

**A Review of Peter Eric Hendrickson's book  
called Cracking the Code**

*by*

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2007: Because of my exhaustive analysis of the Tax Code and my extensive and intimate knowledge of how America's courts treat tax cases, I've been asked to write a review of a book called Cracking the Code by Peter Eric Hendrickson. While it certainly isn't worth my own time to conduct such a review, for I can recognize said book on its face to be an utterly incompetent effort to explain the Tax Code, I hope this review will serve to save others who may not be able to do so on their own from being conned out of the price of the book and the costs incurred when the IRS slams them to the ground for doing what the book suggests is how to conduct one's affairs under the law.

When I'm done with this review I am certain that those who read this will appreciate my foundation as one comprised of law and of legal maxims, just as I am certain that my scope and understanding of the Tax Code will reveal a fundamental structural flaw in what Mr. Hendrickson (hereinafter "author") *thinks* said Code actually says and intends.

I have a lot to say about someone who fails to even read the Tax Code, as will be proven, and whom then sets about writing a book which misleads its readers in a way which, although eloquent enough, is utterly void of merit and insight due to a lack of diligence in the formulation of legal conclusions on the author's part. If the book were only that, a book, it would suffice to simply render a review and then crack jokes about its author. But the fact that people's homes and livelihoods are on the line should they follow the book in its [conclusions] about tax law calls to me to ridicule the author for his negligence in putting the home of all of his followers at risk of becoming the property of the government to be sold to the highest bidder.

What I see in the fact that the author, through his *approach*, has led many people to file certain tax returns which have yielded a full refund of the taxes they paid to the IRS in particular years to which said returns related is this; temporary glory.

In 1992 an individual toured the country asserting that one could get such a refund if one filed 1040NRs (for nonresident aliens) as tax returns, and indeed a good many people doing so did indeed receive refunds. As I remember, though, in 1993 perhaps this open gate of cash was closed by the IRS, slammed shut, and all who filed in that way were then sternly rebuked and penalized \$500 per return for doing so. (26 USC 6702 frivolous returns). The ones who actually received refunds were not only penalized in the same manner, but interest had accrued to the false refund obtained through said *frivolity*. One such filer, a gentle and naive human resources specialist of fifty two, was levied into poverty, lost her apartment and was forced to live with her mother, saw her credit destroyed, her car seized, suffered sudden digestive paralysis and laid in a hospital bed

undiagnosed for thirty days where she then died of a massive stroke. (Seattle, WA, Kristine Y.).

In 1999 (maybe) a vulture cooking Californian wrote a book about it, prescribing a certain tax return formula to get refunds of all taxes paid to the IRS, just as the 1993 man. Many people got full refunds and those who couldn't stand it followed to get their own full refunds out of jealousy and ignorance, filing returns in kind, only to see the gate slammed shut just prior to penalties for frivolity. The one who got refunds suffered liens and levies in addition to the penalties, and watched while the IRS ran away with enough property and wages to pay everything back and then some.

In 2007, Mr. Hendrickson, the "author," claims to have discovered a method whereby individuals filing a certain style of tax return can get full refunds from the IRS for all of the taxes paid in particular years for which they file *his way*. I heard today (March 2, 2007) that he's now in civil court with the IRS facing \*%&^# himself regarding his having suggested people can do as he has told they could. Does this sound familiar?

Here's what happens and why. The IRS has three years to challenge any particular tax return as invalid, frivolous, or inaccurate. The IRS waits 2.5 years. That's 2.5 years of interest made on the mistaken refund it intended to give out with the intent of following it with liens and levies to recover the errand funds and to collect penalties and interest from those unwittingly caught up in the author's ignorance of the *big picture*.

"Hey boss, I have another tax return from Cracking the Code; this guy's getting popular."

"Mmmm . . . . Tell your group of return processors to let the first two thousand of his followers have their money back for all of their years they file this way for and see what happens."

"But boss, that'll start a stampede of tax protestors!"

"Yeah - Aint is cool!"

This is the veil under which I place the author's claims of success in obtaining remedy in the form of refunds of taxes paid; I am unmoved. Oh, and the IRS gets your bank account number when you cash your refund check, and if that bank also holds your mortgage . . . see how it easy it is, for the IRS, just sit still for 2.5 years after refunding the money, refund only those with good paying jobs because they're the ones who own homes. I don't view this as success because I didn't fall to Earth with the last drop of rain. I am not at all impressed with refunds *en masse*. Where will the author be when Hell reigns down on his followers? Can the author even write a brief of his conclusions to prove he knew what he was doing when a judge is staring his followers down in open court?

**The "book": Cracking the Code -**

We'll see nothing "cracked." What strikes me first is the absence of lexicon from the practice or even the knowledge of law and its maxims. The author has chosen through his ignorance of the law to attempt eloquence but has fallen short into a very strange set of adjectives and analogies which may at times dazzle the layman but which disassociate

him from *bona fide* legal professionals outright. Further, the *italicization* of everything indented on top of the fact that he's indented such portions or elements of his writings makes them hard to read and indicates that he's never written a brief before; tortured reading at best.

