

REBUTTAL TO IRS NOTICE 2001-40

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The attached document starting on the next page was downloaded on December 13, 2001 from the following URL <http://ftp.fedworld.gov/pub/irs-drop/n-01-40.pdf>. This will access Notice 2001-40, issued on 07-Jun-01 00:30 by the IRS. The hyperlink to this IRS Notice [[n-01-40.pdf](#)] can be found at: <http://ftp.fedworld.gov/pub/irs-drop/>

We provide our rebuttals to the false arguments presented by the IRS in red Times New Roman surrounded by a box. IRS comments use Arial black font. These rebuttals were written by:

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Rebuttals to these and other special and false government rhetoric can be found on the above website in the Taxes area and especially in the book entitled [The Great IRS Hoax: Why We Don't Owe Income Tax](#), which you can download for FREE from the above website at:

<http://familyguardian.tzo.com/Publications/GreatIRSHoax/GreatIRSHoax.htm>

If you would like to learn more about the issues raised in this rebuttal to IRS Notice 2001-40, you are invited to visit our website at: <http://familyguardian.tzo.com> and download and read this free book. We also have a 1 ½ hour FREE movie that clearly explains why we don't owe federal income tax.

We encourage you to send a copy of this document to your Congressman and/or the IRS and politely tell them you want some answers as to why the IRS continues to insist, absent any delegated authority to do so, that private Americans living in the 50 states and who are not elected or appointed political officers are told they are liable for paying Subtitle A Income Taxes. Ask them to refute anything in this rebuttal.

Thanks for taking the time to consider BOTH sides of the arguments and sift through the lies and deceptions that the U.S. government, and especially the IRS, is famous for.

1 Internal Revenue Service, Department of the Treasury

2
3 Part III - Administrative, Procedural, and Miscellaneous

4
5 Frivolous filing position based on section 861

6
7 Notice 2001-40

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9 The Internal Revenue Service and the Treasury Department are aware that certain persons
10 are promoting the view that U.S. citizens and residents are not subject to tax on their wages
11 and other income earned or derived within the United States based on the claim that the
12 Internal Revenue Code imposes taxes only on income derived from certain foreign-based
13 activities. The Service and Treasury are issuing this notice to inform taxpayers that this
14 reporting position has no basis in law.
15

“Wages” are defined in [26 U.S.C. §3401\(a\)](#) of the Internal Revenue Code as remuneration paid by an “employer” to an “employee”. Proponents of the 861 position believe that only “employees” as defined in [26 CFR 31.3401-1\(c\)](#) can earn “wages” as defined in [26 U.S.C. §3401\(a\)](#). Since “employee” is defined in [26 CFR 31.3401-1\(c\)](#) as an elected or appointed officer of the U.S. government and the definition of “wages” *specifically excludes* such persons from taxation under [26 U.S.C. 3401\(a\)](#), then NO ONE can earn wages except those who have a voluntary withholding agreement in place under 26 CFR 31.3401(a)-3. Those persons who do not have such a voluntary withholding agreement and who work for private employers outside of the [federal] United States (also called the “federal zone”) technically *cannot* earn “wages” as legally defined and therefore such receipt of money is *not* subject to federal income tax under Subtitle A of the Internal Revenue Code. A person can only be an “individual” indicated at the top of the 1040 form if they meet the definition of that term found in [26 CFR §1.1441-1\(c\)\(3\)](#), which means they must either be an “alien” or a “nonresident alien”, neither of which are terms that can legally describe “U.S. citizens”. Here is the ONLY definition of “individual” found anywhere in the Internal Revenue Code or the Treasury Regulations so you can see for yourself:

26 CFR 1.1441-1 Requirement for the deduction and withholding of tax on payments to foreign persons.

(c) Definitions

(3) Individual.

(i) Alien individual.

The term alien individual means an individual who is not a citizen or a national of the United States. See Sec. 1.1-1(c).

(ii) Nonresident alien individual.

