part) Adjustments (CP-2000)
520-539	Adjustments to Civil Penalty Modules. CP 55 generated for TC 290 blocked 530-539 (except if the prior DLN is 59X)
540-549	SFR Assessments (1st Notice)
550-569	URP (Other than timely, full paid) adjustments (CP-2000)
590-599	W-4 Civil Penalty Adjustments
600-619	URP (Timely, full part) adjustments (Statutory Notices)
630-639	Reserved
640-649	SFR Assessments (Statutory Notice) 90-Day Letter issued
650-679	URP (Other than timely) adjustments (Statutory Notice)
680-698	Sick Pay Claims-Public Law 95-30.
700-739	Substantiated Math Error Protest with a TC 576 on the module.
740-769	Unsubstantiated Math Error Protest.
770-779	Adjustment to set math error deferred action on a module.
780-789	Adjustment without original return to set math error deferred action on module (CP 55 generated)
790-799	Technical Unit Adjustments
800-809	Offer in Compromise
900-909	Carryback Adjustments without original return (CP 55 generated).
910-919	Carryback adjustments below tolerance without original return--no CP 55 generated.
920-929	Carryback Adjustment with original return. (CP 55 not generated).
930-939	Reserved

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IMF	Description
950-959	Carryback claim reassessments processed with TC 298 for statute imminent years.
960-969	Penalty appeals indicator set. CP 55 generated. Refile DLN Does not generate CP 55 on a civil penalty module if prior control DLN is 59X.
970-979	Penalty appeals indicator released. Refile DLN.
980-989	Complete claim disallowance without original return (generates CP 55). Does not generate CP 55 on a civil penalty module if prior control DLN is 59X.
990-999	Complete claim disallowance with original return (does not generate CP 55).
IRA	Description
000-099	All adjustments except those specified below. Non-refile DLN.
500-599	Adjustments created by the Revenue Act of 1978 and Public Law 95-458. Non-refile DLN.
700-769	Mathematical/Clerical Errors.
800-899	Offers in Compromise.
960-969	Penalty Appeals Indicator Set. Refile DLN.
970-979	Penalty Appeals Indicator Released. Refile DLN.
BMF	Description
000-049	Adjustments with the original return attached, except those with mathematical error adjustments, SC Technical adjustments, Offers in Compromise. Not valid for Forms 11C, 706, 709, 730.
050-059	Same as above, except for Forms 2290 and 4638* only.
060-069	Same as above, except for Forms 706 and 709 only.
070-079	Forms 11 and 11B
080-089	Same as above, except for Form 11-C only.
090-099	Same as above, except for Form 730 only.
100-129	Non-tax adjustments without the original return. Non-refile DLN.
130-139	FTD penalty adjustment with CP 194 or CP 207. Refile DLN.
140-149	FTD penalty CP 207 or CP 194 per processing 3(15)(107)0. Non-refile DLN.
150-179	Tax adjustments without the original return, including penalty, interest and/or freeze release adjustments. Non-refile DLN. When using this blocking series, no unpostable checks are made for prior examination or mathematical error because the original return has not been secured. Exercise caution when adjusting accounts using this blocking series.
180-198	Tax, penalty, interest, or freeze release without original return. CP 155 generated. Valid for all MFTs except 06, 13, 36 and 67.
199	Expired balance write-offs. (TC 534/535). Non-refile DLN.
200-289	Forms 1120X processed in Returns Analysis.
290-299	Forms 1120X processed by Document Perfection.
300-309	Barred assessment. CP 155 generated.
390-398	U.S./U.K. Tax Treaty claims

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Files Management and Services
Exhibit 35(61)0-11

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Documents which are specifically referenced in the Files procedures are cross-referenced here as an administrative aid

