ORIGINAL

Case No.: 20-642

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SUPREME COURT, U.S.

In the Supreme Court of the United States of America

MICHAEL RYAN: HOLDEN KLINGLER
Petitioner,
v.
SALINAS UNION HIGH SCHOOL DISTRICT
Respondent

After the denial of an appeal to the California Supreme Court
Case No.: S296133

Appealed from the Sixth Appellate Division Court of Appeal After a Non-published Opinion
Case No.: H053015

Appealed from Superior Court of California County of Monterey
Case No.: 22CV002775

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

A court has jurisdiction when it has power or authority to determine the interests of the parties[1] and issue enforceable orders.[2] A court does not have capacity to create new rights; the vested party must possess the interest independent of the court.

A government taxing interest is established by the lawful levy of a tax. This means a government does not possess a taxing interest and a court does not have jurisdiction to impose a taxing interest in the absence of a lawful tax.

I do not contend the lawfulness of the taxes imposed by the state and federal government, but rather that the inferior courts have failed to identify the necessary impositions to establish state and federal taxing interests. With this in mind:

1. Do Internal Revenue Code (IRC) Sections 1 and 3101, as well as California Revenue and Taxation Code (RTC) Section 17041, each have the power to independently vest, respectively, a state or federal taxing interest in the salary of a domestic person not connected to a foreign person in the performance of his contractual relationship with a purely domestic employer?

Further, at this point I have asked only for an order instructing my employer to stop reporting and

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[1] Subject matter jurisdiction

[2] Personal jurisdiction

withholding for taxes as well as to correct the false tax records submitted to the state and federal taxing agencies. The inferior courts have asserted I am barred by IRC § 7421(a) from seeking injunctive relief and prematurely determined I am barred by IRC § 3403(b) from compelling my employer to pay me the full amount I am owed under contract. If I am successful here, I will seek leave to amend my original petition to include state penalties and interest and compel complete delivery of my salary, as well as any other interest I possess. It seems expedient to address the issue of IRC § 3403(b) at this time so as to avoid the inevitability of litigating the question as an independent matter. With this in mind:

2. Does the indemnification of IRC § 3403(b) apply in the absence of a *bona fide* or colorably applicable income tax?

3. Does the Anti-Injunction Act (IRC § 7421(a) apply in the absence of a *bona fide* or colorably applicable income tax?

PARTIES TO THE PROCEEDING

Petitioner, Michael Ryan: Holden Klingler, is Petitioner and Respondent, Salinas Union High School District, is Respondent in the proceedings of the Superior Court of California in Monterey, the California 6th Appellate District and the California Supreme Court. Neither Petitioner nor Respondent is a corporation.

LIST OF PROCEEDINGS

This case directly relates to the following proceedings:

Michael Ryan: Holden Klingler v. Salinas Union High School District, No. 22CV002775, California Superior Court of Monterey. Judgment entered on March 30, 2023.

Michael Ryan: Holden Klingler v. Salinas Union High School District, No. H053015, California 6th Appellate District. Judgment entered on March 4th, 2026.

Michael Ryan: Holden Klingler v. Salinas Union High School District, No. S29633, California Supreme Court. Denial of Petition for Writ of Certiorari entered on June 10, 2026.

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PETITION FOR A WRIT OF CERTIORARI

I, Michael Ryan Holden Klingler, a blood descendent of "We the People" through my maternal line, am a Citizen of the Union Member state California, without the 'State' defined by California Government Code (GOV) Section 18 and California Health and Safety Code (HSC) Sections 23 and 102100 et. al. and the 'citizen' defined by GOV § 241, as well as without the 'national' and 'citizen of the United States' defined by Section 1401 of Title 8 of the United States Code, any record to the contrary disclaimed as the product of mistake, accident, and/or intentional deceit, respectfully petitions for a writ of certiorari to review the judgment of the California 6th District Court of Appeals for the Superior Court of Monterey County in this case.

OPINIONS BELOW

The California Supreme Court denial of my petition for review, (*Appendix A*), the California 6th District Appellate Court's denial of my request for a rehearing (*Appendix B*) and my appeal (*Appendix C*), and the Monterey Superior Court's denial of my motion to vacate (*Appendix D*), dismissal of my verified complaint (*Appendix E*), my motion for reconsideration (*Appendix F*) and sustaining of Respondent's demurrer (the judgment) without leave to amend (*Appendix G*) are all unreported.

JURISDICTION

The judgment of the California Superior Court of Monterey was entered on March 30, 2023. The appeal was denied on March 4th, 2026 and became final on June 11, 2026. The petition for rehearing was denied on March 23rd, 2026. The petition for review before the California Supreme Court was denied on June 10, 2026.

The jurisdiction of this Court is invoked under Clauses 1 and 2 of Section 2 of Article III of the Constitution for the United States of America:

> "The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority."

And,

> "In all other Case before mentioned, the supreme Court shall have appellate jurisdiction."

CONSTITUTIONAL, STATORY AND REGULATORY PROVISIONS

The 16th Amendment to Constitution for the United States of America, Chapters 1, 23, 24 and 61 of the Internal Revenue Code (IRC), the California Personal Income Tax Law and its administration in California Revenue and Taxation Code (RTC) and California Unemployment Insurance Code (UIC).

STATEMENT OF THE CASE

This petition for a writ of certiorari is taken on the denial of an indirect challenge to the judgment of California Superior Court of Monterey (an order sustaining Respondent's demurrer with prejudice) finding I am subject to state and federal income tax law by a motion to vacate the judgment for being void on its face, and not merely erroneous.

I am an employee of Salinas Union High School District ("Respondent") in the State of California. I am domiciled on Monterey county and a Citizen of the Union-Member state California; I am a domestic person. Respondent is a school district of California, an instrumentality of the State; a domestic person. Neither Respondent nor I are connected to any foreign person in the performance of our contractual duties.

Employers have a duty to collect for an income tax found in Chapter 1 of the Internal Revenue Code (IRC) § 3402(a) and (n)) or under an agreement to pretend the wages are subject (IRC § 3402(p)(3)). The taxes applicable to individuals are found at IRC §§ 871(b), 871(c) and 871(d) and applied to United States shareholders at 951(a)(1) and 951A(a). Each of these taxes requires the involvement of a foreign person. Respondent and I are not foreign persons and do not operate through foreign persons in the performance of our contract. Neither have we entered into an agreement under IRC § 3402(p)(3) to pretend my wages are subject.

Medicare tax requires the presence of a tax prior in law applicable to the employee in order for the levy to apply or, in the case of state employees, an agreement under the Social Security Act (SSA) § 218. I am not subject to any other Internal Revenue Tax and am not part of an agreement under SSA § 218.

California employees not subject to a liability under Subtitle A of the Internal Revenue Code are not subject to the California Personal Income Tax Law (California Revenue and Taxation Code §§ 18631(b) and (c)(4) and 18632 and California Unemployment Insurance Code §§ 13020(a), 13026, and 13050(a)). I am not subject to a federal income tax found in Subtitle A of the Internal Revenue Code and therefore not subject to California income tax law.

Despite this, Respondent has been reporting and withholding state and federal income tax from my salary since September of 2018.

In an effort to get Respondent to see reason and stop breaking the law by withholding and reporting for non-existent state and federal income taxes, I demanded Respondent cite the taxes for which the District is withholding from my salary. Respondent refused, claiming the definitions of employment, wages, etc. from state and federal withholding law make the District liable for the taxes and under duty to deduct, withhold and report.

I petitioned the trial court for equitable relief under Pomeroy's primary right theory for a cause of action:

> " "California follows the 'primary right theory' of Pomeroy: "Every judicial action must therefore involve the following elements: **[A]** a primary right possessed by the plaintiff, and a **[B]** corresponding primary duty devolving upon the defendant; **[C]** a delict or wrong done by the defendant which consisted in a breach of such primary right and duty; **[D]** a remedial right in favor of the plaintiff, and **[E]** a remedial duty resting on the defendant springing from this delict, and finally **[F]** the remedy or relief itself.... Of these elements, the primary right and duty and the delict or wrong combined constitute the cause of action." " (4 Witkin, Cal. Procedure (3d ed. 1985) Pleading, § 23, pp. 66-67, quoting Pomeroy, Code Remedies (5th ed.) p. 528, italics in original.)" (*Lodi v. Lodi*, 173 Cal.App.3d 629 (1985)) ([A], [B], [C], [D], and [F] not in original)

There are two sets of primary rights and corresponding duties under consideration in the matter requested for review.

The first primary right is my vested interest in receiving my complete salary and Respondent's duty to deliver my salary to me. This right and corresponding duty is not contested.

The second primary right is governmental taxing interests vested by California and United States taxing laws and Respondent's corresponding duty to withhold and report. This right is disputed.

The trial court held in its order sustaining Respondent's demurrer the federal government is vested with an income tax interest by IRC § 1 by rule of Treasury Regulation 1.1-1(a)(1), a Medicare tax interest under IRC § 3101(b) and a state income tax interest under RTC § 171041(a), on the facts of Petitioner's residence in California and receipt of wages.[1]

I motioned the trial court to reconsider. The trial court denied the motion for reconsideration on the grounds IRC § 1 is a special direct tax that is not subject to apportionment and applicable to all American citizens under the case law of *United States v. Lund* (D. OR 2012) 2012 U.S.Dist.LEXIS 16154, at 11) citing *Wilcox v. Comm'r* (9th Cir. 1988) 848 F.2d 1007, 1008 n. 3 and *United States v. Nelson* (9th Cir. 1989) 885 F.2d 547, 548.

