

# STEP 5: Foreign Commerce

(some income is still exempt)

**Larken Rose**

This is the fifth in a series of messages written especially for people new to the "861 evidence." This follows [Step 4: Taxable or Exempt?](#) (some income is still exempt). 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.
- **ALL** the messages in this series can be found linked through the following website: <http://www.861.info/pgs/861course.php>.

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As we have seen, the older income tax regulations said that income is sometimes **exempt from tax** because it is, "under the Constitution, not taxable by the Federal Government." The current regulations also say that the common "items" of income sometimes include **EXEMPT** income.

Remember, if all you have is a million dollars of **EXEMPT** income, you owe **NOTHING** in federal income taxes. (Remember Mark and Chuck from the first message?) So, we need to know what income is taxable and what income is exempt, and **THE LAW ITSELF** must (and does) tell us. We are not required to pay what "everyone knows" that we owe, or even what the CPAs or lawyers say we owe; we are required to pay **WHAT THE LAW SAYS** we owe; nothing more, nothing less.

The tax "code" is much like computer code. In excruciatingly technical and literal language, it gives the formula for determining what (if anything) we owe. There is not supposed to be **ANY** guessing required when it comes to legal requirements. The law does **NOT** mean what it does **NOT** say. Among the various types of "word law," statutory law is unique; written literally, **the law means what the words say**:

*A **fundamental distinction** separates the language of the legislature-the body (such as Parliament or Congress) which institutes a legal text-and the language of the judiciary-the body (the law courts and judges) which interprets and applies that text. A pivotal role is played by the set of constitutional statements, statutes (Acts), and other documents which come from the legislature. **In these cases, the words, literally, are law.** [The Cambridge Encyclopedia of The English Language, 1995]*

With that in mind, wouldn't you expect that immediately after saying that some income is exempt, the writers of the regulations would clearly spell out **WHAT** is exempt (or, in the alternative, what is **NOT** exempt)? Do the law books do that? Well....sort of.

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I am going to **SUGGEST** an answer to the question of what income is taxable (and what income is exempt) based on what the government's own law books say. I won't even try to "prove" it to you right now; I merely suggest that this might be where the law books answer the question (though in a somewhat less than open and honest manner). After that, there are really only three conclusions you can possibly come to:

1. I am correct, and most of us don't owe this tax.
2. I am incorrect, and something **ELSE** in the law answers the question of what is exempt.
3. I am incorrect, and **NOTHING** in the law answers the question about what is exempt.

The third option would render the entire tax system a joke. "Something is exempt, but we won't tell you what." If **THE WRITTEN LAW** doesn't tell you what you owe, then what on earth does? The *statutes* passed by Congress are interpreted and implemented by **regulations** published in the Code of Federal Regulations ("**CFR**") which are detailed explanations of the correct application of the statutes.

While the Index of the *statutes* (USC) is not technically the law (as mentioned above), the law **does require** that a "*general index to the entire Code of Federal Regulations shall be separately printed and bound*" (**44 USC § 1510**). The courts have stated that publishing a regulation in the Federal Register "*makes it effective against the world,*" but added that without the "*retrieval mechanism provided by an adequate index,*" individuals might not be able to find the rules which apply to them, so Congress required the index. The purpose for this requirement was to "**eliminate secret law,**" and the courts stated that "*the indexing obligation is a central and essential feature of this congressional plan*" (580 F.2d 1166 (3rd Cir., 1978)).

Therefore, the Code of Federal Regulations, *including the Index*, is the **official notification to the public** of what the law requires of them. The reason this is important is that the Index of the CFR, under "*Income taxes,*" has an entry that reads "*Income from sources inside or outside U.S., determination of sources of income, 26 CFR 1 (1.861-1--1.864-8T).*" This is the only entry in the Index relating to income from sources **within** the United States.

It would be absurd to have a law that requires people to determine what they owe, while at the same time making it literally impossible for them to do so, which would be the case if the law **DOES NOT TELL US** what is exempt and what is taxable. So let's see where the law books might just answer the question.

We saw before how the older regulations told us that some income was excluded because of the **Constitution** itself (**Article 71, 26 CFR § 39.22(b)-1**). Well, those regulations also specifically said that income which American citizens and residents receive from **FOREIGN commerce** counts as "gross income." Specific mention is also made of the domestic income of **nonresident aliens and foreign corporations**, and of people and companies getting most of their income from federal possessions (such as Puerto Rico).

But, oddly enough, there is **NO MENTION** of Americans who receive income from working just in the 50 states. Study these 1956 regulations carefully, and see if they don't seem a bit strange:

- [39.22\(a\)-1](#)
- [39.22\(b\)-1](#)

(From 1918 to 1956 the regulations contained very similar wording so this isn't an isolated typographical error.) The obvious questions are:

1. Why **DO** the regulations talk about **international** trade, and
2. Why **DON'T** they talk about **MY** domestic income (or yours)?

Could this be the answer to the question of what is constitutionally taxable? Could it be that only those engaged in certain **INTERNATIONAL** trade are subject to the tax? Or do we really all owe this tax, and the regulation-writers just "forgot" to **specifically point out** that our domestic income (in addition to all that international stuff) is taxable? Not hardly; according to the Supreme Court:

*"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."* [[Gould v. Gould](#), 245 U.S. 151 (1917)]

If we are to assume that nothing is taxable **UNLESS** it is "specifically pointed out," wouldn't it be a pretty darn big "typo" to "**FORGET**" to say (for several **decades** in a row) that Americans are taxed on their domestic income? With hundreds of millions of dollars at stake, don't you think the people writing the regulations could have invested a few extra words (e.g. "as well as domestic commerce") to make it clear that we all owe it?

But they **didn't**.

And if you think that was a coincidence or an oversight, wait until you see the next message.

Sincerely,

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<http://www.861.info>

<http://www.theft-by-deception.com>

**NEXT: [STEP 6: Foreign Commerce.....again](#)**