Form	Title (purpose)	IRM 35(61) Se
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708	Estate and Generation-Skipping Transfer Tax Return	7.3
708 NA	Estate Tax Return - Alien	7.3
708 (for POA)	Estate Tax (Power Of Attorney)	3.(26)
709	Gift (and Generation-Skipping Transfer Tax Return)	3.5 & 7.3
720	Quarterly Federal Excise Tax Return	5.8
813(Part 2)	Document Register	Various
843	Claim for Refund and Request for Abatement	3.(25)
011	Application for Taxpayer Assistance Order to Relieve Hardship	1.6
928	Return by a Transferor of Property to a Foreign Corporation, Trust, Estate or Partnership	3.(27)
940-942	Employer's Annual Federal Unemployment (FUTA) Tax Return / Employer's Quarterly Tax Return for Household Employees	2.1
941 facsimile	Employers Quarterly Federal Tax Return	2.5 & 3.(35)
964(Form Obsoleted)	Election of Shareholders (Liquidation)	7.(11)
966	Corp. Dissolution (Liquidation)	7.(11)
990-BL	Information and Excise Tax Return for Black Lung Benefit Trusts and Certain Related Persons	3.6
990/990-PF	Return of Org. Exempt from Income Tax (Exempt Private Foundation) / Return of Private Foundation	2.7
990-T	Exempt Organization Business Income Tax Return	Exhibit 3
1040	U.S. Individual Income Tax Return	7.6
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1040X	Amended U.S. Individual Income Tax Return for U.S. Sources Income of Foreign Persons	3.(25) & Exhibit 3
1042	Withholding Tax Return	2.3 & 3.(10)
1042S	Income Subject to Withholding	3.(10)
1096	U.S. Annual Summary & Transmittal of U.S. Information Return	3.(13)
1120-FSC	U.S. Income Tax Return of a Foreign Sales Corporation	3.2
1120-IC-DISC	Interest Charged Domestic International Sales Corporation Return	3.2
1120	Corp. Tax Return	3.(11) & Exhibit 1
1120X	Claim	3.(25) & Exhibit 3
1332	Block & Selection Record	Various
2031 (Form Obsoleted)	Waiver Certificate to Collection Social Security Coverage	Exhibit 3
2119	Sale or Exchange of Principle Residence	5.(24)
2275	Record request Charge and Recharge (Charge-out Request)	Various
2345	Batch Transmittal	2.3
2553	Election—Small Business Corp.	3.(12)
2818	Power of Attorney and Declaration of Representatives	3.(32)
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3115	Accounting Method Change	Exhibit 3
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3520A	Annual Return of Foreign Trusts with U.S. Beneficiaries	3.(30)
3780	Index Cards (Form Obsoleted 12/74)	3.(20)
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Form **1040X**
(Rev. November 2004)

Department of the Treasury—Internal Revenue Service

Amended U.S. Individual Income Tax Return

OMB No. 1545-0091

▶ See separate instructions.

This return is for calendar year ▶ , or fiscal year ended ▶

Please print or type	Your first name and initial	Last name	Your social security number	
	If a joint return, spouse's first name and initial	Last name	Spouse's social security number	
	Home address (no. and street) or P.O. box if mail is not delivered to your home		Apt. no.	Phone number ()
	City, town or post office, state, and ZIP code. If you have a foreign address, see page 2 of the instructions.			For Paperwork Reduction Act Notice, see page 6.

- A If the name or address shown above is different from that shown on the original return, check here
- B Has the original return been changed or audited by the IRS or have you been notified that it will be? Yes No
- C Filing status. Be sure to complete this line. **Note.** You cannot change from joint to separate returns after the due date.
- On original return ▶ Single Married filing jointly Married filing separately Head of household Qualifying widow(er)
- On this return ▶ Single Married filing jointly Married filing separately Head of household* Qualifying widow(er)
- * If the qualifying person is a child but not your dependent, see page 2.

Use Part II on the back to explain any changes		A. Original amount or as previously adjusted (see page 3)	B. Net change—amount of increase or (decrease)—explain in Part II	C. Correct amount
Income and Deductions (see pages 2-6)				
	1 Adjusted gross income (see page 3)	1		
	2 Itemized deductions or standard deduction (see page 3)	2		
	3 Subtract line 2 from line 1	3		
	4 Exemptions. If changing, fill in Parts I and II on the back	4		
	5 Taxable income. Subtract line 4 from line 3	5		
Tax Liability	6 Tax (see page 4). Method used in col. C	6		
	7 Credits (see page 4)	7		
	8 Subtract line 7 from line 6. Enter the result but not less than zero	8		
	9 Other taxes (see page 4)	9		
	10 Total tax. Add lines 8 and 9	10		
Payments	11 Federal income tax withheld and excess social security and tier 1 RRTA tax withheld. If changing, see page 4	11		
	12 Estimated tax payments, including amount applied from prior year's return	12		
	13 Earned income credit (EIC)	13		
	14 Additional child tax credit from Form 8812	14		
	15 Credits from Form 2439, Form 4136, or Form 8885	15		
	16 Amount paid with request for extension of time to file (see page 5)			16
	17 Amount of tax paid with original return plus additional tax paid after it was filed			17
	18 Total payments. Add lines 11 through 17 in column C			18