The table of contents in the book reveals a lack of fundamental foundation for the author's entire approach; it's blaring! One cannot set about assessing whether the tax is or is not constitutional until one has determined if the tax is actually imposed by statute, or if it's not a tax at all and amounts to mere extortion; a crime.

Theft by a public servant, by the IRS, is indeed a civil cause of action (26 USC 7433), but the constitutionality of a tax is determined by proving that the law has operated in an unconstitutional fashion, but that's not theft; see the difference? The author clearly presumes the IRS is imposing the tax properly pursuant to statute, and the law indeed imposes a tax on the fair market value of labor, and uses this presumption as the starting point for his *dissertation* on direct and indirect taxation. If he knows not what portion of one's pay an income tax is imposed upon, there's no acquaintance with the nature of the tax upon which he may reflect in relation to direct v. indirect taxation. What if statute actually only allowed the excess over the amount paid for the compensation to be taxed, what if the law stated that your cost is the value of any property you paid for your compensation? Theft is not an unconstitutional tax.

1. "Section 83(a) explains how property received in exchange for services is taxed." <sup>1</sup> Section 83 applies to all compensation paid for services of corporations, and for the services of individuals. <sup>2</sup> Labor is property. <sup>3</sup>

2. The fair market value ("FMV") of property is established through the terms of an "arm's length transaction." <sup>4</sup>

3. As used in statute and regulation, the terms "any" or "any property" are to be construed as all inclusive until express statutory exceptions can be cited to support a contention that such terms are not all inclusive. (See *U.S. v. Monsanto*, 491 U.S. 600, 607-611 and (syllabus) (1989); *United States v. Alvarez-Sanchez*, 511 U.S. 350, 357 (1994); *U.S. v. Gonzales*, 520 U.S. 1, 4-6 (1997); *Department of Housing*

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<sup>1</sup> See *Montelepre Systemed, Inc. v. C.I.R.*, 956 F.2d 496, 498 at [1] (CA5 1992).

<sup>2</sup> See 26 CFR 1.83-3(e), (f); *MacNaughton v. C.I.R.*, 888 F.2d 418 (CA6 1989); *Pledger v. C.I.R.*, 641 F.2d 287 (CA5 1981); *Alves v. C.I.R.*, 734 F.2d 478, 481 (CA9 1984); *Klingler Electric Co. v. C.I.R.*, 776 F.Supp. 1158, 1164 at [1] (S.D.Miss. 1991); *Robinson v. C.I.R.*, 82 USTC 444 (1984); *Cohn v. C.I.R.*, 73 USTC 443, 446 (1979).

<sup>3</sup> See *Butcher's Union Co. v. Crescent City Co.*, 111 U.S. 746, 757 (1883); *Slaughterhouse Case*, 83 U.S. 395, 419; 16 Wall. 36-130 (1873); *Adair v. U.S.*, 208 U.S. 161, 172 (1908); *Coppage v. Kansas*, 236 U.S. 1 (1915); *Black's*, 6th, "property."

<sup>4</sup> See 27 CFR 70.150(b); *U.S. v. Cartwright*, 411 U.S. 546, 552 (1973); *Hicks v. U.S.*, 335 F.Supp. 474, 481 (Colo.1971); *Pledger v. C.I.R.*, *supra*; *Black's*, 6th, "Arm's length transaction."

*and Urban Renewal v. Rucker*, 535 U.S. 125, 130-31 (2002) citing *Gonzalez and Monsanto*).

"Any" means all of it, and the law, statute, operates in a way which acknowledges the value of labor as a cost:

§ 83 "Property Transferred in Connection with the Performance of Services.

(a) If, in connection with the performance of services, property is transferred..., ***the excess of-***

(1) the fair market value of such property...***over,***

(2) ***the amount (if any) paid*** for such property . . . shall be included in the gross income of the person who performed such services . . ."

This requires that the "amount paid" for the compensation be established, the "excess" identified, and that such excess be included in gross income. To figure that "amount paid" or **cost** of the compensation, regulation requires that § 1012 and the regulations thereunder be applied.

26 CFR 1.83-4(b)(2) If property to which 1.83-1 applies is transferred at an arm's length, ***the basis of the property*** in the hands of the transferee ***shall be determined under section 1012 and the regulations thereunder.***

Labor being property, and the cost of the compensation, § 1012 will either include it or exclude it as a cost. Under § 1012 and its implementing regulations, intangible personal property (labor) is not excluded, anywhere.

26 CFR 1.1012-1(a) " . . . The cost is the amount paid for such property in ***cash or other property.***"

If Congress intended that labor be excluded from that which is cost, or that property to be treated as a cost must be property within which one has a basis, § 1012 would have to reflect it; it does not, and so labor's value is cost. As such a cost, its fair market value (FMV) is deductible from gross income under § 212 (individual may deduct costs).

The FMV of the Labor (contract value) is the value of the cost and it is also known as "adjusted basis." Regulation requires that this amount be "withdrawn" from the amount realized in the transaction and that it be "restored to the taxpayer."

