

# STEP 3: The Unknown Exclusion

(about constitutional exemptions)

*Larken Rose*

This is the third in a series of messages written especially for people new to the "861 evidence." This follows [Step 2: Thank Goodness for CPAs](#) (about some income being tax-free). The various documents referred to in the discussions are hyperlinked (**blue letters**) to the Internet so that you can see the words for yourself. Where the law is quoted, all emphasis has been added.

- The **BLUE** links take you to the documents on the **Internet**; when finished reading, hit the "**back**" button to return to the discussion.
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In the last message, our hypothetical CPA (Mark) showed Chuck where the law shows that all of the income he had received in 2003 (life insurance proceeds, gifts and some odd job income) was not subject to the federal income tax. Chuck owed nothing, and wasn't even required to file a return.

While Mark's knowledge of certain exclusions saved Chuck a lot of money, there is another kind of tax exclusion that even Mark is not aware of. While pointing out what is **EXEMPT** from tax, one regulation explains that some kinds of income are specifically exempted by various sections of the tax code (such as gifts and life insurance proceeds), but then it goes on to say that some **OTHER** income is also **NOT** subject to the tax because it is, "*under the Constitution, not taxable by the Federal Government*" ([26 CFR § 39.22\(b\)-1 \(1956\)](#)).

Mark and most CPAs and tax attorneys have **NEVER SEEN** where the law says that. But thanks to the internet, you can easily see this evidence for yourself. Another section prior to 1939 ([Article 71, 1924](#)) stated that **neither** income exempted by statute (a section of the tax code), **OR** by "fundamental law" (the Constitution) are to be included in the computation of taxable income for income tax purposes. The section adds that such exempt income should not be included on a tax return.

Therefore, income can be divided into these **THREE** general categories:

1. Exempted by the tax code (**NOT** taxable)
2. Excluded due to the Constitution (**NOT** taxable)
3. **NOT** exempt by either Congress or the Constitution (**TAXABLE**)

The tax professionals know about the specific exemptions in the tax code (**Category #1**), but (being *completely unaware* of **Category #2**) they **falsely** "assume" that all other income must be taxable income. But as you have just seen, the **evidence** demonstrates that this is **INCORRECT**. (If you know any CPAs or tax attorneys, ask them if they knew that such a Constitutional exclusion exists.)

Just as "Chuck" in our previous message needed to know whether some (or all) of his income is specifically exempted by the tax code (Congress) in order to correctly determine what he owes (if anything), it is also **essential** that he knows whether some (or all) of his income is tax-free because of the Constitution itself.

Obviously it is ***impossible*** to determine what income belongs in **Category #3** (taxable income), if you don't ***FIRST*** know what is exempted by **Categories #1 and #2**.

It may be that the Constitutional exemptions apply only to some obscure, unusual type of income which has no relevance for Chuck, you or me. But we still need to **KNOW WHAT THE EXCLUSIONS ARE** if we want to correctly determine what we owe. (Remember that if Chuck hadn't bothered to find out what the tax code (Congress) says is exempt, he would have ended up paying tens of thousands of dollars that he **DID NOT OWE**.)

That brings us to our first crucially important and obviously reasonable question:

What types of income are "*excluded by law*" (i.e. **NOT** subject to the income tax) because they are, under the Constitution, **not taxable by the federal government?**

Obviously, the only way for us to properly obey the law and pay what we owe is for the law to tell us what is taxable and what is not taxable. It's not enough to just tell us that **SOMETHING** is exempt and tax-free because of the Constitution; we need to know **WHAT** that "something" is. So, what types of income are excluded from tax because of the Constitution itself?

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Instead of giving you "my" answer to the question, I'll give you the government's answer .....

Or at least I would, if I had ever seen an answer from the government. But I haven't. Over the past several years, literally **THOUSANDS** of Americans, including myself, have asked top IRS, Treasury, and DOJ officials, as well as numerous congressmen and senators, to tell us what kinds of income are exempt because of the Constitution itself (as the written law says).

Most of the time, **there was no response at all**, but in some cases, government officials sent back form letters that, while failing to even mention (much less answer) the question, actually *implied* that we were criminals and even **threatened** fines or **PROSECUTION** if we did not "obey" the tax laws. Quite a response to honest, reasonable queries about **HOW TO OBEY** the law, don't you think?

Assuming you started this series with a "clean slate," let's see what's on the slate now:

1. **NOT ALL** income is taxable.
2. The tax code **exempts** some income from taxation.
3. The Constitution **excludes** other income from taxation.
4. CPAs and lawyers **don't know** about the Constitutional exemptions.
5. We need to know **WHICH** income is exempt in order to determine what we owe.

So far, do you see anything wacky or "fringe" there? Anything "frivolous"? See any "scam" or any "cheating" going on? See anyone telling you how to evade paying what you owe, or suggesting that you break the law? See anything for sale? See any objecting to the law, "protesting" of the law, or any claim that the law isn't valid? See any "advice" at all? Me neither.

Notice that nothing is being "argued" yet. Heck, we're not even to the point of **GUESSING** what the answer might be. We're just at the stage of pondering, questioning, and **carefully reading what the law says**.

But even that is something the government does not react well to, as you will soon see.

Sincerely,

Larken Rose

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<http://www.861.info>

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**NEXT: [STEP 4: Taxable or Exempt?](#)**