I moved the trial court by its inherent power to vacate its judgment and all subsequent orders. This motion was brought on the basis that the trial court:

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[1] Petitioner is domiciled on monterey county. State political affiliation under the 14th Amendment and by 8 USC § 1401 with GOV § 241 is conferred by residency. Petitioner claims organic Citizenship, not 14th Amendment or statutory citizenship. For the purpose of this petition, the manner by which the state and federal income tax attaches is presumed to be the same for all three sources of political affiliation.

A. **Does not have power to impose IRC § 1** as income tax because **(1)** IRC § 1 is not an income tax by the plain reading of the Internal Revenue Code, but rather the measure of the income taxes found at IRC §§ 871(b), 871(c) and 871(d) as well as the measure of the taxes applied to United States shareholders under 951(a)(1) and 951A(a) and not the tax itself; **(2)** the trial court is not allowed by rule of this Court to extend the application of the taxing statutes beyond the limits of the texts by Treasury Regulations; **(3)** IRC § 1 cannot be applied as an income tax under the power of the 16th Amendment as a direct non-apportioned tax on income because this Court has ruled the 16th Amendment does not authorize a direct non-apportioned tax; and **(4)** IRC § 1 cannot be a constitutional income tax because it does not meet the definition of an income tax provided by this Court.

B. **Does not have power to impose IRC § 3101(b)** because **(1)** the plain reading of the text of the Medicare tax requires a tax prior in law applicable to me to which Medicare is imposed "in addition" and no such prior tax exists and **(2)** Social Security Act (SSA) Section 218 requires an agreement exist to extend the taxes of the Act to employees of states other than the District of Columbia, Guam, or American Samoa by agreement and

no agreement exists for California public school teachers.

C. **Does not have power to impose RTC § 17041(a)** because **(1)** Section 17041(a) is not an income tax by definition and **(2)** it is the last step in calculating a state income tax *only* on employees that are liable for a federal income tax found in Subtitle A of the Internal Revenue Code (see RTC §§ 18631(b), 18631(c)(4) and 18632 with UIC §§ 13020(a), 13026 and 13050(a) restricting all reporting and withholding law to employees and employers subject to federal income tax law).

D. **Does not have power to impose apply the Anti-Injunction Act (IRC § 7421(a))** because this Court held the act does not apply in the absence of a *bona fide* tax. (*Enochs v. Williams Packing Company*, 370 U.S. 1, 7)

E. **Does not have power to apply the indemnification of IRC § 3403(a)** because the plain language of the text requires Respondent has a duty to collect for a *bona fide* tax.

Rather than address the merit of my motion, the trial court denied my non-statutory motion on the statutory time constraints of California Code of Civil Procedure (CCP) Sections 663 and 663a.

The same arguments were presented to the California 6th Appellate District for review. The

appellate court held my motion is not appealable, noting my "argument is simply a disagreement about the application of the law to his allegations, not about jurisdiction." (APP.87) And consequently, "Mr. Klingler has not met his burden to show that the trial court's dismissal of his petition was void. This, in turn, means that the court's August 2024 order denying his motion to vacate the dismissal is not appealable." (APP.87)

REASONS FOR GRANTING THE PETITION

The question of whether IRC § 1, IRC § 3101(b) and RTC § 17041 vests a taxing interest respectively in the State of California and the United States ultimately rests on whether or not IRC § 1 is bona fide income tax of the Internal Revenue Code by the plain reading of the statute and the constitutional limits placed on an income tax by this Court's interpretation of the 16th Amendment and its definition of the nature of the an income tax.

This Court should take up this Petition because:

(1) Lower courts are at odds with this Court's interpretation of the 16th Amendment;
(2) This Court's definition of an income tax is at odds with the application of IRC § 1 as an income tax; and
(3) This Court should not endorse and participate through silence in the deceptive implementation of the income taxes as a matter of oath.

A. Federal Income Tax Law

1. Conflicting Definitions of the Income Tax.

A conflict exists between this Court and lower courts, both state and federal, on whether the income tax is a special direct tax that is not subject to the rule of apportionment or an indirect tax, specifically an excise.

The trial court applies IRC § 1 as a direct non-apportioned tax on income on the authority of *United States v. Lund*, citing *Wilcox v. Commissioner* and *United States v. Nelson*:[2]

> "The Sixteenth Amendment, as codified in the IRC, authorizes a direct non-apportioned income tax on resident United States citizens. See Wilcox v. Comm'r, 848 F.2d 1007, 1008 n. 3 (9th Cir. 1988); **26 U.S.C. 1(a)**; United States v. Nelson (In re Becraft), 885 F.2d 547, 548 (9th Cir. 1989)." (*United States v. Lund*: Civil No. 11-6237-AA, 10-11 (D. Or. Feb. 8, 2012)

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[2] See Defendant's Opposition to Plaintiff's Motion for Reconsideration, p.2:17-18 with footnote 1 (AAP.98): "the law is clear that 26 U.S.C. § 1 authorizes income taxes on citizens or residents of the United States. (*Wilcox v. Comm'r* (9th Cir. 1988) 848 F.2d 1007, 1008 n. 3; *United States v. Nelson* (9th Cir. 1989) 885 F.2d 547, 548; *United States v. Lund* (D. OR 2012) 2012 U.S.Dist.LEXIS 16154, at 11)"; and Order Denying Plaintiff's Motion for Reconsideration (APP.95-96)

If we follow the authorities of this decision through *United States v. Nelson* we come to the decision of Justices Gee, Politz and Johnson of the 5th Circuit Court of Appeals:

> "The Supreme Court promptly determined in **Brushaber v. Union Pacific Ry. Co.**, [citation], that the sixteenth amendment provided the needed constitutional basis for the imposition of a direct non-apportioned income tax." (*Parker v. Commissioner*, 724 F.2d 469,471 (5th Cir. 1984))

The 5th Circuit's decision in *Parker* is either the product of very stupid people or a lie. In any event, it is unfounded. This Court ***unanimously*** states in *Brushaber*:

> We are of opinion...the conclusion that the 16th Amendment provides for a hitherto unknown power of taxation; that is, a power to levy an income tax which, although direct, should not be subject to the regulation of apportionment applicable to all other direct taxes...[is]...erroneous...[T]he contention that the Amendment treats a tax on income as a direct tax although it is relieved from apportionment...is also wholly without foundation...destroying the classifications of the Constitution by taking an excise out of the class to which it belongs and transferring it to a class in which it cannot be placed consistently with the requirements of

Constitution. (***Brushaber v. Union Pac. R.R.***240 U.S. 1,11,18-19 (1916))

AND

"[The proposition] the 16th Amendment authorizes only an exceptional direct income tax without apportionment...is plainly in conflict with the meaning of the Sixteenth Amendment as interpreted in the ***Brushaber*** case....[I]t was settled [in *Brushaber*] that the provisions of the Sixteenth Amendment conferred no new power of taxation, but simply prohibited the previous complete and plenary power of income taxation possessed by Congress from the beginning from being taken out of the category of indirect taxation to which it inherently belonged and being placed in the category of direct taxation subject to apportionment by a consideration of the sources from which the income was derived." (*Stanton v. Baltic Mining* Co., 240 U.S. 103,112-113 (1916))

AND

But we need not now enter into an original consideration of the merits [regarding the contention that the "statute exceeded the exceptional and limited power of direct income taxation for the first time conferred upon Congress by [the 16th] Amendment] because [it was] considered and adversely disposed of in ***Brushaber v. Union Pacific R. R.***, *ante*, p.

1. That case, therefore, is here absolutely controlling and decisive. (*Tyee Realty Co. v. Anderson*, 240 U.S. 115 (1916))

AND

[T]he [16th] Amendment was drawn for the purpose of doing away for the future with the principle upon which the Pollock case was decided -- that is, of determining whether a tax on income was direct not by a consideration of the burden placed on the taxed income upon which it directly operated, but by taking into view the burden which resulted on the property from which the income was derived..." (*Brushaber v. Union Pac. R.R.* 240 U.S. 1,11,18-19 (1916))

AND

The legislative history shows...that the sole purpose of the Sixteenth Amendment was to remove the apportionment requirement [of the Pollock case] for whichever incomes were otherwise taxable. 45 Cong. Rec. 2245-2246 (1910); id., at 2539; see also **Brushaber v. Union Pacific R. Co.**, 240 U. S. 1, 17-18 (1916)." (*South Carolina v. Baker*, 485 U.S. 505, n.13 (**1988**) [this opinion is delivered 4 years **after** *Parker*])

AND

[T]he Sixteenth Amendment expressly confirmed what had been the understanding

> of the Constitution before *Pollock*: Taxes on income—including taxes on income from property—are indirect taxes that need not be apportioned. ***Brushaber***, 240 U. S., at 15, 18. (*Moore v. United States*, 602 U.S. _____ , 7 (2024))

Presuming this Court is the final authority on matters it has determined, the income tax is an indirect tax, an excise, by the decision of *Brushaber*.

This Court defined an indirect tax in *Tyler v. United States*, which, ironically, is cited by the 5th Circuit along with a definition of an excise tax:

> "An excise [is a] tax upon the happening of an event...The value of the property so affected is merely used as a factor in the measurement of the excise tax... [and] "A tax laid upon the happening of an event, as distinguished from its tangible fruits, is an indirect tax." *Tyler v. United States*, 281 U.S. 497, 502, 503..." (*Chickering v. Comm'r of Internal Revenue* (1941) C.C.A.1, 118 F.2d 254, 257,258).

And recently in *Moore v. United States*:

> [*I*]*ndirect* taxes are the familiar federal taxes imposed on activities or transactions. (Opinion, 6)

And also:

> Indirect taxes, on the other hand, include "Duties, Imposts and Excises." Art. I, §8, cl. 1.

> These were taxes that people could avoid by adjusting their behavior—generally, taxes on articles of consumption (Thomas J. Dissenting at page 6)

By the decision and definition of this Court, the income tax is **(1)** a tax on the happening of an event, i.e. on an activity or transaction, that is **(2)** measured by the income produced **(3)** that may be avoided by adjusting one's behavior.