26 CFR 1.1011-1 Adjusted basis.-The adjusted basis... is the cost or other basis prescribed in ***section 1012...***

26 CFR 1.1001-1(a) ...from the amount realized upon the sale or exchange there shall be withdrawn a sum sufficient to restore the adjusted basis prescribed by ***section 1011*** and

the regulations thereunder... The amount that remains after the adjusted basis has been restored to the taxpayer constitutes the realized gain.

After determining the FMV of the property that is a cost under the law (See 26 CFR 1.1012-1(a), labor not excluded), and to comply with § 83(a) and 26 CFR 1.1001-1(a), the FMV of cost(s), the "amount paid," the "adjusted basis," must be subtracted from the amount realized (the compensation), including only the excess (if any) in gross income.

Regulations under § 83 require that § 1012 be applied to figure the cost of an American's compensation. To figure one's cost ("amount paid"), one can also proceed to 26 CFR 1.83-3(g) which says that the term "amount paid" in § 83 refers to the value (the FMV/contract value) of any property paid (labor) for the compensation.

26 CFR 1.83-3(g) Amount paid. For the purposes of section 83 and the regulations thereunder, the term "*amount paid*" *refers to the value of any money or property paid* for the transfer of property to which § 83 applies.

The statute which embraces intangible personal property as a cost (§ 1012) is prescribed as the measure of one's cost when having only sold one's labor, and 1.83-3(g) does same. To impose a tax on the FMV of labor the IRS must violate, and deprive Americans of, the provisions of § 83(a), 212, 1001, 1011, and 1012. The law does not provide that property within which one has no basis be excluded from cost; cost equals the FMV of any and all property disposed to obtain other property, unless expressly excluded under § 1012.<sup>5</sup> While § 83 was enacted in 1969, its standard of adopting § 1012 by reference as an optional standard of calculating cost ("cash or other property") reaches back to the original rewrite in 1954, and its predecessors from the 1939 Tax Code are §§ 111, 112, and 113; this standard is an original one. While the "author" says, in all of his knowledge . . .

January '06 - A friend of mine forwarded this to me from an "author" he had approached with my work. My friend was trying to spark the "author's" interest in the criminal complaint I filed with Congress (12/28/05) since his book claims to be "Cracking the Code" but was disappointed to learn that the "author" didn't know anything about tax law - ZERO:

> [Original Message]  
> From: Pete Hendrickson <phendrickson@losthorizons.com>  
> To: <(friend's address omitted)>  
> **Date:** 1/17/2006 9:36:34  
> Subject: Re: Resolution Day, 2006

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<sup>5</sup> See also Internal Revenue Code of 1939 §§ 111, 112, 113.

> <friend's name omitted>, **section 83, of which this fellow makes so much, is intended to address stock options as a form of compensation, and was only added to the law in**

> **1969.** Please stick with what you have learned in CtC-- it is the real deal,

> and the complete deal, as well. Don't forget to visit [his web site]

> Regards,

> -Pete

See *Montelepre Systemed, Inc. v. C.I.R.*, 956 F.2d 496, 498 at [1] (CA5 1992): "**Section 83(a) explains how property received in exchange for services is taxed.**"

*MacNaughton v. C.I.R.*, 888 F.2d 418, 421 (CA6 1989): "The *Alves* court stated that the plain language of section 83 belied this argument **because the "statute applied to all property transferred in connection with the performance of services" and because no reference is made to the term "compensation."** *Id.* The court further concluded in *Alves* that "if Congress had intended section 83(a) to apply solely to restricted stock used to compensate employees, it could have used much narrower language." *Id.* at 481-82. Upon consideration, we agree with the interpretation advanced by the *Alves* court and, therefore, join the Ninth Circuit in holding that section 83 is not limited to stock transfers which are compensatory in nature."

*Pledger v. C.I.R.*, 641 F.2d 287, 293 (CA5 1981): "**The taxing scheme imposed by Congress more accurately reflects what taxpayer received as compensation than a scheme that taxes the taxpayer on merely a portion of the compensation.**"

*Alves v. C.I.R.*, 734 F.2d 478, 481 (CA9 1984): "The plain language of section 83(a) belies *Alves*'s argument. Section 83(a) applies to all property transferred in connection with the performance of services. No reference is made to the term "compensation." Nor is there any statutory requirement that property have a fair market value in excess of the amount paid at the time of transfer. **Indeed, if Congress had intended section 83(a) to apply solely to restricted stock used to compensate its employees, it could have used much narrower language. Indeed, Congress made section 83(a) applicable to all restricted "property," not just stock; to property transferred to "any person," not just to employees; and to property transferred "in connection with . . . services," not just compensation for employment.** See *Cohn v. Commissioner*, 73 USTC 443, 446-47 (1979)."