Refund or Amount You Owe		
19	Overpayment, if any, as shown on original return or as previously adjusted by the IRS	19
20	Subtract line 19 from line 18 (see page 5)	20
21	Amount you owe. If line 10, column C, is more than line 20, enter the difference and see page 5	21
22	If line 10, column C, is less than line 20, enter the difference	22
23	Amount of line 22 you want refunded to you	23
24	Amount of line 22 you want applied to your estimated tax	24

Sign Here

Under penalties of perjury, I declare that I have filed an original return and that I have examined this amended return, including accompanying schedules and statements, and to the best of my knowledge and belief, this amended return is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which the preparer has any knowledge.

Joint return? See page 2. Keep a copy for your records.

Your signature _____ Date _____ Spouse's signature. If a joint return, both must sign. _____ Date _____

Preparer's signature _____ Date _____ Check if self-employed Preparer's SSN or PTIN _____

Preparer's Use Only

Firm's name (or yours if self-employed), address, and ZIP code _____ EIN _____ Phone no. () _____

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Form 1040X (Rev. 11-2004)

Transaction Codes Pocket Guide



IRS

Department of the Treasury
Internal Revenue Service

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Document 11734 (Rev. 6-2004)
Catalog Number 33169Q

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Trans. Code	File	D/C	Title	Trans. Code	File	D/C
120	I/B		Account Disclosure Code	160	B/A	D
121	E		Employee Plan Characteristics	161	I/B/A	C
122	E		Reversal of Employee Plan Characteristics	162	I/B/A	
123	E		Update of Employee Plan Characteristics	166	I/B/A	D
125	E		Plan Termination	167	I/B/A	C
126	E		Reversal of Termination	170	I/B	D
127	E		Administrator Data Change	171	I/B	C
128	E		Administrator Data Change	176	I/B	D
129	I		HHS Request	177	I/B	C
130	I/B		Entire Account Frozen from Refunding	180	B	D
131	I/B		Reversal of TC 130 Refund Freeze	181	B	C
132	I		Reversed TC 130	186	B	D
136	B		Suppress FTD Alert	187	B	C
137	B		Reverse Suppress	190	I/B/A	D
140	I		IRP Delinquency Inquiry	191	I/B/A	C
141	I/B/E		Delinquency Inquiry	196	I/B/A	D
142	I/B/E		Delinquency Investigation	197	I/B/A	C
148	I/B		Issuance of TDA or TDI Assembly	200	I/A	D
149	I/B		Reversal of TC 148	201	I/A	C
150	I/B/E/A/P	D	Return Filed & Tax Liability Assessed	234	B	D
150	I/A		Entity Created by TC 150	235	B	C
151	E/A		Reversal of TC 150 or 154	238	B	D
152	I/A		Entity Updated by TC 150	239	B	C
154	E		Posting F5330 Data	240	I/B/A	D
155	E		1 st Correspondence Letter Sent	241	I/B/A	C
156	E		Subsequent Correspondence Sent			
157	E		Schedule A			
157	B		Form 5578, Non-Discrimination Certification			
159	I		Settlement Data			

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ADP Systems Code

TC	DR/CR	File	Abbr. & Title	Doc. Code
149		I,B	RV F TDA-I Reversal of TC 148	77

(20) TC 150—A tax liability assessed from the original return establishes a tax module. SC computer generated while processing the return. Any remittance received with the return (TC 610). A TC 150 with a doc code 51 and a TC 610 in the module possibly indicates return lost in service center is prejournalized. IMF/BMF/IRAF: All credits posted to a tax module are frozen from offsetting or refunding until a 150 is posted. Will cause a TC 650 (which is prejournalized) to be printed on the Settlement Register if the 150 contains a Federal Depositary amount. *BMF: Assessment may be credit for Form CT-1, 720, and 941. (See TC 976, 977 for Amended Return) IMF Returns with Tax Class Document Code 210 and Blocking Series 000/299 are SFR returns. These returns should be noted with "Return filed by Service".

