

Chapter 3:
"The Matrix"

This chapter contains an essential key with the potential to set you free. One of the biggest obstacles to understanding federal tax law is that it never uses diagrams or pictures. If a picture is worth a thousand words, then the Internal Revenue Code ("IRC") would certainly lose a lot of weight if it were reduced to pictures; but there would still be a lot of pictures! A careful examination of certain key terms like "resident" and "citizen" reveals a certain two-dimensional quality to the statutory relationship among these terms. Specifically, you are an alien if you are not a citizen, and you are a nonresident if you are not a resident. This careful examination led to the following diagram, which we like to call "*The Matrix*". *The Matrix* is the key that unlocks the whole puzzle of federal income taxation. When you understand *The Matrix*, you will know exactly where you stand with respect to the federal zone:

	column 1:	column 2:	
	citizen of the United States**	alien	
resident	X	X	row 1
nonresident	X		row 2

The validity of *The Matrix* is supported by a large body of evidence, only a small part of which can be covered effectively in a single book. The IRC is not a good place to begin, because Chapter 1 of that Code imposes a tax on the taxable income of "individuals", a term which the Code simply does not define. The definitions that do exist are found in Chapter 79, and in other places which are spread around the Code like leaves blowing in the wind.

The Code of Federal Regulations ("CFR") is a much better place to begin a review of the evidence. The regulations in the CFR are considered to be official publications of the federal government because they are "judicially noticed" (courts must *defer* to them) and because they are considered by law to be official supplements to the Federal Register. According to the federal regulations which promulgate the Internal Revenue Code, the liability for federal income tax is imposed on all **citizens** of the United States** and on all **residents** of the United States**, as follows:

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**. ... As to tax on nonresident alien individuals, see sections 871 and 877.

[26 CFR 1.1-1(b)]

Thus, the regulations impose an income tax on all citizens, whether they are resident or nonresident (column 1 in *The Matrix*), and on all residents, whether they are citizens or aliens (row 1 in *The Matrix*). These same regulations define a United States** citizen as someone who is either born or naturalized in the United States** **and** who is subject to the jurisdiction of the United States**, as follows:

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

[26 CFR 1.1-1(c)]
[emphasis added]

The official IRS "Publications" are another excellent source of evidence which supports the validity of *The Matrix*. These publications can be obtained by ordering them directly from the Internal Revenue Service. For example, Publication number 519, U.S. Tax Guide for Aliens, begins with the following statements:

Introduction

For tax purposes, **an alien is an individual who is not a U.S.** citizen.** Aliens are classified as **nonresident** aliens and **resident** aliens.

[emphasis in original]

Clearly, an alien is an individual who is not a U.S.** citizen. Aliens are individuals who were born outside of the federal zone, and who never elected to become U.S.** citizens via naturalization. Publication 519 then explains the difference between a resident alien and a nonresident alien, as follows:

Resident or nonresident?

Resident aliens generally are taxed on their worldwide income, the same as U.S.** citizens. Nonresident aliens generally are taxed only on their income from sources within the United States**. ...

Nonresident aliens are taxed on their U.S.** source income (and on certain foreign source income that is effectively connected with a trade or business in the United States**).

[emphasis in original]

How does one become a "resident" of the United States**? Remember, as used in the Internal Revenue Code and its regulations, the term "United States**" means the area over which Congress exercises exclusive legislative jurisdiction, *i.e.* the federal zone. The IRC contains a relatively clear definition of the terms "resident alien" and "nonresident alien", as follows:

Definition of **Resident Alien** and **Nonresident Alien**. --

(1) In General. -- For purposes of this title (other than subtitle B)
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(A) **Resident Alien**. -- An alien individual shall be treated as a resident of the United States** with respect to any calendar year if (and only if) such individual meets the requirements of clause (i), (ii), or (iii):

(i) **Lawfully Admitted for Permanent Residence**. -- Such individual is a lawful permanent resident of the United States** at any time during such calendar year.