*Klingler Electric Co. v. C.I.R.*, 776 F.Supp. 1158, 1164 at [1] (S.D.Miss. 1991): "**Section 83(a) applies to all property transferred in connection with the performance of services.**"

*Robinson v. C.I.R.*, 82 USTC 444, 459 (1984); **The legislative history of section 83 does not require the conclusion that the statute should be applied to tax-avoidance techniques only. To the contrary, the House and Senate reports specifically delineate**

*transactions and transfers to which section 83 was not to apply and do not exclude from its purview contractual provisions that were not tax motivated."*

*Cohn v. C.I.R.*, 73 USTC 443, 446 (1979): "Petitioners rest their entire case on the proposition that Elovich and Cohn and/or Mega were "independent contractors" and not employees of the Integrated and that, therefore, section 83 does not apply to the acquisition of the shares from Integrated. *They rely on the legislative history surrounding the statute to support their proposition that section 83 was intended to apply only to restricted stock transferred to employees. Respondent contends that the words "any person" in section 83(a) encompass independent contractors as well as employees. We agree with Respondent. . . . We reject petitioner's argument.* While restricted stock plans involving employers and employees may have been the primary impetus behind the enactment of section 83, *the language of the section covers the transfer of any property transferred in connection with the performance of services "to any person other than the person for whom the services are performed."* (Emphasis added.) *The legislative history makes clear that Congress was aware that the statute's coverage extended beyond restricted stock plans for employees.* H.Rept. 91-413 (Part 1) (1969), 1969-3 C.B. 200, 255; S.Rept. 91-552 (1969), 1969-3 C.B. 423, 501. *The regulations state that that section 83 applies to employees and independent contractors* (sec. 1.83-1(a), Income Tax Regs.). There is no question but that, under the foregoing circumstances, *these regulations* are not "unreasonably and plainly inconsistent with the revenue statutes." Consequently, *they are sustained.* (cites omitted)"

Concurring with *Cohn*, *Alves*, see *Centel Communications Co. v. CIR*, 920 F.2d 1335, 1342 (CA7 1990).

*Gudmundsson v. US*, 634 F.3d 212, 217 (CA2 2011); "At the heart of this case is IRC § 83, which governs the taxation of property transferred in connection with the performance of services."

So, with homes and livelihoods on the line, to say nothing of marriages, the author writes a book about taxation when he has no personal knowledge of **the statute that explains how to tax a paycheck**. How can he possibly know if the tax is a direct one or an indirect one if he can't even say how the law imposes it? Theft is an unconstitutional act, but it is not a tax.

A tax must be imposed by clear and unequivocal statutory language. Where the construction of a tax law is doubtful, the doubt is to be resolved in favor of whom upon which the tax is sought to be laid. (See *Spreckles Sugar Refining v. McClain*, 192 U.S. 397, 416 (1904); *Gould v. Gould*, 245 U.S. 151, 153 (1917); *Smietanka v. First Trust & Savings Bank*, 257 U.S. 602, 606 (1922); *Lucas v. Alexander*, 279 U.S. 573, 577 (1929); *Crooks v. Harrelson*, 282 U.S. 55 (1930); *Burnet v. Niagra Falls Brewing Co.*, 282 U.S. 648, 654 (1931); *Miller v. Standard Nut Margarine Co.*, 284 U.S. 498, 508 (1932); *Gregory v. Helvering*, 293 U.S. 465, 469 (1935); *Hassett v. Welch*, 303 U.S. 303, 314

(1938); *U.S. v. Batchelder*, 442 U.S. 114, 123 (1978); *Security Bank of Minnesota v. C.I.R.*, 994 F.2d 432, 436 (CA8 1993)).

**My belief** is that Mr. Hendrickson misled my friend because **either 1)** He had to say that (lie) to save face for having claimed to have "cracked the code" in his book but knew nothing of the statute that explains how to tax compensation, **or 2)** because he doesn't do his own research and merely pulled a mainstream tax guide from the shelf and looked up what THEY say about section 83. During five trips to the U.S. Supreme Court on this before the close of 1996 I was never contradicted when asserting that section 83 was universally applicable to ALL compensation. Hey, Mr. Hendrickson, ask a law library clerk to tell you how to find the U.S. Code annotated when you begin to read a law someday. Mr. Hendrickson's book does not mention section 83 in relation to compensation when in fact it explains how to tax it.

Right now (February 2007) I am working for a man who has letters from the IRS saying he owes "NONE" pertaining to several consecutive years which he received in June '04. He's been indicted for tax evasion and he's going to trial for those years - enough said.

## **CHAPTERS:**

### **The Supreme Court and taxation -**

The author rehashes the landmark decisions of the U.S. Supreme Court in a way I've seen in everybody else's work since I took *Patriot Movement 101* in 1989; so what. *Pollack*, *Brushaber*, *Lowe*, etc., blah blah blah, stuff you can find in a millions places on the web.

### **The law and its virtues -**

On his pg. 33 the author blames the law for imposing the amounts the IRS collects, which constitutes further proof he's never seen § 83 and applied it, for here he attributes law as the evil in the instance of income taxation when in fact it is not. No maxims or standards of interpretation are mentioned here, no case law, no statutes, just meaningless dribble; I can't believe it!

### **The plot thickens -**

In this chapter the author jumps back into *Brushaber* and *Pollack* for some reason, and then references statutes in effect in the 1920s and not today; we're still not talking law. But this sure beats having to figure out CURRENT Tax Code provisions, doesn't it; the author is taking it VERY easy!