The term nonresident alien individual means a person described in section 7701(b)(1)(B), an alien individual who is a resident of a foreign country under the residence article of an income tax treaty and Sec. 301.7701(b)-7(a)(1) of this chapter, or an alien individual who is a resident of Puerto Rico, Guam, the Commonwealth of Northern Mariana Islands, the U.S. Virgin Islands, or American Samoa as determined under Sec. 301.7701(b)-1(d) of this chapter. An alien individual who has made an

election under section 6013 (g) or (h) to be treated as a resident of the United States is nevertheless treated as a nonresident alien individual for purposes of withholding under chapter 3 of the Code and the regulations thereunder.

The astute reader looking at the above two definitions carefully will notice that a biological person who lives inside the 50 sovereign states can be a “nonresident alien” without being an “alien”, which at first glance would appear to be a contradiction. How can a person be a “nonresident alien” without being an “alien”? Because “nonresident alien” is defined in [26 U.S.C. §7701\(b\)\(1\)\(B\)](#) as someone who is *not* a “U.S. citizen”, which is exactly what a “U.S. national” is! Because of the definition of “alien” found in 26 CFR §1.1441-1(c)(3)(i) above, that same “U.S. national” can’t be a “alien”, because “aliens” cannot be “U.S. nationals” or “U.S. citizens”! Our deceitful federal government has once again tried to confuse sovereign citizens so that when they are properly referred to as a type of “alien” they would say:

“That can’t be me!”

even though that is exactly what they are, unless they sell themselves into slavery by electing to be treated as “U.S. citizens” COMPLETELY SUBJECT to the jurisdiction of “foreign” law called the Internal Revenue Code.

The scope of the Internal Revenue Code is the federal United States, which is defined in 26 U.S.C. §7701(a)(9) and (a)(10) as only the District of Columbia:

26 U.S.C. §7701(a)(9) “United States

The term "United States" when used in a geographical sense includes only the States and the District of Columbia.”

26 U.S.C. §7701(a)(10) “State

The term "State" shall be construed to include the District of Columbia, where such construction is necessary to carry out provisions of this title.”

The term “the States” is defined below:

TITLE 4 - FLAG AND SEAL, SEAT OF GOVERNMENT, AND THE STATES

CHAPTER 4 - THE STATES

Sec. 110. Same; definitions

(d) The term "State" includes any Territory or possession of the United States.

You will note that the sovereign 50 states are NOT territories or possessions of the “United States” and therefore the word “Internal” in the context of “Internal Revenue Code” can only mean internal to the federal United States (also called the federal zone), which is why persons must be “U.S. citizens” primarily to be subject to the federal income tax “imposed” under [26 U.S.C. §1](#).

“Unless the defendant can prove he is not a citizen of the United States, the IRS has the right to inquire and determine a tax liability.” U.S. v. Slater, 545 Fed. Supp. 179,182 (1982).

A "U.S. citizen" is a person born or naturalized on federal property:

14th Amendment, Section 1. All persons born or naturalized in the [federal] United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside.

3A Am Jur 1420, Aliens and Citizens "A person is born subject to the jurisdiction of the United States, for purposes of acquiring citizenship at birth, if this birth occurs in a **TERRITORY over which the United States is sovereign**"

The only area over which the federal government is sovereign is the federal zone (the federal United States), which does not include the nonfederal lands within the 50 states. Below is the only definition of "U.S. citizen" found anywhere in the Internal Revenue Code or the Treasury Regulations:

26 CFR 31.3121(e) State, United States, and citizen.

(b)...The term 'citizen of the United States' includes a citizen of the Commonwealth of Puerto Rico or the Virgin Islands, and, effective January 1, 1961, a citizen of Guam or American Samoa.

Persons born or naturalized in the 50 sovereign states outside the federal zone are referred to as "U.S. nationals" (as defined in [8 U.S.C. §1408](#) and [8 U.S.C. §1101\(a\)\(21\)](#) through (a)(22)) and not "U.S. citizens", and therefore are not subject to the internal revenue tax imposed in [26 U.S.C. §1](#) unless they work for the U.S. government and have "U.S. source" income as described in [26 CFR §1.861-8\(f\)](#).