TC	DR/CR	File	Abbr. Title	Doc. Code
150	Debit* (NPJ)	I,B, E,A,P	RET FILED Return Filed & Tax Liability Assessed Abbreviation to be Recorded on TDA's (Form TY-D69) is: TAX ON RET EPMF: 30, 31, 37, 38 IRAF: 11,12,21,22,51,73 PMF: 69	IMF: 05, 06, 07, 08, 09, 10, 11, 12, 21, 22, 26, 27, 51, 72, 73, BMF: 03, 05, 06, 07, 08, 09, 10, 11, 12, 13, 16, 25, 20, 23, 29, 36, 59, 60, 51, 35, 38, 40-44, 46, 65-67, 71, 81, 83, 90-93, 95

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(21) TC 150—This TC 150 when posted to the Entity Transaction Section indicates the Master File entity was created from the posting of the return.

TC	DR/CR	File	Abbr. & Title	Doc. Code
150		I A	ENT BY 150 Entity Created by TC Transaction 150	Generated

NOTE: TC 150 with Doc Code 51—possibly indicates "TC 610 post-ed-return lost in service center."

(22) TC 151—EPMF: Reverses return data. Action Code 30 reverses TC 154. IRAF: Report Suppression, the TC 150 return data will not be extracted for report purposes. TC 150 or 154 when 971 code is 19 must be posted and balance of module must be zero. Used when F5329 filed in error.

TC	DR/CR	File	Abbr. & Title	Doc. Code
151		E,A	RV RFT Reversal of TC 150 or 154	77

(23) TC 152—Designates a return which updated entity data and is posted to the Entity Transaction Section.

TC	DR/CR	File	Abbr. & Title	Doc. Code
152		I A	UPD BT 150 Entity Updated by TC Transaction 150	Generated

(7) The Assessment "23C" date will ordinarily be the Monday of the 2nd week following the week in which these transactions are processed and posted to the IMF Accounts, unless otherwise designated by Accounts Division in appropriate publications.

(8) When notices are to be sent to taxpayers that are identified as Spanish speaking District Office (DO) 66 and mail filing requirement of "7" the Computer Paragraph Number is in the 700 series.

(9) Extracts of IMF Accounts are not permitted when the extracts may be used outside of IRS, unless the Privacy Act or the Freedom of Information Act is utilized.

(10) Do not generate Check Digit for Accounts posted to the Invalid Segment.

(11) The term "Module Balance" as used throughout this Section is the algebraic sum of posted and assessed transactions excluding interest transactions.

(12) The term "Net Module Balance" is the algebraic sum of Assessed Transactions and consists of Module Balance, Interest Assessed and Interest Paid.

(13) The term "Total Balance" is the algebraic sum of "Module Balance," Accrued Failure to Pay Penalty (Total Penalty less Assessed Penalty) and Total Interest (Assessed Interest plus Accrued) and Interest Paid.

(14) Service Center Codes supersede Region Code. Generate the Service Center Code from the governing District Offices Code.

(15) When prescribed transactions post to a tax module, or a tax module must be analyzed for a scheduled action, compute interest, Failure-to-Pay-Penalty and/or delinquency penalty as required. Assess interest, assess Failure-to-Pay-Penalty when applicable, and assess delinquency penalty as prescribed in subsequent sub-sections. When interest and Failure-to-Pay-Penalty computations are made and not assessed, accrue the amounts of each computation.

(16) Non-Compute 1040—the input return record sent to MCC will contain a "Non-Compute" code of "2". MCC will determine if the return was timely filed; if not timely the non-compute code will be changed to a "1". Code "2" indicates special processing.

(17) Bypass normal processing, opening of modules, UPC, etc. when encountering Political Checkoff and IRA input "dummy" returns.