(ii) **Substantial Presence Test**. -- Such individual makes the election provided in paragraph (3).

(iii) **First Year Election**. -- Such individual makes the election provided in paragraph (4).

(B) **Nonresident Alien**. -- An individual is a nonresident alien if such individual is neither a citizen of the United States** nor a resident of the United States** (within the meaning of subparagraph (A)).

[IRC 7701(b), emphasis added]

Being lawfully admitted for permanent residence is also called "the green card test". IRS Publication 519 explains the green card test as follows:

You are a resident for tax purposes if you are a lawful permanent resident of the United States** **at any time** during the calendar year. ... This is known as the "green card" test. You are a lawful permanent resident of the United States** at any time if you have been given the privilege, according to the immigration laws, of residing permanently in the United States** as an immigrant, and this status has not been taken away and has not been administratively or judicially determined to have been abandoned. You have this status if you have been issued an alien registration card, also known as a "green card," by the Immigration and Naturalization Service.

[emphasis in original]

American Citizens who were born free in one of the 50 States of the Union are not required to obtain an alien registration card, because their presence in one of the 50 States is not a *privilege*; on the contrary, it is an unalienable *Right* which is guaranteed to them by the United States

Constitution because they were born free and Sovereign. The Constitution refers to these people as "natural born Citizens" (2:1:5), "free Persons" (1:2:3) and "Citizens of a State" (3:2:1 and 4:2:1). On the basis of this criterion alone, the natural born State Citizen enjoys a significant *Right* which is not enjoyed by a person who must apply for residence as a *privilege* granted by government.

(Throughout this book, the terms "native American Citizen", "native-born American Citizen" and "American Citizen" will be synonymous with "**natural born Citizens**" as in 2:1:5 of the Constitution, and with "**State Citizens**" as in 3:2:1 and 4:2:1 of the Constitution, to avoid problems that do arise solely from terminology. See also 1:2:2 and 1:3:3.)

Publication 519 explains the "substantial presence test" using rules which closely parallel those which are actually found in the Internal Revenue Code:

You will be considered a U.S.** resident for tax purposes if you meet the substantial presence test for the calendar year. To meet this test, you must be physically present in the United States** on at least:

- (1) 31 days during the current year, **and**
- (2) 183 days during the 3-year period that includes the current year and the 2 years immediately before, counting:
 - all the days you were present in the current year ... , and
 - 1/3 of the days you were present in the first year before the current year ... , and
 - 1/6 of the days you were present in the second year before the current year ...

Example. You were physically present in the United States** on 120 days in each of the years 1988, 1989, and 1990. To determine if you meet the substantial presence test for 1990, count the full 120 days of presence in 1990, 40 days in 1989 (1/3 of 120), and 20 days in 1988 (1/6 of 120). Since the total for the 3-year period is 180 days, you are not considered a resident under the substantial presence test for 1990.

[emphasis in original]

An individual may elect to be treated as a resident of the United States**. The rules for making this election are found in the Code (IRC Section 7701(b)(4)) and in the regulations which promulgate this Code (26 CFR 1.871 et seq.). Why anyone would want to do this, without actually *residing* in the United States**, remains a mystery to us. Many Americans have been duped into believing that electing to be treated as a *resident* is a "beneficial" thing to do. Subsequent chapters will discuss the so-called "benefits" of U.S.** residence and U.S.** citizenship by contrasting revocable privileges and unalienable rights.

At last, we arrive at the definition of "nonresident alien". We have taken the long way around the mountain, but it is the *only* way around the mountain (as it turns out) because Chapter 1 of the Internal Revenue Code imposes the tax on undefined "individuals". It is in Chapter 79, near the *end* of the Code, where it states that **an individual is a nonresident alien if such individual is neither a citizen of the United States** nor a resident of the United States**.**

If you were born outside the federal zone, either as a Sovereign Citizen natural born free in one of the 50 States of the Union, or as a native citizen of a foreign country like France, then you are **not** automatically a "citizen of the United States**". You may, of course, obtain "U.S.** citizenship" by applying for this "privilege" with the Immigration and Naturalization Service, *even if* you are a Sovereign State Citizen. You may also relinquish U.S.** citizenship at will, through a process known as "expatriation". If you were born *inside* the federal zone, then you are automatically a "citizen of the United States**". The rules for residency have already been reviewed above.