The 861 Position referred to by the IRS has little to do with exclusively "foreign based activities", but more correctly deals with ALL activities that are the subject of taxation both within and without the [federal] United States under the Internal Revenue Code, of which only foreign activities are considered a taxable part of gross income because of Constitutional restrictions on taxation found in Article 1, Section 8, Clause 3 of the U.S. Constitution, which grants Congress the right to regulate and tax primarily foreign income.

SECTION. 8. 1 The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

2 To borrow Money on the credit of the United States;

3 To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

The reason that the Constitution limits Congress' ability to tax to foreign income only can be found in Federalist Paper 36:

"The more intelligent adversaries of the new Constitution admit the force of this reasoning; but they qualify their admission by a distinction between what they call INTERNAL and EXTERNAL taxation. The former they would reserve to the State governments; the latter, which they explain into commercial impost, or rather duties on imported articles, they declare themselves willing to concede to the federal head."

Alexander Hamilton, Federalist 36

The only basis for relating the 861 position to “foreign activities” is the location of 861 within the Internal Revenue Code as follows:

*United States Code
TITLE 26 - INTERNAL REVENUE CODE
Subtitle A - Income Taxes
CHAPTER 1 - NORMAL TAXES AND SURTAXES
Subchapter N - Tax Based on Income From Sources Within or Without the United States*

PART I - SOURCE RULES AND OTHER GENERAL RULES RELATING TO FOREIGN INCOME.

However, it is frivolous and a grave error, as the Internal Revenue Code indicates, to attach any significance to the titles, table of contents, subtitles, or organization of the code as indicated in [26 U.S.C. §7806](#).

*United States Code
TITLE 26 - INTERNAL REVENUE CODE
Subtitle F - Procedure and Administration
CHAPTER 80 - GENERAL RULES
Subchapter A - Application of Internal Revenue Laws*

Sec. 7806. Construction of title

(b) Arrangement and classification

***No inference, implication, or presumption of legislative construction shall be drawn or made by reason of the location or grouping of any particular section or provision or portion of this title, nor shall any table of contents, table of cross references, or similar outline, analysis, or descriptive matter relating to the contents of this title be given any legal effect.** The preceding sentence also applies to the sidenotes and ancillary tables contained in the various prints of this Act before its enactment into law.*

You will note that the word “foreign” is only used in the table of contents and the titles, and therefore this word is *irrelevant* from a legal perspective based on the above. The IRS loves to keep people arguing about irrelevant things so they don’t focus on the real issue of sources.

Second, as we analyze in detail in section 6.3.6 of [The Great IRS Hoax](#), the title of Part I used to be “*Determination of sources of income*” and was obfuscated by Congress in 1988 to instead read “*Source rules and other general rules relating to **foreign** income*”. *The underlying procedures and source rules were not substantially changed. Only the title was changed to further confuse people about source rules and cover up the truth.*

QUESTION FOR DOUBTERS: *What other conclusion explains why this change was made other than to confuse and further conceal the truth? We can see none.*

Even conceding that the term “foreign” is relevant, that term is nowhere defined in either the Internal Revenue Code or the Treasury Regulations. We are left to consult the legal dictionary for a definition of that term as follows:

Foreign government: “The government of the United States of America, as

distinguished from the government of the several states.” (Black’s Law Dictionary, 5th Edition)

Foreign Laws: “The laws of a foreign country or sister state.” (Black’s Law Dictionary, 6th Edition)

Foreign States: “Nations outside of the United States...Term may also refer to another state; i.e. a sister state. The term ‘foreign nations’, ...should be construed to mean all nations and states other than that in which the action is brought; and hence, one state of the Union is foreign to another, in that sense.” (Black’s Law Dictionary, 6th Edition)

Therefore, those persons living in the 50 states who are “U.S. nationals” by birth (born on nonfederal property) and not “U.S. citizens” are living in a foreign country and a foreign political jurisdiction.

