

Part I

Section 7701.—Definitions

26 CFR 301.7701-6(a): Person

(Also: §§ 6012, 7203, 7343, 26 CFR 1.6012-1(a))

Rev. Rul. 2007-22

PURPOSE

The Internal Revenue Service (Service) is aware that some taxpayers are claiming that they are not subject to federal income tax, or that their income is excluded from taxation, because: 1) the taxpayers have declared that they have rejected or renounced United States citizenship because the taxpayers are citizens exclusively of a State (sometimes characterized as a “natural-born citizen” of a “sovereign state”); or 2) the taxpayers claim they are not persons as identified by the Internal Revenue Code. These taxpayers often furnish Forms W-4, *Employee’s Withholding Allowance Certificate*, to their employers on which the taxpayers claim excessive withholding allowances or claim complete exemption from withholding. Based on these Forms W-4, federal income taxes are not withheld from wages paid. Alternatively, these taxpayers attempt to avoid their federal income tax liability by submitting a Form 4852, *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., to the Internal Revenue Service with a zero on the line for the amount of wages received. These taxpayers often either fail to file returns, or file returns showing no income and claiming a refund for any withheld income taxes. The Service is also aware that some promoters, including return preparers, market a book, package, kit, or other materials that claim to show taxpayers how they can avoid paying income taxes based on these and other meritless arguments.

This revenue ruling emphasizes to taxpayers, promoters and return preparers that all U.S. citizens and residents are subject to federal income tax. Any argument that a taxpayer's income is excluded from taxation because: 1) the taxpayer has rejected or renounced United States citizenship because the taxpayer is a citizen exclusively of a State (sometime characterized as a "natural-born citizen" of a "sovereign state"); or 2) the taxpayer is not a person as defined by the Internal Revenue Code and is, therefore, not subject to federal tax, has no merit and is frivolous.

The Service is committed to identifying taxpayers who attempt to avoid their federal tax obligations by taking frivolous positions. The Service will take vigorous enforcement action against these taxpayers and against promoters and return preparers who assist taxpayers in taking these frivolous positions. Frivolous returns and other similar documents submitted to the Service are processed through the Service's Frivolous Return Program. As part of this program, the Service determines whether taxpayers who have taken frivolous positions have filed all required tax returns;

computes the correct amount of tax and interest due; and determines whether civil or criminal penalties should apply. The Service also determines whether civil or criminal penalties should apply to return preparers, promoters and others who assist taxpayers in taking frivolous positions, and recommends whether an injunction should be sought to halt these activities. Other information about frivolous tax positions is available on the Service website at www.irs.gov.

ISSUES

1. Whether a taxpayer may avoid federal income tax liability by maintaining that the taxpayer is not a citizen of the United States and, thus, is not subject to the federal income tax laws.
2. Whether a taxpayer may avoid federal income tax liability by claiming the taxpayer is not a “person” as defined by the Internal Revenue Code and, thus, is not subject to the federal income tax laws.

FACTS

Taxpayer A claims to be exempt from federal income tax because, as a “sovereign citizen” of Taxpayer A's state of residence, Taxpayer A is not a citizen or resident of the United States and is not subject to federal tax laws.

Taxpayer B claims that the Fourteenth Amendment, providing “[a]ll persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside,” applies only to freed slaves and

their descendants, and that all other persons are solely citizens of their state of residence.

Taxpayer C claims not to be a United States citizen or a person subject to tax because Taxpayer C has not requested, obtained, or exercised any privilege from an agency of government.

Taxpayer D claims not to be a “person” or a “taxpayer” as defined by the Internal Revenue Code because Taxpayer D is a freeborn and natural individual and not subject to the jurisdiction of the United States.

The taxpayer often furnishes a Form W-4, *Employee’s Withholding Allowance Certificate*, to the employer on which the taxpayer claims excessive withholding allowances or claims complete exemption from withholding. Based on this Form W-4, federal income taxes are not withheld from wages paid. Alternatively, the taxpayer prepares a Form 4852 (Substitute for Form W-2) showing no wages received.