The validity of *The Matrix* is also reinforced clearly by a man named Roger Foster who, in the year 1915, wrote a forgotten treatise on the Act of 1913, the year the so-called 16th Amendment was declared ratified. Some people argue that these older materials are not relevant because they do not take into account all the changes that have occurred in the Code and its regulations. Although changes have indeed occurred, the relevance of these materials lies in their proximity in time to the origins of income taxation in America, and to the intent of the original statutes. It is a principle of law that the intent of a statute is always decisive. The following excerpt is taken from A Treatise on the Federal Income Tax under the Act of 1913, 2nd edition, by Roger Foster of the New York Bar, published by The Lawyers Co-operative Publishing Company, Rochester, New York, in 1915:

Section 35: Incidence of the tax with respect to persons.

Under [the statute] **four possible cases arise. Two are of citizens**, with reference to their **residence or nonresidence**, and **two are of aliens**, with reference likewise to their **residence or nonresidence**. There is no question as to the first two, that the whole income of every citizen whether residing at home or abroad is taxed; it is so specifically provided in the act. Similarly, it is expressly provided in the act that **every person residing in the United States**** shall pay a tax upon all his income, from whatever source derived, which without question **includes all resident aliens**. Whatever, therefore, the power of Congress may be, its intent is clear, that **in case of non-resident aliens** the only measure of the tax is **income derived within the United States****.

With reference to aliens, therefore, it must be determined whether they are **resident** in which case **they must pay the tax on their whole income**; or if **not resident** whether they **own property or carry on a business, trade or profession in the United States****.

In the **latter case**, they are taxable only with reference to **income earned or paid in this country**. If they are **non-resident and do not derive an income from any source within our territory of course they are not taxable at all**.

[pages 153 to 155, emphasis added]

Note, in particular, that Foster makes reference to "income earned or paid **in this country**". You might be sorely tempted to conclude, therefore, that he meant to define the "United States" to mean the several States of the Union (then 48), *in addition to* the federal zone. He did not. This question is squarely settled in another section of his treatise, in which he considers the incidence of the tax with respect to territory:

Section 34: Incidence of the tax with respect to territory and places exempted from the same.

The tax ... is levied in **Alaska, the District of Columbia, Porto Rico** [sic] and **the Philippine Islands**. ... The Act expressly directs:

"That the word 'State' or 'United States**' when used in this section shall be construed to include **any Territory, Alaska, the District of Columbia, Porto Rico, and the Philippine Islands**, when such construction is necessary to carry out its provisions."

Although there might be ground for argument that the phrase "any Territory" applies to the Hawaiian Islands, it was the evident intention of Congress that the residents of Hawaii, at least when not citizens of the United States**, are exempt from the tax, for the reason that the Legislature of Hawaii has imposed an Income Tax upon all residents of that territory.

[pages 152 to 153, emphasis added]

It is important to appreciate that Roger Foster was considered by many to be a recognized authority on federal law. In addition to his treatise on the Federal Income Tax Act of 1913, he wrote numerous other treatises and articles, including (but not limited to) "Commentaries on the Constitution of the United States", "Federal Judiciary Acts", and "The Federal Income Tax of 1894". In the published opinion of author John L. Sasscer, Sr., any doubts about Foster's intentions are completely dissolved by his choice of words for the heading to Section 34: incidence of the tax with respect to territory and **places exempted** from the same:

If the income tax were levied **within** the states of the union there is no doubt that he would have so stated. The absence of any mention of the states of the union as being "territory" where the tax is imposed, shows that Mr. Foster recognized the income tax was imposed in those mentioned areas **only**, all of which were federal territories in 1913.