*26 CFR 1.911-2(h): The term “foreign country” when used in a geographical sense includes any territory under the sovereignty of a government other than that of the [federal] United States**. It includes the territorial waters of the foreign country (determined in accordance with the laws of the United States**), the air space over the foreign country, and the seabed and subsoil of those submarine areas which are adjacent to the territorial waters of the foreign country and over which the foreign country has exclusive rights, in accordance with international law, with respect to the exploration and exploitation of natural resources.*

This conclusion is also consistent with California’s definition of “foreign country” found in section 17019 of the California Revenue and Taxation Code:

17019. “Foreign country” means any jurisdiction other than one embraced within the [federal] United States.

[see <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=rtc&group=17001-18000&file=17001-17039.1>]

All the income of “U.S. nationals” living in the 50 states on nonfederal land is therefore “foreign” in the context of the Internal Revenue Code. This explains why the term “foreign” is never defined in the Internal Revenue Code: Because it would give away the secret that the U.S. government doesn’t want you to know, which is that you are “foreign” to the jurisdiction of the Internal Revenue Code as a “U.S. national” and a “nonresident alien” are not therefore the subject of the federal income tax unless you have income from the U.S. government that falls into a taxable source found in [26 CFR §1.861-8\(f\)](#)!

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2 The proponents of this position misread the Code and the Treasury Regulations. Although
3 the proponents acknowledge that section 1 imposes income tax on “taxable income,” that
4 taxable income” consists of “gross income” minus deductions (section 63) and that “gross
5 income” is income “from whatever source derived” (section 61), they assert that sections 861
6 through 865 of the Code and the regulations thereunder (in particular, Treasury regulation
7 section 1.861-8) limit taxable “sources” of income to certain foreign-based activities.
8

We do not “misread” the Code or the Treasury Regulations, the IRS misreads and misinterprets them for their own financial benefit in what amounts to a clear conflict of interest. Disregarding [26 U.S.C. Sections 861](#) through 865 or not applying these sections to every taxable event or “source” of income leads to some irrational conclusions. Absent a treatment of the “source” of income for every event or

activity or transaction involving income leads to the conclusion that all income everywhere in the world is taxable by the U.S. government, which simply cannot be the case.

"The income tax is, therefore, not a tax on income as such. It is an excise tax with respect to certain activities and privileges which is measured by reference to the income which they produce. The income is not the subject of the tax: it is the basis for determining the amount of tax."

House Congressional Record, March 27, 1943, page 2580.

To be taxable, an activity must occur within the geographical jurisdiction of the U.S. government, which is limited to the "federal zone" or federal United States in the District of Columbia. The income tax is not a national tax, it is a municipal tax for the District of Columbia that has been made to appear as a national tax because of deception by the U.S. government about the definition of the term "United States". Here is the Supreme Court's definition of the term "United States"

"The term [United States] has several meanings. It may be merely [1] the name of a sovereign occupying the position analogous to that of other sovereigns in the family of nations, [2] it may designate territory over which the sovereignty of the United States extends, [3] or it may be the collective name of the States which are united by and under the Constitution." **Hooven & Allison Co. v. Evatt**, 324 U. S. 652.

The second definition of the term "United States" above is the only geographic region that the Internal Revenue Code applies. This area is referred to as "sources within the United States" as described in 26 U.S.C. 861. All other income sources outside the [federal] United States are covered in 26 U.S.C. §862, which then points back to the same regulation used by 26 U.S.C. §861 for computing taxable sources of income, which is [26 CFR §1.861-8\(f\)](#).