30(55)4.2 (1-1-96)
Types of Transcripts

- (1) SPECIFIC
- (2) OPEN
- (3) COMPLETE
- (4) ENTITY
- (5) STEX (B Freeze)
- (6) RFND LIT (TC 520)
- (7) REFUND (TC 846)
- (8) REFUND-E (TC 846)
- (9) \$1,000,000 Refund Transcript
- (10) TDI-REFUND
- (11) Refund-S (TC 846)
- (12) TRANS-844 (TC 844)
- (13) LITIGATION (TC 520)
- (14) EXES-TC 840

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- (15) OIC (TC 480)
- (16) NMFL (TC 480)
- (17) KITA (TC 01X)
- (18) COMBAT ZON
- (19) UNREVTC 520 (TC 520)
- (20) TDI RESRCH (See Project 720)
- (21) INTEL (See Project 735)
- (22) REACT NMF (TC 130)
- (23) CSED
- (24) MARRIED FILED SEPARATELY (TC 424)
- (25) MULTIPLE FILER (TC 424)
- (26) Cr EI Decd (See Project 439)
- (27) TRFPENACT
- (28) VIRGIN IS (TC 150)
- (29) STAT TRANSCRIPT
- (30) QUEST W-4 (See Project 411)
- (31) FOLLOW-UP W-4 (See Project 411)
- (32) AMRH (See Project 712)
- (33) AM-X (See Project 712)
- (34) CV PN CRED
- (35) SC ADDRESS
- (36) Hostage
- (37) NRPS
- (38) DECDESCR
- (39) STIM
- (40) UNP 71 REL
- (41) RSED
- (42) A/R Clean-Up (see Project 713)
- (43) LPCANCEL
- (44) PMTOVERCAN
- (45) OICDEFAULT
- (46) DEFAULTFSC
- (48) TDIFRZ-150
- (49) TDI-EXAM
- (50) HighRisk
- (51) Deferral
- (52) HighDollar



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30(55)4.3 (1-1-96)
Computer Paragraph Notices

- (1) 04—ES Penalty Waiver
- (2) 01—Deferral Reminder
- (3) 08—Refund Issued—SSA Records need correction
- (4) 09—Earned Income Credit Refund
- (5) 10—Combination CP 12 and CP 45
- (6) 11—Math Error—Bal Due
- (7) 12—Math Error—Overpayment
- (8) 13—Math Error—Settlement
- (9) 14/14E—Bal Due No Error
- (10) 15—Civil Penalty Assessment
- (11) 15B—100% Civil Penalty Assessment
- (12) 16—Math Error—Overpayment to other taxes (CP 12/49 combination)
- (13) 17—Refund unfrozen Excess ES Credits

MT 3000-353 page 30(55)0-8 (1-1-96)

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30(55)4.2

IMF Operations

You are hereby put on NOTICE that the within document/letter must be filed as a permanent part of my IRS/TDA/AIMS/IMF 23c record. If any such record/s has/have been deleted or substituted, this demand still applies. Recorder's INITIALS: _____

- (15) OIC (TC 480)
- (16) NMFL (TC 480)
- (17) KITA (TC 01X)
- (18) COMBAT ZON
- (19) UNREYTC 520 (TC 520)
- (20) TDI RESRCH (See Project 720)
- (21) INTEL (See Project 735)
- (22) REACT NMF (TC 130)
- (23) CSED
- (24) MARRIED FILED SEPARATELY (TC 424)
- (25) MULTIPLE FILER (TC 424)
- (26) Cr EI Decd (See Project 439)
- (27) TRPPENACT
- (28) VIRGIN IS (TC 150)
- (29) STAT TRANSCRIPT
- (30) QUEST W-4 (See Project 411)
- (31) FOLLOW-UP W-4 (See Project 411)
- (32) AMRH (See Project 712)
- (33) AM-X (See Project 712)
- (34) CV PN CRED
- (35) SC ADDRESS
- (36) Hostage
- (37) NRPS
- (38) DECDDESCR
- (39) STIM
- (40) UNP 71 REL
- (41) RSED
- (42) AVR Clean-Up (see Project 713)

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3(15)(129)9.(11)

Adjustment to Virgin Island Forms 1040 and 1040A

- (1) Route claims received from taxpayers residing in the Virgin Islands to PSC for processing.
- (2) Actions:
 - (a) Check TC 150 DLN for blocking series 88 (Virgin Island);
 - (b) Write "Virgin Island IP" on the transmittal; and
 - (c) Send 85C Letter to taxpayer notifying him/her of the transfer.