### **The law means what it says -**

In this chapter (pg.54) the author dabbles in the "includes" argument which the court will never indulge, hashing over it in the same manner (1993 manner) I've seen many others do; why bother? I've always tried to avoid this argument and chose to stick

to more solid arguments such as the fact that chapter 24's § 3401(c) employee which uses *includes* doesn't even impose a tax, just the W-4; why bother? (See author's pg.59).

The author then drops the ball by running to § 3121(e)'s definition of "United States" which uses *includes* but misses the fact that the definition of *citizen* directly below it in the same statute does not use said term and expressly excludes who the IRS says Americans are; U.S. citizens. Lowell Becraft already argued *includes* and lost. (See book at pg.60; *Ward v. Commissioner*, 833 F.2d 1538 (1988)).

### **The Code is born -**

On pg.68 the author again made me sick with his negligence. He quotes a letter from Congress which cites § 3121(e) "citizen" and fails to cease upon its express exclusion of Americans from the purview of FICA, racing forth to far corners of the Code, to § 7701. HOWEVER, he also cites § 7651 and again lets me down by utterly failing to spot the description of Social Security's origin revealed in that statute; incredible!

26 USC § 7651(5) Virgin Islands.-

(A) For purposes of this section, the reference in section 28(a) of the Revised Organic Act of the Virgin Islands to "any *tax specified in section 3811* of the Internal Revenue Code" shall be *deemed to refer to any tax imposed by chapter 2 or by chapter 21*.

1939 Code § 3811 Collection of Taxes in Puerto Rico and Virgin Islands.

(a) Puerto Rico.

(b) Virgin Islands. <sup>6</sup>

This was in my first brief on the nature of SS tax in 1993. SS chapters originate from § 3811 of the 1939 Tax Code and were never broadened in scope; the author's dabbling yet again. The author winds up in § 61(a) in chapter 1 and is totally lost and makes no meaningful conclusion or argument, here.

### **Withholding the truth -**

On pg.68 the author states that "FICA is an income tax on wages paid for employment[.]" How did § 83 operate in the formulation of this conclusion? We know from the examination of that statute above that FICA is imposed not on the wages, but on the amount over the value of the personal services rendered, on the "excess over the amount paid." FICA is only imposed on amounts in excess of the value of labor, not on the wages, for the wages are seldom if ever excess!!!

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<sup>6</sup> Clearly, 1939 Tax Code § 3811 was merely split into chapters 2 and 21 of the 1954 Tax Code.

## A guide for the self employed -

First, the notion of a person using the term "guide" who knows nothing of § 83 is scary! At pg.82 the author seeks to guide the self employed as it relates to chapter two, when in fact that chapter applies to:

§ 1402(b) . . . *An individual who is not a citizen of the United States but who is a resident of the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa shall not, for the purposes of this chapter be considered to be a nonresident alien individual.*

26 CFR 1.1402(b)-1(d) Nonresident aliens. A nonresident alien individual never has self-employment income. While *a nonresident alien individual* who derives income from a trade or business carried on within the United States, Puerto Rico, the Virgin Islands, Guam, or American Samoa... *may be subject to the applicable income tax provisions* on such income, such nonresident alien individual *will not be subject to the tax on self-employment income*, since any net earnings which he may have...do not constitute self-employment income. *For the purposes of the tax on self-employment income, an individual who is not a citizen of the United States but who is a resident of the Commonwealth of Puerto Rico, the Virgin Islands, or . . . of Guam or American Samoa is not considered to be a nonresident alien individual.*

A "definition" lists only essential elements, and excludes from its scope all nonessential elements.<sup>7</sup> Despite this treasure trove of an argument the author runs to the *trade or business* argument in § 7701 in the back of the Tax Code which uses "includes" in its definition of self employment; astonishing. What the author also missed was the fact that chapter 2 is for individuals nonresident alien in relation to Americans in chapter 1:

26 USC § 879 Tax Treatment of Certain Community Income in the Case of Nonresident Alien Individuals. (a) General rule.-In the case of a married couple 1 or both of whom are nonresident alien individuals..., such community income shall be treated as follows: (2) Trade or business income..., shall be treated as provided in section 1402(a)(5).

Then the author jumps back into the system to describe 1099s then concludes (pg.88) that income taxes (I presume he means all of them) are imposed only on gov't employees of various sorts. Is this definition from chapter 1 really a public servant?

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<sup>7</sup> See *Black's Law Dictionary, 6th Edition*: "Define. To explain or state the exact meaning of words and phrases; to state explicitly; to limit; to determine essential qualities of; to determine the precise signification of; to settle; to establish or prescribe authoritatively; to make clear. (Cite omitted)"

"To "define" with respect to space, means to set or establish its boundaries authoritatively; to mark the limits of; to determine with precision or exhibit clearly the boundaries of; to determine the end or limit; to fix or establish the limits. It is the equivalent to declare, fix or establish.

See also: "Definition. A description of a thing by its properties; an explanation of the meaning of a word or term. The process of stating the exact meaning of a word by means of other words. Such a description of the thing defined, including all essential elements and excluding all nonessential, as to distinguish it from all other things and classes." *Id.*

See 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 . . .*

(b) Citizens or residents of the United States liable to tax. *In general, all citizens of the United States, wherever resident, and all resident alien individuals are liable to the income taxes imposed by the Code* whether the income is received from sources within or without the United States. . .