With this understanding of the nature of a constitutional income tax, we now turn our attention to the text of the Internal Revenue Code to identify the sections of the statute by which Congress has imposed its income taxes.

2. The Income Taxes Specific to This Case

As we seek to identify the relevant income taxes imposed by congress in the Internal Revenue Code we follow specific rules:

> "As in all cases involving statutory construction, "our starting point must be the language employed by Congress," *Reiter* v. *Sonotone Corp.*, 442 U.S. 330, 337 (1979), and we assume "that the legislative purpose is expressed by the ordinary meaning of the words used." *Richards* v. *United States*, 369 U.S. 1, 9 (1962). Thus "[a]bsent a clearly expressed legislative intention to the contrary, that language must ordinarily be regarded as conclusive." *Consumer Product Safety Comm'n*

v. *GTE Sylvania, Inc.*, 447 U.S. 102, 108 (1980)."

And:

"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. In the case of doubt they are construed most strongly against the Government and in favor of the citizen. (*citations*)" (*Gould v. Gould*, 245 U.S. 151, 153)

And:

"We can give no weight to the Government's suggestion...that the Treasury Regulations relating to the statute...constitutes an administrative interpretation to which we should give weight in construing the statute...Treasury Regulations attempt[ing] addition to the statute of something which is not there...can furnish no substance to the statute." (*United States v. Calamaro*, 354 U.S. 351,358-359 (1957))

And:

"The rule of proof...is...that the burden in such a case is always on the collector to show, in justification of his levy and collection of an excise tax, that the statute plainly and clearly lays the tax; that, in short, the fundamental

rule is that taxes to be collectible must be clearly laid." (*Tandy Leather Company v. United States*, 347 F.2d 693, 694 (5th Cir. 1965))

In this matter we are looking at the income taxes for which employers are under mandate to deduct and withhold from an employee. The duty to withhold is imposed by IRC § 3402(a):

> Requirement of withholding
>
> (1) In general Except as otherwise provided in this section, every employer making payment of wages shall deduct and withhold upon such wages a tax determined in accordance with tables or computational procedures prescribed by the Secretary. Any tables or procedures prescribed under this paragraph shall—
>
> (A) apply with respect to the amount of wages paid during such periods as the Secretary may prescribe, and
>
> (B) be in such form, and provide for such amounts to be deducted and withheld, as the Secretary determines to be most appropriate to carry out the purposes of this chapter and to **reflect the provisions of chapter 1** applicable to such periods.

IRC § 3402(a)(1)(B) mandates the tables and procedures prescribed reflect the provisions of chapter 1. IRC § 3402(n) notes employers are not under mandate to deduct and withhold from an

employee's wages if the employee is not subject to a liability under Subtitle A:

> Employees incurring no income tax liability
>
> Notwithstanding any other provision of this section, an employer shall not be required to deduct and withhold any tax under this chapter upon a payment of wages to an employee if there is in effect with respect to such payment a withholding allowance certificate (in such form and containing such other information as the Secretary may prescribe) furnished to the employer by the employee certifying that the employee—
>
> (1) incurred no liability for income tax imposed under **subtitle A** for his preceding taxable year, and
>
> (2) anticipates that he will incur no liability for income tax imposed under **subtitle A** for his current taxable year.
>
> The Secretary shall by regulations provide for the coordination of the provisions of this subsection with the provisions of subsection (f).

Thus, we would expect to find the tax for which the employee is liable to occur in Subtitle A, specifically Chapter 1.[3]

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[3] I am Respondent's employee. Both of us are domestic persons. Neither of us operates through a foreign person in the

Chapter 1 has 26 subchapters. A quick read of the titles of the subchapters leaves only two that may apply to me and my employer: Subchapters A and N. Subchapter A is headed, "*Determination of Tax Liability*" and Subchapter N is headed "*Tax based on Income From Sources Within or Without the United States.*" The word "determination" means the same thing as measure, so if Congress's choice of heading matches the content of Subchapter A, we would expect to find the ***measures*** of the income taxes here. This would place the actual taxes in Subchapter N, which would contain of all of the income taxes found in chapter 1, as the taxes are based on income from sources ***within*** and ***without***; there is no other location. By rule we are required to examine the text of the actual statute to determine congressional intent, and while headings and titles are helpful, they are not usually determinative.

The courts of California say my employer is collecting for IRC § 1. Section 1 is found in Subchapter A: the text is as follows:

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performance of our contractual duties. Subtitle A has 7 chapters. Chapter 2 applies to a tax on self-employment income; chapter 2A applies to unearned income Medicare contributions; chapter 3 applies to withholding of tax on nonresident aliens and foreign corporations; chapter 4 applies to taxes to enforce reporting on certain foreign accounts; chapter 5 is repealed; and chapter 6 applies to consolidated returns. None of these chapters apply to me and/or my employer. Chapter 1 applies to normal taxes and surtaxes. Chapter 1 is the only chapter that might apply to my employer and me.

> "There is hereby imposed on the ***taxable income*** of...married individuals,...head of household,...unmarried individuals,...married individuals filing separate returns,...and estates and trusts [in the amount of various percentages]."

According to this Court, the income tax is **(1)** a tax on activities and transactions that are **(2)** measured by the income produced. The plain language of IRC § 1 matches the second part of the definition of an income tax: the measure of the tax by the income produced. The plain language of Section 1 does not identify the taxed activity or transaction. Section 1 is not an income tax but rather, just as the heading of Subchapter A indicates, it is the determination (or measure) of the tax. In order to understand what is happening here, we must look at the income taxes found in Subchapter N.

3. The Income Taxes of Subchapter N

As we take a look at the income taxes found in Subchapter N, it is helpful to note Congress has indicated its intent to write the income tax as an indirect tax, specifically an excise:

> "The income tax is, therefore, not a tax on income as such. It is an excise tax with respect to certain activities and privileges which is measured by reference to the income which they produce. The income is not the subject of the tax: it is the basis for determining the amount of tax." (See

Congressional Record, Vol. 80 – Part 2; March 27, 1943 p. 2580 under the heading: THE INCOME TAX IS AN EXCISE TAX, AND INCOME IS MERELY THE BASIS FOR DETERMINING ITS AMOUNT)[4]

The impositions of Subchapter N are found at IRC §§ 871(a), 871(b), 871(c), 871(d), 881(a), 882(a), and 887(a) with the taxes of IRC §§ 871 applied to United States shareholders under sections 951(a)(1) and 951A(a).

Each of the impositions in Subchapter N follows the definition of an excise tax by (1) naming the taxed event and (2) providing the measure of the tax.

This deserves repeating: *Each of the impositions in Subchapter N follows the definition of an excise*

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[4] The congressional record cited above is from 1943. Even so, the citation is still valid for today. The federal taxing statutes were re-codified as an act of congress in 1939 as the "Internal Revenue Code [of 1939]. The Code was reorganized in 1954 and referred to as the Internal Revenue Code of 1954. Provisions of the Code were amended in 1986 while retaining the same structure and called the Internal Revenue Code of 1986. The impositions named in this petition correspond as follows to the Code of 1939 as "(IRC 1986 with IRC 1939): (871 with 211(a), (b), (c)); (872 with 212); (881with 231(a)); (882 with 231(b), (c); 232(a), (b); 233, 234, 235(a)). Current § 887 is new but follows the same basic form: tax on activity measured by income produced. There is nothing substantively different in the general imposition of the taxes across the code adoptions: the taxes are imposed on certain activities and measured by reference to the income produced. The above-cited Congressional Record of 1943 is consequently still relevant and indicative of the manner in which Congress intends to impose its income taxes.

tax by (1) naming the taxed event and (2) providing the measure of the tax. Just as this Court and Congress has interpreted the nature of income taxes to be!

IRC § 871(a) levies "a tax of 30% of [1] the amount received from sources within the United States by a nonresident alien individual...not effectively connected with a trade or business within the United States," [2] "gains, derived from sources within the United States, from the sale or exchange at any time during such year of capital assets exceed his losses" and [3] "85% of any social security benefit..." Here the taxed event is the receiving of amounts, gains and social security benefits by a nonresident alien individual not effectively connected with a trade or business within the United States and the measure is 30 percent on the affected income.

IRC § 871(b) provides "A nonresident alien individual engaged in trade or business within the United States during the taxable year shall be taxable as provided in section 1 or 55 on his taxable income which is effectively connected with the conduct of a trade or business within the United States. In determining taxable income for purposes of paragraph (1), gross income includes only gross income which is effectively connected with the conduct of a trade or business within the United States." Here the taxed event is the engagement of a nonresident alien individual in a trade or business

within the United States and the measure of the tax is determined by section 1 or 55.

IRC § 871(c) treats a nonresident alien individuals receiving income as the result of participating in certain exchange or training programs as a nonresident alien individual engaged in trade or business within the United States under section 871(a). Here the taxed activity is the receiving of amounts derived from participating in certain programs and the tax is measured by section 1 or 55.

IRC § 871(d) allows for nonresident alien individuals taxed for *deriving* income from real property to elect to *measure* the tax by section 1 or 55 instead of the 30 percent under section 871(a).

IRC §§ 951(a)(1) and 951A(a) makes the pro rata share and the investment earnings in United States property *received* by a United States shareholder through a foreign corporation subject to taxation. The individual may elect to *measure* the income either by section 1 or section 11 under section 962(a).

IRC § 881(a) imposes "a tax of 30 percent of the amount received from sources within the United States by a foreign corporation." Here the taxed event is "*received* from sources within the United States by a foreign corporation" and the measure is 30 percent of that amount.