If the IRS isn't going to refer to sections 861 through 865 for taxable sources "within" and "without" the [federal] United States**, then what section in the code ARE you going to use to specify specific taxable sources and activities that are the subject of the indirect excise tax known as the federal income tax? You must tie the income tax somewhere in the code to a specific geographic jurisdiction and/or taxable event (excise), which together are collectively called a "situs", or the Internal Revenue Code would be invalid because it would apply to everyone in the world!

situs. (Black's Law Dictionary, Sixth Edition, page 1387) Lat. Situation; location; e.g. location or place of crime or business. Site; position; the place where a thing is considered, for example, with reference to jurisdiction over it, or the right or power to tax it. It imports fixedness of location. Situs of property, for tax purposes, is determined by whether the taxing state has sufficient contact with the personal property sought to be taxed to justify in fairness the particular tax. *Town of Cady v. Alexander Const. Co.*, 12 Wis.2d 236, 107 N.W.2d 267, 270.

Not applying a situs to the income tax would violate the Sixth Amendment and the 'void for vagueness' criteria of the Supreme Court defined in **Lanzetta v. New Jersey**, 306 U.S. 451, **Screws v. United States**, 325 U.S. 91, **Williams v. United States**, 341 U.S. 97, and **Jordan v. De George**, 341 U.S. 223. The Supreme Court has ruled repeatedly that the income tax is an excise/indirect tax and is unconstitutional as a direct tax (**Stanton v. Baltic Mining**, 240 U.S. 103; **Evans v. Gore**, 253 U.S. 245, etc), and excises always apply to geographic areas and events or activities, all of which are described in 26 U.S.C. §861 through 865. We assume the event is the receipt of income, but where is the section that identifies the geographic area and activity if it isn't 861?

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2 That assertion is refuted by the express and unambiguous terms of the Code. Section 61
3 includes in gross income "all income from whatever source derived." As the Supreme Court
4 stated in Commissioner v. Glenshaw Glass Co., 348 U.S. 426, 429 (1955), "Congress applied
5 no limitations as to the source of taxable receipts . . . @ Nothing in sections 861 to 865 of the
6 Code limits the gross income subject to United States taxation to foreign-source income. The
7 rules of sections 861 through 865 have significance in determining whether income is
8 considered from sources within the United States or without the United States, which is
9 relevant, for example, in determining whether a U.S. citizen or resident may claim a credit for
10 foreign taxes paid. See Great-West Life Assurance Co. v. United States, 678 F.2d 180, 183
11 (Ct. Cl. 1982) (stating that "[t]he determination of where income is derived or 'sourced' is
12 generally of no moment to either United States citizens or United States corporations, for
13 such persons are subject to tax under I.R.C. § 1 and I.R.C. §. 11, respectively, on their
14 worldwide income" and that "[l]ikewise, the income of a resident alien individual is taxed
15 under I.R.C. § 1 without regard to source"). The source rules do not operate to exclude from
16 U.S. taxation income earned by United States persons from sources within the United States.
17 Williams v. Commissioner, 114 T.C. 136 (2000) (rejecting the claim that income was not
18 subject to tax because it was not from any of the sources listed in Treas. Reg. sec. 1.861-
19 8(a)); Aiello v. Commissioner, T.C. Memo. 1995-40 (1995) (rejecting the claim that section
20 861 lists the only sources of income relevant for purposes of section 61).
21

Let's analyze the case they cite above, *Commissioner v. Glenshaw Glass Co.*. First of all, did you notice that the IRS committed a deliberate typo in their quote from *Commissioner v. Glenshaw Glass Co.*, whereby you put an @ sign where there should have been a close quote. You were trying to deceive the reader that their own assertions were actually quoted from the Supreme Court. You want me to believe that the following statement came from the Supreme Court, when in fact it does not because we looked up the case:

Nothing in sections 861 to 865 of the Code limits the gross income subject to United States taxation to foreign-source income. The rules of sections 861 through 865 have significance in determining whether income is considered from sources within the United States or without the United States, which is relevant, for example, in determining whether a U.S. citizen or resident may claim a credit for foreign taxes paid.