(c) Who is a citizen. *Every person born or naturalized in the United States and subject to its jurisdiction* is a citizen. . .

This chapter is a sickening quagmire of presumption based upon ignorance and pressure to finish a book on a topic he never before researched, the author's acquaintance with such constituting a mere scan of the chapters and provisions mentioned.

### **"W" is for weapon:**

Having suffered through the author's "Interlude," I now reach a chapter which seeks to decipher the Tax Code's tax return filing requirements, concluding that Americans are nonresident alien to a "U.S. person." (Pg.120-131). All of this § 1441 [stuff] is from 1993 and caused an IRS rodeo where people and assets were roped and wrestled to the ground, swept away by liens and levies. The author cites a letter, not a statute or regulation, a letter as an authority as to the requirement to have an SSN; you've got to be kidding. (Pg.134). The author again states that SS is a tax on wages, revealing his failure to read § 83, for had he done so he'd know that § 3121(a) wages are to be taxed through its terms, and that statute only allows a tax on the "excess over the amount paid" for the wages. The Tax Code taxes excess, not wages. (Pg.135). Any such excess is to be included in gross income, just like the Supreme Court has ruled, that only profit is to be included in gross income.

I hope people reading this can understand how the author's perceptions are false due his lack of knowledge of how to tax compensation. If the property is compensation for services, regardless of which chapter it's mentioned in, it's subject to § 83, as we saw in abundance with the § 83 case law. There simply is no such thing as a tax on wages, and such an assertion arises from the presumption that enforcement is legitimate, that the entire wage is to be taxed like the IRS does it. This book is torturous for me because, as opposed to the author, I have actually read the Tax Code.

The author draws a distinction between a "worker" and an "employee," saying that "they are two different things." (Pg.135). It should be noted that the W-4 and other W forms are about withholding a tax imposed elsewhere; chapter 24 imposes no tax. So, this discussion of withholding without knowledge of § 83 is useless. Besides, no employer is going to let you bring the IRS to the door by not withholding from paychecks WITH and through the W-4. (Remember Disk Simkanin, in prison for not withholding?).

Pausing in regulation, stalled actually, the author attempts (Pg.135) to make sense of the regulations without drawing upon statute which renders the regulation void.

Regulation seems to mix SS requirements with chapter 24 requirements (withholding) when we know that they have nothing to do with one another. NOWHERE does statute provide that W-4 withholding has anything whatsoever to do with chapter 24 provisions. This proves that the author cannot differentiate between the statutory definitions in these chapters which separate subjects into two distinct identities. I was done with all of this in 1994.

The author clearly has no knowledge of 26 CFR 602.101 and its prescription of forms relative to chapter 21 FICA which ARE NOT the Form W-4 and which ARE NOT used by employers to withhold SS or FICA from wages. The true story of withholding FICA lies in these forms which when requested under FOIA earns you only the run around.

HOWEVER, in regards to W-4 and all other chapter 24 withholding (W-4, W-2, W-8, W-9, etc.), the big story is not in chapter 24 itself, but rather is in chapter 1 and occurs at the end of the year when tax forms set about accommodating or reconciling the withheld amounts with the chapter 1 liability the IRS claims is incurred through § 61(a) and § 1.

We know it's a crime to enter false information on a gov't form. (18 USC § 1001). We also know that claiming a refund or deduction for which one is ineligible would be such a statement. On the Form 1040 (all of them, 1040EZ, 1040 Sch. A, B, C) a filer of such is asked to enter amounts withheld pursuant to ch.24 as those amounts appear on a W-2 or which constitute backup withholding. This is a credit under § 31(a) which the author alludes to later in the book, but which holds in regulation an argument the author missed; only the chapter 24 "employee" is eligible. To get credit against a chapter 1 liability of the amounts withheld pursuant to chapter 24 one must claim this credit, but only federal public servants are eligible. (See 26 CFR 1.31-2(b)). This fact the author does not realize due to inadequate or deficient schooling regarding analysis of statutory scheme.

"In the instance of backup withholding or W-4 withholding, I have to commit a federal crime to get credit for it at year's end, or I must pay it again; I am ineligible for the credit."

You won't see this in the book while I am screaming, "How do you miss this?!?!?" On pg.152 the author again jumps into the "non-employee" and "non-employer" claim in relation to chapter 24, but does so without attacking the regulation which broadens § 3401(c) by saying "generally." (See 26 CFR 31.3401(c)-1(a), (b)). There you'll see a definition of *employee* in the common sense instead of the very narrow sense expressed in § 3401(c) which uses the term *includes*.

### **Feeding the hand that bites you:**

This chapter says absolutely nothing.

### **About 1040s and claiming refunds:**

The author claims that § 6201 "provides authority only for the Secretary to assess the tax, not to determine the amount of "income" upon which the tax is imposed."