IRC § 882(a) imposes a tax on a "foreign corporation engaged in trade or business within the United States...and shall be taxable as provided in section 11, 55, or 59A, on its taxable income which is effectively connected with the conduct of a trade or business within the United States." Here the taxed event occurs when a foreign corporation is *engaged* in trade or business within the United States and the measure is according to section 11, 55, or 59A.

IRC § 887(a) imposes a tax of 4 percent on the United States source gross transportation income of any nonresident alien individual or foreign corporation. Here the taxed event occurs when income is derived from or in connection to *hiring or leasing* a vessel or aircraft or the *performance of services* directly related to the use of a vessel or aircraft (see IRC §§ 887(b)(1) and 863(c)(3)) and the measure is 4 percent of the income.

All of these taxes apply to foreign persons and domestic persons receiving amounts through foreign persons. As this Court notes:

> "A tax is an exaction by the sovereign, and necessarily the sovereign has an enforceable claim against every one within the taxable class for the amount lawfully due from him." (*Bull v. United States,* 295 U.S. 247, 259, 55 S.Ct. 695, 699, 79 L.Ed. 1421 (1935))

Only foreign persons and domestic persons receiving amounts through foreign persons are of the class subject to these taxes.

Treasury Regulation § 601.101(a) provides an administrative interpretation for the entire scope of the revenue collection applicable to all laws and all taxpayers. This interpretation is consistent with the above named taxes:

> *General.* The Internal Revenue Service is a bureau of the Department of the Treasury under the immediate direction of the Commissioner of Internal Revenue. The Commissioner has general superintendence of the assessment and collection of **all taxes imposed** by **any law** providing internal revenue. The Internal Revenue Service is the agency by which these functions are performed. Within an internal revenue district the internal revenue laws are administered by a district director of internal revenue. The Director, Foreign Operations District, administers the internal revenue laws applicable to **[a]** *taxpayers residing or doing business abroad*, **[b]** *foreign taxpayers deriving income from sources within the United States*, and **[c]** *taxpayers who are required to withhold tax on certain payments to nonresident aliens and foreign corporations*, provided the books and records of those taxpayers are located outside the United States. For purposes of these procedural rules any reference to a district director or a district office includes the Director, Foreign Operations District, or the District Office,

> Foreign Operations District, if appropriate. Generally, the procedural rules of the Service are based on the Internal Revenue Code of 1939 and the Internal Revenue Code of 1954, and the procedural rules in this part apply to the taxes imposed by both Codes except to the extent specifically stated or where the procedure under one Code is incompatible with the procedure under the other Code. Reference to sections of the Code are references to the Internal Revenue Code of 1954, unless otherwise expressly indicated.

The ***United States Supreme Court*** names the income taxes as taxes on activities measured by the income produced, ***Congress*** defines the income taxes as taxes on activities measured by the income produced and imposes *bona fide* income taxes on specific activities that are measured by the income produced, and the ***Executive Branch*** provides an administrative interpretation naming only taxpayers that fit within the characteristics of the *bona fide* income taxes imposed by Congress. All three branches of the government are in alignment. With this in mind, we will look at the placement of IRC § 1 within the framework of the income taxes imposed by the Internal Revenue Code.

4. The Placement of IRC § 1 Within the Income Tax Structure

Under the statutory scheme, IRC § 1 is the last step in calculating the income tax levied on

nonresident alien individuals by Sections 871(b), 871(c), and 871(d) and United States Shareholders under 951(a)(1) and 951A(a). Consider Section 871(b):

> "(1) *Imposition of tax* A nonresident alien individual engaged in trade or business within the United States during the taxable year shall be taxable as provided in section 1 or 55 on his taxable income which is effectively connected with the conduct of a trade or business within the United States.
>
> (2) *Determination of taxable income* In determining taxable income for purposes of paragraph (1), gross income includes only gross income which is effectively connected with the conduct of a trade or business within the United States."

Please note subsection (b)(2) determines the *taxable income* by first including in the *gross income* the income effectively connected with the conduct of a trade of business within the United States by a nonresident alien individual. The gross income (defined at IRC § 61) is modified by the deductions applicable under IRC § 62 and called "*adjusted gross income.*" The adjusted gross income is modified by the deductions applicable under IRC § 63 and called "*taxable income.*" IRC § 1 states, "There is hereby imposed on the ***taxable income*** of [married individuals, head of household, unmarried individuals, married individuals filing separate

returns, and estates and trusts]." IRC § 1 is the last step for calculating the amount of the income tax for the tax levied at IRC § 871(b).

IRC § 871(c) imposes a tax on nonresident alien individuals who are temporality present in the United States for certain exchange or training programs, taxing these participants as if they are subject to IRC § 871(b):

> For purposes of this section, a nonresident alien individual who (without regard to this subsection) is not engaged in trade or business within the United States and who is temporarily present in the United States as a nonimmigrant under subparagraph (F), (J), (M), or (Q) of section 101(a)(15) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101(a)(15)(F), (J), (M), or (Q)), **shall be treated as a nonresident alien individual engaged in trade or business within the United States**, and any income described in the second sentence of section 1441(b) which is received by such individual shall, to the extent derived from sources within the United States, be treated as effectively connected with the conduct of a trade or business within the United States.

IRC § 1 is the last step for calculating the amount of the income tax for the tax levied at IRC § 871(c).

IRC § 871(d) allows certain nonresident alien individuals subject to IRC § 871(a) to treat real

property income as income connected with United States trade or business under IRC § 871(b):

> A nonresident alien individual who during the taxable year derives any income—
>
> (A) from real property held for the production of income and located in the United States, or from any interest in such real property, including (i) gains from the sale or exchange of such real property or an interest therein, (ii) rents or royalties from mines, wells, or other natural deposits, and (iii) gains described in section 631(b) or (c), and
>
> (B) which, but for this subsection, would not be treated as income which is effectively connected with the conduct of a trade or business within the United States,
>
> may elect for such taxable year to treat all such income as income which is effectively connected with the conduct of a trade or business within the United States. **In such case, such income shall be taxable as provided in subsection (b)(1)** whether or not such individual is engaged in trade or business within the United States during the taxable year. An election under this paragraph for any taxable year shall remain in effect for all subsequent taxable years, except that it may be revoked with the consent of the Secretary with respect to any taxable year.

IRC § 1 is the last step for calculating the amount of the income tax for the tax levied at IRC § 871(a) under the scheme provided under IRC § 871(b) by the election offered by IRC § 871(d).

While IRC § 871(b) applies to nonresident alien individuals, IRC §§ 951(a)(1) and 951A(a) provide the manner in which domestic persons who are United States shareholders of a foreign controlled corporation are taxed. IRC § 951(a)(1) states:

> If a foreign corporation is a controlled foreign corporation at any time during a taxable year of the foreign corporation (in this subsection referred to as the "CFC year")—
>
> (A) each United States shareholder[5] which owns (within the meaning of section 958(a))

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[5] IRC § 951(b) – For purposes of this title, the term "United States shareholder" means, with respect to any foreign corporation, a United States person (as defined in section 957(c)) who owns (within the meaning of section 958(a)), or is considered as owning by applying the rules of ownership of section 958(b), 10 percent or more of the total combined voting power of all classes of stock entitled to vote of such foreign corporation, or 10 percent or more of the total value of shares of all classes of stock of such foreign corporation.

IRC § 957(c) – For purposes of this subpart, the term "United States person" has the meaning assigned to it by section 7701(a)(30) [exceptions following].

IRC § 7701(a)(30) – The term "United States person" means— (A) a citizen or resident of the United States, (B) a domestic partnership, (C) a domestic corporation, (D) any estate (other than a foreign estate, within the meaning of paragraph (31)), and (E) any trust if— (i) a court within the United States is able to exercise primary supervision over the administration of

> stock in such corporation on any day during the CFC year **shall include in gross income** such shareholder's pro rata share (determined under paragraph (2)) of the corporation's subpart F income for the CFC year, and
>
> (B) each United States shareholder which owns (within the meaning of section 958(a)) stock in such corporation on the last day, in the CFC year, on which such corporation is a controlled foreign corporation **shall include in gross income** the amount determined under section 956 with respect to such shareholder for the CFC year (but only to the extent not excluded from gross income under section 959(a)(2)).

And IRC § 951A(a) states:

> Each person who is a United States shareholder of any controlled foreign corporation for any taxable year of such United States shareholder **shall include in gross income** such shareholder's net CFC tested income for such taxable year.

United States persons (IRC § 957(c)) who own 10% or more of the voting power in a foreign corporation (IRC § 951(b)) are liable for the income derived through these corporations (IRC §§ 951(a) and

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the trust, and (ii) one or more United States persons have the authority to control all substantial decisions of the trust.

951A(a)). Income from these foreign corporations is specifically included in the 'gross income' at IRC § 951(a)(1)(A) and (B) as well as IRC § 951A(a). The 'gross income' (IRC §61) is processed into 'adjusted gross income' (IRC § 62) and then processed into 'taxable income' (IRC § 63). The United States Shareholder (IRC § 951(b)) may elect for the income to be measured by either IRC § 1 or IRC § 11 under IRC § 962(a):

> Under regulations prescribed by the Secretary, in the case of a United States shareholder who is an individual and who elects to have the provisions of this section apply for the taxable year—
>
> (1) the tax imposed under this chapter on amounts which are included in his gross income under section 951(a) shall (in lieu of the tax determined under sections 1 and 55) be an amount equal to the tax which would be imposed under section 11 if such amounts were received by a domestic corporation.

IRC § 1 is here again the last step in calculating the amount of the tax imposed at IRC § 871(b), this time on a domestic person engaged in trade or business within the United States through a foreign corporation.