More IRS deception. The close quote should appear where the @ sign was based on reading the case. Secondly, the Glenshaw case was about the following issue quoted directly from that case:

The common question is whether money received as exemplary damages for fraud or as the punitive two-thirds portion of a treble-damage antitrust recovery must be reported by a taxpayer as gross income under 22 (a) of the Internal Revenue Code of 1939.

The party to that case was *not* arguing the 861 position, and as a matter of fact, the case dealt with an older version of the code with different section numbers.

Next, we note that the most authoritative cite they have at the end of the article is from T.C. Memos, which may ***NOT*** be cited to apply generally to all Americans as per their own Internal Revenue Manual section [4.2] 7.2.9.8:

*"Decisions made at various levels of the court system... may be used by either examiners or taxpayers to support a position... **A case decided by the U.S. Supreme Court becomes***

the law of the land and takes precedence over decisions of lower courts... Decisions made by lower courts, such as Tax Court, District Courts, or Claims Court, are binding on the Service only for the particular taxpayer and the years litigated. Adverse decisions of lower courts do not require the Service to alter its position for other taxpayers." [IRM, [4.2] 7.2.9.8 (05/14/99)]

More IRS deception. So clearly, the only thing we can rely on in everything they cited above is the Supreme Court **Glenshaw** case. In that case, the court did not mention whether the party involved was a *citizen* or a *nonresident alien*. As we repeatedly suggest, it's important to renounce one's "U.S.** citizenship" and become a nonresident alien and a "U.S. national" to escape the reach of the tax "imposed" in 26 U.S.C. §1. Based on the way they treated this party, we have to assume that he was a "U.S.** citizen" who therefore had no Constitutional rights.

Moving on, the **Glenshaw** court stated:

The sweeping scope of the controverted statute is readily apparent:

"SEC. 22. GROSS INCOME.

"(a) GENERAL DEFINITION. - 'Gross income' includes gains, profits, and income derived from salaries, wages, or compensation for personal service . . . of whatever kind and in whatever form paid, or from professions, vocations, trades, businesses, commerce, or sales, or dealings in property, whether real or personal, growing out of the ownership or use of or interest in such property; also from interest, rent, dividends, securities, or the transaction of any business carried on for gain or profit, or gains or profits and income **derived from any source whatever.** . . ." (Emphasis added.) 4

*This Court has frequently stated that this language was used by Congress to exert in this field "the full measure of its taxing power." Helvering v. Clifford, 309 U.S. 331, 334 ; Helvering v. Midland Mutual Life Ins. Co., 300 U.S. 216, 223 ; Douglas v. Willcuts, 296 U.S. 1, 9 ; Irwin v. Gavit, 268 U.S. 161, 166 . Respondents contend that punitive damages, characterized as "windfalls" flowing from the culpable conduct of third parties, are not within the scope of the section. **But Congress applied no limitations as to the source of taxable receipts, nor restrictive [348 U.S. 426, 430] labels as to their nature.** And the Court has given a liberal construction to this broad phraseology in recognition of the intention of Congress to tax all gains except those specifically exempted. Commissioner v. Jacobson, 336 U.S. 28, 49 ; Helvering v. Stockholms Enskilda Bank, 293 U.S. 84, 87 -91. Thus, the fortuitous gain accruing to a lessor by reason of the forfeiture of a lessee's improvements on the rented property was taxed in Helvering v. Bruun, 309 U.S. 461. Cf. Robertson v. United States, 343 U.S. 711 ; Rutkin v. United States, 343 U.S. 130 ; United States v. Kirby Lumber Co., 284 U.S. 1. Such decisions demonstrate that we cannot but ascribe content to the catchall provision of 22 (a), "gains or profits and income derived from any source whatever." The importance of that phrase has been too frequently recognized since its first appearance in the Revenue Act of 1913 5 to say now that it adds nothing to the meaning of "gross income."*

The key to deciphering what was said here lies in the definition of "source" and in what context it is used. The question is:

Does the word "source" used here by the U.S. Supreme Court mean:

1. The “source” (or taxable activities within specific identified jurisdictions, which is also called the situs for taxation) of income for the government as per 26 U.S.C. 861 and 862, or...
2. The “source” of income for the tax payer?