This proves that the author doesn't read case law, save those broad and elementary cases he cites in his book. The presumption of correctness enjoyed by the IRS disappears upon introduction of evidence to the contrary, a "determination" must be the result of a consideration of all relevant facts and statutes.<sup>8</sup>

§ 6201 Assessment Authority.

(a) Authority of Secretary.-*The Secretary is authorized and required to make the inquiries, determinations, and assessments of all taxes (including interest, additional amounts, additions to the tax, and assessable penalties) imposed by this title, or accruing under any former internal revenue law, **which have not been duly paid by stamp** at the time and in the manner prescribed by law. Such authority shall extend to and include the following:*

(1) Taxes shown on returns.-The Secretary shall assess all taxes determined by the taxpayer or by the Secretary as to which returns or lists are made under this title. (Emphasis added)

1939 IRC § 3640 Assessment authority. The Commissioner is authorized and required to make the inquiries, determinations, and assessments of all taxes and penalties imposed by this title, or accruing under any former internal revenue law, where **such taxes have not been duly paid by stamp** at the time and in the manner provided by law."

It should also be noted that the author missed the blaring restriction on assessment authority imposed by statute; only stamp taxes. The Tax Code's index will refer you to §§ 4300s and 4400s for this type of tax. (Foreign insurers and casinos). But we see that the Secretary is required to make inquiries, that's so determinations of tax liability can be made. After such a determination, assessments follow if indeed a tax is still unpaid. So the author's claim that § 6201 "provides authority only for the Secretary to assess the tax, not to determine the amount of "income" upon which the tax is imposed" is patently erroneous and is indicative of profound negligence in his interpretation of statute. (Top of pg.169). Mistakes this HUGE truly render the book a mere outhouse related supply.

The author goes on to claim that § 31 is available to claim a refund of overpayments. (Pg.175). This patently false, erroneous, negligent, fraudulent, etc. (See 26 CFR 1.31-2(b)).

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<sup>8</sup> See *Hughes v. U.S.*, 953 F.2d 531 (CA9 1992); *Portillo v. Comm'r of IRS*, 932 F.2d 1128 (CA5 1991); *Elise v. Connett*, 908 F.2d 521 (CA9 1990); *Jensen v. Comm'r of IRS*, 835 F.2d 196 (CA9 1987); *Scar v. Comm'r of IRS*, 814 F.2d 1363 (CA9 1987); *Benzvi v. Comm'r of IRS*, 787 F.2d 1541 (CA11 1986); *Maxfield v. U.S. Postal Service*, 752 F.2d 433 (1984); *Weimerskirch v. Comm'r of IRS*, 596 F.2d 358, 360 (CA9 1979); *Carson v. U.S.*, 560 F.2d 693 (1977); *U.S. v. Janis*, 428 U.S. 433, 442 (1975); *Alexander v. "Americans United" Inc.*, 416 U.S. 752, 758-770 (1973); *Pizzarello v. U.S.*, 408 F.2d 579 (1969); *Terminal Wine*, 1 B.T.A. 697, 701-02 (1925); *Couzens*, 11 B.T.A. 1140, 1159, 1179.

26 CFR 1.31-2(b) Federal and State employees and employees of certain foreign corporations. The provisions of this section shall apply to the amount of a special refund allowable to an employee of a Federal agency or a wholly owned instrumentality of the United States, ...employee of any State of political subdivision thereof (or an instrumentality of any one or more of the foregoing), and to the amount of a special refund allowable to employees of certain foreign corporations.<sup>9</sup>

Clearly this refund of overpayments under § 31 IS NOT available to anyone but the public servant in chapter 24's § 3401(c), and this regulation DOES NOT use the term "includes" as does § 3401(c). This serves to restrict § 3401(c)'s scope just as has always been argued but the author missed it, whereas I have had a professional opinion letter on this since 1994.

### **About 1040s and claiming refunds:**

I didn't know that "intimidation" could be pluralized, *i.e.*, "intimidations." (See pg.181). I've heard of *acts of intimidation*, but never *intimidations*.

### **Conclusion:**

This book is such garbage I can't continue. The author has no working knowledge of or skill in deciphering statutory scheme, nor has he respect for the complexities of the Tax Code as proven by his belief that it can be so deciphered without a greatly more appreciable experience reading CASE LAW!!! I cannot continue with this dribble because his take on the Tax Code is so far from reality that it proves he's never been to court on his findings, he's not a scholar and he's thoroughly ignorant of other controlling statutes.

He missed § 83, the regulations under § 31(a), § 6201(a)'s restriction of assessment authority to stamp taxes alone, the definition of cost in § 1012, the definition of "citizen" in §§ 1402(b) and 3121(e) which do not use "includes." He missed therefore the fact that § 83 applies to § 3121(a) wages and § 3121(q) tips, to § 3401(a) wages, to § 1402(a) self employment earnings. He missed the fact that if indeed one is the citizen in chapter 1 that one must be nonresident alien to one's self to also owe chapter 2 SS tax on self employment excess. (See § 879(a)(2)).

He explains why he missed all of this in the books first intro pages in "acknowledgments":

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<sup>9</sup> It is important to note the definition of the term "employee" from chapter 24 which imposes the tax deducted from private sector employee paychecks.