3(15)(129)9.(12)

Underreporter/CP2000 Issues

- (1) The Underreporter Program (URP) is the compliance program which compares amounts of wages, interest, dividends, etc., reported by the payers with the amounts reported by the individual taxpayers. Discrepancies in income and increased withholding credits are identified. A CP2000 notice is sent to a taxpayer to propose a change to tax and/or credits. The current URP processing year is usually 18 to 24 months prior to the current tax year. (e.g., The tax year 1991 will be processed by URP in the calendar year 1993.) As a result of taxpayers receiving CP2000s or Statutory Notices from URP, A/C will receive correspondence and/or Forms 1040X. In addition, A/C will also receive taxpayer correspondence and returns that have been reviewed by URB.
- (2) Route Forms 1040X (that relate or refer to URP) for the current URP processing year, to URB. Follow regular adjustments procedures for:
 - (a) other than current URP processing year Forms 1040X and.

MT 3(15)00-261

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Withholding on foreign taxpayers

Code Sec. 1445(b)(4)(B)(i)(II)

—P.L. 98-369, Sec. 130(b), amended subsec. (c), effective for payments made after 3/1/84, in tax yrs. end. after 3/1/84.

Prior to amendment, subsec. (c) read as follows:

“(c) Exception for Guam corporations.

“For purposes of this section, the term ‘foreign corporation’ does not include a corporation created or organized in Guam or under the law of Guam.”

—P.L. 98-369, Sec. 474(r)(29)(I)(i), deleted “or section 1451” after “provided in section 1441” in subsec. (a) . . . Sec. 474(r)(29)(I)(ii), deleted “; except that, in the case of interest described in section 1451 (relating to tax-free covenant bonds), the deduction and withholding shall be at the rate specified therein” after “30 percent thereof” in subsec. (a), effective for tax yrs. begin. after 12/31/83 and to carrybacks from tax yrs. begin. after 12/31/83. Sec. 475(b) of this Act provides a special rule as follows:

“(b) Tax-free covenant bonds. The amendments made by subsections (j) and (r)(29) of section 474 shall not apply with respect to obligations issued before January 1, 1984.”

In 1982, P.L. 97-248, Sec. 342, provides:

“Sec. 342. WITHHOLDING OF TAX ON NONRESIDENT ALIENS AND FOREIGN CORPORATIONS.

“Not later than 2 years after the date of the enactment of this Act, the Secretary of the Treasury or his delegate shall prescribe regulations establishing certification procedures, refund procedures, or other procedures which ensure that any benefit of any treaty relating to withholding of tax under sections 1441 and 1442 of the Internal Revenue Code of 1954 is available only to persons entitled to such benefit.”

In 1976, P.L. 94-455, Sec. 1906(b)(13)(A), substituted “Secretary” for “Secretary or his delegate” each place it appeared in subsec. (b), effective 2/1/77.

In 1972, P.L. 92-606, Sec. 1(e)(2), added subsec. (c), effective 11/1/72.

In 1971, P.L. 92-178, Sec. 313(c)(1), deleted “and” the last place it appeared in subsec. (a) . . . Sec. 313(e)(2), added “, and the reference in section 1441(c)(8) to section 871(a)(1)(C) shall be treated as referring to section 881(a)(3)” before the period at the end of subsec. (a), effective for payments occurring on or after 4/1/72.

In 1966, P.L. 89-809, Sec. 104(c), amended Code Sec. 1442, effective for tax yrs. begin. after 12/31/66.

Prior to amendment, Code Sec. 1442 read as follows.

“Sec. 1442. Withholding of tax on foreign corporations.

“In the case of foreign corporations subject to taxation under this subtitle not engaged in trade or business within the United States, there shall be deducted and withheld at the source in the same manner and on the same items of income as is provided in section 1441 or section 1451 a tax equal to 30 percent thereof, except that, in the case of interest described in section 1451 (relating to tax-free covenant bonds), the deduction and withholding shall be at the rate specified therein.”

Sec. 1443. Foreign tax-exempt organizations.

(a) Income subject to section 511.

In the case of income of a foreign organization subject to the tax imposed by section 511, this chapter shall apply to income includible under section 512 in computing its unrelated business taxable income, but only to the extent and subject to such conditions as may be provided under regulations prescribed by the Secretary.