BIG DIFFERENCE!

If the *Glenshaw* case above refers to the tax payer, which we believe it does, then what the court really meant is that if you admit to being a “taxpayer” (meaning a person who mistakenly admits liability for tax) and if you have income, from wherever you get it (“whatever tax payer source derived”), then you have to pay income tax on it, and we would agree with that conclusion! However, that is not the assertion we are making with the 861 argument or the context we are talking about in the context of the word “source”! We are not referring to “sources” of income for the tax payer, but the proper situs of taxation (the lawful and constitutional sources of income) for the excise tax called the income tax assessed by the government, which is completely different, and which the court did not address in the *Glenshaw* case cited. 26 U.S.C. Sections 861 and 862 do NOT talk about “sources” of income for the tax payer, but “sources” of income (taxation situs) for the government. More IRS and government lies and deception.

Concluding that the Supreme Court in the *Glenshaw* case was referring to the situs for taxation or sources of income for the government leads to some rather absurd and irrational conclusions. For instance it leads us to conclude that:

1. There is no reason for sections 861 (sources within the United States) and 862 (Sources without the United States) to even exist in the tax code, because the “source” (or situs) of government income doesn’t matter and all sources of income. Lets get rid of these two sections then, OK? Why to they appear in the code and under what circumstances are they used, then?
2. That all “sources” of government income from anywhere in the world are taxable, including sources in China (try explaining that to the Chinese!). This would expand the situs for taxation by the U.S. government to everyone in every country anywhere in the world, which is clearly an irrational conclusion.

Therefore, the only rational way to interpret the code is to leave sections 861 and 862 intact and to treat them as applying to all government sources of income (situs for taxation), and to ensure that the table found in section 5.6.8.4 of the Great IRS Hoax Book (<http://familyguardian.tzo.com/Publications/GreatIRSHoax/GreatIRSHoax.htm>) entitled “Determining Taxable Income from U.S.** Sources” is applied to every type of income received to determine whether or not the person in receipt of it is liable for tax. That is exactly what [26 CFR §1.861-8\(f\)](#) does: is it tells Americans how to apply the source rules for government income to every item of gross income he is in receipt of in order to determine whether or not it is taxable and consequently, whether he is a “taxpayer”.

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2 The courts have categorically rejected contentions that U.S. citizens are not lawfully subject
3 to Federal income tax on their income from all sources and have upheld criminal convictions
4 of individuals who based their refusal to pay Federal income tax on such contentions. See,
5 e.g., United States v. Condo, 741 F.2d 238 (9th Cir. 1984)

Wrong argument again, sir. You’re awfully good at keeping people arguing on the wrong issues.

We're not disputing whether "U.S. citizens" are subject to the federal income tax because they are. We are disputing that we are "U.S. citizens" and we demand proof from you that we are. In fact, we are not "U.S. citizens" but instead are "U.S. nationals", who are "nonresident aliens" as defined in [26 U.S.C. §7701\(b\)\(1\)\(B\)](#). Such nonresident aliens are the subject of income taxes only on income from the U.S. government (the federal "United States") under 26 U.S.C. §861 for sources "within the United States" on income associated with a taxable source identified in [26 CFR §1.861-8\(f\)](#).

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The Internal Revenue Service and the Treasury Department advise taxpayers that if they file returns reflecting this theory that only certain foreign-source income is taxable, they may be subject to penalties including, but not limited to, the accuracy-related penalty under section 6662 and the frivolous return penalty under section 6702. Under some circumstances, taxpayers adopting this position on tax returns may be subject to additional sanctions, including failure to file or pay penalties under section 6651 and civil fraud penalties under section 6663, and may be prosecuted for criminal violations of the tax law. In addition, practitioners advocating this position may be subject, under some circumstances, to the return preparer penalty under section 6694 or aiding and abetting penalties under section 6701, and may be prosecuted for criminal violations of the tax law.