IRC § 1 is not a tax by the plain language of the Internal Revenue Code. IRC § 1 is the measure of the taxes found at IRC §§ 871(b), 871(c) and 871 (d) and of the tax at IRC § 871 applied to United States

shareholders under 951(a)(1) and 951A(a). A person must be subject to IRC §§ 871(b), 871(c), 871 (d), 951(a)(1) or 951A(a) for their income to be subject to IRC § 1.[6]

5. Signing up to be a taxpayer under IRC § 3402(p)(3)

While a person must be a nonresident alien individual or a United States Shareholder in order to be subject to IRC §§ 871(b), 871(c), 871 (d), 951(a)(1) or 951A(a), and consequently their income to be subject to IRC § 1, Congress has provided a way for employees not subject to enter into an agreement with their non-subject employer to pretend the their wages are subject, and get to pay income taxes. What a deal! This *opportunity* is found at IRC § 3402(p)(3):

> *Authority for other voluntary withholding*
>
> The Secretary is authorized by regulations to provide for withholding—
>
> (A) from remuneration for services performed by an employee for the employee's employer which (**without regard to this paragraph**) does not constitute wages, and

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[6] Despite the statutory and regulatory context, the trial court improperly expands the scope of IRC § 1 beyond IRC §§ 871(b), 871(c), 871 (d), 951(a)(1) or 951A(a) on the authority of Treasury Regulation 1.1-1(a) by using it as a rule to apply Section 1 to every citizen of the United States and later applies it as a direct non-apportioned tax on income.

> (B) from any other type of payment with respect to which the Secretary finds that withholding would be appropriate under the provisions of this chapter,
>
> if the employer and employee, or the person making and the person receiving such other type of payment, agree to such withholding. Such agreement shall be in such form and manner as the Secretary may by regulations prescribe. For purposes of this chapter (and so much of subtitle F as relates to this chapter), remuneration or other payments with respect to which such agreement is made shall be treated as if they were wages paid by an employer to an employee to the extent that such remuneration is paid or other payments are made during the period for which the agreement is in effect.

The Secretary provides these rules at 26 Code of Federal Regulations §31.3402(p)-1(b)(1)(i):

> "...[A]n employee who desires to enter into an agreement under section 3402(p)(3)(A) shall furnish his employer with Form W-4 (withholding exemption certificate) executed in accordance with the provisions of section 3402(f) and the regulations thereunder. The furnishing of such Form W-4 shall constitute a request for withholding."

In order for the non-subject employee to become a subject employee, the employee must submit a Form

W-4 to his non-subject employer and the employer accepts it. Having done so, the non-subject employee and employer are subject to federal income tax law.

6. Summary of Employee Income Tax Law

In order for a natural person to be a taxpayer, the person must be a nonresident alien individual or a United States shareholder subject to IRC § 871 or form an agreement with his employer under IRC § 3402(p)(3) to treat his non-subject wages as subject wages by submitting a valid Form W-4.

B. Medicare Tax

Section 3101 imposes old-age, survivors and disability insurance (Social Security) and hospital insurance (Medicare) taxes of the Social Security Act. This section is found in Chapter 23 – *Federal Insurance Contributions Act.* The text of section 3101 is as follows:

(a) *old-age, survivors, and disability insurance* **In addition** to other taxes, there is hereby imposed on the income of every individual a tax equal to 6.2 percent of the wages (as defined in section 3121(a)) received by the individual with respect to employment (as defined in section 3121(b)).

(b) *hospital insurance* **In addition** to the tax imposed by the preceding subsection, there is hereby imposed on the income of every individual a tax equal to 1.45 percent of

> the wages (as defined in section 3121(a)) received by him with respect to employment (as defined in section 3121(b))"

The plain language of the text makes the *old age* tax dependent on the applicability of a tax prior in law and the *hospital insurance* tax dependent on the applicability of the *old age* tax.[7] In other words, by rule of the text, the application of these taxes requires the existence of a *prior tax to which they are added.*

An exception to this rule applies to employees of state governments other than those of the District of Columbia, Guam, or American Samoa who wish to pay the Social Security taxes even though they are not mandated to do so. Under the Social Security Act § 218 (42 USC § 418):

> "The Commissioner of Social Security shall, at the request of any State, enter into an agreement with such State <u>for the purpose of extending</u> the insurance system established by this subchapter to services performed by individuals as employees of such State or any political subdivision thereof. Each such

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[7] The language, "in addition to other taxes," is found in the impositions of the tax in the original Social Security Act of 1935 at § 801. The legislature removed the impositions from the SSA and placed them in the IRC, retaining the same language of imposing the tax "in addition to other taxes." (*see* SSA § 201(a)(3) / 42 USC § 401(a)(3) for *federal old age and survivors insurance* and SSA 1817(a)(1) / 42 USC § 1395i(a)(1) for *federal hospital insurance*)

> agreement shall contain such provisions, not inconsistent with the provisions of this section, as the State may request."

The states eligible to make this request are those other than the District of Columbia, Guam, or American Samoa (see Section 218 (b)(1): "For the purposes of this section—The term "State" does not include the District of Columbia, Guam, or American Samoa.").

The California Teachers Association surveyed its membership in 1956 to determine interest in entering into a Section 218 agreement. Teachers overwhelming indicated no interest in participating in Social Security. As a consequence, the formal adoption of a Section 218 agreement was never pursued. To date, no Section 218 agreement exists, as is necessary under federal law, to extend the provisions of the Social Security Act to California public school teachers. As a result, California public school teachers are not subject to the Social Security Act by way of a Section 218 agreement.

In order for an employee to be subject to the taxes of IRC § 3101, the employee must first be subject to a different income tax that applies on its own authority to which the Social Security and Medicare taxes can be applied in addition. In the alternate, an employee and his employer may make themselves subject to these taxes by forming an agreement under IRC § 3402(p)(3).

C. California Income Tax

1. Revenue and Taxation Code § 17041 is the Measure of the Tax

California's Personal Income Tax Law is found in California Revenue and Taxation Code (RTC) Sections 17001 through 18181 and administered under Sections 18401 through 19402. Under California Law:

> "[California's] Legislature has generally followed the federal statutes in designing California's personal income tax system, making federal decisions interpreting substantially identical statutes unusually strong persuasive precedent on construction of our own laws. (*Holmes v. McColgan* (1941) 17 Cal.2nd 426, 430; Rihn v. Franchise Tax Board (1955) 131 Cal.App.2d 356, 360.)" (*People v. Hagen*, 19 Cal.4th 652, 80 Cal. Rptr. 2d 24, 967 P.2d 563 (Cal. 1998))

This Court has decided the income tax statutes are indirect taxes, specifically excises, being a tax on certain activities, transactions, events etc. that are measured by the income produced. Since California's personal income tax system is modeled on federal income tax law, we can expect to find a taxed activity, event, transaction, etc. that is measured by the income produced.

The trial court held RTC § 17041(a) is a complete income tax. However, like IRC § 1, the language of

RTC § 17041(a) does not identify the taxed event as required by definition of an income tax:

> "There shall be imposed for each taxable year upon the entire taxable income of every resident of this state who is not a part-year resident, except the head of household as defined in Section 17042, taxes in the following amounts and at the following rates upon the taxable income..."

As a result, Section 17041 is the measure of a tax located elsewhere and not the tax itself. Consequently we must identify the taxed activity to know to which income Section 17041 applies.

2. The California Personal Income Tax is a locally adopted tax on the taxes of Subtitle A of the Internal Revenue Code

Upon examination of the imposition of California's income tax law on employees and employers, RTC § 17041 is the measure for income taxes located in Subtitle A of the Internal Revenue Code. This is made clear in the sections of statute governing the administration of the state income tax law.

Part 10.2 of Division 2 of the Revenue and Taxation Code provides for the administration of franchise and income tax laws (§§ 18041-19802). Section 18632 of Article 4 (§§1861-18649) of Chapter 2 of Part 10.2 incorporates Division 6 of the California Unemployment Insurance Code ("UIC"; §§

13000-13101) into the Personal Income Tax Law. Division 6 of the UIC contains the provisions for administering the Personal Income Tax Law by employers. It is necessary to know which employers are subject to Article 4 to know which employers are subject to Division 6 of the UIC.

RTC § 18631(b) is part of Division 4 and grants the Franchise Tax Board the authority to require persons who must submit information returns to the Internal Revenue Service to file the same returns with the Franchise Tax Board, with certain exceptions:

> "*Except as otherwise provided*, every person required to file an information return with the Secretary of the Treasury under any of the federal sections listed in subdivision (c) may be required to file a copy of the federal information return with the Franchise Tax Board at the time and in the manner as it may, by forms and instructions, require."

Two items are of note here: (1) only persons required to file an information return with Secretary of the Treasury under the federal law listed in subdivision (c) are named subject to Article 4 and (2) some persons subject to Article 4 may not be required to file a federal information return with the Franchise Tax Board. In order to know which employers are subject to the requirement and exception of RTC § 18631(b) we need to look at subdivision (c).

RTC § 18631(c) names the specific persons subject to the directives of the Franchise Tax Board under Section 18631(b). The only category of person named subject that may be an employer is found at Section 18631(c)(4):

> "Subdivision (b) shall apply to each of the following: (4) Section 6041 of the Internal Revenue Code, relating to information at the source."

IRC § 6041 provides:

> "All persons engaged in a trade or business and making payment in the course of such trade or business to another person, of rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income...of $600 or more in any taxable year,...shall render a true and accurate return to the Secretary."

The general mandate to report is found at IRC § 6001:

> Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe. Whenever in the judgment of the Secretary it is necessary, he may require any person, by notice served upon

such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary deems sufficient to show whether or not such person is liable for tax under this title.

IRC § 3403(a) makes employers liable:

> The employer shall be liable for the payment of the tax required to be deducted and withheld under this chapter.