The taxpayer either fails to file a return, or files a return reporting zero income and claiming a refund for all taxes withheld. The taxpayer then contends the taxpayer is not covered by the federal tax laws and is not subject to federal income tax because the taxpayer is not a citizen of the United States, or the taxpayer is not a person as defined by the Internal Revenue Code.

LAW AND ANALYSIS

1. Citizenship

The Fourteenth Amendment to the United States Constitution defines the basis for United States citizenship, stating that “[a]ll persons born or naturalized in the United

States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.” The Fourteenth Amendment, therefore, establishes simultaneous state and federal citizenship. See *United States v. Cruikshank*, 92 U.S. 542, 549 (1875) (“The same person may be at the same time a citizen of the United States and a citizen of a State. . . .”); *In re Slaughter-House Cases*, 83 U.S. (16 Wall.) 36, 74 (1873) (A man “must reside within the State to make him a citizen of it, but it is only necessary that he should be born or naturalized in the United States to be a citizen of the Union”). The Fourteenth Amendment’s granting of citizenship applies to all persons born or naturalized in the United States, regardless of race. See, e.g., *Bell v. State of Maryland*, 378 U.S. 226, 249 (1964) (Douglas, J., concurring) (“The Fourteenth Amendment also makes every person who is born here a citizen; and there is no second or third or fourth class of citizenship.”).

Section 7701(a)(9) of the Internal Revenue Code states that “[t]he term 'United States' when used in a geographical sense includes only the States and the District of Columbia.” Claims that individuals are not citizens of the United States but are solely citizens of a sovereign state and not subject to federal taxation have been uniformly rejected by the courts. See, e.g., *United States v. Hilgeford*, 7 F.3d 1340, 1342 (7th Cir. 1993) (“The defendant in this case apparently holds a sincere belief that he is a citizen of the mythical “Indiana State Republic” and for that reason is an alien beyond the jurisdictional reach of federal courts. This belief is, of course, incorrect.”); *United States v. Gerads*, 999 F.2d 1255, 1256 (8th Cir. 1993) (“[We] reject appellants’ contention that they are not citizens of the United States, but rather “Free Citizens of the Republic of

Minnesota” and, consequently, not subject to taxation.”); *O’Driscoll v. Internal Revenue Service*, 1991 U.S. Dist. LEXIS 9829, *5-6 (E.D. Penn. 1991) (“Despite plaintiff’s linguistic gymnastics, he is a citizen of both the United States and Pennsylvania, and liable for federal taxes.”).

Similarly, the individual states are part of the United States and income earned within them is fully subject to United States taxation. *See, e.g., Solomon v. Commissioner*, T.C. Memo. 1993-509 (responding to argument that all of petitioner’s income was earned outside of the United States, the court held that “petitioner attempts to argue an absurd proposition, essentially that the State of Illinois is not part of the United States.”).

2. Definition of Person

The Internal Revenue Code defines “person” and sets forth which persons are subject to federal taxes. Section 7701(a)(14) defines “taxpayer” as “any person” subject to any internal revenue tax, and section 7701(a)(1) defines “person” to include an individual, trust, estate, partnership, or corporation.

Arguments that an individual is not a “person” within the meaning of the Internal Revenue Code have been uniformly rejected by the courts as have arguments with respect to the term “individual.” *See, e.g., United States v. Dawes*, 874 F.2d 746, 750-51 (10th Cir. 1989), *overruled on other grounds*, 895 F.2d 1577 (10th Cir. 1990) (“The contention that appellants are not taxpayers because they are ‘free born, white, preamble, sovereign, natural, individual common law ‘de jure’ citizens of Kansas’ is frivolous. Individuals are ‘persons’ under the Internal Revenue Code and thus subject

to 26 U.S.C. § 7203.”); *United States v. Studley*, 783 F.2d 934, 937 n.3 (9th Cir. 1986) (in holding that an individual is a person under the Internal Revenue Code, the court noted “this argument has been consistently and thoroughly rejected by every branch of the government for decades. Indeed advancement of such utterly meritless arguments is now the basis for serious sanctions imposed on civil litigants who raise them”).