(b) Income subject to section 4948.

In the case of income of a foreign organization subject to the tax imposed by section 4948(a), this chapter shall apply, except that the deduction and withholding shall be at the rate of 4 percent and shall be subject to such conditions as may be provided under regulations prescribed by the Secretary.

In 1976, P.L. 94-455, Sec. 1906(b)(13)(A), substituted “Secretary” for “Secretary or his delegate” each place it appeared in Code Sec. 1443, effective 2/1/77.

In 1969, P.L. 91-172, Sec. 101(j)(22), added the heading of subsec. (a), and added subsec. (b), effective 1/1/70.

—P.L. 91-172, Sec. 121(d)(2)(C), substituted “income” for “rents” in subsec. (a), effective for tax yrs. begin. after 12/31/69.

Sec. 1444. Withholding on Virgin Islands source income.

For purposes of determining the withholding tax liability incurred in the Virgin Islands pursuant to this title (as made applicable to the Virgin Islands) with respect to amounts received from sources within the Virgin Islands by citizens

and resident alien individuals of the United States, and corporations organized in the United States, the rate of withholding tax under sections 1441 and 1442 on income subject to tax under section 871(a)(1) or 881 shall not exceed the rate of tax on such income under section 871(a)(1) or 881, as the case may be.

In 1988, P.L. 100-647, Sec. 1012(x), deleted “(as modified by section 934A)” before “shall not exceed”, effective for tax yrs. begin. after 12/31/86.

In 1983, P.L. 97-455, Sec. 1(b), added Code Sec. 1444, effective for payments made after 1/13/83.

Sec. 1445. Withholding of tax on dispositions of United States real property interests.

(a) General rule.

Except as otherwise provided in this section, in the case of any disposition of a United States real property interest (as defined in section 897(c)) by a foreign person, the transferee shall be required to deduct and withhold a tax equal to 10 percent of the amount realized on the disposition.

(b) Exemptions.

(1) **In general.** No person shall be required to deduct and withhold any amount under subsection (a) with respect to a disposition if paragraph (2), (3), (4), (5), or (6) applies to the transaction.

(2) **Transferor furnishes nonforeign affidavit.** Except as provided in paragraph (7), this paragraph applies to the disposition if the transferor furnishes to the transferee an affidavit by the transferor stating, under penalty of perjury, the transferor’s United States taxpayer identification number and that the transferor is not a foreign person.

(3) **Nonpublicly traded domestic corporation furnishes affidavit that interests in corporation not United States real property interests.** Except as provided in paragraph (7), this paragraph applies in the case of a disposition of any interest in any domestic corporation if the domestic corporation furnishes to the transferee an affidavit by the domestic corporation stating, under penalty of perjury, that—

(A) the domestic corporation is not and has not been a United States real property holding corporation (as defined in section 897(c)(2)) during the applicable period specified in section 897(c)(1)(A)(ii), or

(B) as of the date of the disposition, interests in such corporation are not United States real property interests by reason of section 897(c)(1)(B).

(4) **Transferee receives qualifying statement.**

(A) In general. This paragraph applies to the disposition if the transferee receives a qualifying statement at such time, in such manner, and subject to such terms and conditions as the Secretary may by regulations prescribe.

(B) Qualifying statement. For purposes of subparagraph (A), the term “qualifying statement” means a statement by the Secretary that—

(i) the transferor either—

(I) has reached agreement with the Secretary (or such agreement has been reached by the transferee) for the payment of any tax imposed by section 871(b)(1) or 882(a)(1) on any gain recognized by the transferor on the disposition of the United States real property interest, or

(II) is exempt from any tax imposed by section 871(b)(1) or 882(a)(1) on any gain recognized by the transferor on the disposition of the United States real property interest, and

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(such as the United States) if the corporation's primary location for tax jurisdiction purposes (e.g., its place of management and control) is in fact in that country, rather than its place of organization. Treasury has exchanged notes on exemption from tax on transportation income with numerous countries. Generally, in establishing the criteria for the reciprocal tax exemption on transportation income in the 1986 Act, Congress did not intend to condition the exemption of corporations organized in any particular country on that country's grant of an equivalent exemption covering corporations which are properly treated as residents of that foreign country under its tax laws. Thus, a foreign country could be viewed as generally providing U.S. corporations a tax exemption even if it does not exempt from tax corporations organized in the United States, but treated as residents of that country under its laws, assuming those laws would treat a U.S. corporation as a local resident only on the basis that such corporation's center of management or control, or comparable attribute, was in that foreign country.