And IRC § 3402(a) makes the employer responsible for the collection of a tax imposed in Chapter 1 of the Internal Revenue Code:

> Requirement of withholding
>
> (1) In general Except as otherwise provided in this section, every employer making payment of wages shall deduct and withhold upon such wages a tax determined in accordance with tables or computational procedures prescribed by the Secretary. Any tables or procedures prescribed under this paragraph shall—
>
> (A) apply with respect to the amount of wages paid during such periods as the Secretary may prescribe, and
>
> (B) be in such form, and provide for such amounts to be deducted and withheld, as the Secretary determines to be most appropriate to carry out the purposes of this chapter and to **reflect the provisions of chapter 1** applicable to such periods.

As such, employers who have employees subject to an income tax found in Chapter 1 of the Internal Revenue Code are subject to Article 4 governing information returns under California law via RTC § 18631(b) and (c)(4).

Employers subject to Article 4 are informed by RTC § 18632 the rules governing the administration of California's Personal Income Tax Law are found in Division 6 of California Unemployment Insurance Code (UIC):

> "Division (commencing with Section 13000) of the Unemployment Insurance Code sets forth provisions administered by the Employment Development Department relating to the reporting, collection, refunding to the employer, and enforcement of taxes required to be withheld from wages paid by employers."

There are no other reporting requirements applicable to employers situated as Respondent and me under California law.

As noted in RTC § 18632, Division 6 of the UIC governs *collection* as well as *reporting*.

Article 5 (§§ 18661 – 18677) governs withholding under Part 10.2. The Franchise Tax Board is granted authority by RTC § 18662(a) to require by regulation subject persons to withhold amounts from recipients approximating the amount of a tax due:

> "The Franchise Tax Board may, by regulation, require any person, in whatever capacity

> acting, including lessees or mortgagors of real or personal property, fiduciaries, employers, and any officer or department of the state, or any political subdivision or agency of the state, or any city organized under a freeholder's charter, or any political body not a subdivision or agency of the state, having the control, receipt, custody, disposal, or payment of items of income specified in subdivision (b), to withhold an amount, determined by the Franchise Tax Board to reasonably represent the amount of tax due when the items of income are included with other income of the taxpayer, and to transmit the amount withheld to the Franchise Tax Board at the time as it may designate."

This authority is limited to the items listed by RTC § 18662(b):

> "The items of income referred to in subdivision (a) are interest, dividends, rents, prizes and winnings, premiums, annuities, emoluments, compensation for services, including bonuses, partnership income or gains, and other fixed or determinable annual or periodical gains, profits, and income."

Wages are not part of this list. The Franchise Tax Board explains via regulation:

> "Non-wage withholding is administered by the Franchise Tax Board under Article 5 of Chapter 2 of Part 10.2 of Division 2 of

the Revenue and Taxation Code, section 18661, et. seq., and federal provisions incorporated by reference." (See 18 California Code of Regulations (CCR) § 18662-1(b)(1))

And

"Withholding tax on wages is required by Division 6 of the California Unemployment Insurance Code (section 13000 et seq.) and is administered by the Employment Development Department. (See Revenue and Taxation Code section 18632.) Regulation sections 18662-0 through 18662-8 do not cover withholding tax on wages." (18 CCR § 18662-1(a)(1)(A))

Article 5 does not impose a duty on employers to withhold on subject wages.

Under California law, only employers subject to federal law via Article 4 are subject to the reporting and collection mandates over state income tax law. Division 6 of the UIC confirms this.

UIC § 13020 is found in Division 6 and imposes the duty to deduct and withhold on employers:

"Every employer who pays wages to a resident employee for services performed either within or without this state, or to a nonresident employee for services performed in this state, shall deduct and withhold from those wages, ***except*** as provided in subdivision (c) and Sections 13025 and **13026**, for each payroll

> period, a tax computed in that manner as to produce, so far as practicable, with due regard to the credits for personal exemptions allowable under Section 17054 of the Revenue and Taxation Code, a sum which is substantially equivalent to the amount of tax reasonably estimated to be due under Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code ***resulting*** *from the* ***inclusion in the gross income*** *of the employee of* ***the wages which were subject to withholding***."

Two items are of importance from this section of law: (a) the wages excepted and (b) the structure of the imposition of the tax.

a. Wages Excepted Under UIC §§ 13020(a) and 13026

UIC § 13020(a), excepts employers from the mandate to collect under UIC § 13026 when the employee is not liable for a federal income tax under Subtitle A of the Internal Revenue Code:

> An employer shall not be required to deduct and withhold any tax under this division upon a payment of wages (except wages exempt from federal income tax but not exempt under this division) to an employee if there is in effect with respect to such payment a withholding exemption certificate, in such form and containing such other information as the department may prescribe, furnished to

the employer by the employee certifying that the employee—

(a) Incurred no liability for federal income tax imposed under **subtitle A of the Internal Revenue Code** of 1954 for his or her preceding taxable year, and

(b) Anticipates that he or she will incur no liability for federal income tax imposed **under subtitle A of the Internal Revenue Code** of 1954 for his or her current taxable year.

Two aspects of this section are of note. The first is UIC § 13026 bases the exemption from the duty to deduct and withhold on the existence of a federal liability under subtitle A and not on a state liability. In other words, withholding law is authorized by a federal liability and not a state liability. This means the employee must be liable for a federal income tax in subtitle A of the Internal Revenue Code for state withholding law to take force. And second, section 13026 requires the employee to furnish to the employer a withholding exemption certificate prescribed by regulation of the Employment Development Department. The requirement is not applicable to the non-subject employee because, as shown earlier, the entirety of Division 6 of the UIC is only applicable to employers subject to a requirement to report under federal law. In the absence of the employee being subject to a federal

income tax, there is no duty to report[8] and the employer is under no mandate to apply the provisions of Division 6 under Article 4.

b. The structure of the imposition of the tax

UIC § 13020 presents the scheme under which the imposition of RTC § 17041 is applied to an employee's subject wages:

---

[8] The provisions of Division 6 governing reporting are dependent on a duty to deduct and withhold under UIC § 13020 and consequently also in alignment with the requirement the employer is subject to federal law. UIC § 13050 states:

> (a) Every employer or person required to deduct and withhold from an employee a tax under Section 986, 3260, or **13020**, or who would have been required to deduct and withhold a tax under Section 13020 (determined without regard to Section 13025) if the employee had claimed no more than one withholding exemption, shall furnish to each employee in respect of the remuneration paid by the person to the employee during the calendar year, on or before January 31 of the succeeding year, or, if his or her employment is terminated before the close of the calendar year, on the day on which the last payment of remuneration is made, a written statement...
>
> (b) The statement required to be furnished pursuant to this section in respect of any remuneration shall be furnished at other times, shall contain other information, and shall be in a form, as the department may by authorized regulations prescribe.
>
> (d) The Franchise Tax Board shall be allowed access to the information filed with the department pursuant to this section.

> "Every employer who pays wages to a resident employee...shall deduct and withhold from those wages, ***except*** as provided in subdivision (c) and Sections 13025 and **13026**,...a sum which is substantially equivalent to the amount of tax reasonably estimated to be due...***resulting*** *from the* ***inclusion in the gross income*** *of the employee of* ***the wages which were subject to withholding***."

Under the language of this section, every employer who pays wages is under mandate to deduct and withhold except from wages excluded by Sections 13025 and 13026. In order to calculate the tax, these ***subject wages*** are first included in the gross income of the employee ("***resulting*** *from the inclusion in the gross income of the employee*" § 13020). RTC § 17071 adopts the definition for *gross income* from the Internal Revenue Code:

> Section 61 of the Internal Revenue Code, relating to gross income defined, shall apply, except as otherwise provided.

Once the subject wages are included in the gross income, they are modified by the deductions under RTC § 17072 and called "adjusted gross income." RTC § 17072 adopts the definition for *adjusted gross income* from the Internal Revenue Code:

> (a) Section 62 of the Internal Revenue Code, relating to adjusted gross income defined, shall apply, except as otherwise provided.

(b) Section 62(a)(2)(D) of the Internal Revenue Code, relating to certain expenses of elementary and secondary school teachers, shall not apply.

(c) Section 62(a)(21) of the Internal Revenue Code, relating to attorneys fees relating to awards to whistleblowers, shall not apply.

Once the *gross income* is converted to *adjusted gross income*, the *adjusted gross income* is modified by the deductions applicable under RTC § 17073 and called "taxable income." RTC § 17072 adopts the definition for *adjusted gross income* from the Internal Revenue Code:

(a) Section 63 of the Internal Revenue Code, relating to taxable income defined, shall apply, except as otherwise provided.

(b) The deduction allowed by Section 17208.1, relating to interest on loans or financed indebtedness obtained from a publicly owned utility for the purchase and installation of energy efficient products or equipment, may not be treated as a miscellaneous itemized deduction under Section 67(a) of the Internal Revenue Code, relating to the 2-percent floor on miscellaneous deductions.

(c) For individuals who do not itemize deductions, the standard deduction computed in accordance with Section 17073.5 shall be

allowed as a deduction in computing taxable income.

RTC § 17041(a) measures the amount of the tax against the *taxable income*:

> "There shall be imposed for each taxable year upon the entire taxable income of every resident of this state who is not a part-year resident ... taxes in the following amounts and at the following rates upon the amount of taxable income."

RTC § 17041 occupies the same location in California law as IRC § 1 occupies in federal law. RTC § 17041(a) is the measure of the tax on the wages that are subject to withholding under UIC § 13020, but not the tax itself. For the purposes of income taxes on employees, California adopts the taxes of Subtitle A of the Internal Revenue Code and determines its own measurement on the federal income taxes imposed.

3. Signing Up to Pay Taxes

Just like federal law at IRC § 3402(p)(3), state law provides non-subject employees and employers the opportunity to pretend non-subject wages are subject by agreement under UIC § 13029:

> "The [Employment Development] department may by authorized regulations provide for withholding (a) From remuneration for services performed by an employee for his or her employer which (without regard to this

section) does not constitute wages...if the employer and the employee...agree to the withholding. The agreement shall be made in the form and manner as the department may by authorized regulations provide."