["Deciphering the Internal Revenue Code: The Keys Revealed"]
[by John L. Sasscer, Sr., in Economic Survival, page 27]
[emphasis in original]

In subsequent chapters, a principle of statutory construction is applied to the IRC to show that the inclusion of one thing is equivalent to the exclusion of all other things not explicitly mentioned. This principle also applies to persons and to places. Laws are constructed in strict obedience to the rules of formal English; one of these rules is that a "noun" is either a person, a place, or a thing. Both Sasscer and Foster evidence their keen awareness of these rules. Notice how Foster mentions the incidence of the tax with respect to *persons* and to *places*. **The States of the Union are not mentioned anywhere among the places where the tax is imposed.** In and of itself, this documentary evidence from Foster's second edition is stunning proof of the territorial extent of the 1913 federal income tax.

What is even more stunning is the comparable section from the *first* edition of Foster's treatise. In this section, he rambles on about the lack of any court precedents authorizing Congress to tax bond interest that is payable to nonresident aliens by domestic corporations. Because he makes repeated use of the term "United States", a term which we now know to have multiple *different* meanings in law, this section is almost always vague about the exact territorial extent of the 1913 Act. There is, however, one place where he tips his hand by utilizing the term "Union" in a territorial sense. In other words, the *first* edition of Foster's treatise considers the "Union of several States" to be the territorial reach of the 1913 Act, but in his *second* edition this whole section is replaced with a *much* smaller section which limits that reach to Alaska, the District of Columbia, Puerto Rico and the Philippine Islands. Therefore, Foster has as much admitted, in writing, that his first edition was in error about the territorial extent of the 1913 federal income tax.

There you have it! Four possible cases arise for natural born persons like you and me. Go back to *The Matrix* and the original cover of this book. Focus carefully on the lonely cell found at row 2, column 2. You are a nonresident alien if you are *not* a citizen of the United States** and you are *not* a resident of the United States**:

The term "nonresident alien individual" means an individual whose residence is not within the United States**, and who is not a citizen of the United States**.

[26 CFR 1.871-2]

At this point, you may still be wondering if it is indeed correct to use the term "nonresident alien" to describe Sovereign State Citizens who were born free in one of the 50 States of the Union, and who also live and work in one of the 50 States of the Union. **All that remains to prove it correct is to verify the correct legal meaning of the term "United States**" in the IRC.** This proof requires an overview of the several meanings of the terms "United States" and "State" as they are defined in the Code itself, in the case law, and elsewhere.

An exhaustive proof is not necessary here because other capable authors have already completed a massive amount of work on this subject. Interested readers are encouraged to review the Bibliography, found in Appendix N, and to obtain copies of the key publications entitled Good-Bye April 15th! by Boston T. Party, Which One Are You? by The Informer, United States Citizen

versus National of the United States and A Ticket to Liberty both by Lori Jacques, The Omnibus by Ralph F. Whittington, and Free At Last -- From the IRS by N. A. "Doc" Scott. Taken as a group, these authors have published a wealth of irrefutable documentation which proves, beyond any doubt, the true meaning of "nonresident alien" in the federal income tax statutes. Author Ralph Whittington's book is particularly valuable because its appendices contain true and correct copies of key documents like Roger Foster's treatise and selected Acts of Congress.

The following anecdote summarizes nicely many of the key points which we have covered thus far:

Several years ago in a coffee shop while talking with a friend about "tax matters," a man in the adjacent booth overheard our conversation and asked to join us. The conversation continued, and centered mainly on IRS abuses.

This gentleman seemed particularly knowledgeable about the subject and we asked him what he did for a living. He told us his name and that he was an attorney with the Tax Division of the Department of Justice in Washington. Naturally, this put us on guard, but he quickly put us at ease by agreeing in large part with the conclusion we had drawn.