Courts have also uniformly rejected claims that a taxpayer is not a person subject to tax because the taxpayer did not request, obtain, or exercise any privileges of citizenship. *See, e.g., Lovell v. United States*, 755 F.2d 517, 519 (7th Cir. 1984) (“All individuals, natural or unnatural, must pay federal income tax on their wages, regardless of whether they received any ‘privileges’ from the government”).

HOLDING

1. The Fourteenth Amendment of the United States Constitution establishes simultaneous state and federal citizenship. Therefore, an individual cannot reject citizenship in the United States in favor of state citizenship, or otherwise claim not to be a citizen of the United States for the purpose of avoiding federal tax liability.

Furthermore, income earned within a state of the United States by a United States citizen or resident is taxable under federal tax laws. Accordingly, Taxpayer A and Taxpayer B are subject to federal income tax liability because they are citizens of the United States and citizens of the state in which they reside.

2. The term “person” as used by the Internal Revenue Code includes natural persons and individuals. Moreover, a taxpayer need not request, obtain, or exercise a

privilege from an agency of the government to be a "person" within the meaning of the Internal Revenue Code. Therefore, Taxpayer C and Taxpayer D are subject to federal income tax liability.

CIVIL AND CRIMINAL PENALTIES

The Service will challenge the claims of individuals who improperly attempt to avoid or evade their federal tax liability. In addition to liability for the tax due plus statutory interest, taxpayers who fail to file valid returns or pay tax based on arguments that they are not citizens or persons as contemplated by the Internal Revenue Code and, thus, are not subject to federal tax face substantial civil and criminal penalties. Potentially applicable civil penalties include: (1) the section 6662 accuracy-related penalties, which are generally equal to 20 percent of the amount of tax the taxpayer should have paid; (2) the section 6663 penalty for civil fraud, which is equal to 75 percent of the amount of tax the taxpayer should have paid; (3) the section 6702(a) penalty of \$5,000 for a "frivolous tax return"; (4) the section 6702(b) penalty of \$5,000 for submitting a "specified frivolous submission"; (5) the section 6651 additions to tax for failure to file a return, failure to pay the tax owed, and fraudulent failure to file a return; (6) the section 6673 penalty of up to \$25,000 if the taxpayer makes frivolous arguments in the United States Tax Court; and (7) the section 6682 penalty of \$500 for providing false information with respect to withholding.

Taxpayers relying on these frivolous positions also may face criminal prosecution under: (1) section 7201 for attempting to evade or defeat tax, the penalty for which is a

significant fine and imprisonment for up to 5 years; (2) section 7203 for willful failure to file a return, the penalty for which is a significant fine and imprisonment for up to 1 year; (3) section 7206 for making false statements on a return, statement, or other document, the penalty for which is a significant fine and imprisonment for up to 3 years or (4) other provisions of federal law.

Persons, including return preparers, who promote these frivolous positions and those who assist taxpayers in claiming tax benefits based on frivolous positions may face civil and criminal penalties and also may be enjoined by a court pursuant to sections 7407 and 7408. Potential penalties include: (1) a \$250 penalty under section 6694 for each return or claim for refund prepared by an income tax return preparer who knew or should have known that the taxpayer's position was frivolous (or \$1,000 for each return or claim for refund if the return preparer's actions were willful, intentional or reckless); (2) a penalty under section 6700 for promoting abusive tax shelters; (3) a \$1,000 penalty under section 6701 for aiding and abetting the understatement of tax; and (4) criminal prosecution under section 7206, for which the penalty is a significant fine and imprisonment for up to 3 years, for assisting or advising about the preparation of a false return, statement or other document under the internal revenue laws.

DRAFTING INFORMATION

This revenue ruling was authored by the Office of Associate Chief Counsel (Procedure and Administration), Administrative Provisions and Judicial Practice

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