The department provides these rules at 22 CCR § 4329-1(a). Such an agreement may only be made when an employee has entered into an agreement under IRC § 3402(p):

"An employee and his or her employer may enter into an agreement under Section 13029 of the code to provide for the withholding of income tax upon payments of amounts described in subdivision (c) of this regulation. Such an agreement may be entered into under this section only if an agreement for the withholding of federal income tax has been entered into by the employee and his or her employer pursuant to Section 3402(p) of the Internal Revenue Code of 1954..."

And 22 CCR §4329-1(b)(1)(a) provides:

Except as provided in subparagraph (B) of this paragraph, an employee who desires to enter into an agreement under Section 13029 of the code shall furnish the employer with a request for withholding of California income tax which shall be signed by the employee and shall contain:

(i) The name, address, and social security

number of the employee making the request.

(ii) The name and address of the employer.

(iii) A statement that the employee desires withholding of California income tax.

The furnishing of such a signed request for withholding of a California income tax shall constitute a request for withholding and shall be attached to, and constitute a part of, the employee's Federal Form W-4.

California Form DE-4 is the equivalent to Federal Form W-4 and meets the requirements of 22 CCR §4329-1(b)(1)(a).

In summary, state withholding and reporting law is mandatory only in the presence of a federal liability or an agreement between the employee and employer to treat non-subject wages subject by submitting forms DE-4 and W-4.

D. The Judgment is Void

I lodged my Petition in Equity in the trial court (California Constitution, Article VI, Section 5). In California, courts hearing equitable claims have:

> [T]he authority to fashion an equitable remedy appropriate to the circumstances of [the] case" (*Salazar v. Matejcek* (2016) 245 Cal.App.4th 634,648), but their power to fashion relief is constrained. "Although a court of equity may employ broad powers in the application of equitable remedies, **it**

cannot create new rights under the guise of doing equity. (*Rosenberg v. Lawrence* (1938) 10 Cal.2d 590, 594-[595] [75 P.2d 1082].). . . . **Equity follows the law** and when the law determines the rights of the respective parties, a court of equity is without power to decree relief which the law denies. (*Shive v. Barrow* (1948) 88 Cal.App.2d 838, 844 [199 P.2d 693].)" (*Marina Tenants Assn. v. Deauville Marina Development Co.* (1986) 181 Cal.App.3d 122,134.)

The same is true under federal jurisprudence:

"A federal court has the power to grant equitable relief, *see Gordon v. Washington,* 295 U.S. 30, 36, 55 S.Ct. 584, 79 L.Ed. 1282 (1935), but this power is circumscribed by the venerable principle that "**equity follows the law**," *Hedges v. Dixon County,* 150 U.S. 182, 192, 14 S.Ct. 71, 37 L.Ed. 1044 (1893). **Equity, in other words, may not be used to create new substantive rights**. *See, e.g., Norwest Bank of Worthington v. Ahlers,* 485 U.S. 197, 206-07, 108 S.Ct. 963, 99 L.Ed.2d 169 (1988). However, when a substantive right exists, an equitable remedy may be fashioned to give effect to that right if the prescribed legal remedies are inadequate. *See Berdie v. Kurtz,* 88 F.2d 158, 159 (9th Cir.1937); *Am. Brake Shoe & Foundry Co. v. N.Y. Rys. Co.,* 293 F. 633,637-38 (2d. Cir.

1923)." (*Johnson v. Tago, Inc.*, 188 Cal. App. 3d 507,518 (1988))

Neither California courts nor federal courts have power to create new substantive rights.

The trial court has personal jurisdiction and subject matter over my contractual rights and Respondent's contractual obligations and consequently has equitable power to fashion relief consistent with the law. No party disputes this substantive right and duty.

I believe the trial court has acted without power to create a state and federal governmental income tax interest in my salary under IRC § 1 (federal income tax), IRC § 3101(b) (Medicare tax) and RTC § 17041(a) (state income tax) because these sections of law do not apply to me under the facts of the case and the law and are not the source of the vesting interest.

The question of the state and federal taxing interest is cast narrowly, not encompassing errors in interpretation. The question is limited to power. I challenged the jurisdiction of the judgment collaterally on a non-statutory motion to vacate. My burden of proof is to show that IRC § 1, IRC § 3101(b) and RTC § 17041(a) do not have the authority to impose a governmental taxing interest in my salary against the facts of the case and the nature of these sections of statutory law. I must show the judgment is void, not merely erroneous. Under federal law:

"A void judgment is a legal nullity. See Black's Law Dictionary 1822 (3d ed.1933); see also *id.*, at 1709 (9th ed.2009). Although the term "void" describes a result, rather than the conditions that render a judgment unenforceable, it suffices to say that a void judgment is one so affected by a **fundamental infirmity** that the infirmity may be raised even after the judgment becomes final. See Restatement (Second) of Judgments 22 (1980); see generally *id.*, § 12" (*United Student Air Funds, Inc. v. Espinosa*, 559 U.S. 260, 270, 130 S.Ct. 1367, 176 L.Ed.2d 158 (2010))

And;

"A void judgment is to be distinguished from an erroneous one, in that the latter is subject only to direct attack. A void judgment is one which, from its inception, was a complete nullity and without legal effect. In the interest of finality, the concept of void judgments is narrowly construed. While absence of subject matter jurisdiction may make a judgment void, such total want of jurisdiction must be distinguished from an error in the exercise of jurisdiction. A court has the power to determine its own jurisdiction, and an error in that determination will not render the judgment void. Only in the rare instance of a clear **usurpation of power** will a judgment

be rendered void. (*Hooks v. Hooks,* 771 F.2d 935, 949 (6th Cir. 1985) (quoting *Lubben v. Selective Serv. Sys. Local Bd. No. 27,* 453 F.2d 645, 649 (1st Cir. 1972)); *Eglinton v. Loyer (In re G.A.D., Inc.*), 340 F.3d 331, 336 (6th Cir. 2003))

Under California law:

> "In the rendition of a judgment a court must remain within its jurisdiction and power. It is the **power** and **authority** behind a judgment rather than the mere result reached which determines its validity and immunity from collateral attack. A judgment, though entered in a case over which the court had jurisdiction over the parties and the subject matter, may be void in whole or in part because it granted some relief which the court had no power to grant. A wrong decision made within the limits of the court's power is error correctable on appeal or other direct review, but a decision which oversteps the **jurisdiction and power** of the court is void and may be set aside directly or collaterally. (1 Freeman on Judgments, 5th ed., p. 733, 354; Feillett v. Engler, 8 Cal. 76-77; Crew v. Pratt, 119 Cal. 139, 148-149 [51 P. 38]; Grannis v. Superior Court, 146 Cal. 245, 253-256 [79 P. 891, 106 Am.St.Rep. 23]; Petition of Furness, 62 Cal.App. 753 [218 P. 61]; Corbett v. Corbett, 113 Cal.App. 595, 601 [298 P. 819]" (Vasquez

v. Vasquez, 109 Cal.App.2d 280, 283 [240 P.2d 319])

And;

"[C]ases holding judgments valid on collateral attack, although they may be necessarily founded upon an erroneous view of the law, are none of them cases in which the law which the court mistook was the law **which vested** the **jurisdiction** or **power** over the subject-matter in the court. So far as they are cases involving jurisdiction of this class at all they are confined to instances where ***the jurisdiction over the subject-matter is by law made to depend on the preliminary determination of a question of fact.*** In that event a determination of the court rendering the judgment that the facts which give the jurisdiction exist is conclusive in all collateral inquiries. (Citation.)" (*Grannis v. Superior Court*, 146 Cal. 245 at 254,255 (1908))

The imposition of an income tax vests the governmental interest in the income of the employee. As a consequence, the power to collect the tax is dependent on the imposition of the tax:

"The rule of proof...is...that the burden in such a case is always on the collector to show, in justification of his levy and collection of an excise tax, that the statute plainly and clearly lays the tax; that, in short, the fundamental rule is that

> taxes to be collectible must be clearly laid." (*Tandy Leather Company v. United States*, 347 F.2d 693, 694 (5th Cir. 1965))

The rule of proof presumes the party claiming the government has a taxing interest in a particular income has actually cited a *bona fide* tax. In the matter here upon appeal, IRC § 1 is the measure of the taxes imposed on nonresident alien individuals at IRC § 871(b), (c) and (d) as well as on domestic persons who are United States shareholders in a foreign controlled corporation under IRC § 951(a) and 951A(a). Likewise, RTC § 17041(a) is the measure of these same taxes, though locally adopted under California law. Neither IRC § 1 nor RTC § 17041 are income taxes and, as such, do not have the power to vest a state or federal taxing interest in my pay.

IRC § 3101(b) is a *bona fide* income tax, but the source of power to apply the tax is the existence of an independent primary federal tax to which the imposition of IRC § 3101(b) can be added "in addition." In the absence of the primary tax, IRC § 3101 is inoperable.

As a matter of the facts determined by the trial court, Respondent and I are both domestic persons engaged in a purely domestic contract for services. I am not subject to the taxes found at IRC § 871, not a United States shareholder subject to IRC §§ 951 and 951A and not subject to any other tax found in Subtitle A of the IRC. As such, I am neither subject

to IRC §§ 1 and 3101(b) nor RTC § 17041 because these sections of law require I am subject to a tax found within Subtitle A to take effect.

IRC § 1, IRC § 3101(b) and RTC § 17041 do not have power to vest California and the United States with a taxing interest and, as a result, the trial court has claimed subject matter jurisdiction where no jurisdiction exists. The judgment is fundamentally infirm, forcing me to pay taxes on two sections of law that are not taxes (IRC § 1 and RTC § 17041) and one section of law that, while it is a tax, requires the presence of an independent and prior tax in law to be operable. Neither the 16th Amendment nor any Treasury Regulation can cure this defect.