§ 3401(c) EMPLOYEE.-For the purposes of this chapter, the term "employee" includes an officer, employee, or elected official of the United States, a State, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term "employee" also includes an officer of a corporation.

"It is my pleasure to gratefully acknowledge such persons as Walter Kenaston, Larry Becraft, Miss Lynn Johnston, Irwin Schiff, and many others too numerous to mention, the product of whose research efforts have greatly assisted my own."

What do they know? The book is a levy waiting to happen, an absolute disaster of incompetence, and mere day in the law library when years are essential. How do you assess or discern the nature of the tax when you don't know how it's imposed? If the law does not impose the tax, it's not a tax! It's clear that the author's three weeks of research and his reading of forty cases yields far less than my six years of research and my reading of three thousand cases and my litigation of my analysis on ever federal level in many cases; can you see the difference?

A tax must be imposed by clear and unequivocal language. Where the construction of a tax law is doubtful, the doubt is to be resolved in favor of whom upon which the tax is sought to be laid. (See *Spreckles Sugar Refining v. McClain*, 192 U.S. 397, 416 (1904); *Gould v. Gould*, 245 U.S. 151, 153 (1917); *Smietanka v. First Trust & Savings Bank*, 257 U.S. 602, 606 (1922); *Lucas v. Alexander*, 279 U.S. 573, 577 (1929); *Crooks v. Harrelson*, 282 U.S. 55 (1930); *Burnet v. Niagra Falls Brewing Co.*, 282 U.S. 648, 654 (1931); *Miller v. Standard Nut Margarine Co.*, 284 U.S. 498, 508 (1932); *Gregory v. Helvering*, 293 U.S. 465, 469 (1935); *Hassett v. Welch*, 303 U.S. 303, 314 (1938); *U.S. v. Batchelder*, 442 U.S. 114, 123 (1978); *Security Bank of Minnesota v. C.I.R.*, 994 F.2d 432, 436 (CA8 1993)).

If the law does not impose a tax, all amounts collected constitute mere extortion; a crime. If one has failed to read the law, like this author, one cannot say with any certainty at all what the nature of that tax is.

I see in the future of a good many unsuspecting Americans liens and levies for all amounts obtained by filing returns as this book prescribes. In bold type in my mind is the author's total lack of reference to litigation of his own, which is what he has to do to protect the unsuspecting from his ignorance. I've always advised that one keep one's employer out of the loop and to use H&R Block to stay out of trouble because I know the law means absolutely nothing to the IRS and the courts, having seen for years legitimate entities and lawful arrangements steamrolled without regard to its letter. The potholes in the author's education and his diligence make the road to understanding impassible; turn back! Sadly, the author is precisely the moron for which the *Patriot Movement* is famous. Although wholly unsuitable as toilet paper due to the chafing I experienced, I still recommend its pages as a fire starter. Reading the book for this review was and remains more painful than the chafing.

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UPDATE - This is an email I received **3/15/2015** containing a Feb. 12, 2015 post that appeared on a blog somewhere. Observe:



"R.J. Says: February 12th, 2015 at 1:34 pm: I would also like to see some of the responses to the IRS when they get posted, but will go back and listen to the recording in the meantime. My wife and I got swept up in the Pete H. movement starting back in 2008, big mistake! We received everything back for 2008, 2009 & 2010. Then things went south after that. As of last month, we've been hit with "14" of the \$5,000 frivolous penalties totaling \$70,000 for 2011, 2012 & 2013. They like to hit both spouses with the \$5k penalty at the same time now. So, we have 6 x \$5k penalties for 2011, 2 x \$5k for 2012, and 6 x \$5k for 2013. We've always chosen written correspondence over telephone conversations so that we would have documentation of everything. Plus, we didn't have a way to record phone calls. Now they just keep hitting us both with \$5k fees whenever we send them a letter asking for clarification of the penalties. Had we been a good little boy and girl and filed "correctly" (their term) for the last three years, we would have only owed a grand total of \$3,000. Now here we sit, both 50 years old, with \$70k of IRS debt hanging over our heads for friggin penalty fees, only one job between us....oh, and did I mention we had to move into a hotel? Thankfully, we have no property that they can take, but once they garnish the payroll we are sunk and no longer have a rope to even hold on to. Funny thing is, we did file "corrected" returns within the 30-day window they threatened us with in order to avoid the penalty, but low and behold they still hit us with the \$5k penalties. So, do you think we have any kind of a chance in our situation if we challenge jurisdiction at this point? As long as I have air in my lungs I'm willing to do whatever it takes to obtain a successful outcome. Thanks for all you do Marc. We've been following your site for a couple of years now and enjoy the education."

In short, the book, Cracking the Code, is written in the name of Neolithic incompetence and ignorance of legal maxims and standards of interpretation, and is written with a keyhole view of the Code fostered by those to whom the author gives his acknowledgments; buyer beware. I submit that Mr. Hendrickson learned nothing from Lowell Becraft and lends only insults to him with by naming Becraft in this "book." Mr. Hendrickson and people who followed him went to prison for believing he knows what he's doing.

***\*End review of Cracking the Code.***