No doubt "taxpayers" are subject to any of the fines or penalties they assert above, but once again, the IRS is arguing about the wrong issue. A "taxpayer" is someone "liable" for a tax. 26 U.S.C. Section 7701(a)(14) defines the word "taxpayer" as:

26 U.S.C. Section 7701(a)(14) Definitions

Taxpayer

The term "taxpayer" means any person subject to any internal revenue tax.

Now if we look up the definition of "subject to" in Black's Law Dictionary, Sixth Edition, page 1425, we find the following:

*"**Liable**, subordinate, subservient, inferior, obedient to; governed or affected by; provided that; provided; answerable for. Homan v. Employers Reinsurance Corp., 345 Mo. 650, 136 S.W.2d 289, 302.*

So being a "taxpayer" means being either someone who is liable to pay tax or who isn't liable but who has chosen to "volunteer" for the tax or be subservient to it. When one volunteers for the tax, they are considered to be liable because they assess themselves and claim they have taxable income, even if their income is not, in fact, taxable. By definition then, a "taxpayer" is someone liable for paying tax no matter how you look at it. Incidentally, this is the term the IRS uses to describe EVERYONE, which by implication deceives EVERYONE into thinking they are liable for the tax. They win the war before it ever gets started just by the language they use. You have to watch these weasels!

For those who don't volunteer to be liable, there is no statute anywhere in the Internal Revenue Code that makes them liable. We have a letter posted on our website (<http://familyguardian.tzo.com>) signed by a Congressman confirming that there is no statute anywhere in the Internal Revenue Code making anyone liable for the income tax in Subtitle A of the Internal Revenue Code. We challenge the IRS to identify a statute that makes anyone liable for the income tax in Subtitle A.

Since we are neither “U.S. citizens” nor “taxpayers”, then you can’t be referring to us, and the burden of demonstrating that we fit either description falls on the IRS, not on us according to the *Administrative Procedures Act*:

TITLE 5 - GOVERNMENT ORGANIZATION AND EMPLOYEES

PART 1 - THE AGENCIES GENERALLY

CHAPTER 5 - ADMINISTRATIVE PROCEDURE

SUBCHAPTER II - ADMINISTRATIVE PROCEDURE

Sec. 556. Hearings; presiding employees; powers and duties; burden of proof; evidence; record as basis of decision

*(d) Except as otherwise provided by statute, **the proponent of a rule or order has the burden of proof.** Any oral or documentary evidence may be received, but the agency as a matter of policy shall provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence. **A sanction may not be imposed or rule or order issued except on consideration of the whole record or those parts thereof cited by a party and supported by and in accordance with the reliable, probative, and substantial evidence.***

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The Internal Revenue Service and the Treasury Department recognize that some taxpayers may have chosen not to file or have filed incorrect tax returns, taking the position that they were not required to report wages or other income earned in the United States for taxation. We advise these taxpayers to take prompt action to file correct returns and to comply with the tax laws. Taxpayers can obtain tax forms, including those necessary to amend previously-filed returns, via the IRS web site (<http://www.irs.gov/>), obtain them through the IRS’ TaxFax Services (from a fax machine call: 703-368-9694 (not a toll-free number)), or order the forms by phone: 1-800-TAX-FORM (1-800-829-3676).

We agree that “taxpayers” as the IRS defines them who make income classified as “wages” as described in [26 U.S.C. §3401\(a\)](#) *should* file returns or they could get in legal trouble with the IRS no doubt. However, the burden of proof has not yet been satisfied that American Citizens (not “U.S. citizens”, but “U.S. nationals”) who have not “volunteered” to pay the income tax are in fact “taxpayers” or are “liable” for the income tax. Absent a clearly established legal liability, the entire Internal Revenue Code is *irrelevant* to most Americans!

11