If this Court decides to take up my appeal, I will address IRC §§ 3403(b) and 7421(a) then.

E. A Pattern of Deception

The Internal Revenue Service reports it receives over 150 million individual returns each year. Of these returns, 100 million are from employees. About 20 million of these employees pay income taxes in California.

Both the state of California and the federal government have made policy statements regarding the integrity to which its agencies will adhere in the collection of taxes. The California government enacted the Taxpayers' Bill of Rights at RTC §§ 7080 – 7099.1. Following is Section 7081 in part:

> The Legislature finds and declares that taxes are the most sensitive point of contact between citizens and their government, and that there is a delicate balance between revenue collection and freedom from government oppression...
>
> The Legislature further finds that the California tax system is based largely on voluntary compliance, and the development of understandable tax laws and taxpayers informed of those laws will improve both voluntary compliance and the relationship between taxpayers and government. It is the further intent of the Legislature to promote improved voluntary taxpayer compliance by improving the clarity of tax laws and efforts to inform the public of the proper application of those laws.

On the Internal Revenue Service's website the following statements are found (*https://www.irs.gov/taxpayer-bill-of-rights*):

> **The Right to Be** Informed – Taxpayers have the right to know what they need to do to comply with the tax laws. They are entitled to clear explanations of the laws and IRS procedures in all **tax forms, instructions,** publications, notices, and correspondence.

These statements are a bunch of crap.

If we take the legislation of the income tax laws of California and United States that are imposed on employees as the conscience awareness of these governmental entities and compare the number of people who are paying income taxes to the number of people who are actually subject to the taxes, only an idiot would conclude the average citizen understands the taxing laws.

Rather than bring clarity, California and the United States quietly leave out key information in its publications and forms.

As noted earlier, both the State of California and the United States, provide an "*opportunity*" through UIC § 13029 and IRC § 3402(p)(3), respectively, for an employee and employer to form an agreement to treat non-subject wages as subject. Under 22 CCR § 4329-1(a), California makes an agreement under IRC § 3402(p) a prerequisite to forming an agreement under UIC § 13029.

Under Treasury Regulation § 31.3402(p)-1(b)(1)(i), "the furnishing of ... Form W-4 shall constitute a request for withholding" under IRC § 3402(p)(3). And under state administrative law at 22 CCR §4329-1(b)(1)(a): "[t]he furnishing of ... a signed request for withholding of a California income tax shall constitute a request for withholding and shall be attached to, and constitute a part of, the employee's Federal Form W-4." Form DE-4 is the form adopted for requesting withholding under California law.

There is no notice to the employee and employer on Form W-4 and DE-4 that the furnishing of these forms constitutes a request to sign-up to be subject to state and federal income taxes. The forms are silent to this purpose

The Internal Revenue Service puts out Publication 15 to instruct employers of the steps to take when hiring a new employee. The publication does not mention agreements made pursuant to IRC § 3402(p). Neither does it name the taxes for which an employee and employer may be liable. It does, however, on page 25 of the 2026 version instruct the employer to:

> Ask **all** new employees to give you a signed Form W-4 when they start work. Make the form effective with the first wage payment. If a new employee doesn't give you a completed Form W-4 in 2026 (including an employee who previously worked for you and was rehired in 2026, and who fails to furnish a Form W-4), treat the new employee as if they had checked the box for Single or Married filing separately in Step 1(c) and made no entries in Step 2, Step 3, or Step 4 of the 2026 Form W-4.

Substantively the same instruction is given to employers in California on page 17 of the 2025 California Employer's Guide:

> Employer Obligations for Form W-4 and DE 4: When you hire an employee, you **must** have the employee complete and provide a signed

withholding exemption certificate, federal Form W-4 and a completed DE 4. The Form W-4 is used to withhold federal income tax and the DE 4 is used for the appropriate California Personal Income Tax (PIT) withholding. If an employee fails to give you a properly completed DE 4, you must withhold state income taxes from the employee's wages as if the employee were single and claiming no withholding allowances.

In other words, in light of IRC § 3402(p)(3) and UIC § 13029, *the employer is instructed to solicit the furnishing of Forms W-4 and DE-4 from the employee and, if the employee refuses, to treat him as a taxpayer anyway.*

In addition to agreements under IRC § 3402(p)(3) and UIC § 13029, both state and federal law offer the opportunity to release the employer from the duty to deduct and withhold under IRC § 3402(n)[9]

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[9] Notwithstanding any other provision of this section, an employer shall not be required to deduct and withhold any tax under this chapter upon a payment of wages to an employee if there is in effect with respect to such payment a withholding allowance certificate (in such form and containing such other information as the Secretary may prescribe) furnished to the employer by the employee certifying that the employee—

(1) incurred no liability for income tax imposed under subtitle A for his preceding taxable year, and

(2) anticipates that he will incur no liability for income tax imposed under subtitle A for his current taxable year.

and UIC § 13026 when the employee has incurred no income tax liability under Internal Revenue Code Subtitle A.

UIC § 13026 requires the employee to furnish to the employer a withholding exemption certificate prescribed by regulation of the Employment Development Department. The rules are set in 22 California Code of Regulations § 4340-1(f):

> "An employer shall not deduct and withhold any tax under this part upon a payment of wages made to an employee if there is in effect, for federal income tax purposes, with respect to the payment a withholding exemption certificate furnished to the employer by the employee, pursuant to Section 3402(n) of the Internal Revenue Code and the applicable federal regulation Section 26 CFR 31.3402(n)-1..."

This means the state of California is working in tandem with the federal government in this matter.

Treasury regulations prescribe Form W-4 for withholding allowances at 26 CFR § 31.3402(f)(5)-1(a)(1) pursuant to IRC § 3402 (f)(5):

> Form W-4, "Employee's Withholding Certificate," previously called "Employee's Withholding Allowance Certificate," is the

---

The Secretary shall by regulations provide for the coordination of the provisions of this subsection with the provisions of subsection (f).

> form prescribed for the withholding allowance certificate required to be furnished under section 3402(f)(2).

UIC § 13026 and accompanying regulations require the employee submit Form W-4 to his employer in order for the employer to be exempt from withholding under UIC § 13026. Forms W-4 and DE-4 provide substantively identical directions to implement IRC § 3402(n) and UIC § 13029. Form DE-4 states:

> Exemption From Withholding: If you wish to claim exempt, complete the federal **Form W-4** and state DE 4. You may claim exempt from withholding from California income tax if you meet both of the following conditions for exemption:
>
> 1. You did not owe any federal and state income tax last year, and
> 2. You do not expect to owe any federal and state income tax this year.

The language of these directions can equally apply to a non-taxpayer as well as a taxpayer receiving income in amounts equal to or less than the allowable deductions under law.

The State of California and the United States have created a situation through silence and explicit direction where a non-taxpayer employee may either **(1)** unwittingly sign-up to be a taxpayer, **(2)** unknowingly sign-up to be a taxpayer while

attempting in good faith to inform his employer he is not a taxpayer, or (3) be railroaded into paying taxes even if he informed his employer he is not a taxpayer and knew enough not to furnish Forms W-4 and DE-4. This third option describes me.

Unfortunately, both the courts of the United States and of California enforce this deception completely. In the cases of *Bright v. Betchel Petroleum* (federal) and *Otsworth v. Southern Pac. Transportation Company* (California), Bright and Otworth both attempted to inform their employer they are exempt by submitting Form W-4:

> "In accordance with federal internal revenue regulations, Bechtel forwarded Bright's W-4 Form to the Internal Revenue Service (IRS). On March 14, 1984, the IRS issued a directive to Bechtel declaring Bright's W-4 Form invalid and ordering Bechtel to begin withholding federal income tax. See also footnote 5" (*Bright v. Bechtel Petroleum, Inc.* (9th Circuit, 1986) 780 F.2d 766, 768)

And:

> "Under 26 C.F.R. § 31.3402(f)(2)-1(g)(1) & (2), an employer is required to forward an employee's W-4 Form to the IRS, if the employee claims an exemption from withholding of tax while earning more than $200 per week. Under 26 C.F.R. § 31.3402(f)(2)-1(g)(5)(v), if the IRS issues a directive instructing an employer to disregard

income. Under the doctrine of *stare decisis*, this Court's ruling is the law and the inferior court decisions are void. Any educated man or woman who desires to follow the law will align their actions to the holdings of this Court, as I have done.

If this Court does not take up my appeal, its justices participate in setting a trap for informed and trusting people like me. You set your light on a hill declaring the income tax is an indirect tax, a tax on the happening of an event, even affirming in *Moore* after over 100 years this is still the true meaning of the law, only to back out in silence, leaving those who trust in your integrity to bear the burden of their misplaced faith.

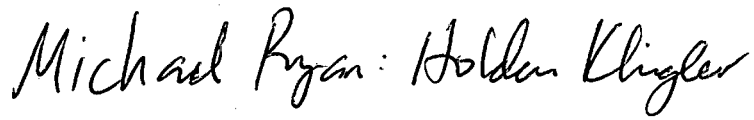


In contrast, to be fair, we would not be here today if we, the American people, took our responsibility to know our laws seriously. This Court has affirmed we are sovereigns without subjects. Sovereigns who do not pay attention to their country and do not learn their own laws are bound to lose both. I hope we are not too far gone...

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted.

Respectfully Submitted



Michael Ryan Holden Klingler 2026, September 30

CERTIFICATION OF WORD COUNT

I declare, under penalty of perjury, my word as my bond, this document contains 8,997 words, counting all required text, excluding constitutional, statutory and regulatory law citations embedded within the text.

Michael Ryan: Holden Klingler 2026, September 30