Reluctantly, I asked him this question, "Why are defendants in federal district court always asked if they are 'citizens of the United States'?" He replied without hesitation, "So we can determine jurisdiction. **In many cases the federal court does not have jurisdiction over a citizen unless they testify they are a citizen of the United States -- meaning a federal citizen under the 14th Amendment.**"

My friend innocently asked, "What's a federal citizen?" The attorney replied, "That's a **person who receives benefits or privileges or is an alien that has been admitted [naturalized] as a citizen of the United States.**"

I quickly interjected, "**What if the individual denied being a citizen of the United States and claimed to be a sovereign citizen of Oklahoma?**" The attorney bowled me over with, "**We don't get jurisdiction.**"

He had to catch a plane.

[Freeman Letter, March 1989, page 6, emphasis added]
[as quoted in "Brief of Law for Zip Code Implications"]
[by Walter C. Updegrave, revised March 28, 1992]

The implications of the 14th Amendment are considered in some detail in Chapter 11 and in Appendix Y. For now, it is best to remember that we have in America a government of the United States** and a government of each of the several States; moreover, each of these governments is distinct from the others, and **each has citizens of its own.** In parallel with the federal and State governments, there are federal citizens and there are State Citizens.

Federal citizens are the same as "U.S.** citizens" and "citizens of the United States**". If you are not a federal citizen, then you are an "alien" *with respect to* the federal government. If you get confused, just recall the familiar distinction between State and federal governments, and then remember that **each has citizens of its own**. For consistency throughout this book, federal citizens will be spelled with a lower-case "c" and State Citizens will be spelled with an UPPER-CASE "C". Happily for us, this convention is strictly obeyed *throughout* the Internal Revenue Code ("IRC") and *throughout* the Code of Federal Regulations ("CFR") which promulgates the IRC.

Summary

The citizen/alien distinction explains the two columns of The Matrix. By definition, you are an alien *with respect to* the United States** if you are not a citizen of the United States**. The happy result of The Matrix is the legal and logical equation which exists between most State Citizens and nonresident aliens. A citizen of the United States** is the same thing as a federal citizen. Anyone who is not a federal citizen is an "alien" *with respect to* the United States**. Therefore, as long as a State Citizen is not *also* a federal citizen, then such a State Citizen is an "alien" as that term is defined in the IRC. State Citizens are free to *reside* wherever they choose, because their right to travel is an unalienable right. However, the term "resident" has a very specific meaning in the IRC, whether it is used as an adjective or as a noun.

The resident/nonresident distinction explains the two rows of The Matrix. An alien can be either a *resident* alien, or a *nonresident* alien. There are three and *only* three criteria to distinguish resident aliens from nonresident aliens: (1) lawful admission for permanent residence, (2) substantial presence test, and (3) election to be treated as a resident. All three of these criteria depend for their legal meaning upon the statutory definition of "United States".

Therefore, if State Citizens are "residents" of the United States** according to these criteria, then they are *resident* aliens, by definition. If State Citizens are not "residents" of the United States** according to these legal criteria, then they are *nonresident* aliens, by definition. A deliberately confusing Code is clarified considerably by understanding the legal and logical equation which exists between State Citizens and nonresident aliens (like Frank R. Brushaber). They are one and the same thing, to the extent that State Citizens do not *reside* in the United States** and to the extent that they are not also federal citizens.

The issue of citizenship in America has been complicated a great deal because the federal government recognizes the legal possibility that one can be a federal citizen *and* a State citizen at the same time. This possibility exists primarily because of Section 1 of the so-called 14th amendment. This amendment was carefully worded to recognize a dual citizenship, federal and State, but the State citizenship which it recognized was still a *second class* of citizenship. That is the reason why the term "citizens" in the 14th amendment is spelled with a small "c". It is a municipal franchise.

The mountain of litigation that resulted from this amendment is proof that the issue of citizenship has become unnecessarily complicated in America. There is a logical path through this complexity, however, and a subsequent chapter will delineate this path as clearly and as simply as possible (see Chapter 11: Sovereignty). The main obstacles standing in the way of greater clarity are removed entirely by the all important finding that the 14th amendment was never properly approved and adopted, just like the 16th amendment.

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Reader's Notes:

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