Possessions of the United States

When Congress enacted the four percent tax on U.S. source gross transportation income, Congress anticipated that this tax, by increasing U.S. taxation of persons from foreign countries that have not provided reciprocal exemptions to U.S. persons, would encourage those foreign countries to amend their tax laws to provide such reciprocal exemptions.

→ The income tax laws of the United States are currently in effect, completely or partially, in Guam, the Commonwealth of the Northern Mariana Islands ("CNMI"), the U.S. Virgin Islands, and American Samoa as their own income tax systems. These jurisdictions are termed "possessions" of the United States for tax purposes. To transform the Code into a local tax code, each possession, in effect, substitutes its name for the name "United States" where appropriate in the Code. The possessions generally are treated as foreign countries for U.S. tax purposes. Similarly, the United States generally is treated as a foreign country for purposes of possessions taxation. This word-substitution system is known as the "mirror system." As a result of changes brought about by the 1986 Act, individual possessions are able to take steps that would permit them to amend their tax laws internally. As of this time, certain possessions have taken the necessary steps to permit such internal amendment, but others have not.**

Thus, for example, a U.S. corporation operating a transportation business traversing a route between a possession on the mirror system and the United States would generally be subject in the possession to the four percent tax on the possession source gross transportation income, unless United States law provides an exemption from the equivalent tax for corporations organized in the possession. Similarly, a corporation organized in that possession operating on the same route would generally be subject in the United

** Under the 1986 Act, Guam, CNMI, and American Samoa are eligible to amend their internal income tax laws independently of the Code as mirrored, upon the effective date of an "implementing agreement" between the possession and the United States. To date, American Samoa has an implementing agreement in effect, and Guam has entered into such an agreement effective 1991.

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EXHIBIT F
The Constitution of the United States of America – Article V
(3 pages)

THE
CONSTITUTION
OF THE
UNITED STATES
OF AMERICA

As Amended

—
Unratified Amendments

—
Analytical Index



PRESENTED BY MR. HYDE

January 31, 2000 • Ordered to be printed

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ARTICLES IN ADDITION TO, AND AMENDMENT OF, THE CONSTITUTION OF THE UNITED STATES OF AMERICA, PROPOSED BY CONGRESS, AND RATIFIED BY THE LEGISLATURES OF THE SEVERAL STATES, PURSUANT TO THE FIFTH ARTICLE OF THE ORIGINAL CONSTITUTION¹²

ARTICLE [I.]¹³

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; of the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

ARTICLE [II.]

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

ARTICLE [III.]

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

ARTICLE [IV.]

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ARTICLE [V.]

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the

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¹²The first ten amendments of the Constitution of the United States (and two others, one of which failed of ratification and the other which later became the 27th amendment) were proposed to the legislatures of the several States by the First Congress on September 25, 1789. The first ten amendments were ratified by the following States, and the notifications of ratification by the Governors thereof were successively communicated by the President to Congress: New Jersey, November 20, 1789; Maryland, December 19, 1789; North Carolina, December 22, 1789; South Carolina, January 19, 1790; New Hampshire, January 25, 1790; Delaware, January 28, 1790; New York, February 24, 1790; Pennsylvania, March 10, 1790; Rhode Island, June 7, 1790; Vermont, November 3, 1791; and Virginia, December 15, 1791. Ratification was completed on December 15, 1791.

CONSTITUTION OF THE UNITED STATES

Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

ARTICLE [VI.]

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

ARTICLE [VII.]

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

ARTICLE [VIII.]

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE [IX.]

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparate others retained by the people.

ARTICLE [X.]

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

[ARTICLE XI.]

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

PROPOSAL AND RATIFICATION

The eleventh amendment to the Constitution of the United States was proposed to the legislatures of the several States by the Third Congress, on the 4th of March 1794; and was declared in a message from the President to Congress, dated the 8th of January, 1798, to have been ratified by the legislatures of three fourths of the

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